A Comparative Legal Analysis of Indonesia's Electronic Information Law and Australia's Electronic Transactions Act (as Amended in 2024) in Regulating Electronic Transactions within the Banking Sector.

By :

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Abstract

The rapid digitalization of the banking sector demands robust legal frameworks to ensure security, enforceability, and legal certainty in electronic transactions. This research is normative-doctrinal and, as such, undertakes a comparative study between the Electronic Information and Transactions Law (UU ITE) of Indonesia and the Electronic Transactions Act 1999 (ETA) of Australia as well as the 2024 amendments of the latter. The paper seeks to compare the jurisdiction of jurisdictions in the regulation of electronic contracts, digital signature standards, weight of the evidence, and consumer protection in high-value banking business, in this case, the problem of pacing statutory.

By adopting the qualitative method using primary and secondary sources of law, the study reveals the underlying differences in regulatory approaches. Indonesia has uses a prescriptive model with a strong emphasis on technical formalities and a two-layer signature system where the signature system makes an evidentiary retail banking non-functional, and an overlaying burden of proof is placed on the consumers in the form of the black box. Australia, conversely, uses a permissive, technology-neutral methodology based on functional equivalence, a contextual Reliability Standard of signatures, and an adaptable soft law approach through the Electronic Payments Code to have the effect of transferring the evidentiary burden to financial institutions.

To bridge these regulatory gaps, This thesis suggests that Indonesia should shift towards a more principle-oriented and adjustive model of regulations to maximize the predictability of the law and consumer protection. Some of the important proposals are the inclusion of a contextual reliability standard into the UU ITE and Government Regulation No. 71 of 2019, introduction of a Supreme Court rebuttable presumption to redirect the burden of proof onto the banks, a mandatory OJK-led code of conduct of digital banking, and strict liability with contributory negligence.

Key Words: Electronic Banking, Comparative Law, UU ITE, Electronic Transactions Act, Digital Signatures, Consumer Protection.

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Analisis Perbandingan Hukum antara Undang-Undang Informasi dan Transaksi Elektronik Indonesia dan *Electronic Transactions Act* Australia (sebagaimana telah diubah pada tahun 2024) dalam Pengaturan Transaksi Elektronik di Sektor Perbankan.

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Intisari

Digitalisasi yang pesat di sector perbankan menuntut kerangka hukum yang kuat untuk mejamin keamanan, keberlakuan, dan kepastian hukum dalam transaksi elektronik. Penelitian hukum normatif-doktrinal ini membandingkan UU ITE Indonesia dan Electronic Transactions Act 1999 *(beserta amandemen* 2024*)* Australia *untuk merespons urgensi kepastian hukum dalam era digitalisasi perbankan. Studi ini mengevaluasi pengaturan kontrak elektronik, standar tanda tangan digital, perlindungan konsumen, dan penanganan pacing problem hukum pada transaksi bernilai tinggi*

Melalui pendekatan kualitatif, penelitian ini menemukan perbedaan regulasi yang mendasar. Indonesia menerapkan pendekatan preskriptif dengan sistem tanda tangan dua tingkat yang kaku, sehingga memicu kerentanan pembuktian perbankan ritel dan membebankan pembuktian "black box" *secara tidak proporsional kepada konsumen. Sebaliknya,* Australia *mengadopsi pendekatan permisif dan netral teknologi yang mengedepankan kesetaraan fungsional, "Standar Keandalan"* (Reliability Standard) *kontekstual, serta kerangka* soft law *adaptif melalui* Electronic Payments Code *yang efektif mengalihkan beban pembuktian ke lembaga keuangan.*

Untuk meningkatkan prediktabilitas hukum dan perlindungan konsumen, tesis ini merekomendasikan transisi Indonesia menuju model regulasi adaptif berbasis prinsip. Usulan utama mencakup amandemen UU ITE dan PP No. 71/2019 *untuk mengadopsi standar keandalan kontekstual bagi tanda tangan elektronik, serta pengenalan praduga yang dapat dibantah* (rebuttable presumption) *oleh Mahkamah Agung guna mengalihkan beban pembuktian kepada bank. Selain itu, kerangka hukum perlu diperkuat melalui pembentukan* Digital Banking Code *yang diwajibkan oleh OJK dan penerapan rezim tanggung jawab mutlak dengan kelalaian kontributif* (strict liability with contributory negligence).

Kata Kunci: Perbankan Elektronik, Hukum Komparatif, UU ITE,* Electronic Transactions Act, *Tanda Tangan Digital, Perlindungan Konsumen

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