

ABSTRAK

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GAGASAN PERUSAHAAN PEMBIAYAAN YANG MEMBERIKAN *THIRD PARTY ARBITRATION FUNDING* DI INDONESIA (xiv + 126 halaman; 1 tabel + 4 gambar + 6 lampiran)

Penelitian ini menganalisis legalitas pendirian perusahaan pembiayaan yang memiliki kegiatan usaha *third party arbitration funding* di Indonesia dan juga menganalisis gagasan *third party arbitration funding* di Indonesia. Indonesia belum mengenal *third party arbitration funding*. Negara yang sudah mengenal *third party arbitration funding* adalah Singapura dan Australia. Singapura memperkenalkan *third party arbitration funding* melalui The Civil Law (Amendment) Act 2017 dan The Legal Profession Act. Sedangkan Australia memperkenalkan *third party arbitration funding* pertama kali melalui putusan kasus Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd (Fostif) 2006 yang kemudian dituangkan juga dalam Corporations Amendment Regulation 2012 dan terobosan dari Negara Bagian Victoria, Australia yang menerbitkan Law Reform Commission in their Access to Justice – Litigation Funding and Group Proceedings, Consultation Paper. Indonesia bisa mempertimbangkan gagasan *third party arbitration funding* mengingat biaya Arbitrase di Indonesia juga relatif tinggi. Legalitas perusahaan pembiayaan dengan kegiatan usaha *third party arbitration funding* di Indonesia memiliki hambatan karena hanya didasarkan pada Peraturan Otoritas Jasa Keuangan Nomor 35/POJK.05/2018 tentang Penyelenggaraan Usaha Perusahaan Pembiayaan (“POJK 35/2018”). POJK 35/2018 tersebut hanya mengatur tentang perizinan suatu perusahaan pembiayaan dengan kegiatan usaha lainnya berdasarkan persetujuan Otoritas Jasa Keuangan (OJK). Hambatan lainnya yakni potensi bertentangan dengan prinsip arbitrase (prinsip kerahasiaan dan prinsip ketidakberpihakan) yang lebih jauh bisa berdampak pada keabsahan perjanjian *third party arbitration funding*, keabsahan putusan arbitrase dan terhambatnya eksekusi (non-eksekutabel) putusan arbitrase yang menggunakan *third party arbitration funding*.

Referensi: 113 (1966-2024)

Kata Kunci: Perusahaan Pembiayaan, *Third Party Arbitration Funding*, *Third Party Funding*

ABSTRACT

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THE IDEA OF FINANCING COMPANY THAT PROVIDES THIRD PARTY ARBITRATION FUNDING IN INDONESIA (xiv + 126 pages; 1 table + 4 pictures + 6 attachments)

This study analyzes the legality of the establishment of a financing company that has a business activity of providing third party arbitration funding in Indonesia and also analyzes the idea of third party funding in Indonesia. Indonesia is not yet familiar with the concept of third party arbitration funding. Countries that are already familiar with third party arbitration funding are Singapore and Australia. Singapore introduced third party arbitration funding through The Civil Law (Amendment) Act 2017 and The Legal Profession Act. Meanwhile, Australia introduced the concept of third party arbitration funding for the first time through the decision of the Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd (Fostif) case in 2006 which was then also stated in the Corporations Amendment Regulation 2012 and a breakthrough from the State of Victoria, Australia which published the Law Reform Commission in their Access to Justice - Litigation Funding and Group Proceedings, Consultation Paper. Indonesia can consider using third party arbitration funding considering that the cost of Arbitration in Indonesia is also relatively high. The legality and implementation of financing company with third party arbitration funding business activities in Indonesia have obstacles since the implementations are only based on the Financial Services Authority Regulation Number 35/POJK.05/2018 concerning the The Organization Of The Business Activities Of Financing Companies ("POJK 35/2018"). POJK 35/2018 only regulates the licensing of a financing company with other business activities based on the approval of the Financial Services Authority (OJK). Another obstacles include the potential for conflict with the principles of arbitration (the principle of confidentiality and the principle of impartiality) which could have a further impact on validity of third party arbitration agreement, validity of the arbitration award and the obstruction of execution (non-executable) of arbitration award that use third party arbitration funding.

References: 113 (1966-2024)

Keywords: Perusahaan Pembiayaan, *Third Party Abitration Funding*, *Third Party Funding*