

ABSTRAK

Materi yang diteliti berkaitan dengan aspek kontraktual dalam merger bank, dengan membahas permasalahan aspek hukum kontrak dalam merger bank dan penyelesaian sengketa yang timbul akibat merger bank. Penelitian dengan pendekatan perundang-undang (*statute approach*) dan pendekatan konsep (*conceptual approach*) diperoleh suatu kesimpulan bahwa prinsip hukum merger bank bentuk hukum perseroan terbatas adalah sebagaimana merger perseroan terbatas umumnya, hanya saja dalam merger bank selain memenuhi persyaratan merger, didasarkan atas kontrak juga harus dengan izin dari OJK. Di dalam merger bank yang dimerger adalah baik aktiva maupun pasiva, sehingga tanggung jawab dari bank yang merger adalah baik aktiva maupun pasiva. Penyelesaian sengketa yang timbul akibat merger dapat melalui peradilan umum (litigasi) dan dapat melalui musyawarah di luar sidang peradilan atau non litigasi. Di dalam merger bank, penyelesaian jika terjadi sengketa didasarkan atas POJK Nomor 1/POJK.07/2014), pada pasal 1 angka 2 disebutkan bahwa Lembaga Alternatif Penyelesaian Sengketa adalah lembaga yang melakukan penyelesaian sengketa diluar pengadilan melalui lembaga Mediasi; Ajudikasi; dan Arbitrase. Namun tidak ada penjelasan lebih lanjut jika penyelesaian di luar sidang pengadilan tersebut tidak membawa hasil.

Kata Kunci: Kontraktual, merger, bank.

ABSTRACT

The material studied with regard to the contractual aspects of the merger of banks, by addressing problems in the contract law aspects of mergers of banks and the settlement of disputes arising from the merger of banks. Research with the prevailing approach to law (statute approach) and approaches the concept (conceptual approach) obtained a conclusion that the legal principle of the legal form of bank mergers as a merger perseroaqn limited is a limited liability company in general, only in bank mergers in addition to meeting the requirements of the merger, based on the contract as well must be with permission from the FSA. In the merged bank mergers are good assets and liabilities, so that the responsibility of bank mergers is either assets or liabilities. Settlement of disputes which may arise as a result of the merger by the general court (litigation) and can be through consultation outside the trial or non-litigation. In the merger of banks, in case of dispute settlement based on POJK No. 1 / POJK.07 / 2014), in Article 1 paragraph 2 states that the Alternative Dispute Resolution Institute is an institution conducting extra-judicial dispute resolution through mediation institutions; Adjudication; and Arbitration. However, no further explanation if a settlement out of court does not bring results.

Keywords: Contractual, mergers, bank.