

TurnitinTheGovernmentsRolein ProtectingConsumerRights

by Wiwik Sri Widiarty

Submission date: 26-Sep-2022 10:23AM (UTC+0700)

Submission ID: 1908982932

File name: TheGovernmentsRoleinProtectingConsumerRights.pdf (462.42K)

Word count: 4371

Character count: 24449

The Government's Role in Protecting Consumer Rights

Wiwik Sri Widiarty

Faculty of Law, Universitas Kristen Indonesia

Correspondence Email: wiwik.widiarty@gmail.com

Received: February 16 2022; Revised: April 21 2022; Accepted: May 27 2022

Abstract: *The development of banking technology is currently undergoing changes in various fields, especially in internet banking service products. The situation requires everyone to move quickly, not least in the banking sector. This information technology adds value to consumers as service users by allowing them to transact using electronic banking in their daily activities. It is essential to place consumers as users of internet banking services whose rights need to be protected. The government is protecting consumer rights as users of electronic banking services by issuing Consumer Protection Laws and Banking Laws as a legal basis to provide security, convenience, and information rights in online transactions guaranteed by the State. The formulation of the problem in this study is how the government regulates consumer rights for internet banking service products and what the government's role is in providing consumer protection for internet banking service products. This research uses normative juridical research, namely research that focuses on library studies. The part of the government is essential in protecting the community and as a coach for business actors in improving the industrial world and the country's economy.*

Keywords: *The Role of Government, Consumer Rights, Technology Protection*

Introduction

Advances and developments in technology in the world of trade have been in line with information technology development. Technology has resulted in world trade being no longer limited to territorial boundaries. Sometimes, people can still carry out trade transactions even when a meeting between the parties is no longer needed. The rapid development of information technology has had a broad impact on human life. Information technology will be an alternative for conducting business activities (e-business) in today's times (Zulfikar & Rahmatillah, 2019). Advances in

technology have made room for the flow of goods and service transactions online. This method was chosen because it is believed that cross-border information technology will increase the efficiency and speed of business and government operations. The banking world is currently following technological advances and information in developing services.

Information technology has an influence. Even though this occurs in Indonesia, all economic activities now can be said to refer to patterns that lead to information technology use, both in terms of services and goods. Concerning the development of technology and

information, there are more and more business transactions that mean that transactions between banks and between banks and their customers are carried out electronically, so information technology has created electronic banking. Internet banking has become part of daily activities, one form of advancement in electronic banking. Data shows that internet banking service product users account for more than half of the total population, with an average annual spending of 6.5 million in Indonesia (Demirguc-Kunt et al., 2018). The scope of products and services is also diverse, from being just a bank information site to one that can provide simple transaction services, to a site that can fully serve all forms of simple transactions, to sites that can fully serve all forms of transactions, including transfers of funds, payments, bills, subscriptions for certain products, and even transactions for buying and selling shares. However, as consumers of internet banking service products, their rights need to be protected. With the existence of technological developments in transactions, banking services have begun to lead to the condition that customers do not need to come again to the bank or even sacrifice time and energy to queue and wait a long time. Banking services are now made easier by the many online networks through Automated Teller Machine (ATM) transactions or mobile banking phones, namely transactions made via cellular phones or landlines, as well as internet banking services (Widanengsih, 2021).

Proving that the banking industry in Indonesia is starting to show reasonably rapid ability. But then, the problem is that it is not followed up with banking law reforms, which are very much needed to support the healthy development of the banking industry. "The law regulating

banking is Law Number 10 of 1998 concerning Banking, an Amendment to Law Number 7 of 1992 concerning banking" (Rasyddin, Hs & Sood, 2018). However, "this law does not explicitly restrict the relationship between banks and customers, especially regarding rights and obligations concerning the agreement between the two parties in internet banking services" (Gkoutzinis, 2006). Until now, there has been no definite guideline that banks can reference regarding what content or clauses can or cannot be included in a standard contract to use the internet banking service. Based on article 1, number 10, "Law Number 8 of 1999 concerning Consumer Protection, the Standard Code is that every rule or provision and terms that have been prepared and determined in advance unilaterally by business actors as outlined in a document and agreements that are binding and must be fulfilled by consumers" (Widiarty, 2018; Nugraha & Nachrawi, 2022). In addition, bank customers' rights must also be protected. In banking practices, in general, the agreement model used is a standard agreement or a standard agreement whose clauses have been prepared in such a way beforehand by the bank. Thus, the customer only has two choices: either accept the entire contents of the clauses or not accept them at all. It is solely based on the principle of freedom of contract. As usual, if an agreement is only based on the principle of freedom of contract and not on an agreement to use internet banking services, each party will try to create dominance over the other party.

A standard agreement is "an agreement in which the wearer has standardized all of the clauses, and the other party does not have the opportunity to negotiate or ask for changes" (Sekendiz, Ammon & Connaughton, 2016). Therefore,

only one party makes a standard contract, so everything related to the agreement's contents prioritizes the interests and security of the party who makes it, in this case, the bank. The bank, of course, will use the concept of maximization in determining the contents of the standard contract. The bank will also avoid all risks that may arise. The way to avoid trouble through this legal contract is to limit his liability to himself. It is known as the exemption clause or the exoneration clause (Wan, 1999; Malik et al., 2021). Because the bank has protected itself from all risks that may arise due to the contents of the contract validity, all bets will be the customer's responsibility who uses the service. It is, of course, unfair because the bank is only willing to accept profits but is not willing to take the risk of loss. The unfairness of the use of inclusion in the standard clause agreement is a contract freedom principle result, which is not limited by the rules of Indonesian law and is supervised by the government. Because the law cannot enforce justice for its weak citizens, the law has lost its function. The problem of this research is formulated in the form of questions as follows: a) How does government regulation protect consumer rights when it comes to internet banking services? and b) What is the government's role in providing consumer protection for internet banking services and products?

Every citizen has the right to legal protection that the state must provide. One of the protections that must be provided is consumer protection. It is done so that the state protects the public in conducting business transactions using electronic devices. "Legal protection is contained in Article 1, paragraph (3) of the 1945 Constitution, which states that Indonesia is a legal state" (Arif & Djajaputera, 2022). This statement means

that the state guarantees the legal rights of its citizens by providing legal protection, and with legal protection, it will become a right for every citizen.

Legal protection "is to protect human rights, which are harmed by others, and that protection is given to the community so that they can enjoy all the rights granted by law." "Law can be used to achieve adaptive, flexible, predictive, and anticipatory protection" (Susilowati & Harefa, 2022). "Law is needed for those who are weak and not yet strong socially, economically, and politically to obtain social justice." As stated in Article 1 Point 1 of the Consumer Protection Act, "the definition of consumer protection is all efforts that guarantee legal certainty to provide a sense of security to consumer" (Chou & Chou, 2000). "Legal protection" is a protection given to legal subjects following the rule of law, whether in preventive (prevention) or repressive (coercive) form, both written and unwritten, to enforce the law (Handayani, 2020). Banks, as business actors, provide convenience for customers or consumers to transact via internet banking. Internet Banking is a service for conducting banking transactions through the internet network. As users of goods and services, "consumers need to have their rights protected to obtain correct, transparent, and honest information and the promised guarantees" (Okriro & Ndungu, 2013). Rights are interests protected by law, and demands are expected to be fulfilled, so it can be said that rights are demands whose fulfillment is protected by law.

Method

The type of research method used is normative juridical, namely research conducted with an emphasis on literature study. Reviewing the laws and regulations that apply to a particular legal problem,

namely the object of the study, is in the form of legislation and library materials. The studies are Law Number 8 of 1999 concerning Consumer Protection and Law Number 7 of 1992 concerning Banking, and reading books and scientific journals related to the research topics discussed. Then the data is obtained through qualitative analysis to learn descriptively about the object under study.

Result And Discussion

Government Regulations in Protecting Consumer Rights to Internet Banking Service Products

With the large number of Indonesian people who use banking service products and facilities, it is crucial to have a regulation that rules the protection of consumer rights as users of internet banking services conduct transactions via electronic means. Consumers or users of internet banking service products. In this case, the consumer does not need to make transactions face-to-face with business actors. Just make transactions through internet banking. What is meant by "internet banking" is the service of conducting banking transactions through the internet network (Bilan et al., 2019). The activities of banking business actors in raising funds are carried out through financial service products because bank financial service products are regulated by statutory regulations which are binding in the banks' operational activities to provide security for the public in saving their funds as well as for national stability (Nani, 2018). One of the legal products that regulate banking is "Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. "Banking is everything related to the bank, including institutions, business activities, methods, and processes in carrying out their business activities" (Sugiarto &

Disemadi, 2020). "The Banking Law does not explicitly regulate the relationship between banks and users, especially regarding the rights between banks and users in an agreement between the two parties as users of internet banking services" (Simanjuntak et al., 2022). Concerning Consumer Rights as Users of Goods and Services, it is regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection" (Sugiarto & Disemadi, 2020).

In this case, what needs to be considered as a consumer of internet banking services users' right to get security and comfort in their services. As a business actor, you can provide security and trust to consumers by offering various activities. "Banks as economic institutions carry out two main activities: collecting funds from the public in the form of savings and channeling them to the people in the form of credit or other structures to improve people's living standards" (Bhegawati & Utama, 2020). The function of the bank in the state economy is to serve as an institution that can mobilize public funds appropriately and accurately and quickly channel funds to the public effectively and efficiently. In the context of increasing competitiveness and increasing sources of bank revenues and providing optimal services to consumers or their customers, banks offer various banking services that banks facilitate. One is money transfer (transfer) or transfer services through banks, whether in the city, outside the city, or abroad (Knodell, 2003), both in rupiah and foreign currency addressed to other parties, individuals or companies.

Breakthroughs in the banking world in trading, especially in electronic banking service transactions into daily activities, are progressing very rapidly. The products traded are service products; consumers no longer need to come to the bank simply by

using the online services of banks through ATMs or mobile banking. The use of updated technology with high scalability and a data-based business model with a simple and automated process that is customer-oriented. The use of online transaction technology services via internet banking in Indonesia is getting higher, according to inventory data for 2020–2021 in the blueprint for digital banking transformation by the Financial Services Authority (OJK), which was seen before and the impact during the COVID-19 pandemic has increased (Purwanegara et al., 2014). Over the last few years, customer transactions have been shifting to digital channels. It is indicated by the increasing use of digital media such as Internet banking and decreasing transactions at branches and ATMs. For example, until the end of December 2020, there were 2.7 billion BRI internet banking transactions, an increase of 132.2% year on year. Regulation of banking service products that use internet banking services is regulated in the Financial Services Authority Regulation Number 13/POJK.03/2021 concerning the Operation of Commercial Bank Products (Maurer & Seibel, 2001).

In its development, there are several types of banking service products offered by consumers in providing service facilities, including a) money transfer (transfer) is one of the bank's services to the community by being willing to carry out the customer's mandate to send an amount of money, both in rupiah and in foreign currency (Polatoglu & Ekin, 2001). Addressed to other parties, b) credit card (credit card) issued by a bank or credit card management institution as a form of payment in lieu of cash or checks. A credit card is a card that can be used as a means of payment in which the payment of the bill can be made in stages or installments,

and the cardholder is given a limited amount of credit; c) an ATM card (automated teller machine) is a useful facility to facilitate transactions with funds in savings. The function of an ATM card is to withdraw funds at an ATM or to pay for groceries; and d) The service system known as "electronic banking or internet banking" is an activity that carries out transactions, payments, and other transactions via the internet with a bank-owned website equipped with a security system (Hossain et al., 2013).

Electronic banking transactions are related to general transactions, generally known as electronic banking. Electronic banking, or internet banking, is still a new term in Indonesian society, but with the development of electronic media, some people understand it.

The Government's Role in Providing Consumer Protection for Internet Banking Service Products

The government is "the community's protector and the coach of business actors in improving the progress of industry and the country's economy by protecting consumers by issuing laws and regulations on consumer protection" (Uzunca et al., 2018). The role of the government is, of course, to be fair and impartial in seeing the interests of consumers, and producers are expected to be able to protect consumers, not necessarily side with the interests of consumers who are detrimental to business actors (Johnston, 2008). The government has an important role as a mediator between the interests of business actors and the interests of consumers so that each party can go hand in hand without harming the other. To ensure that the rights of consumers and business actors are protected, the government must be responsible for

fostering and supervising the implementation of consumer protection.

The role of the government as a supervisor is a vital function to protect consumers. "The government is responsible for fostering the implementation of consumer protection which guarantees the acquisition of the rights of consumers and business actors and the performance of the obligations of consumers and business actors" (Hosanna, 2018). The government's efforts in carrying out the task of regulating and maintaining smooth operations for consumers in conducting service transactions through internet banking services are evidenced by "the issuance of Bank Indonesia Regulation Number 16/1/PBI/2014, dated January 21, 2014, concerning Consumer Protection for Payment System Services" (Wahyuni, 2018). Consumer Protection: payment system services are called "consumer protection." Consumer Protection includes all efforts that guarantee legal certainty to protect consumers of payment system services. Consumer protection arises due to the weak position of consumers, so they need to get legal protection (Albayati et al., 2020). For business actors or producers, it is necessary to realize that the continuity of their business is very dependent on consumers. The thing that needs to be acknowledged for consumers is if their rights are violated in internet banking service transactions. If customers are dissatisfied with their service transactions, they can "complain to the National Consumer Protection Agency and the Indonesian Consumers Foundation as part of the government's efforts to develop consumer protection in Indonesia" (Hakim, 2019).

Consumer Complaints to the Bank Indonesia Online Complaint Portal. The

mechanism for consumer complaints is through the Contact Center of Bank Indonesia Call and Interaction telephone number 131, electronic mail or e-mail to talk@bi.go.id, and written letters to the nearest Bank Indonesia representative office to the consumer's domicile (Suleiman, 2021). In the context of law enforcement on consumer protection, particularly in banking crimes, criminal acts in the banking sector consist of actions related to activities in carrying out the bank's main business. Setting sanctions for banks that do not fulfill their obligations: administrative sanctions will be imposed in monetary fines. "Written warning; a decrease in the soundness of the bank; prohibition from participating in clearing activities; suspension of certain business activities, either for certain branch offices or for the bank as a whole; dismissal of bank management and subsequently appointing and temporarily replacing them; inclusion of members, management, bank employees, and shareholders in the list of disgraceful people in the banking sector" (Khan et al., 2020). In addition to administrative actions, imprisonment for a minimum of 7 (seven) years and a maximum of 15 (fifteen) years will also be imposed, as well as a fine of at least ten billion rupiahs and a maximum of two hundred billion rupiahs.

Conclusion

The regulations governing the protection of consumer rights and internet banking service products are Law Number 8 of 1999 and Law Number 10 of 1998 concerning Amendments to Law of the Republic of Indonesia Number 7 of 1992 concerning Banking. Consumers as users of electronic banking or internet banking services get their rights as consumers. It is the right to obtain comfort and security

and choose goods and services according to the conditions with the promised guarantee. It is also the right to obtain correct and honest information, the right to obtain advocacy, the right to be served correctly and honestly, and the right to obtain compensation and anti-loss for goods and/or services if they are not following what was received and agreed upon. The role of the government is very important in nurturing and protecting the community and as a coach for business actors in improving the progress of industry and the country's economy. The government's role in this matter must be fair and impartial to everyone, be it consumers or business actors. The government is protecting consumers as users of electronic banking or internet banking services, namely by establishing consumer complaints institutions, in the form of the National Consumer Protection Agency (BPKN), the Indonesian Consumer Protection Foundation (YLKI), Consumer Complaints, and Bank Indonesia Online Consumer Complaint Portal.

Acknowledgment

The author wishes to express gratitude to everyone who contributed to the writing of this article.

References

Albayati, H., Kim, S. K., & Rho, J. J. (2020). Accepting financial transactions using blockchain technology and cryptocurrency: A customer perspective approach. *Technology in Society*, 62, 101320.

Arif, M. R., & Djajaputera, G. (2022, April). Protection of Consumer Rights on Go-Send Services for Goods That Do Not Understand Based on Law Number 8 of 1999 Concerning Consumer Protection (Example Case Between

Gojek Drivers with Consumers in 2019). In *3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)* (pp. 884-892). Atlantis Press.

Barr, M. S. (2004). Microfinance and financial development. *Mich. J. Int'l L.*, 26, 271.

Bhegawati, D. A. S., & Utama, M. S. (2020). The Role of Banking In Indonesia In Increasing Economic Growth And Community Welfare.

Bilan, Y., Rubanov, P., Vasylieva, T. A., & Lyeonov, S. (2019). The influence of industry 4.0 on financial services: Determinants of alternative finance development. *Polish Journal of Management Studies*.

13 Chou, D. C., & Chou, A. Y. (2000). A guide to the Internet revolution in banking. *Information Systems Management*, 17(2), 51-57.

Demirguc-Kunt, A., Klapper, L., Singer, D., & Ansar, S. (2018). *The Global Findex Database 2017: Measuring financial inclusion and the fintech revolution*. World Bank Publications.

Gkoutzinis, A. A. (2006). *Internet banking and the law in Europe: Regulation, financial integration and electronic commerce*. Cambridge University Press.

Hakim, J. (2019). Exoneration Clause on Law of Consumer Protection: Effects and Legal Efforts. *Jurnal Hukum dan Peradilan*, 8(2), 297-314.

Handayani, O. (2020). Implementation of Prudential Principles in the Use of Disinfectants as an Effort to Prevent Covid-19 Pandemic for Legal Protection of Ecosystems. *Journal of*

- Morality and Legal Culture, 1(1), 58-65.
- 7 Hossain, M., Irin, D., Islam, S., & Saha, S. (2013). Electronic-banking services: A study on selected commercial banks in Bangladesh. *Asian Business Review*, 3(3), 53-61.
- Hosanna, T. T. (2018). *The Importance of Trustworthiness Certification in Relation to Consumer Protection in Electronic Transactions Under Indonesian Law* (Doctoral Dissertation, Thammasat University).
- Johnston, J. (2008). The citizen-consumer hybrid: ideological tensions and the case of Whole Foods Market. *Theory and society*, 37(3), 229-270.
- Khan, H. Z., Bose, S., & Johns, R. (2020). Regulatory influences on CSR practices within banks in an emerging economy: Do banks merely comply?. *Critical Perspectives on Accounting*, 71, 102096.
- 12 Knodell, J. (2003). Profit and duty in the Second Bank of the United States' exchange operations. *Financial History Review*, 10(1), 5-30.
- Malik, F., Abduladjid, S., Mangku, D. G. S., Yuliantini, N. P. R., Wirawan, I. G. M. A. S., & Mahendra, P. R. A. (2021). Legal Protection for People with Disabilities in the Perspective of Human Rights in Indonesia. *International Journal of Criminology and Sociology*, 10, 538-547.
- 5 Maurer, K., & Seibel, H. D. (2001). *Agricultural Development Bank Reform: The Case of Unit Banking System of Bank Rakyat Indonesia (BRI)*. IFAD Rural Finance Working Paper No. B 5.
- Nani, D. A. (2019). Islamic Social Reporting: The Difference of Perception Between User and Preparer of Islamic Banking in Indonesia. *TECHNOBIZ: International Journal of Business*, 2(1), 25-33.
- Nugraha, S., & Nachrawi, G. (2022). Review on The Inclusion of the Exoneration Clause in the Standard Clause Based on Law No 8 of 1999 Concerning Consumer Protection. *LEGAL BRIEF*, 11(2), 704-712.
- 11 Okiro, K., & Ndungu, J. (2013). The impact of mobile and internet banking on performance of financial institutions in Kenya. *European scientific journal*, 9(13).
- 2 Polatoglu, V. N., & Ekin, S. (2001). An empirical investigation of the Turkish consumers' acceptance of Internet banking services. *International journal of bank marketing*.
- Purwanegara, M., Apriningsih, A., & Andika, F. (2014). Snapshot on Indonesia regulation in mobile internet banking users attitudes. *Procedia-Social and Behavioral Sciences*, 115, 147-155.
- Rasyddin, M., Hs, D. S., & Sood, D. M. (2018). The Position of Deed of Official Officer of the Deed of Land (PPAT) in the Banking Credit Guarantee (Study of PT Bank BPR Pesisir Akbar Bima). *International Journal of Humanities, Religion and Social Science*, 2(5), 143-156.
- Sekendiz, B., Ammon, R., & Connaughton, D. P. (2016). An examination of waiver usage and injury-related liability claims in health/fitness facilities in Australia. *J. Legal Aspects Sport*, 26, 144.

- Simanjuntak, M., Widiarty, W. S., & Damian, E. (2022). Legal Protection Consumers Associated with Insurance Regulations Especially Claims Settlement in Indonesia's Economic Development (Case Study of Marine Hull Insurance). *Journal of Positive Psychology and Wellbeing*, 6(1), 1220-1235.
- 8 Sugiarto, I., & Disemadi, H. S. (2020). Consumers Spiritual Rights in Indonesia: A Legal Study of Sharia Fintech Implementation in the Consumers Protection Perspective. *Jurnal IUS Kajian Hukum dan Keadilan*, 8(3), 437-452.
- Suleiman, A. (2021). Improving Consumer Protection for Low-Income Customers in P2P Lending.
- Susilowati, D., & Harefa, B. (2022). Criminal Liability of Juvenile Narcotics Users. *International Journal of Multicultural and Multireligious Understanding*, 9(1), 316-324.
- Uzunca, B., Rigtering, J. C., & Ozcan, P. (2018). Sharing and shaping: A cross-country comparison of how sharing economy firms shape their institutional environment to gain legitimacy. *Academy of management discoveries*, 4(3), 248-272.
- 9 Wahyuni, N. (2018). Consumer protection in Indonesia on selling buy transaction through E-commerce. *Journal of International Trade, Logistics and Law*, 4(1), 1-8.
- Wan, Y. S. (1999). *kebebasan berkontrak dan perlindungan yang seimbang bagi para pihak dalam kesepakatan kerja bersama (KKB)* (Doctoral dissertation, Universitas Airlangga).
- Widanengsih, E. (2021). Technology acceptance model to measure customer's interest to use mobile banking. *Journal of Industrial Engineering & Management Research*, 2(1), 73-82.
- Widiarty, W. S. (2018). The Legal Analysis of Consumer Protection Against the Circulation of Expired Food Products in Indonesia. *International Journal of Management and Business Research*, 8.
- Zulfikar, R., & Rahmatillah, S. R. (2019). E-Business as an Entrepreneur's Creativity Strategy.

TurnitinTheGovernmentsRoleinProtectingConsumerRights

ORIGINALITY REPORT

10%

SIMILARITY INDEX

9%

INTERNET SOURCES

4%

PUBLICATIONS

8%

STUDENT PAPERS

PRIMARY SOURCES

1	Submitted to Universitas Nasional Student Paper	2%
2	Submitted to University of Sunderland Student Paper	1%
3	repository.uph.edu Internet Source	1%
4	ijisrt.com Internet Source	1%
5	www.econstor.eu Internet Source	1%
6	journal.ubaya.ac.id Internet Source	1%
7	media.neliti.com Internet Source	1%
8	eudl.eu Internet Source	1%
9	journal.unnes.ac.id Internet Source	1%

10 Ridwan Arifin. "LAW ENFORCEMENT IN BANKING CRIMINAL ACT INVOLVING INSIDERS", Jembe Law Journal, 2018
Publication 1 %

11 www.ijamee.info
Internet Source 1 %

12 Submitted to Colorado State University, Global Campus
Student Paper 1 %

13 bradscholars.brad.ac.uk
Internet Source 1 %

14 jurnal.unissula.ac.id
Internet Source 1 %

Exclude quotes On

Exclude matches < 1%

Exclude bibliography Off