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## Reconstuction of Legal Protection Regulation for Service Customers of Payment System in Indonesia

Saryo<sup>1</sup>, A. Uwiyono<sup>2</sup>, Siti Nurbaiti<sup>3</sup>

<sup>1</sup> Universitas Trisakti, Jakarta, Indonesia

Email: [saryosh@gmail.com](mailto:saryosh@gmail.com)

<sup>2</sup> Universitas Trisakti, Jakarta, Indonesia

<sup>3</sup> Universitas Trisakti, Jakarta, Indonesia

Corresponding Author: [saryosh@gmail.com](mailto:saryosh@gmail.com)<sup>1</sup>

**Abstract:** This dissertation conducted under the title “Reconstruction of Legal Protection Regulation for Service Customers of Payment System in Indonesia was based on the need for a strong legal basis concerning consumer protection of payment system since the existing legal regulation construction. In addition, its implementation is deemed in need of adjustment with the increasing development of product and service of the national payment system which is encouraged by the technological advancement that promote tons of innovation so it may increase the risk for the consumers. The present study was aimed at analyzing and describing three problems related to the construction of legal protection regulation for consumers of payment system services in Indonesia, the implementation of legal protection for the payment system service consumers, and the reconstruction of legal protection regulation for payment system service customers in Indonesia in the future. The theoretical basis employed was the theory of equality, legal certainty, and legal protection. The methodology used was normative with law approach, conceptual and comparison, and descriptive approach obtained from secondary data supported with the primary data which were analyzed qualitatively using deductive conclusion-making. The research result revealed that the construction of legal protection for customers of payment system services regulated in the Peraturan Bank Indonesia (PBI) Number 22/20/PBI/2020 concerning Legal Protection for Bank Indonesia Consumers was still considered low so it needed an adjustment. The implementation of consumer protection of payment system service including consumer complaint handling provided by the Payment Service Provider by Bank Indonesia was deemed in need of improvement or reconstruction in order to be able to give legal certainty to the customers. The reconstruction of PBI was conducted by adjusting and adding some articles including indemnity, personal data protection, establishment of an Alternative Payment System Dispute Resolution Institution, cyber risk, new product testing, and action mechanisms against unlicensed Payment Service Providers. The researcher in this study suggested the formation of new laws regulating the payment system in which consumer protection of the payment system should be regulated by referring to the comparison with other countries that have certain Laws concerning the payment system. The formation of laws

will strengthen the legal basis in the activity of the national payment system as well as give legal certainty to the consumers and business practitioners in the payment system service.

**Keyword:** legal protection, consumers, payment systems.

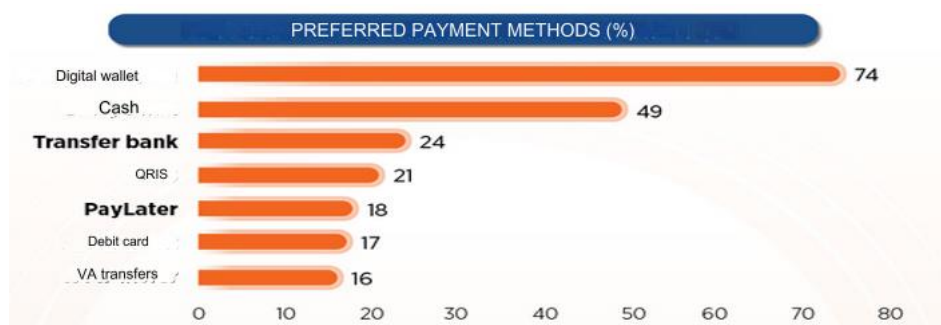
## INTRODUCTION

Regulations for the legal protection of consumers of payment systems currently do not yet have a strong legal basis in the form of rules at the level of the law, so there is a need for legal protection regulations for consumers of payment system services that can provide protection, justice and guarantee legal certainty for consumers. Technological developments have benefitted society, business actors and the economy. The digital revolution in the last decade has drastically changed the transaction behaviour of economic agents.

Consumption patterns and ways of shopping are shifting to digital platforms and require payment methods that are mobile, fast, and at the same time remain secure. On the other hand, payment transactions using card payment instruments such as credit cards tend to decline; this is in line with the increasing ease of people using digital devices to carry out payment transactions, which are also equipped with various services from payment service providers. Business actors in the payment system services sector also continue to carry out multiple innovations to improve their services to consumers by utilizing the technology in question, thereby creating various activities and products in the payment system that everyone can access and use easily via digital devices, including mobile phones.

According to the Indonesian Payment System Blueprint 2025, the payment system industry tends to be vulnerable to market concentration risk due to economic scale and network effects. Meanwhile, not all payment settlements are carried out through central bank money, which has a strong element of finality. This condition emphasizes the importance of the central bank's position as a payment system authority in the digital era, both in the context of regulators, supervisors and operators who actively operate payment systems. It is confirmed in Article 8 of Law Number 23 of 1999 concerning Bank Indonesia as it has been amended several times and was most recently amended by Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector.

Payment service providers are also increasingly active in supporting merchants by providing payment acceptance devices to make it easier for people to make payments practically without using cash. The variety of products and services offered by payment system service providers is also growing along with the increase in transaction volume from year to year. As shown below, more consumers use digital wallets or electronic money to make payments than other methods, such as credit or debit cards.



Source: Katadata.co.id 2022  
Figure 1: Preferred Payment Methods

Based on consumer complaint data available at Bank Indonesia for the last 5 (five) years, the average number of consumer complaints is 2,376 each year, and there is an increase in the number of complaints every year in line with the development of payment service products that continue to compete. Likewise, the number of consumer complaints at the Financial Services Authority during 2022 received 14,088 complaint reports.

The large number of complaints with various kinds of problems certainly requires the seriousness of all parties, especially payment service providers, to resolve complaints, improve the security aspects of their products and services, and provide education to the public and consumers. The role of regulators is very important, especially to regulate and supervise payment service providers about delivering products and services so that they do not harm consumers. Apart from that, the process of handling payment system consumer complaints carried out by payment service providers and by Bank Indonesia should be supported by technology to make the process easier.

The law guarantees the parties' equal position in the agreement. Still, in practice, the stronger party always pressures the weaker party, as in consumer financing agreements. Based on the problems suffered by consumers who are materially harmed, attention is needed from the legal aspect. Therefore, with the birth of the Consumer Protection Law, it is hoped that it can become a legal basis that can protect consumer rights, likewise with the implementing provisions below, such as the Bank Indonesia Regulation concerning Bank Indonesia Consumer Protection.

Therefore, to rebuild (reconstruct) the regulation of consumer protection for payment system services, the author proposes that there is a need for amendments to the relevant rules governing the security of consumers of payment system services, namely Law Number 8 of 1999 concerning Consumer Protection and Bank Regulations Indonesia Number 22/20/PBI/2020 concerning Bank Indonesia Consumer Protection.

Several sectoral laws regulate consumer protection, including Law Number 21 of 2011 concerning the Financial Services Authority, which also governs the protection of financial services consumers. Apart from that, regarding the security of payment system consumers, it has been stated in the Explanation to Article 15 of Law Number 23 of 1999 concerning Bank Indonesia that the obligation to submit reports applies to every payment system service provider. It is intended so that Bank Indonesia can monitor the implementation of the payment system.

However, in line with the latest changes in statutory regulations, especially the Law on Development and Strengthening of the Financial Sector and changes to payment system provisions, Bank Indonesia's consumer protection provisions must also be harmonized so that they are right on target. This research is based on the importance of finding constructions for consumer protection regulation for payment system services that can be implemented and protect consumer rights in carrying out payment transactions in line with Indonesia's increasingly widespread and numerous payment system products and services.

The basic discourse guiding this research includes logical and systematic thinking that coherently understands the importance of protecting consumer rights and providing payment services through strong regulations that can be implemented comprehensively in the form of statutory rules. Along with the development of payment service providers, the public, as consumers, are the parties who have the potential to suffer losses in payment transactions, so legal protection is needed.

Munir Fuady, in his book entitled Introduction to Business Law, says that consumers are a group that is vulnerable to exploitation by business actors. Therefore, a set of legal regulations is needed to protect consumers. This dissertation research aims to discover the construction of existing legal protection regulation for consumers of payment system

services, including their implementation, and at the same time, propose the need for reconstruction of future meetings.

## **RESEARCH METHODS**

This type of research is normative legal research using a statutory, conceptual, and comparative approach. The data used in this research consists of secondary data and is supported by primary data. The data collection technique was carried out using library research and supported by the results of interviews to obtain data related to the research object. Data analysis in this research uses justice, legal certainty, and legal protection theories. The data processing and analysis form in this research uses qualitative descriptive methods.

## **RESEARCH RESULTS AND DISCUSSION**

### **Consumer Protection Regulations in Malaysia**

Malaysia already has a law regarding consumer protection, namely the Consumer Protection Act 1999 (CPA), enacted on 15 November 1999. The CPA defines consumers as parties carrying out a purchase transaction for personal or commercial use. The CPA is the legal basis for consumer protection and regulates contracts and unlawful acts. Consumer protection provisions are designed to prevent fraudulent commerce practices and protect consumers. The CPA has also held consumer protection regarding trade transactions carried out electronically to protect consumer rights.

Malaysia also has a Law on Payment Systems, namely the Payment Systems Act 2003 (Act 627) or PSA. The Governor of Bank Negara Malaysia emphasized that these provisions were useful for improving the efficiency of the payment system and specifically gave a mandate to the Central Bank of Malaysia to be more effective in supervising and facilitating the development of the payment system in Malaysia. The main objective of the PSA is to maintain monetary stability and a healthy financial structure. It is intended to support a reliable, efficient and smooth national payment system and to ensure that payment system policies are directed to the benefit of Malaysia..

### **Consumer Protection Regulation in India**

India already has a law regarding consumer protection as regulated in The Consumer Protection Act 2019 (CPA), which replaced the Consumer Protection Act 1986 (COPRA). The issuance of this CPA was followed by the formation of the Central Consumer Protection Authority (CCPA), which has the authority to protect and protect consumer rights. CPA also regulates e-commerce. The protection the CCPA provides against unfair practices in e-commerce is regulated in Section 94 of the CPA, which states that the central government is permitted to take all forms of action held in the CPA to prevent unfair trade in commerce via electronic means. Two (2) forms of action contained in the CPA and can be carried out by the central government in connection with fraud in e-commerce: make complaints through the CCPA and form new legal regulations. In submitting a complaint, the CCPA must receive and process it.

Regarding consumer protection regulations for payment systems, India regulates them separately in the Law on payment systems, namely the Payment and Settlement System Act 2007 (PSS). This provision defines a payment system as one that allows payments between the payer and recipient, including clearing, payment or settlement of services but does not include securities trading on the capital market. These provisions also regulate electronic or digital fund transfers. Meanwhile, supervision of the payment system is carried out by the central bank. Settlement of consumer disputes is first resolved by the forum that has been established; if there is no resolution, then it is determined by the central bank..

### **Payment System Consumer Complaints Data and Information**

Based on consumer complaint data at Bank Indonesia for the last 5 (five) years from 2017 to 2021, the average number of consumer complaints related to the payment system is 2,376 yearly. There was an increase in complaints from 2017 to 2019 in line with the development of payment service products that continue to compete. Consumer complaints based on payment instruments are dominated by complaints related to credit cards, reaching 8,381 complaints in the last 5 (five) years. It was followed by complaints regarding ATM or debit cards, with 1,648 complaints. Complaints related to other payment instruments such as electronic money, fund transfers, mobile banking, internet banking and electronic wallets are also numerous but lower than credit card complaints.

Likewise, complaints to the Financial Services Authority (OJK) in 2022 received 14,088 complaints, dominated by 7,104 reports from the banking sector, 6,896 reports from the IKNB, and 88 reports from the capital markets sector. The topics of most consumer complaints in the banking sector concern credit restructuring, transaction failures or problems, double transactions (debiting twice), refunds, balances not received or sent, and fraud in the form of account break-ins (skimming or phishing). The large number of complaints reflects the need for improvement in various aspects, including the complaint handling process, supporting infrastructure, and regulatory elements to protect the public who are consumers of payment system services. Education is also necessary so that consumers know the benefits and risks of their products.

### **Cases Related to Payment Systems**

Fraud cases related to payment system services in Indonesia have appeared in various payment instruments such as credit cards, mobile banking, internet banking, ATM cards/debit cards, and QRIS. The latest is the case of counterfeiting QRIS (Quick Response Code Indonesian Standard) barcodes. This case was carried out by irresponsible individuals by replacing the original QRIS barcode with a fake one. This fake barcode will then be connected to the perpetrator's account so the money transferred by the user will go to that account. This case has occurred in several locations in a number of big cities in Indonesia. Apart from that, there are also cases of credit card carding where the credit card number is used by another party without the customer's knowledge.

### **Resolution of Payment System Consumer Dispute**

As a legal relationship, payment transactions using payment system services allow disputes to occur between the parties, whether due to default or violation of the law. In this regard, in the event that a consumer feels financially disadvantaged by a payment service provider, the consumer can submit a complaint to the payment service provider. However, in the event that the consumer does not agree with the results of the complaint handling carried out by the payment service provider, the consumer can submit a complaint or request for dispute resolution to Bank Indonesia.

Transactions using payment system services have an agreement between the parties made electronically, so this payment transaction falls within the scope of civil law. Thus, dispute resolution in the use of payment system services is subject to civil law provisions, the resolution of which, apart from being carried out through payment service providers, Bank Indonesia can also be carried out through court (litigation) or settlement outside the court (non-litigation). Settlement through court will certainly require time and costs.



## **ANALYSIS AND DISCUSSION OF RECONSTRUCTION OF LEGAL PROTECTION REGULATION FOR CONSUMERS OF PAYMENT SYSTEM SERVICES IN INDONESIA**

### **Construction of Legal Protection Regulation for Consumers of Payment System Services in Indonesia**

Law Number 8 of 1999 concerning Consumer Protection is the beginning of formal legal recognition of consumer protection and is a means of legal force for consumers, which also contains the responsibilities of business actors as service providers or product manufacturers. This law generally regulates consumer protection, so it becomes a legal basis for consumer protection in Indonesia.

The provisions governing the protection of consumers of payment system services are still relatively limited and are currently regulated in Bank Indonesia Regulation Number 22/20/PBI/2020 concerning Bank Indonesia Consumer Protection. Previously, there were special provisions governing the protection of consumers of payment system services, namely Bank Indonesia Regulation Number 16/1/PBI/2014 concerning Consumer Protection of Payment System services. Still, these provisions were later revoked and replaced with Bank Indonesia consumer protection provisions, which regulate more broadly for all consumers of business actors under the supervision of Bank Indonesia, including consumers of payment services. The requirements of other regulators do not specifically regulate the protection of consumers of payment system services.

Based on the regulations related to legal protection for consumers of payment system services in Indonesia, the author found several areas for improvement because, in substance, several parts are no longer in line with the latest developments, including alignment with other latest laws and regulations. Several things that must be adjusted include those related to the rights and obligations of consumers, the rights of business actors, dispute resolution, payment system operators, obligations of payment system operators, and consumer protection compliance monitoring mechanisms.

### **Implementation of Legal Protection for Consumers of Payment System Services in Indonesia**

Provisions issued by Bank Indonesia regulate legal protection for consumers of payment system services in Indonesia. Other authorities, such as the Financial Services Authority (OJK), also have consumer protection provisions for financial service institutions. The scope of these consumer protection regulations is quite broad, consisting of banks and institutions other than banks whose business models include payment system service activities within these financial institutions. However, specifically regarding the regulation and supervision of payment systems, it remains the authority of Bank Indonesia, including the law and implementation of consumer protection for payment system services. There is a gap between the power of the OJK and Bank Indonesia, so the process requires coordination between institutions to clarify the process of implementing consumer dispute resolution with financial services businesses and payment system services. OJK regulates and supervises banking activities, whereas banks are also financial institutions that carry out payment system service activities that Bank Indonesia manages.

Bank Indonesia continuously strengthens its functions to create a more effective implementation of consumer protection, namely regulating and formulating policies, supervision, handling complaints, education and literacy, and collaborating with other institutions both nationally and internationally. Handling and resolving consumer complaints is one of the consumer protection principles regulated in Article 7 letter g of Bank Indonesia Regulation Number 22/20/PBI/2020 concerning Bank Indonesia Consumer Protection. The

Elucidation to Article 7 letter g explains that effective complaint handling and resolution is carried out by the Operator, among other things, by having and implementing a mechanism for handling and resolving consumer complaints that is responsive, appropriate and by the specified time limits. Organizers are obliged to handle and resolve complaints submitted by consumers responsively according to applicable procedures. Organizers who do not fulfil their obligations to address and resolve complaints submitted by consumers may be subject to administrative sanctions.

Consumers of payment system services can complain about their problems to the payment service provider; if there has been no resolution from the payment service provider, the consumer can submit a complaint to Bank Indonesia. Bank Indonesia handles consumer complaints through education, consultation, and facilitation. Complaints submitted by consumers to Bank Indonesia generally consist of consumer misunderstanding, indications of violations of Bank Indonesia regulations by the organizers, financial losses and potential financial losses that are reasonable and directly impact consumers.

However, consumer protection in the payment system still requires improvement in the future, including the handling of complaints, which has yet to be carried out centrally through the system; there is no system to monitor the complaint resolution process or a mechanism for monitoring provider compliance.

### **Future Reconstruction of Legal Protection Regulation for Consumers of Payment System Services in Indonesia**

The Consumer Protection Law mandates creating a consumer protection system containing legal certainty, information disclosure and access to protection. Legal assurance to provide consumer protection can be done through legal politics of consumer protection to overcome legal problems. In the legal system, legal politics is in the position of 3 (three) sub-systems, as stated by Lawrence Friedman: legal substance, legal structure and legal culture.

In this research study, to build a future reconstruction of legal protection regulation for consumers of payment system services, the author recommends the need to amend consumer protection regulations and other related laws and regulations, the need to establish an Alternative Payment System Dispute Resolution Institution which will later be tasked with resolve disputes that occur between consumers (payment system users) and business actors (payment system organizers or service providers), as well as the need to build a culture of society as intelligent consumers, including law-abiding consumers of payment system services. Creating a culture of the organization as savvy consumers requires participation from all levels, including community organizations (organizations research, several laws and regulations relating to consumer protection need to be reconstructed so that the safety of consumers of payment system services can run better in terms of legal certainty, justice and protecting all payment system consumers. Some of these regulations are Law Number 8 of 1999 concerning Consumer Protection and Bank Indonesia Regulation Number 22/20/PBI/2020 concerning Bank Indonesia Consumer Protection.

The proposed reconstruction of the Consumer Protection Law needs to be carried out in line with the latest developments, especially those related to digitalization, which have given rise to new business models that these provisions should cover. The proposed reconstruction is connected to a broader definition of services in line with digital developments, consumers' rights to receive compensation as a result of business actors' mistakes, consumers' obligations to provide accurate information, business actors' rights, and dispute resolution, which can be done online or offline.

The proposed reconstruction of Bank Indonesia regulations regarding Bank Indonesia consumer protection is carried out in line with changes to other rules so that they can adapt to the latest developments. There are several proposed adjustments, including those related to

the definition of payment systems, payment system administrators being adjusted to the newest payment system provisions, obligations of payment service providers in providing resolution information, addition of cyber risk clauses, compensation clauses, responsibility of payment service providers to consumers, protection of personal data, product testing obligations, and clauses regarding the establishment of Alternative Payment System Dispute Resolution Institutions (LAPS SP). The formation of LAPS SP is needed to handle disputes related to payment system cases supported by officers with competence in payment systems.

Strengthening legal aspects related to the payment system consumer protection should also be carried out by adjusting the legal substance, but this requires the formation of higher legislation in the form of a law. Therefore, the author proposes the need to form a law on payment systems, which includes regulating the protection of payment system consumers. The formation of the payment system law is important considering the broad scope of the payment system, which impacts the national economy. Apart from that, several other countries already have regulations regarding payment systems.

## CONCLUSION

Regulations regarding legal protection for consumers of payment system services are currently regulated in Bank Indonesia Regulations (PBI), namely PBI No.22/20/PBI/2020 concerning Bank Indonesia Consumer Protection. Meanwhile, existing laws and regulations related to consumer protection still need to cover security for consumers of payment system services, for example, the Consumer Protection Law and various other restrictions. Indonesia also still needs to have payment system provisions at the level of a law regulating payment system consumer protection.

Consumers of payment system services can complain about their problems to the provider. Still, if there has not been a resolution from the payment service provider, the consumer can submit a complaint to Bank Indonesia. Bank Indonesia handles consumer complaints through education, consultation, and facilitation. In this regard, Bank Indonesia has duties and functions in regulating and maintaining the smooth running of the payment system in Indonesia.

Reconstruction of legal protection regulation for consumers of payment system services in Indonesia in the future can be carried out by amending or amending the Law on Consumer Protection and Bank Indonesia Regulations on Bank Indonesia Consumer Protection by adding several clauses, including regarding compensation by providers to consumers who experienced losses due to negligence and errors on the part of the organizers, protection of personal data, regulations regarding the establishment of Alternative Payment System Dispute Resolution Institutions, addition of protection clauses for cyber risks, as well as rules on the obligation to conduct trials of new products to assess risks that have the potential to harm consumers.

Based on this, as a suggestion for the future, a law is needed to regulate payment systems and consumer protection. Regarding dispute resolution, it should also be done online and offline to be more effective and efficient for the community.

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