

# THE LEGALITY OF DIGITAL BANK IN INDONESIA ON CUSTOMER PROTECTION

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## ABSTRACT

*The development of Digital Banks in Indonesia is currently quite high, this is indicated by the number of conventional banks switching to Digital Banks. A digital bank is a bank that does not require many branch offices because the banking system is done digitally, such as opening an account online. In opening customer accounts online in a digital banking system, legal protection is needed, especially customer confidentiality because it is feared that there will be a lot of misuse of customer data. The method used in this research is the normative juridical method. The normative juridical method is a method using secondary data such as the laws and regulations in force in Indonesia, especially those related to the banking system. The results of the study show that the legality of the digital banking system has been fulfilled, namely by the existence of regulations issued by authorized officials in the field of banking supervision. The legality of digital banks in banking operations has been fulfilled, namely with the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.13/2018 concerning the Implementation of Digital Banking Services by Commercial Banks. Legal protection for customers currently still refers to the regulations of the financial services authority as stipulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.13/2018. The Financial Services Authority regulation states that banks that run digital systems refer to the Financial Services Authority of the Republic of Indonesia Number 1/POJK.07/2013 concerning the protection of consumers of financial services .*

**Keywords:** *Legality; Bank; Digital; Customer Protection*

## A. Introduction

According to the provisions in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia, Indonesia is a constitutional state.<sup>1</sup> Bank is a financial institution that has a function as a collector and distributor of funds to the public. Banks have an important role in the development of a country. Collectors of public funds, in this case, banks can collect funds from the public through savings. While the distributor of funds is a bank as a financial institution that is given the authority to distribute funds to the public through credit or bank business. According to Susilo, Triandaru and Santoso (2006) in general, the main function of banks is to collect funds from the public and channel them back to the community for sharing purposes or as a Financial Intermediary.<sup>2</sup> *Banking as a financial services industry in Indonesia, is an industry that plays an important role in economic activity.*<sup>3</sup> Banking services are very important in the economic development of a country. Where banking has at least two goals. First, as a service provider of efficient payment mechanisms and instruments for customers. And the second is by accepting savings from customers and lending them to those who need funds, which means that banks can increase the flow of funds for more productive investment and utilization. Banking business is a service or service business. Where, the core-business of banking is collecting funds from the public (funding), then channeling funds to people in need (financing/lending) and providing banking services (banking service).

Revolution Industrial 4.0 has, in a change fast in the world that we live in and the development of digital technology is already underway with rapidly in various parts of the world, no ex-

<sup>1</sup> Andri Winjaya Laksana, *Law Enforcement Reform on Covid 19 Pandemic: Necessity or an Innovation?*, *Varia Justicia* Vol. 16 No. 2 (2020) page. 170-182

<sup>2</sup> Susilo Sri Y, S. and TBS, *Banks and Other Financial Institutions*. Jakarta: Salemba Empat, Jakarta, 2006, Page 15

<sup>3</sup> Cvijovic, Jelena., Stankovic, Milica Kostic., R., & Marija. *Customer Relationship Management In Banking Industry: Modern Approach*. *Industrija Journal*, 45 (3), 2017, Page 151-165

ception also in Indonesia.<sup>4</sup> Banks as financial institutions must be able to keep up with changes in technological developments. The development of technology that occurs must be followed by the bank so that the bank can grow and develop according to the needs of the community. The current pandemic can accelerate the direction of civilization towards the industrial revolution 4.0, where consumer services, including banking services, are carried out digitally. The development of digital technology innovation has been widely used by the public to encourage an increase and shift in the use of cash transactions to non-cash transactions and also from physical activities to mobile-based transaction activities. This causes digital transformation to be faster because of the compulsion of the Covid-19 situation. The combination of digital transformation and the state of Covid-19 is causing change. Covid-19 has accelerated digital transformation up to 5.3 years faster.<sup>5</sup> *Internet and digital have become a challenge for central banks to keep up with the pace of change, including Bank Indonesia (BI). This effort is also in order to enter the IT-based industrial era 4.0. It is inseparable from the huge potential of digital banks. The We Are Social report together with Hootsuite stated that there were 202.6 million internet users in Indonesia. However, based on reports from Google, Temasek, and Bain & Company in 2019, as many as 92 million people have never accessed banks, as well as financial services offered or unbanked.*<sup>6</sup> *Banks that improve Information Technology in services to customers indirectly direct banks to a new era, namely the era of digital banking.*<sup>7</sup> *Bhima said that the digital bank trend is driving a new competitive landscape in the banking sector. According to him, banks that invest in digitalization will gain a larger market share than banks that continue to operate conventionally. In addition, the need for digital banking is even greater in line with the growth in the number of active internet users in 2020 which will reach 175.4 million people.*<sup>8</sup>

Digital transformation in the last decade is taking place rapidly and has an impact on almost all aspects of life. Digital transformation is a consequence of the era of disruption (Industry 4.0), resulting in changes in business models, as well as overhauling the existing business ecosystem into a new ecosystem that is more innovative, complex and dynamic. The use of Information Technology is one of the prerequisites in providing financial services by Banks.<sup>9</sup> *Increased use of Information Technology in improving services to customers personally directs the Bank in a new era, namely the era of digital banking. Personal services to customers in the digital banking era can be realized from the start of the business relationship between the customer and the Bank until it ends. The process of opening a savings account, executing financial transactions, to closing a savings account can be done by utilizing Information Technology.*

The Financial Services Authority defines digital banking services as electronic banking services developed by optimizing the use of customer data in order to serve customers more quickly, easily, and according to customer experience. In addition, digital banking services can be performed independently by customers, taking into account security aspects. The types of services provided by digital banking include account administration, transaction authorization, financial management, informative services, transactional services, and so on. Informative services are services that are only limited to providing information to bank customers without any further interaction. This service is not followed by the execution of financial transactions. Meanwhile, transactional services begin with the provision of information to customers, which can be accompanied by facilities for interacting with banks in order to assist in making decisions on financial transactions in accordance with the needs and abilities of customers. Next, the transaction is executed by the customer.<sup>10</sup> *The provision of digital banking services can have an impact on increasing risk, especially operational risk, strategic risk, and reputation risk, so it is necessary to increase the application of risk management in the effective use of information technology by banks. Digital banking services (digital banking) are expected to provide convenience at a higher level compared to existing services. The convenience provided makes customers feel benefited, but on the other hand, this service will also increase the risks faced by banks, especially related to operational risk and reputation risk if there are problems regarding digital banking.*<sup>11</sup> The faced risks by banks include misuse of customer data, so that customer protection in the digital system is very important. On the other hand, digital technology reduces traditional banking which still runs manual transactions. The negative effect of implementing this transformation is the cutting of work procedures, which in turn will result in a reduction

4 Sri Adiningsih, *Digital-Based Economic Transformation in Indonesia*, Gramedia Pustaka Utama, Jakarta: 2019, Page 2

5 <https://www.cloudcomputing.id/acara/bank-indonesia-digitalisasi-key-pemulihan-ekonomi>, accessed on December 5, 2022

6 <https://finansial.bisnis.com/read/20210908/90/1439411/jalan-menuju-digitalisasi-perbankan-dalam-keniscayaan>, accessed on December 5, 2022

7 Mbama., & C. (2018). *Digital banking, customer experience and bank financial performance: UK customers' perceptions*. *International Journal of Bank Marketing*, 36 (2), Page 230–255

8 <https://dailysocial.id/post/realiasi-bank-digital-indonesia-2020>, accessed on 6 December 2022

9 Winasis, S., & Riyanto, S. *Digital Transformation in the Indonesian Banking Industry: Impact on Employee Work Stress*. *IQTISHADIA: Journal of Islamic Banking and Economics*, 7 (1), 2020, 55–64

10 <https://www.cnnindonesia.com/ekonomi/20210625164912-78-659514/menkenal-bank-digital-yang-naik-daun-di-indonesia>, accessed on December 6, 2022

11 Kholis, N. *Banking in the New Digital Age*. *Economicus*, 12 (1), 2020, Page. 80–88

in the workforce.<sup>12</sup> Policies are laws, regulations, procedures, administrative actions, incentives, or voluntary practices of governments and other agencies.<sup>13</sup>

Technological developments in everyday life can be felt in various activities, especially in this COVID-19 pandemic situation which cannot be separated from technology. So that the protection of personal data in the digital world is increasing important because the use of electronic documents and internet networks is increasing, especially since the covid 19 pandemic, almost everyone works, studies, transacts from home by relying on the internet network, especially digital electronic services carried out by banks.<sup>14</sup>

Today's banks must pay attention to the development of digital technology, if they do not want to be abandoned by their customers who turn to financial institutions that indulge customer desires. One of the banking changes that must be made is changing or providing digital services to its customers. Along with technological developments, digital banking always colors every customer's financial activity. Digital banking services (digital banking) are expected to provide convenience at a higher level compared to existing services. The convenience provided makes customers feel benefited, but on the other hand, this service will also increase the risks faced by banks, especially related to operational risk and reputation risk if there are problems regarding digital banking.

Several problems arise due to digital banking services such as cybercrime which is now increasing widespread and the development of techniques for data misuse by irresponsible parties is increasing. Cybercrime has become the number one crime for the banking world, especially in the digital era.<sup>15</sup> *The advancement of digital technology has an impact on humans from two sides, the positive side is providing convenience in the midst of society, but the negative side is the emergence of various problems over time.*<sup>16</sup>

Changes in technology also provide changes to the types of crimes committed. The type of crime that was initially committed directly, with technological changes, the crime was carried out technologically or electronically. Crimes committed digitally such as misuse of data. With this type of crime such as data misuse, banks in providing digital services must pay attention to and protect customer data. Customer protection for digital services will provide certainty for customers who use bank services digitally, so protection is needed for customers. The form of protection provided is such as protection against misuse of customer data by banks or banking crimes.

## B. Research Methods

To answer the writing questions that have been formulated above, the authors will use the normative research method.<sup>17</sup> The type of research used is literature or library research, meaning a study by examining books or books related to this research that comes from the library (library materials). All sources come from written (printed) materials related to research problems and other literature as well as electronics.<sup>18</sup>

The approach used in this study is a qualitative approach, which is an approach that in data processing and analysis does not use numbers, symbols and or mathematical variables but with an in- depth understanding by examining the problem on a case-by-case basis. In the discussion, the researcher uses a normative juridical approach, which is a type of approach using the provisions of the legislation in force in a country or a doctrinal legal approach method, namely legal theories and opinions of legal scientists, especially those related to the issues discussed.<sup>19</sup> In conducting the discussion, this research uses a normative juridical approach,<sup>20</sup> namely the type of approach using

12 Hartono, B., & Atmaja, HE. *Digital HR: Bank Transformation Strategy to Become a Digital Bank. Journal of Office Administration*, 9 (1), 2021, Page 49–60

13 Ma'ruf Cahyono, Bahtiyar Efendi, and Anis Mashdurohaturun, *Restructuring Institutional and Legal Policies in Fostering the Ideology of Pancasila*, *Lex Publica Vol. 7, No. 1*, 2020, Page 28-39

14 Situmeang, SMT, *Misuse of Personal Data as a Perfect Form of Crime in Cyber Law Perspective. Sasi*, 27 (1), 2021, Page. 38

15 Tarigan, HAAB, & Paulus, DH, *Legal Protection for Customers for the Implementation of Digital Banking Services. Indonesian Journal of Legal Development*, 1 (3), 2019, Page 294–307

16 Pakpahan, EF, Chandra, LR, & Dewa, AA, *Legal Protection of Personal Data in the Financial Technology Industry. Veritas et Justitia*, 6 (2), 2020, Page 298–323

17 Bimo Bayu Aji Kiswanto, and Anis Mashdurohaturun, *The Legal Protection Against Children Through A Restorative Justice Approach, Law Development Journal, Volume 3 Issue 2, June 2021, Page 223-231*

18 Hadi, S. *Risearch Methodology 1*. Yogyakarta: Gajah Mada, Yogyakarta, 1980,

19 Soemitro. *Legal and Jurimetric Research Methodology*. Ghalia Indonesia, jakarta, 1998,

20 Mamudji, *Normative Legal Research A Brief Overview*. Raja Grafindo Persada. Jakarta, 1994,

the provisions of the legislation in force in a country or the doctrinal legal approach method, namely legal theories and opinions of legal scientists, especially those relating to the issues discussed. The juridical-normative approach used in this research is an approach through laws and regulations relating to the issues discussed.

## C. Results And Discussion

### 1. Legality of Digital Bank Operation in Indonesia

Digital Bank is an Indonesian Legal Entity Bank that provides and carries out business activities mainly through electronic channels without a physical office other than the Head Office or using limited physical offices.<sup>21</sup> *Meanwhile, Digital Banking Services are Electronic Banking Services developed by optimizing the utilization of customer data in order to serve customers more quickly, easily, and according to customer experience, and can be carried out completely independently by customers, taking into account security aspects.*<sup>22</sup> *The characteristics of digital banking are first, digital banking no longer requires a branch office, second, digital banking is more than just a banking application, and third, digital banking based on Indonesian e-KTP biometrics.*<sup>23</sup>

As the legal basis for digital bank operations in Indonesia, it is regulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/POJK.03/2018. What is meant by digital banking services are Electronic Banking Services developed by optimizing the utilization of customer data in order to serve customers more quickly, easily, and according to customer experience, and can be carried out completely independently by customers, taking into account security aspects. Banks in performing digital services are required to apply risk management, and the principle of prudence.<sup>24</sup>

Banks in conducting digital or electronic systems use electronic distribution channels (delivery channel). Banks that provide digital services are included in the Commercial Bank group. Meanwhile, Rural Banks cannot perform digital services.

Article 8 of the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2018, that digital banking services can be provided by Banks and Banks based on partnership agreements between Banks and Bank partners. Bank partners can be financial service institutions or non-financial service institutions. Banks in performing digital services are required to establish a unit or function in charge of handling the implementation of digital banking services. The unit or function in handling digital banking operations has the following duties:<sup>25</sup>

1. Develop policies, standards, and procedures for the implementation of Digital Banking Services;
2. Ensuring conformity between the implementation of Digital Banking Services and the strategic plan of the Bank's business activities;
3. monitor the implementation of cooperation with Bank partners in the implementation of Digital Banking Services;
4. Monitor financial transaction data for Digital Banking Services;
5. Ensuring the effectiveness of the steps used in providing Digital Banking Services;
6. Monitor obstacles and problems that arise from the implementation of Digital Banking Services ; *and*;
7. Ensure the adequacy and allocation of resources related to Digital Banking Services owned by the Bank.

The forms of services in the digital banking system are as follows:<sup>26</sup>

<sup>21</sup> See article 1 number 22, Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/POJK.03/2021 concerning Commercial Banks

<sup>22</sup> See Article 1 point 4, Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2018 concerning the Implementation of Digital Banking Services by Commercial Banks

<sup>23</sup> [https://www.dbs.com/newsroom/Three\\_Things\\_You\\_Need\\_to\\_Know\\_About\\_Digital\\_Banking](https://www.dbs.com/newsroom/Three_Things_You_Need_to_Know_About_Digital_Banking), accessed 6 December 2022

<sup>24</sup> See Article 2 of the Regulation of the Financial Authority of the Republic of Indonesia No. 12/PJOK.03/2018 concerning Implementation of Digital Banking Services by Commercial Banks

<sup>25</sup> See Article 9, *Ibid*

<sup>26</sup> See chapter 10, *Ibid*

1. administrative accounts;
2. transaction authorization;
3. financial management; and/or
4. other financial product services based on the approval of the Financial Services Authority.

The legality of digital service banking is also regulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2021 concerning Commercial Banks. The regulation of Digital Banks in the regulation of the Financial Services Authority of the Republic of Indonesia as stipulated in Article 23, namely that Digital Banks that can operate in Indonesia are Banks with Indonesian Legal Entities. In carrying out operations, a Digital Bank is required to have at least 1 (one) office, namely as the head office. Digital banks operating in Indonesia must meet the following requirements (Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2021 concerning Commercial Banks, nd):<sup>27</sup>

1. Having a business model using innovative and safe technology to serve customer needs;
2. Have the ability to manage a prudent and sustainable digital banking business model ;
3. Have adequate risk management;
4. Fulfilling governance aspects including the fulfillment of Directors who have competence in the field of information technology and other competencies in accordance with OJK regulations regarding fit and proper test for the main parties of financial service institutions;
5. Carry out protection against customer data security; and
6. Provide efforts that contribute to the development of a digital financial ecosystem and/or financial inclusion.

Commercial banks are doing service as Digital Bank, the financial ecosystem elicits and/or financial inclusion shall carry out prudently and observe the principle of banking management of the healthy.<sup>28</sup> *The obligation to implement prudently and pay attention to the principles of sound banking management will provide comfort and legal certainty to prospective customers. So that prospective customers have high confidence and trust in opening an account or using financial services at the digital bank.*

Banks that can provide digital services must be in the form of a Bank with an Indonesian legal entity. If a bank performs digital banking services cannot meet the requirements as required, then the Financial Services Authority can provide Sanctions in the form of Administrative sanctions, namely in the form of a written warning. If the bank still cannot meet the requirements after being given an administrative sanction in the form of a warning, it will be given a sanction in the form of:<sup>29</sup>

1. restrictions on certain digital banking services;
2. prohibition to expand business activities; and/or;
3. freezing of certain business activities

The legality of a bank that provides digital services is the main thing, because if a digital bank is declared legal or legal, the customer will be more comfortable in using the bank's services. Legal is something that is in accordance with the applicable laws and regulations. A legal bank will provide legal certainty both in terms of operations and legal protection for customers. The legality of a commercial bank with digital services must obtain approval from the Financial Services Authority by including the specified requirements. One of the requirements of commercial banks provide digital services is the readiness of implementation of risk management in particular control of the security (security control) to ensure the fulfillment of the principle of confidentiality (confidentialit), integrity (integrity), authenticity (authentication), it is undeniable (non- repudiation), and availability (availability).<sup>30</sup> *These requirements are a form of certainty to customers in terms of customer legal protection.*

<sup>27</sup> See Article 24 of the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2021 concerning Commercial Banks

<sup>28</sup> See chapter 29, Ibid

<sup>29</sup> See Article 31, Ibid

<sup>30</sup> See Article 19 point 5, Op cit

## 2. Forms of Customer Protection in Digital Banking Services

Legal protection is an important thing for banks, especially in terms of carrying out their business activities.<sup>31</sup> *In digital banking services, the aspect of customer protection is very important. In dealing with this, the Financial Services Authority (OJK) has regulations at providing protection regarding information technology risk management. In the Regulation of the Financial Services Authority of the Republic of Indonesia (POJK) No. 38/POJK.03/2016 concerning the Application of Risk Management in the Use of Information Technology, has been regulated regarding banks in implementing their digital services which must meet several requirements. The intended condition is that banks must be able to identify, control technology risk, related to the board of directors and their internal audit to be able to have control over banking technology services. In the Regulation of the Financial Services Authority of the Republic of Indonesia No. 12/POJK.03/2021 there are also regulations that require banks that implement digital services to protect the security of customer data. Of course, it also contributes efforts to data security, and must have strong and excellent risk management to serve digital transactions safely. Likewise, as stipulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.13/2018 which states that every bank that provides digital or electronic services is required to apply the principle of controlling customer data and transaction security.*

With the change in the banking system, namely the digital system, it is necessary to have rules that can provide protection for customers. Every change in regulations is based on an event that proves that there are weaknesses in the implementation of regulations, so a regulatory and conceptual approach is needed.<sup>32</sup> *Banking customers in general, and digital banking in particular, are faced with a very difficult position, because the interests and protection of customers as consumers (services) suffer a lot. Cases of embezzlement of customer funds at the bank, cases of burglary credit cards, personal data and Personal Identification Number (PIN Number) which should be confidential) have been traded, and so on. Then there is protection for customers for the above undesirable conditions that have occurred and harm customers, so efforts are needed to resolve these problems. Protection whose purpose is to resolve problems or disputes that arise is known as repressive protection.*<sup>33</sup>

Protection of customer data as part of respecting the right of privacy must begin with providing legal certainty. Therefore, the guarantee for the protection of privacy data must be placed in a legal instrument that has the highest power, namely the constitution, because the Basic Law or Constitution is the highest legal instrument in a country. Legal certainty (the principle of legality) is necessary and cannot be ruled out in the context of law enforcement by every country. The state's step in providing legal certainty is to stipulate and guarantee these rights in the constitution, then through this instrument the character of a country will be able to see what things are put forward, what legal system is used and how the government is arranged.<sup>34</sup>

Protection of customer interests in electronic transactions is regulated through Financial Services Authority Regulation of the Republic of Indonesia Number 77 of 2016 which regulates risk mitigation, data confidentiality, audit track record, and security system as regulated in Articles 21 to 28. Operators can cooperate and exchange data with information technology-based support service providers in order to improve service quality. Risk mitigation is expected to produce digital financial innovations that are responsible, secure, prioritize consumer protection and have well-managed risks. These efforts can be done by implementing a Regulatory Sandbox<sup>35</sup> *effectively and sustainably, to assess the reliability of business processes, business models, financial instruments, and governance of providers.*<sup>36</sup> *Customer protection for the*

31 Sriono, Kusno, Sagala, E., Risdalina, & Tampubolon. *Dissenters vs debtors bank promise: A review of normative juridical. Journal of Legal, Ethical and Regulatory Issues*, 24 (Special Issue 1), 2021, Page 1–11

32 Christiani, TA, *Proposed changes to the Bank Indonesia law as a solution to the impact of the COVID-19 spread on banking in Indonesia. Banks and Bank Systems*, 16 (2), 2021, Page 127–136

33 Jahri, A. *Debtor Customer Protection Against Standard Agreements Containing Exoneration Clauses at Commercial Banks in Bandarlampung. FIAT JUSTISIA: Journal of Legal Studies*, 10 (1), 2017, Page 125–148

34 Natamiharja, R., & Mindoria, S. *Protection of Data Privacy in the Constitutions of ASEAN Member States. In Constitutional Rights: The Dissemination of Thoughts and Ideas*, 2019, Page 5

35 *Regulatory Sandbox is a testing mechanism conducted by the Financial Services Authority to assess the reliability of the business processes, business models, financial instruments, and governance of the Operator. See Article 1 Point 4 of the Regulation of the Financial Services Authority of the Republic of Indonesia Number 13/POJK.02/2018 concerning Digital Financial Innovation in the Financial Services Sector. As a means to bring together industry players and regulators, a Regulatory Sandbox was formed. Through this forum, the authorities will identify and observe the dynamics and risks of market digital financial services. With an understanding of the new business model, authorities can determine mitigation measures to maintain financial system stability. The Regulatory Sandbox becomes a kind of laboratory for Fintech companies before marketing their products to the market. For Fintech companies, after being observed in the regulatory sandbox, there are three statuses for these companies. The three statuses are recommended to be registered with OJK. Then the status needs improvement in terms of business model, governance and transparency and the last status is not eligible to be listed.*

36 Sugeng, & Fitria, A. *Legal Aspects of Digital Lending in Indonesia. Indonesian Journal of Legalization*, 17 (4), 2020, Page 437–450

*implementation of digital banking services can be done by preventing or overcoming unexpected situations later by customers through laws and regulations, this protection is known as preventive protection.*<sup>37</sup>

Customer protection in digital banking services is regulated in Chapter V of the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2018 concerning the Implementation of Digital Banking Services by Commercial Banks. Banks in providing digital services are required to apply the principle of consumer protection. The application of the principle of consumer protection refers to the Regulation of the Financial Services Authority of the Republic of Indonesia Number 1/POJK.07/2013 concerning the protection of consumers of financial services. What is meant by consumer protection in this regulation is the protection of consumers with the scope of behavior of Financial Services Businesses.<sup>38</sup>

Consumer protection according to the Consumer Protection Act, namely all efforts that ensure legal certainty to provide protection to consumers.<sup>39</sup> *The sentence that states «all efforts to ensure legal certainty», is expected as a bulwark to eliminate arbitrary actions that harm business actors only for the sake of consumer protection.*<sup>40</sup> *As required in Article 2 of the Consumer Protection Act which states that consumer protection is based on benefits, justice, balance, security, and consumer safety as well as legal certainty. Consumer protection is organized as a joint effort based on relevant principles in national development. For this reason, both business actors and consumers obey the law obtain justice in the administration of consumers and the state guarantees legal certainty. Consumer protection is a series of policies and implementation of activities that include education, information services, and complaints as well as facilitating dispute resolution for consumers in the financial services sector and the public using financial services.*

Consumer protection in financial services must apply the principles:<sup>41</sup>

1. transparency;
2. fair treatment;
3. reliability;
4. confidentiality and security of Consumer data/information; and
5. handling complaints and resolving consumer disputes in a simple, fast, and affordable cost.

Consumer protection includes business actors, so financial services business actors are required to provide and/or convey information about products and/or services that are accurate, honest, clear, and not misleading. Information relating to mandatory products and/or services:

1. submitted at the time of providing an explanation to the Consumer regarding their rights and obligations;
2. submitted at the time of making an agreement with the Consumer; and
3. published when delivered through various media, including through advertisements in print or electronic media.

In order to provide protection to customers, banks or financial service actors are prohibited from providing data and/or information regarding their Consumers to third parties. Provision of information can be provided to third parties if the Consumer gives written consent; and/or required by laws and regulations. In the event that the Financial Services Providers obtain personal data and/or information of a person and/or group of people from other parties and the Financial Services Providers will use the said data and/or information to carry out their activities, the Financial Services Providers are required to have a written statement that the other party has obtained written approval from the person and/or group of people to provide the said personal data and/or information to any party, including Financial Services Business Actors.<sup>42</sup> Protection provided to customers, banking business actors are required to have and implement a service mechanism and settlement of complaints for consumers.

In order to provide services and complaint mechanisms, bank actors are prohibited from

<sup>37</sup> Candrawati, NNA, *Legal Protection for E-Money Cardholders as a Payment Instrument in Commercial Transactions*. *Udayana Master Law Journal (Udayana Master Law Journal)*, 3 (1), 2014, Page 1-16

<sup>38</sup> See Article 1 point 3 of the Regulation of the Financial Services Authority of the Republic of Indonesia Number 1/POJK.07/2013 concerning the protection of consumers of financial services

<sup>39</sup> See Article 1 point 1 of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection.

<sup>40</sup> Ahmadi Miru and Sutarman Yodo, *Consumer Protection Law*, Jakarta: PT. Raja Grafindo Persada, 2004, Page. 1

<sup>41</sup> See Article 2, *Ibid*

<sup>42</sup> See Article 31, *Ibid*

charging fees in any form.<sup>43</sup> *Financial services business actors (banks) in the event of violating the provision of protection services to customers, the bank will be given administrative sanctions in the form of:*

1. Written warning;
2. Fines are obligations to pay a certain amount of money ;
3. Restrictions on business activities;
4. Suspension of business; and
5. Revocation of business activity license.

## D. Conclusion

Based on the descriptions and discussions that have been carried out, it can be concluded that:

1. the legality of a bank that provides services as digital banking is the main thing, because it is the legitimacy of running a business. The legality of digital banks in Indonesia is regulated through the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2018 concerning the Implementation of Digital Banking Services by Commercial Banks and the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2021 concerning Commercial Banks. With this regulation, the legality of bank operations with digital services meets the requirements, so that customers in using digital bank services feel more comfortable and more protected by providing legal certainty.
2. Legal protection for digital bank customers in Indonesia is regulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2021 concerning Commercial Banks. The regulation on customer protection in digital services refers to the Regulation of the Financial Services Authority of the Republic of Indonesia Number 1/POJK.07/2013 concerning the protection of consumers of financial services. For negligence in providing protection to bank customers, administrative sanctions will be given in the form of: Written warning; Fines are obligations to pay a certain amount of money ; *Restrictions on business activities; Suspension of business; until the revocation of business activity license.*

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43 See Article 33, *ibid*



In Banking Industry: Modern Approach. *Industrija Journal*, 45 (3),

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See article 1 number 22, Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/POJK.03/2021 concerning Commercial Banks

See Article 1 point 1 of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection.

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See Article 1 point 4, Regulation of the Financial Services Authority of the Republic of Indonesia Number 12/PJOK.03/2018 concerning the Implementation of Digital Banking Services by Commercial Banks

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