

## BANKING LIABILITY TO CUSTOMERS FOR LEAKAGE OF BANK CUSTOMERS' PERSONAL INFORMATION

Fikri Nurzie<sup>1</sup>, Rani Apriani<sup>2</sup>

<sup>1</sup> Faculty of Law, Universitas Singaperbangsa Karawang, Indonesia. [191063101108@student.unsika.ad.id](mailto:191063101108@student.unsika.ad.id)

<sup>2</sup> Faculty of Law, Universitas Singaperbangsa Karawang, Indonesia.

---

**Abstract:** This journal will discuss banking responsibility for leakage of confidential information such as customer identities. How many cases of confidential leakage of bank customers can occur in Indonesia. Secret leaks of bank customers that occur in general are identity leaks involving insiders (internal parties / affiliated parties) who of course know the ins and outs of a damaged bank system and security. Insider involvement is indeed an initiative and collaboration between insiders, there is also collaboration between bank insiders and outsiders (extern). The problems discussed in this journal are First, how to protect banking customer information, second, how is the responsibility of banking accountability according to law in the law in an effort to provide protection for customers who experience losses due to leaking of information that can provide information, and for the purpose of this research is to see the answers or answers to solving these problems.

**Keywords:** Confidential information, bank customers, Accountability

How to Site: Nurzie, F. ., & Apriani, R. (2021). BANKING LIABILITY TO CUSTOMERS FOR LEAKAGE OF BANK CUSTOMERS' PERSONAL INFORMATION. Jurnal Hukum to-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat, 7(2), 227–234. Retrieved from <https://ejournal.fhuki.id/index.php/tora/article/view/6>

---

### INTRODUCTION

A bank is a financial institution whose existence depends on the absolute trust of its customers who entrust their funds and other services through the bank in particular and from the wider community in general.<sup>1</sup> Bank is a financial institution that is in the Indonesian banking sector. Banks are legal financial institutions and are regulated in Act Number 10 of 1998 concerning Amendments to Act Number 7 of 1992 concerning Banking. Based on the limitations of Article 1 paragraph (2) of the Banking Law in the form of credit and or other forms in improving people's living standards.

Banks in practice have four basic relationships with customers, namely contractual relationships, trust relationships, confidentiality relationships, and prudent relationships. One of the crucial relationships is the principle of prudential relationships related to customer security. This principle requires banks to always be careful in carrying out their business activities, in the sense that they must always be consistent in carrying out laws and regulations in the banking sector based on professionalism and good faith, especially

---

<sup>1</sup> Gatot Supramono, *Perjanjian Utang Piutang*, Kencana Prenada Media Group, Jakarta, 2013, hlm. 2.

---

towards customers. If an error occurs that causes a loss to the customer, the Bank should be responsible for the loss suffered by the customer following the risks and obligations of the bank in the laws and regulations concerning banking.<sup>2</sup>

It is undeniable that some many complaints and problems occur in the community regarding customer protection. One of the problems that are often complained about continuously is the absence or lack of protection for customers when dealing with banks, both debtor customers, depositors and non-debtor customers. – non-depositors. Many bank cases that have occurred show that the position of bank customers is not protected by law and does not even get much attention from the public.<sup>3</sup>

Law No. 8 of 1999 concerning Consumer Protection (UUPK) has regulated the rights and obligations of the bank as a business actor should be able to cover all the rights and obligations of the parties. The scope of consumer protection is to regulate the legal relationship between consumers and business actors along with the rights and obligations that arise from this relationship. The UUPK implies that the regulated subject is each user of goods or services with individuals with actors and/or business entities as providers of goods or services. The UUPK and Banking Laws provide logical consequences for bank services and guarantee the protection of all banking business activities following applicable standards.<sup>4</sup>

This study focuses on the responsibility of banks to customers for the leakage of personal information of bank customers because national banks are still experiencing several obstacles in protecting identity or other confidential information. Based on the background of the problems that will be discussed, the mechanism for resolving the leakage of personal information of customers who are harmed in the context of protecting banking consumers and forms of banking accountability according to the law in an effort to provide protection for customers who experience losses due to leakage of personal information.

## **DISCUSSION**

### **1. The mechanism for Resolution of Leakage of Customer's Personal Information**

Leakage of confidential information / personal data has become something that is often heard and mistakes are often repeated in the banking world, but the protection of bank customers is being strengthened, especially to protect their information. In an effort to protect customers or consumers in general, the Consumer Protection Act is currently being used. UUPK is intended to be a strong legal basis for the government and society to make efforts to empower consumers. The role of Bank Indonesia as the central bank is highly expected for the success of this customer protection effort.<sup>5</sup> This also applies to Article 40 paragraph 1 of Law Number 10 of 1998 concerning Amendments to Law Number

---

<sup>2</sup> Thesa Anial John, *Tanggung Jawab Perbankan Dalam Kasus Pembobolan Dana Nasabah*, Jurnal hukum privat Vol. VII No 2 Juli - Desember 2019, hal.302

<sup>3</sup> Munir Fuady, *Hukum Perbankan Modern*, Bandung: PT. Citra Aditya Bakti, 1999, hal. 101

<sup>4</sup> Qatrunnada Ernanti, Bambang Eko Turisno, Aminah, *Perlindungan Hukum Bagi Konsumen Perbankan Dalam Penggunaan Data Pribadi Nasabah*, Jurnal Hukum, Volume 5, Nomor 3, Tahun 2016

<sup>5</sup> Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2005, hlm.145

7 of 1992 concerning Banking which states that banks are required to keep information about depositors and their deposits confidential, except in the case as referred to in Article 41, Article 41A, Article 42, Article 43, Article 44, and Article 44A.<sup>6</sup>

Bank Indonesia Regulation Number 7/6/PBI/2005 concerning Transparency of Bank Product Information and Use of Customer's Personal Data is one of the regulations issued by Bank Indonesia by considering that transparency on the use of personal data submitted by customers to banks is necessary to improve the protection of their rights. customer's rights in dealing with the bank, as well as to protect against the use of customer's data. These existing regulations are closely related to issues regarding customer personal data which, when viewed, include bank secrets.<sup>7</sup>

There are two possible responsibilities of the bank, namely the bank is directly responsible to the customer by replacing a certain amount of money and the two banks are not responsible if the bank can prove that it is not the bank's fault with the existence of i-RC (customer complaint advocacy agency) which will follow up on customer complaints. Then the legal protection provided to bank customers for these services is based on PBI No. 7/6/PBI/2005 concerning product transparency, especially internet banking services by providing information to customers correctly and honestly, then technical protection in terms of technology, namely by providing products such as cards with holograms and magnetic stripe and safeguards provided by banks such as security (physical, communication, and personnel), audit control and insurance of electronic devices.<sup>8</sup>

Legal protection for customers as consumers in the banking sector is urgent because, in fact, the position between the parties is often unbalanced. Credit/financing agreements and bank account opening agreements which should have been made based on the agreement of the parties, for reasons of efficiency were changed to agreements that have been made by the party who has a bargaining position (bargaining position) in this case is the bank. The customer has no other choice, except to accept or reject the agreement offered by the bank (take it or leave it).

---

<sup>6</sup> Undang-Undang Nomor 10 Tahun 1998 Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan

<sup>7</sup> Rildayanti Medina, Perlindungan Hukum Bagi Nasabah Terhadap Keamanan Data Pribadi Nasabah Dalam Layanan Internet Banking

<sup>8</sup> Sri Walny Rahayu, Teuku Muttaqin Mansur, Perlindungan Data Pribadi Nasabah Dalam Penawaran Transaksi Asuransi Oleh Pt Bank Negara Indonesia (PERSERO), Vol. 3(1) April 2019, hal.07

Personal data protection is included in the priority of every bank in Indonesia, where data protection mechanisms have been implemented but the occurrence of customer data leakage is due to negligence in making an agreement with a second party (insurance) even though it is a subsidiary of the Bank itself. Although the second party has admitted to cooperating in offering insurance services to bank customers, the article related to leaking customer data is because the bank does not ask and confirm in advance, both verbally and in writing, regarding whether customer data can be used to add or offer products from other financial institutions that work. the same as the bank.<sup>9</sup>

From the explanation above regarding the rights and obligations of consumers in the existence that customers who are consumers of Banking Financial Services Institutions have full rights to the legal protection of their data but besides that, they are also obliged to understand all information and provisions and procedures in the use of service products. before using the banking service product.

## **2. Legal Responsibilities of Banking in Efforts to Provide Protection for Customers**

The bank is a financial institution that is a place where people keep their funds based solely on the belief that the money will be recovered in time and accompanied by an interest in the form of interest. That is, the existence of a bank is highly dependent on the public's trust. The higher the public trust, the higher the public awareness to save their money in the bank and use other banking services. Public trust is the main keyword for developing or not a bank, in the sense that without the trust of the public, a bank will not be able to carry out its business activities.<sup>10</sup>

Some violations that result in customer losses are increasingly diverse, including submission of false reports, misuse of customer funds, account burglary, fraud through ATMs, internet banking, to coordinated fraud.<sup>11</sup> By not applying the know your customer's principle, there will be a dispute between the customer and the bank regarding the validity of a transaction and its financial consequences. There are also more and more administrative violations, such as the operation of banking branch offices whose approval is still in the process, marketing personnel who do not have banking representative permits, and the

---

<sup>9</sup> Sri Walny Rahayu, Teuku Muttaqin Mansur, Ibid, hal.08-09

<sup>10</sup> Dhimas Wisnu Ginanjar, *Penyelesaian Kredit Macet Dengan Jaminan Hak Tanggungan Di Unit Sentral Kredit Menengah Jakarta Timur PT. BNI (Persero)*, Jurnal, Privat Law, Vol. II, No.5 Juli- Oktober 2014, hlm. 35.

<sup>11</sup> Sutrisno Fernando Ngiu, *Perlindungan Hukum Terhadap Nasabah Bank Sebagai Subjek Hukum Menurut Undang Undang Nomor 10 Tahun 1998 Tentang Perbankan*, Jurnal Hukum, Vol.III/No. 1/Jan-Mar/2015, Hal. 240

use of foreign workers. The news surrounding such cases has become the most intense information nowadays.<sup>12</sup>

To protect customers or consumers in general, the Consumer Protection Act is currently being used. This law is intended to be a strong legal basis for the government and society to make efforts to empower consumers. The role of Bank Indonesia as the central bank is highly expected for the success of this customer protection effort.<sup>13</sup> This also applies to Article 40 paragraph 1 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking which states that banks are required to keep information about depositors and their deposits confidential, except in the case as referred to in Article 41, Article 41A, Article 42, Article 43, Article 44, and Article 44A.<sup>14</sup>

In the General Elucidation of the UUPK, the main factor that causes exploitation of consumers to occur is the low level of consumer awareness of their rights. Of course, this is closely related to the low level of consumer education. Therefore, the existence of the UUPK as a strong legal basis for the government and the Non-Governmental Consumer Protection Agency (LPKSM) to make efforts to empower consumers through consumer development and education, and the consequence of the law is the existence of sanctions for violators, thus efforts to be more making a consumer as a part that deserves protection materializes.

UUPK also provides legal protection, especially for bank customers as consumers. Among others, the existence of a credit agreement or bank financing which is a standard agreement (standard contract). Partisanship with consumers is a real manifestation of the populist economy. In trade practices that are detrimental to consumers, including the determination of the price of goods, and the inappropriate use of exoneration clauses, the government must consistently take sides with consumers who are generally ordinary people. UUPK seeks to protect bank customers by setting limits on standard clauses that cannot be avoided in today's banking business world. According to the provisions of Article 1 point 1 UUPK, the definition of consumer protection is all efforts that guarantee legal certainty to protect consumers. The Principle of Consumer Protection according to Article 2 of Law no. 8 of 1999 is "Consumer protection

---

<sup>12</sup> Diah Dharmayanti, *Analisis Dampak Service Performance dan Kepuasan Sebagai Moderating Variable Terhadap Loyalitas Nasabah (Studi pada Nasabah Tabungan Bank Mandiri Cabang Surabaya)*. Jurnal Manajemen Pemasaran, Vol. 1, No. 1, April 2006: 35-43A, 2006.

<sup>13</sup> Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2005, hlm.145

<sup>14</sup> Undang-Undang Nomor 10 Tahun 1998 Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan

based on benefits, fairness, balance, consumer safety and security, as well as legal certainty".<sup>15</sup>

Protection of customers by Bank Indonesia is considered important, not only because of the obligation with the effective enactment of Law no. 8/1999 concerning Consumer Protection since 2001 but because of the desire to make banking regulatory aspects must also be expanded with aspects of customer protection and empowerment as consumers who use bank services. Customer protection is a banking challenge that has a direct impact on the majority of society. Therefore, it becomes a very big challenge for banks and Bank Indonesia to create clear standards in providing protection to customers.

Efforts to improve and empower customers are the existence of infrastructure in the bank to handle and resolve various customer complaints and complaints. To avoid protracted handling of customer complaints, it is necessary to have clear and generally applicable time standards in each bank in resolving each customer complaint. If it cannot be resolved, it is necessary to provide media that can accommodate dispute resolution between the customer and the bank. Settlement of bank customer disputes must be able to meet the elements of being simple, cheap, and fast.

The responsibility of the bank if the customer suffers a loss is by making peace in the form of a direct complaint to the bank concerned if there is an error to be further processed to be proven in order to provide compensation. In line with this understanding, a number of efforts have been made by the banking sector in terms of tackling problems between customers and banks.<sup>16</sup>

## CONCLUSION

Regarding the rights and obligations of bank customers who are consumers of Banking Financial Services Institutions, they have full rights to the legal protection of their personal data but besides that, they are also obliged to understand all information and provisions and procedures in the use of banking service products before using service products. the banking. UU no. 8 of 1999 concerning Consumer Protection provides legal protection for bank customers as consumers of banking financial services, as also regulated in Article 40 paragraph (1) of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking which states that banks are required to keep information about their depositing customers and their deposits confidential, except in the case as referred to in Article 41, Article 41A, Article 42, Article 43, Article 44, and Article 44A.

---

<sup>15</sup> Sutrisno Fernando Ngiu, *Ibid*, Jurnal Hukum, Vol.III/No. 1/Jan-Mar/2015, Hal. 242-243

<sup>16</sup> Sutrisno Fernando Ngiu, *Ibid*, Jurnal Hukum, Vol.III/No. 1/Jan-Mar/2015, Hal. 244

Protection of customers by Bank Indonesia is considered important, not only because of the obligation but with the effective enactment of Law no. 8/1999 concerning Consumer Protection since 2001, the desire to make aspects of banking regulations must also be expanded into aspects of customer protection and empowerment as consumers who use bank services. The responsibility of the banking sector if the customer suffers a loss is by making peace in the form of a direct complaint to the bank concerned if there is an error to be further processed for proof to provide compensation. In line with this understanding, a number of efforts have been made by the banking sector in terms of tackling problems between customers and banks.

There needs to be a meaningful guarantee for customers who have entrusted their funds to the bank and the identity that must be maintained by the bank because it refers to the provisions of Article 40 (1) of Law no. 10 of 1998 concerning Banking 'banks are required to keep the information about their depositing customers and their deposits confidential'. The above data/information may not be provided to third parties or used for purposes other than those agreed upon.

Government supervision in terms of the operation of banking activities must be carried out maximally, not only limited to procedural supervision, Bank Indonesia as the central bank must carry out its supervisory role carefully and carefully.

---

## References

- Gatot Supramono, *Perjanjian Utang Piutang*, Kencana Prenada Media Group, Jakarta, 2013, hlm. 2.
- Thesa Anial John, *Tanggung Jawab Perbankan Dalam Kasus Pembobolan Dana Nasabah*, Jurnal hukum privat Vol. VII No 2 Juli - Desember 2019, hal.302
- Munir Fuady, *Hukum Perbankan Modern*, Bandung : PT. Citra Aditya Bakti, 1999, hal. 101
- Qatrunnada Ernanti, Bambang Eko Turisno, Aminah, *Perlindungan Hukum Bagi Konsumen Perbankan Dalam Penggunaan Data Pribadi Nasabah*, Jurnal Hukum, Volume 5, Nomor 3, Tahun 2016
- Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2005, hlm.145
- Undang-Undang Nomor 10 Tahun 1998 Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1992 Tentang Perbankan
- Rildayanti Medita, *Perlindungan Hukum Bagi Nasabah Terhadap Keamanan Data Pribadi Nasabah Dalam Layanan Internet Banking*, Jurnal Skripsi, Fakultas Hukum, UNIVERSITAS ATMA JAYA YOGYAKARTA, 2014, hlm.8
- sri Walny Rahayu, Teuku Muttaqin Mansur, *Perlindungan Data Pribadi Nasabah Dalam Penawaran Transaksi Asuransi Oleh Pt Bank Negara Indonesia (PERSERO)*, Vol. 3(1) April 2019, hlm.07
- Dhimas Wisnu Ginanjar, *Penyelesaian Kredit Macet Dengan Jaminan Hak Tanggungan Di Unit Sentral Kredit Menengah Jakarta Timur PT. BNI (Persero)*, Jurnal, Privat Law, Vol. II, No.5 Juli-Oktober 2014, hlm. 35.
- Sutrisno Fernando Ngiu, *Perlindungan Hukum Terhadap Nasabah Bank Sebagai Subjek Hukum Menurut Undang Undang Nomor 10 Tahun 1998 Tentang Perbankan*, Jurnal Hukum, Vol.III/No. 1/Jan-Mar/2015,hlm. 240
- Diah Dharmayanti, *Analisis Dampak Service Performance dan Kepuasan Sebagai Moderating Variable Terhadap Loyalitas Nasabah (Studi pada Nasabah Tabungan Bank Mandiri Cabang Surabaya)*. Jurnal Manajemen Pemasaran, Vol. 1, No. 1, April 2006: 35-43A, 2006.