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SCHOOL OF POLITICAL AND SOCIAL SCIENCE
Bandar Lampung University, Indonesia

Icon-LBG 2016

**The Third International
Conference on Law,
Business and Governance**

PROCEEDINGS

Hosted by
Faculty of Law, Faculty of Economics and Faculty of Social Science
Bandar Lampung University (UBL)



Icon-LBG 2016

THE THIRD INTERNATIONAL CONFERENCE
ON LAW, BUSINESS AND GOVERNANCE 2016

20, 21 May 2016
Bandar Lampung University (UBL)
Lampung, Indonesia

PROCEEDINGS

Organized by:



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Bandar Lampung University (UBL)
Jl. Zainal Abidin Pagar Alam No.89 Labuhan Ratu, Bandar Lampung, Indonesia
Phone: +62 721 36 666 25, Fax: +62 721 701 467
website :www.ubl.ac.id

PREFACE

The Activities of the International Conference are in line and very appropriate with the vision and mission of Bandar Lampung University (UBL) to promote training and education as well as research in these areas.

On behalf of the Third International Conference on Law, Business and Governance (3th Icon-LBG 2016) organizing committee, we are very pleased with the very good response especially from the keynote speaker and from the participants. It is noteworthy to point out that about 46 technical papers were received for this conference.

The participants of the conference come from many well known universities, among others : International Islamic University Malaysia, Unika ATMA JAYA, Shinawatra University, Universitas Sebelas Maret, Universitas Timbul Nusantara, Universitas Pelita Harapan, Universitas Bandar Lampung, Universitas Lampung.

I would like to express my deepest gratitude to the International Advisory Board members, sponsor and also to all keynote speakers and all participants. I am also grateful to all organizing committee and all of the reviewers who contribute to the high standard of the conference. Also I would like to express my deepest gratitude to the Rector of Bandar Lampung University (UBL) who give us endless support to these activities, so that the conference can be administrated on time

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LEGAL PROTECTION OF BANK CUSTOMERS IN CYBER CRIME CONNECTED WITH THE INTERNET BANKING LAW NUMBER 11 OF 2008 CONCERNING INFORMATION AND ELECTRONIC TRANSACTIONS

Risti Dwi Ramasari
Faculty of Law, Bandar Lampung University, Indonesia

Corresponding email: risti@ubl.ac.id

Abstract

Internet banking allows customers to make payments online. Internet banking is also provided accommodation banking activities through a network of computers anytime and anywhere quickly. The issues in this research are How Legal Protection of Bank Customers in Cyber Crime Against Internet Banking, and how the Internet Banking Agreement Between Banks and Customers. The approach used in this research is normative juridical and juridical empirical. Legal protection for customers by administrative provisions and by the guarantee of deposit insurance. Based Administrative Provisions that explicitly protection or protection gained through the establishment of institutions that guarantee public deposits, and implicitly that protection is generated by the bank supervision and guidance effectively.

Keywords: Protection, Cyber Crime, Internet Banking.

1. INTRODUCTION

The role of technology in the banking is absolute, the advancement of a banking system, supported by the role of information technology. And the growing complexities of banking facilities were implemented to facilitate the service that means more diverse and complex adoption of technology owned by a bank.

Internet banking is one of branchless banking services, i.e. a facility that will allow customers to conduct banking transactions without the need to come to the branch office. Services provided to customers in the form of internet banking are bill payment transactions, account information, transfer funds between accounts, the latest information on interest rates and foreign exchange rates, changes in the administration on the Personal Identification Number (PIN), addresses or card accounts, personal data and so on another, with the exception of making money or deposit money. Because for taking money still require ATM services and deposit money bank branches still need help.¹

There are still many customers are hesitant to use internet banking for various reasons, some of which are first on the capacity of its Internet network, if millions of people accessing the same bank and the same time. There are two possibilities, the customer will be disappointed that the computer is broken or the system is built is not able to accommodate the transaction invasion. The second reason is no maximum customer convenience in conducting transactions on the Internet. Bank customers usually do not dare to attempt to cash the money saved in the bank. A customer concern is afraid of press so that the money floated from the account. Furthermore, the banking security systems built it. Banking business information system security is basically a high-risk business. There are at least 8 major types of risk related to banking activity, which are a strategy, reputation, operations (including so-called transactions and legal risk), credit, prices, exchange rates, interest rates, and liquidity. In addition, the use of Information Technology Systems (TSI) there is a risk which is technical and specialized, which vary with use manual system. The risks include the risk of error at the stage of the operation, the risk of access by an unauthorized person, the risk of loss or damage of data.²

¹Onno W. Purbodan Ang Arif Wahyudi, *Mengenal E-Commerce*, Elex Media Komputindo, Jakarta, 2001, hal. 85

²<http://www.theage.com.au/>, diakses tanggal 10 Juli 2011

2. ISSUES

The Based on the introductory above, the issues at this research are:

- a. How the legal protection of bank customers in cybercrime against internet banking?
- b. How Internet Banking Agreement between Banks and Customers?

3. METHOD

In this study the authors used two approaches, namely juridical normative and empirical approach, data were obtained through library research and research in the field directly on the object of study (field research) done by observation and directly interview directly. After the data is collected, data processing are activities trims and analyze these data , these activities include the selection of the data by examining the data obtained on the apparatus, data classification , data inventory and analysis of qualitative data.

4. DISCUSSION

a. Legal protection of bank customers in cybercrime against internet banking

According to Indonesia's banking system, the protection of the customer can be done through two methods:

- *explicit deposit protection*

The protection gained through the establishment of institutions that guarantee a safe society, as stipulated in Presidential Decree No. 26 of 1998 on Guarantees of Obligations of Commercial Bank. So that if a bank fails, then the agency will reimburse public funds deposited in the failed bank. This is according to the Presidential Decree No. 26 of 1998 on Guarantees of Obligations of Commercial Bank, before the validity of deposit insurance.

- *implicit deposit protection*

That protection is generated by the bank's supervision and guidance effectively.

The government provides guarantees through its enactment Presidential Decree No. 26 of 1998 on Guarantees of Obligations of Commercial Bank. By the presidential decree, the government gives full guarantee on all payment obligations of the Commercial Bank, both in rupiah and foreign currency. First guarantee is valid for a period of 2 years, i.e. since January 26, 1998 until January 31, 2000, which can be extended six months further. Follow-up of the implementation of the provision of guarantees by the government as stipulated in Presidential Decree No. / 26 of 1998 which is made of Presidential Decree No. 27 of 1998 on the establishment of BPPN.

Government through Presidential Decree No. 26 of 1998 concerning Guarantee Payment of Obligations of Commercial Banks, ensure that the payment obligations to the owners of commercial banks and creditors will be met.

b. Internet Banking Agreement between Banks and Customers

All banking transactions are always preceded by the agreement. The agreement aims to provide convenience and certainty to customers. With the agreements can also facilitate and meet the needs of the bank. Currently, a bank customer can obtain banking services via internet banking so customers do not need to bother to come to the bank To get the internet banking facility, a customer must make an agreement with the bank.

Internet banking agreement was not set in Civil Code, but with the freedom of contract in Article 1338 paragraph (1) Civil Code stating that all the agreements made legally valid as the Law for those who make it, the internet banking agreement can only happen.

During the internet banking agreement between the bank and its customers, it was determined that the bank accepts and executes any instruction from a client as a valid instruction based on the use of user ID and PIN Thus, the bank has no obligation to examine or investigate the authenticity or validity or authority of the user ID and PIN or assess the transaction in the form of internet banking is the customer presses the "send". The customers cannot undo all the transactions that have been instructed to banks, unless the instruction was canceled by the customer by pressing the "cancel" before the customer presses "send" button.

In the article 1320 Civil Code not concerned about the media used in the transaction. With the others word Article 1320 Civil Code does not require the shape and type of media used in the transaction. Therefore, it can only be done in person or electronically. Similarly, freedom of contract adopted by the Civil Code, the parties may freely determine and conclude an agreement in the deal that was done in good faith. As mentioned in Article 1338, paragraph (3) of the Civil Code. So any form and

media of the agreement, remain valid and binding on the parties for an alliance that is the Law for the making.

Based on the above and related to the Article 1320 and Article 1338 paragraph (1) According to the Civil Code, the author of transactions through electronic media is lawful. In the internet banking agreements, mentioned about the customer requirements for the use of internet banking facilities offered by the bank. The requirements are as follows:

1. Every customer who deposited funds in the bank and have a card that can be used to perform banking transactions at ATMs, are entitled to enjoy internet banking facility.
2. To be able to use the internet banking facility, customers must have an internet banking user identification (user ID) and Personal Identification Number (PIN) that is obtained when customers register at the ATM machine.

5. CONCLUSION

Based on the description and analysis of the results of research that has been presented in the previous chapters, the author can add the following conclusion:

1. Legal Protection for Bank Customers in Cyber Crime against Internet Banking is where the legal protection associates administrative provisions and insurance deposits.
Administrative provision itself is explicitly protection or protection gained through the establishment of institutions that guarantee public deposits. So that if a bank fails, then the agency would replace, while implicitly protection: the protection generated by bank supervision and guidance effectively in order to avoid bankruptcy so that customers get protection. Meanwhile, the Deposit Insurance Guarantee Each bank shall ensure that public funds are deposited in the bank concerned to ensure that funds are then in the form a Lembaga Penjamin Simpanan (LPS).
2. Internet Banking Agreement between the Bank and the Customer that is where the agreement The agreement aims to provide convenience and certainty to customers. with the principle of freedom of contract under Article 1338 paragraph (1) Civil Code which states that all agreements made legally valid as the Law for those who make it , the internet banking agreements can occur. Internet banking so that the agreement must be based on Article 1320 Civil Code regarding the validity of the agreement terms i.e.:
 - a. Agreed to those who bound themselves
 - b. Ability to make an opinion.
 - c. A certain thing
 - d. A cause that halal

Agreements internet banking between banks and clients must be determined that the bank accept and execute any instruction from a client as instructions are valid based on the use of user ID and PIN, so the bank does not have an obligation to examine or investigate the authenticity or validity or authority of the user ID and PIN by the customer the Bank. For the customers who have committed themselves that has been agreed with the banks, so that the provisions contained in the agreement is a law that can be used as a foundation or basis

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