



Actualization of Know Your Customer Principles by the Bank in Providing Credit Card (Credit Card) Against Customers

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Abstract. Banking transaction problems often occur, especially in terms of credit. As it is known that in the current era of globalization, cash is rarely used anymore for transactions, but in the form of electronic (cashless) exchanges. The process that occurs in this cashless transaction is limited to book-entry which only counts numbers. The physical form of the transaction does not exist, unless the customer withdraws cash to make a payment. In its development, cash withdrawals have other alternatives which are certainly more practical, namely by making payments using a credit card. A credit card is an identity-containing card that may be used to make payments online. The bank will automatically deduct the customer's savings the next month in accordance with the date of the credit card purchase. However, the problem is when the funds owned by the customer in their savings are not sufficient to pay for the credit card. Based on this, the problem can be formulated, specifically the idea that you should know your consumer is actualized by banks in granting credit cards to their customers and what would happen legally if customers defaulted on their obligations. Normative legal research is conducted using statutory and conceptual frameworks. The study's findings demonstrate how crucial it is to apply the know your customer principle because every customer has a unique character. Even those who have a solid reputation, the ability to repay debt, valuable guarantees, substantial capital, and favorable economic conditions are still susceptible to defaulting. All cardholder debts become due, can be billed, and must be paid immediately and in full at the same time under legal consequences for customers who default, namely by terminating and/or canceling and/or credit card bookkeeping without prior notification.

Keywords : Transaction, Customer, Bank, Know Your Customer Principles

1 Introduction

Based on the Republic of Indonesia's 1945 Constitution and the Pancasila state concept, Indonesia is a constitutional republic. In this regard, it can be seen that the goal of Indonesia's national development is to achieve material, spiritual, just and prosperous society in the era of economic democracy, Mahaputra (2022). Therefore every aspect of life between one citizen and another citizen is certainly regulated by law. This is because the law is always faced by humans both as individuals and as citizens. This explanation provides an understanding that humans crave a peaceful, safe and prosperous life as the goal of living as a nation itself.

In order for the dynamics of economic activity to be directed toward the advancement and prosperity of the entire population, the law must protect, regulate, and govern economic life in Indonesia as it develops economically. that the law has an impact on economic life by establishing regulations for actions that are categorized as economic actions, Santiago (2012). Here, it is more clearly stated that banking institutions are necessary for the functioning of the economy. The Banking Law, also known as Law Number 10 of 1998 Concerning Amendments to Law Number 7 of 1992 Concerning Banking, regulates the legal foundation for banking activity. The Banking Law's Article 1 Number 2 states:

"A bank is a company that collects money from the general public in the form of savings and disburses it to the general public in the form of credit and/or other forms in order to raise the average person's standard of life."

In order to raise the average person's level of living, the provisions of this article convey an awareness that a bank is a business entity. Banking, a financial organization that enjoys widespread public trust, certainly has a professional work system. From this professional way of working, banks gain many greater advantages than other financial institutions. However, to get a lot of profit, banks have become more "sensitive" in managing the flow of credit that will be given to customers. It is inevitable that banks will experience risk issues, including the risk of non-performing loans, as time goes on after credit is realized. Therefore, one form of sensitivity is shown through the principle of knowing your customer Adrian (2020). With these principles in place, customers will sometimes feel a little annoyed about a work system that is a little "possessive" and particularly for those looking to seek for credit, banks may conduct searches, so be ready to supply any relevant information. Banks have highly tight guidelines that customers must follow in order to access credit.

In more detail, that bank perceives the applicant as having good character, the capacity to repay debt, valuable collateral, strong capital, and secure economic conditions like a pearl (5C Principle) when extending credit. People like this are considered potential customers to work with or people who deserve credit. In principle, a person who is categorized as fulfilling the good 5C principles is an ideal human being Budi (2005). One of the most important principles in 5C of lending is Character or customer recognition in banking transactions. In this regard, credit analysts generally try to look at the credit applicant data provided by the bank. However, if the customer is in doubt, various efforts need to be made to find out in detail the true character of the prospective debtor Sentosa (2008).

Transactions are typically carried out in the form of electronic transactions (cashless) in the current era of globalization, known as industry 4.0 society 5.0. A short transaction is what an electronic transaction is intended to accomplish, and the process that takes place is a book transfer that merely counts numbers. Unless the customer withdraws money to pay, the transaction has no physical shape. As is generally known, losses resulting from account breaches are frequently encountered by clients when conducting electronic transactions, Mantara (2020).

As it evolved, the link of money withdrawal gained a more useful substitute in the form of a credit card. An identity-containing card that may be used to make electronic payments is a credit card. As soon as the transaction is completed, the bank will automatically deduct the customer's savings and then pay the seller (merchant). The most convenient and secure method of payment in contemporary life is the credit card, which is now widely accepted. By using computers/networks and analyzing customer identities, human error and fraud can be minimized. Sociologically, if you look at technological advances that have an impact on the banking sector and with cashless transactions, in addition to providing convenience to customers, in practice it also creates a problem, namely defaults committed by customers, in this case the customer does not make payments on his credit card bill. according to what has been agreed.

Moving on from the background mentioned above, in this writing the problem can be formulated, namely how is the actualization of the know your customer principle by banks in granting credit cards to customers; and what are the legal consequences in the event of default by the customer.

2 Research Methods

In the opinion of Soerjono Soekanto, said that the types of legal research are divided according to their objectives into 2 (two), specifically, normative and empirical legal study, according to Soekanto (1986). The type of normative legal research was employed to conduct the research with reference to the legal issues highlighted in this work. In the meanwhile, Mantara (2020) says that normative legal research is done by looking at primary, secondary, and tertiary legal materials from the library. The sort of method utilized is a statutory approach and a conceptual approach, with which the author investigates laws, regulations, and regulations linked to the legal concerns highlighted and uses the opinions and doctrines of legal experts as a guide to help find a solution to the issue. A legal research method called normative legal analysis looks at written law from a variety of angles, including theory, history, philosophy, structure and composition, scope and material, consistency, general explanation and article-by-article analysis, formality and binding force of a law, as well as the legal language used. (Muhammad, 2004).

3 Results and Discussion

3.1 Actualization of Know Your Customer Principles by Banks while Issuing Credit Cards to Customers

In banking procedures, the term "credit" is frequently used to describe a variety of facilities connected to loans. The same word is also found in issuing cards issued by financial institutions, either Banks or Non-Bank Financial Institutions (LKBB), independently or in collaboration. A definition of credit is provided in Article 1 Point 11 of Law Number 10 of 1998 Concerning Amendments to Law Number 7 of 1992 Concerning Banking, which reads as follows:

" Giving out credit means giving out money or bills that are comparable to it, based on a loan arrangement or an agreement between the Bank and another party that calls for the borrower to repay the debt with the payment of interest after a specific amount of time."

When examining the definition of the aforementioned article's description, some components can be discovered therein, including the bank's existence and its confidence in the debtor's ability to repay its obligations within the terms set forth in the agreement; the Bank and the debtor have previously mutually agreed upon the time between the granting of credit and its repayment; the Bank and the debtor have agreed upon certain accomplishments or objects in exchange for the credit; these accomplishments and counterachievements may take the form of money, interest, or other forms of payment; additionally, there are hazards that could materialize between the time of credit grant and repayment, so as to secure the granting of credit and cover the possibility of default from the debtor, a binding guarantee or collateral is held Ibrahim (2010). The four elements of credit, namely Trust, Time, Achievement and Risk, are all things that are interrelated with one another. Giving credit cannot be done without trust.

Roy Shakti explains a credit card is described as "a card issued by a bank or other institution issued with the aim of acquiring cash, goods, or credit-based services" Shakti (2010). From the definition above, in the opinion of the author, a credit card or credit card is plastic money issued by an institution that allows cardholders to obtain credit for transactions they make and payments can be made in installments by paying a sum of interest (finance charge) or all at once specified time..

Banks in assessing feasibility can trace the data submitted to sources that are believed to be reliable. Actions taken by the Bank can legally be justified by referring to the approval listed in the application or form signed by the applicant, which reads:

"All information in this form is complete and correct. By signing this form, I/we authorize the Bank to check all data correctness in any way and contact any appropriate sources according to the Bank. I/we understand that the Bank has the right to refuse this application without having to give me/us any reason and all documents that have been submitted will not be returned. If my/our card is approved, it will be bound by the terms and conditions of the cardholder agreement which will be sent with the card."

An agreement between the parties about the creation of the credit card must be included in the credit card issuance agreement. As specified in Civil Code Article 1320, it establishes four requirements for a contract's legality: the parties' consent; their capacity to enter into contracts; a specific item; and a legal basis. The last two elements are known as objective conditions because they relate to the contract's object, whereas the first two conditions are known as subjective conditions because they relate to the contract's subject. The contract status may be revoked if the subjective requirements are not met, but the agreement may be declared void if the objective requirements are not met.

Requirements in applying for a credit card must fill out and sign the credit card application as requested by the applicant. Applications for issuing credit cards are generally relatively the same. The work system for submitting applications until the credit card issuance is approved can be explained as follows:

- a. The customer submits an application as a cardholder by fulfilling the requirements listed in the application or application form, including: Personal data, employment data, income data from bank references, other supporting data, additional card data, and applicant's statement.
- b. The Bank analyzes requests from customers based on the data received. The analysis conducted by the issuing bank is the same as for applications submitted for credit facilities in general. Banks must be careful with the correct credit rating principles according to credit procedures.
- c. Applications that are considered "proper" will be followed up by the Bank by issuing a credit card in the name of the applicant along with the additional card requested.

Reviewing the function of a credit card as a facility provided by a bank and a form of granting credit by a bank, an evaluation of the credit application was previously done. If the loan application is permitted to be granted, the goal of the evaluation is to first establish confidence and then to prevent unpleasant things from happening in the future. With credit evaluation, it is intended that the granting of credit won't contribute to the debtor's company failing or to credit congestion.

In addition to the requirements for applying for a credit card as described above, it is also necessary to actualize the idea that credit cards should only be issued after understanding your customer (character) in financial transactions, namely knowing the character of potential customers who own credit cards. Character is crucial because it has to do with the prospective debtor's personality, disposition, or character as well as their honesty. When considering whether to extend credit, the bank must consider the prospective debtor's character, therefore care and caution must be taken. The purpose of character selection in providing credit is to minimize the occurrence of credit risk that is likely to arise when credit is in progress. The benefit of the character assessment is to find out the level of honesty and integrity as well as good will, namely the willingness to fulfill the obligations of the prospective debtor. Therefore the selection of a good and appropriate character is one of the indications to determine whether or not the credit is good in the future.

The facility is a tool that can be used to obtain an overview of the character of the prospective debtor which can be reached by means of interviews, to obtain infor-

mation/data through direct conversations with one or more persons for certain purposes Suyatno (2006). Next, check on the spot, namely the bank visits directly to the location, both to the location where the prospective debtor lives, as well as the business location and location of the collateral. This is done to see the truth of what the prospective debtor said during the previous interview. For collateral, COS is required so that there is a match between the collateralized documents and the physical collateral. Then proceed to carry out BI checking, namely checking credit history reports issued by Bank Indonesia which contain a customer's credit/loan history to banks or non-banking financial institutions. A customer's good or bad credit history is recorded in BI-checking data on the Bank Indonesia Debtor Information System (SID). Furthermore, looking at the status and curriculum vitae, checking in to the club or in other words knowing the community or association that is shaded by the prospective debtor. After that, check the DHN (national black list) to research the history of the potential debtor and confirm with vendors whether the payment history of the potential debtor is accurate and whether it is often late or on time. In addition to this, it is also necessary to explore the character of the local community as potential debtors, because the customs and culture in each region are very different. This is done in order to find out whether the prospective debtor has a good or bad attitude, as well as conducting interviews related to the profession of the prospective debtor is included in the "professions to avoid" in granting credit or not Sutojo (2008).

In addition to the above, there are principles that are important to know in credit assessment, namely the 5C Principle which consists of character, capital, capacity, economic condition and collateral". Furthermore, the 5P Principle consists of the classification of the borrower (party), purpose, source of payment (payment), profitability and protection and the 3R Principle consists of results achieved (returns or returning), repayment (repayment) and the ability to bear the risk (risk bearing ability) Sutarno (2003). With the existence of these principles in credit assessment, a simple conclusion can be drawn that the use of a credit card recommended by the Bank is a credit with a credit limit/ceiling or ceiling. The trend in credit card marketing is that competition is very tight to capture market share, apparently ignoring the principles that underlie banking operations.

The actualization of The Know Your Customer Principle (KYC Principle), sometimes known as the "Know Your Customer Principle," is a set of guidelines that businesses must follow to prevent money laundering and other crimes of opportunity, but also in the context of using prudential banking to shield banks or other financial service providers from various risks in doing business with clients and third parties. Banks and other financial service providers must specifically recognize consumers in order to avoid becoming involved in money laundering offenses. As the fifteenth of the twenty-five Core Principles for Effective Banking Supervision and the Basel Committee, the FATF recommends that you know your customers. Customers must be identified starting with their identity, followed by customer acceptance procedures, ongoing customer monitoring, and finally reporting to the authorities. Bank Indonesia has thus far mandated that financial institutions identify their clients.

Banks must specify a number of things for the Know Your Customer Principles to be implemented, including:

1. customer acceptance policy,
2. customer identification policy and procedure,
3. customer account and transaction monitoring policy and procedure,
4. risk management policy and procedure connected to the application of the Know Your Customer Principles are all examples of policies and procedures.

Bank directors must establish a dedicated work unit or assign a representative to be in charge of it in order for the Know Your Customer Principles implementation to be effective. According to the guidelines set forth in the Bank Indonesia Regulations, a bank is expected to inquire about the following before beginning a business relationship with a customer:

1. The prospective customer's identity;
2. The goals of the business relationship that the customer will have with the bank;
3. Additional information to help determine the prospective customer's profile; and
4. The identity of the other party, in the event that the prospective customer acts on behalf of the other party.

The bank is required to check the legitimacy of the supporting documents submitted to confirm the prospective customer's identity. If necessary, banks may interview potential clients to check the validity and accuracy of the customer's supporting documentation. In this situation, the potential customer opens an account on behalf of another party (the benefit owner) by acting as an intermediary and/or proxy, necessitating the bank's need to obtain supporting documentation proving the customer's identity and legal capacity to act as an intermediary and/or proxy.

3.2 Legal Repercussions of Customer Defaults in Credit Card Banking Transactions

During the course of the contract's implementation, it is frequently discovered that the parties have not kept their promises as stated in the agreement. This is referred to as a default. Default is the failure to perform obligations in accordance with the contract that has been reached. The following are some of the causes of default customers:

1. The client has declared bankruptcy.
2. The client continues to help the company grow.
3. There are issues with the customer's finances.
4. The economy is not in a good state overall.

The parties will face legal repercussions if the credit card issue agreement is signed. The legal consequences can be described as follows:

- Provisions outlining how an agreement will be interpreted by the courts

The provisions governing the legal consequences of agreements are generally listed in Articles 1338 to 1341 of the Civil Code.

Article 1338 Civil Code Paragraph (1):

" Any arrangement that is made legally is binding on those who enter into it."

"Legally" refers to meeting all the conditions set forth in Article 1320 of the Civil Code for the agreement to be valid. Additionally, the phrase "applies as law" refers to the agreement being binding on the parties who enter into it, similar to how a law binds those to whom it applies. According to Civil Code Article 1338(2), "These agreements cannot be withdrawn except with the consent of both parties or for purposes authorized by law."

As a result of the guidelines in Section 1338(2) of the Civil Code, the promise is legally binding. The parties cannot withdraw unilaterally from the consequences of the agreement they closed. Unilaterally means without the agreement of the other party. When connected with the two elements "made legally" and "binding as a law" are defined in Article 1338, paragraph 1, of the Civil Code; then agreements that cannot be canceled unilaterally are agreements that have been made legally. It entails meeting every prerequisite for an agreement's legality listed in Article 1320 of the Civil Code.

The Civil Code's Article 1338, Paragraph 3 states: "Agreements must be carried out in good faith." While the Civil Code's Article 1338, paragraph 3 refers to the implementation of an agreement in good faith. Subekti contends that agreements must be carried out in accordance with moral standards, and that these standards must follow the correct course. Two concepts are drawn from the wording of Article 1338 of the Civil Code, particularly the notion that "a promise is binding," which states that a promise creates an obligation that must be paid. According to the Civil Code, the agreement has a consensual nature because the promise is legally binding. Additionally, the agreement is based on the "freedom to contract" principle, which states that everyone is, in theory, free to enter into an agreement and determine its terms, provided that doing so does not violate the law, morality, or public order (Article 1337 of the Civil Code).

The implementation of an agreement does not escape the elements of propriety, custom and law. The following is mentioned in Article 1339 of the Civil Code:

" Agreements are enforceable for everything that is needed by law, decency, or custom as well as for the things that are specifically mentioned in them."

The terms of Article 1339 of the Civil Code underline that the contents of the agreement are enforceable if they are "strictly agreed upon" as well as if they are required by "decency, custom, and law." Provisions required by law can be grouped as coercive provisions (*dwingenrecht*) and which are additive (*aanvullenrecht*). Provisions that are coercive, do not allow the parties to get rid of these provisions. This is usually related to decency, public order or public interest. Meanwhile, regarding legal provisions that are additive, the parties can make deviations, and the will of the parties is respected by law. The role of law can be felt, if there are things that are not regulated and disputes occur, then additional legal provisions can be used. Furthermore, the following is stated in Article 1340 of the Civil Code:

" A contract is only effective between the persons that sign it. Except in the circumstances described in Article 1317, other parties cannot be harmed by these agreements or receive benefits from them."

The requirements of Article 1340 of the Civil Code include the agreement's personality principle, which states that an agreement only applies between the parties to

which it is made, as mentioned in Article 1315 of the Civil Code, which explains that: " A person cannot, in general, accept commitments or promise rights in his own name." , except only for oneself". In this case the person who makes an agreement can only bear the implementation of the agreement, if he himself will carry it out. While the things promised by someone in general, only have interests for the person himself Subekti (2008).

Article 1317 of the Civil Code lists exclusions from this rule, which allows a right to be placed in an agreement for the benefit of a third party. Therefore, a third party has the right to request that the agreement's rights be implemented against the party that is required to do so. This is referred to as "derden beding," and the definition of it is found in Article 1317 of the Civil Code, which reads as follows:

"After all, whether a promise made by a person for himself or a present he gave to another person involves a promise for the benefit of a third party, it is likewise acceptable to request such promise. If a third party says he wishes to use something that has been agreed upon, neither party may back out."

The final legal consequence of the agreement is in the form of a right from the creditor to submit an cancellation of the agreement for the debtor's actions that are not required in the agreement that are detrimental to the creditor, known as *actio paulina*, this is governed by Civil Code Article 1341. The legal consequence in question is that the debtor's actions can be sued for cancellation. Consequently, the debtor's assets which are intended to be transferred by legal action demanded for the cancellation, are considered to still exist in the debtor's assets. Cancellation is intended for certain agreements carried out by the debtor insofar as it is sufficient to protect the interests of the creditors who filed *Paulina's action*.

From the description above, the legal consequences of credit card issuance agreements are using the guidelines found in Article 1338 of the Civil Code, it can be concluded as follows:

- a. The provisions governing the contractual relationship of credit card issuance are regulated according to a contract between the Bank as the issuer and the applicant. These provisions are binding on both parties just like the law.
- b. The terms of the contract used to issue a credit card is a credit facility with a withdrawal limit/ceiling or credit ceiling with tough conditions or conditions of precedent that must be obeyed by the credit card holder in its use.
- c. Termination of the use of the credit card according to the agreement, but does not rule out the possibility that under special conditions (event of default) the Bank may terminate this agreement.

Default is a condition in which an agreement is not implemented due to an error or negligence by one party or both parties. If a new debtor receives a subpoena from a creditor or bailiff, that person is said to be in default. At least three times have the bailiffs or creditors served the subpoena. The creditor has the right to file a lawsuit if the subpoena is ignored. In this case the court will decide whether the debtor is declared in default or not. Here are some default-related repercussions include the following:

- 1) The agreement still exists, If the debtor is tardy in satisfying the achievement, the creditor may still take the debtor to court for performance. Additionally,

creditors have the right to request payment for any delays in completing their goals. This is a result of creditors completing tasks on time.

- 2) According to Article 1234 of the Civil Code, the debtor is obligated to compensate the creditor.
- 3) If the impediment appears after the debtor defaults, the risk is transferred to the loss of the debtor, barring the creditor's willful or significant misconduct. As a result, the debtor is not entitled to retain force majeure.
- 4) Creditors may use Article 1266 of the Civil Code to relieve themselves of the duty to offer counterperformance if the commitment resulted from a reciprocal agreement.

Creditors can sue debtors who have defaulted on the following matters:

- 1) Only the debtor may be asked to meet the achievement at the creditor's request.
- 2) According to Article 1267 of the Civil Code, creditors have the right to request performance along with payment to the debtor.
- 3) Creditors may file a lawsuit and seek damages, but only for potential losses resulting from delays
- 4) The arrangement may be canceled at the creditor's request.
- 5) The creditor has the right to request cancellation together with payment of fines as the debtor's remedy for these damages.

As a result of creditor negligence that can be accounted for, namely:

- 1) The debtor is under pressure.
- 2) Loss of the director shifts the risk responsibility to and thus the debtor is only responsible for default in the event of intentional or other major errors.
- 3) Creditors are still required to provide a return performance (Article 1602 of the Civil Code).

Credit card holders who make payments by credit card only need to show their card, which will be examined by the payment officer concerned regarding a number of matters as follows with the procedure:

a. Examine the validity period of the credit card in question, whether it is still valid or has expired. If it turns out that the credit card is no longer valid, the cashier will reject it.

b. If the credit card is still valid, the cashier will check the latest black list, which is periodically sent by the issuing bank. This blacklist check is to find out whether the credit card number in question is on a card that was reported missing by the owner or suspected to have been forged. If the card number is blacklisted, the cashier will reject it.

c. Once it is clear that the credit card is not blacklisted, the cashier then places the card on the imprinter along with a triplicate invoice to be printed.

d. Then the cashier pushed the imprinter handle once to the right and once to the left, so that the cardholder and recipient data were printed clearly on the triplicate invoice.

e. After that the cashier concerned will fill in or write down the date of the transaction and the amount of the transaction on the invoice.

f. If the transaction payment amount exceeds the purchase limit, the cashier will first contact the issuer for approval and approval, then the authorization number must be written on the invoice.

g. Only then the cashier allows the card holder to sign the invoice, without being allowed to see the signature printed on the credit card. The cashier will check whether the signature is the same as the signature on the credit card.

h. Triplicate invoices will be separated, the first sheet for the merchant (payee), the second sheet for the cardholder and the third sheet stored, which will then be sent to the issuing bank for billing.

Furthermore, in the next few days, the payee will send a billing account attached with the payment invoice to the issuing company/bank. About a week or two later a new bill can be disbursed. Before the bill is paid, the issuing bank will deduct 3% to 7% of the total amount, as a commission. The issuing bank will send a billing account to the cardholder's address around the start of each month. Bills listed in the account must be paid no later than the due date of each billing month. Related to this, in the opinion of the author that the use and use of a credit card is not difficult and will not cause a legal problem, it's just that good faith is needed from both parties, both the creditor and the debtor, in stating the credit card's terms and conditions, so that the credit card can be go and be active.

4 Conclusion

1. The Know Your Customer Principle (KYC Principle), also known as the "Know Your Customer Principle," is being put into practice based on the understanding that KYC is crucial for implementing prudential banking and protecting banks and other financial service providers from a variety of risks when dealing with clients and counterparties. Banks must set up policies on accepting customers, policies and procedures for identifying customers, policies and procedures for monitoring customer accounts and transactions, and policies and risk management procedures related to the implementation of know your customer principles in this case, also known as the Know Your Customer Principles. Bank directors must set up a specific work unit to handle this issue in order for the Know Your Customer Principles implementation to go smoothly.

2. In order to implement the know your customer principles, also known as the Know Your Customer Principles, banks must establish policies on accepting customers, policies and procedures for identifying customers, policies and procedures for monitoring customer accounts and transactions, and policies and risk management procedures related to this implementation. For the Know Your Customer Principles implementation to be successful, bank directors must establish a specific work unit to address this issue.

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