

Progression of Digital Era in Indonesia, How Safe Are We?

At the back side of Covid-19 pandemic, going digital becomes a more preferable option for the public to do their financial transactions. During the peak of the pandemic in 2020, digital transactions in Indonesia has rapidly growing at 37.8%, compared to the previous year of 2019.¹ Pursuant to Bank of Indonesia (“**BI**”) forecast, in 2021, Indonesia will see further increase on the number, most likely the number of digital transactions will increase around 33.2% from 2020.²

To protects the consumers’ interest, as they are the element of this digital financial ecosystem which are prone to misleading information, unfair treatment, low quality services, and consumer personal data mismanagement, on 22 December 2020, BI has issued a more stringent regulation, namely the Regulation No. 22/20/PBI/2020 regarding Consumer Protection of BI (“**2020 PBI**”). This regulation revokes the previous BI regulation in 2014, namely Regulation No. 16/1/PBI/2014 regarding Consumer Protection for Payment System Services (“**2014 PBI**”), which focuses specifically to protect

consumer that utilize the payment systems.

This article will encapsulate the provisions of 2020 PBI, as well as its protection to the consumer in the progression of digital era in Indonesia.



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Fundamental Principles of Consumer Protection in Indonesia

The concept of consumer protection has been far past introduced in Indonesia through Law No. 8 of Year 1999 on Consumer Protection. This law emphasizes the fundamental of consumer

¹ Money Kompas, ‘Gubernur BI: Selama Pandemi, Transaksi Digital Naik 37,8 Persen’.

² Financial Bisnis, ‘BI Perkirakan Transaksi Digital Banking 2021 Capai Rp32.206 Triliun’.

protection as the efforts to guarantee the “*benefits, justice, balance, security and safety, as well as legal certainty*” for consumer in their transactions with the ‘services or goods provider’, or business actors.

As a sectoral regulation, 2020 PBI has further tailored the above fundamental principles of consumer protection as the efforts to guarantee the “*equality and fair treatment, transparency, education and literacy, responsible business implementation, protection from mismanagement of consumer assets, consumer data protection, as well as effective settlement of consumer complaints*” in the consumer’s financial transaction with the ‘organizers’, or relevant financial services institution.

Compared to the 2014 PBI, the 2020 PBI puts forward the spirit of *education, good management of consumer’ data and complaints, as well as supervisory functions of BI*, which we view as essential to boost the consumer protection in this digital era.



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Education, Good Management of Consumer Data and Complaints, & Supervisory Functions of BI

While the education aspect has been briefly mentioned under the implementing regulation of 2014 PBI, namely the BI Circular Letter No. 16/16/DKSP 2014 regarding Implementation Procedures of Consumer Protection for Payment System Services (“**2014 SEBI**”), we do not see the formalization of real actions that will be taken by the relevant financial services institution to fulfil this aspect. To make the necessary improvement, the 2020 PBI regulates the obligation of relevant financial services institution to educate their consumer, which can also be done through collaboration with other organizers. Further, the relevant financial services institution must also report to BI on the exact implementation of this aspect.

On the management of consumer data, the 2020 PBI still emphasizes the importance of consumer consent in the use of their data by other third parties. In addition, the 2020 PBI has further obliged the relevant financial services institution to establish a management team functioning in the protection of consumer data, as well as, establishing a sufficient mechanisms and procedures of data

protection, to further ensure the utmost privacy policies of the consumer.

Consumer complaints is one of the issues that is also touched by 2020 PBI. This regulation opens a gate for consumers to bring their dispute that cannot be settled amicably, to a dispute resolution agency, such as the *Alternative Dispute Resolution Board*. Additionally, certain cases can also be brought before BI in order for BI to also assess the consumer complaint, whether through educative, consultancy, or facilitative means. Similar to the education aspect, the relevant financial services institution shall also report its management of consumer data and complaints to BI.

One of the ultimate highlights in the 2020 PBI is the power of BI to supervise the relevant financial services institution through a market conduct approach, focusing on the business activities and behaviour of relevant financial services institution, as well as analyzing any supporting document that is required to be submitted to BI.

Any failure of financial services institution to implement the aforementioned education, good management of consumer' data and complaints, and reporting obligations will trigger a possible administrative sanction from BI.

Variation of Protected Consumer and Relevant Financial Services Institutions

Aside from the more in-depth fundamental principles of consumer protections, by considering the rapid innovation of technology in financial transactions, the 2020 PBI is not only capturing the protection for consumers who use payment services as previously covered by the 2014 PBI and 2014 SEBI.

Under the 2020 PBI, the scope of protected consumer is not only those who utilize instruments of transfer and withdrawal, card payments, electronic money, and other payment service activities regulated by BI, but also all consumers of financial services institutions under BI supervision, such as customers of monetary and macroprudential sectors.

In other words, the accommodation of various types of protected consumers in the 2020 PBI will ultimately expand the reach of consumer protection within the financial services industry in Indonesia. As one of the results, the 2020 PBI has enfolded the organizers of financial services, financial markets, foreign exchange markets, and other sectors which are monitored by BI as the parties that are bound by this regulation.

What's Next?

While the issuance of 2020 PBI is expected to provide a better legal framework for consumer protection in Indonesia, BI is yet to issue the implementing regulation of this PBI. Currently, to fill the lacuna, all provisions of 2014 SEBI that are not in contradiction with 2020 PBI still remains applicable.

Nonetheless, the issuance of a new implementing regulation is seen essential to regulate a clear set of rules for consumer protection in financial sectors. We foresee this anticipated regulation should provide approaches for the implementation of: (i) fundamental principles of consumer protection as a whole, (ii) management of consumer complaints by BI, (iii) procedures and mechanism of reporting obligations to BI, (iv) supervisory functions by BI, and (v) procedures for the imposition of administrative sanctions.

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