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## LEGAL ASPECTS OF USE OF CREDIT CARD IN TRADE AT BANDA ACEH CITY

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### ABSTRACT

Credit cards are one of the new instruments in the trading world that have a monetary value, so they can be used as a tool for transactions. However, credit cards cannot be called securities because they cannot be transferred. As a means of payment, the development of its use is increasingly widespread so that this has legal consequences for the parties involved in the use of the credit card, considering that the legal regulations are still relatively weak. The research method used is qualitative research with a normative juridical approach with descriptive analysis research specifications. This research uses secondary data as the main research material, which is obtained through documents. From the data obtained will be analyzed qualitatively normative. The legal aspect of using credit cards in trade in Banda Aceh City is that every agreement that occurs is incidental (a certain time) agreement, which arises at the time of buying and selling transactions or services. The mechanism of each credit card issuing bank is always different in giving approval, but the terms and procedures are relatively the same. Legal protection for the parties in using credit cards occurs at the time of signing the credit card approval agreement between the issuer and the credit card user, because legally there is no law that explicitly regulates it. It is recommended that there be wider legal protection efforts from the government, not only consumers in the sense of credit card holders, but in certain cases the sellers of goods/services and card issuers are also parties that need to receive balanced legal protection, including the affirmation of the rights of consumers. each party to sue the other party.

**KEYWORDS:** Credit Card, Legal Aspects, Legal Protection.

### 1. INTRODUCTION

In order to fulfill life's needs, humans enter into transactions with each other. In ancient times, the simplest transaction system was known, namely the barter system. In this barter system, one human being and

another human being who have different life needs exchange goods. However, in the end, this method of transactions ran into a dead end. Often in this system the exchange of goods is canceled because the other party does not want the goods owned by the second party<sup>1</sup>.

Apart from that, it is difficult to measure the value of one item compared to other items, both in terms of quality and quantity. Economic development and progress in society, especially in the field of trade, have resulted in the emergence of a new medium of exchange, namely money, after the use of money as a means of payment was felt to have weaknesses in completing transactions, especially for transactions in large amounts. Djoko Prakoso and Bambang Riyadi also said that buying and selling transactions are the right of every individual/human being, they say this because buying and selling is a human activity that is necessary to fulfill their daily needs<sup>2</sup>.

Credit cards are a type of banking service product, and in accordance with the provisions of the applicable laws and regulations, the regulation and supervision are in the hands of Bank Indonesia. Black's Law Dictionary defines a credit card as: "an identification card used to acquire non-credit goods, usually on a rotating basis". In the use of credit cards as payment, there will be laws in their use which can be caused by the credit card user or from the credit card provider.

## 2. LITERATURE REVIEW

### 2.1 Credit Card

Credit Card is a term adopted from the term credit card, which is a compound word, which occurs from two words, each of which has a different understanding and significance, in terms that are not equivalent and also have different literal meanings<sup>3</sup>.

Credit cards were first used in the United States in the 1920s, given by large department stores to their customers. The goal is to identify customers who want to shop but with monthly payments. Therefore, a credit card like this is in the form of a charge card, which is paid monthly after being billed and without the obligation to pay interest. So, there are only 2 (two) parties, namely the first is the shop as the issuer, while the second party is the customer as the credit card holder<sup>4</sup>.

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<sup>1</sup>Bruce J. Coben. *Sociology An Introduction...*, p. 6.

<sup>2</sup>Djoko Prakoso and Bambang Riyadi Lany, *Legal Basis for Certain Agreements in Indonesia, Cet. III* (Jakarta: Bina Aksara, 2011), p. 17.

<sup>3</sup>Sri Redjeki Hartono, *Legal Aspects of Credit Card Use* (Jakarta: National Legal Development Agency, Ministry of Justice, 2014), p. 35.

<sup>4</sup>Ronald A. Baker, *Problems of Credit Card Regulations AUS Perspective dalam Newsletter No. 6* (Jakarta: Pusat Pengkajian Umum, 2015). hal, 1.

In the mid-1950s, many banks in the United States started local credit card programs. Banks in Uncle Sam's country initially issued credit cards for their customers to obtain unsecured lines of credit.

## 2.2 Legal Protection for Credit Card Holders

The birth of the Consumer Protection Law contains legal regulations that provide protection to consumers. The enactment of the Consumer Protection Law aims to balance the bargaining power of consumers with business actors and encourage business actors to be honest and responsible in carrying out their activities. The birth of the Consumer Protection Law is expected to become a legal umbrella in the consumer sector by not ruling out the possibility of the formation of other laws and regulations whose material provides legal protection for consumers, as well as encouraging business actors to be honest and responsible in running their business.

The definition of consumer in the Consumer Protection Law is the final consumer. Credit card holders are final consumers, because they use credit cards to purchase goods/services in addition to withdrawing cash. That's why the Consumer Protection Law can be used as the basis for regulations that provide legal protection for credit card holders in Indonesia. The consumer protection referred to in the consumer protection law has a broad scope, including how a consumer obtains goods or services and the consequences of using these goods or services. In this case, protection for credit card holders starts from how the credit card was obtained or the process of issuing the credit card to the consequences of its use, whether it is in accordance with the agreement or not<sup>5</sup>.

## 2.3 Credit Card Hacking

Technological sophistication in the banking world cannot be separated from its pros and cons, especially in the credit card business. This sophistication invites unlawful acts carried out by irresponsible people. One of them is credit card burglary or hacking. Credit card burglary or hacking is a type of cybercrime. This credit card hacking is known as carding or credit card fraud. Carding is a form of theft and fraud in the internet world which is carried out by the perpetrator using a stolen credit card or fake credit card made by himself. The aim is to buy goods illegally or withdraw funds illegally from someone else's bank account<sup>6</sup>.

Carding is a combination of cybercrime and high-tech hacking. Carding is also an internet crime or often called cybercrime, where cybercrime is an activity that can be punished by using processing

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<sup>5</sup>Ronald A. Baker, Problems of Credit..., hal. 3.

<sup>6</sup>Abdul Wahid and Muhammad Labib, Mayantara Crimes (Bandung: Refika Aditama, 2010), p. 7.

Carding is a combination of cybercrime and high-tech hacking. Carding is also an internet crime or often called cybercrime, where cybercrime is an activity that can be punished by using processing and transferring data via computers, mobile phones, credit cards and similar technology. A hacker is a person who studies, analyzes, modifies, breaks into computers and computer networks, either for profit or motivated by challenges<sup>7</sup>.

### 3. IMPLEMENTATION METHOD

This research was conducted on customers who use credit cards and private banks in the city of Banda Aceh that provide credit cards to their customers.

**Study Design:** Prospective open label observational study

**Study Location:** This is a banking-based study conducted at a private bank in the city of Banda Aceh, Aceh, Indonesia.

**Study Duration:** January 2022 to March 2022.

**Subjects & selection method:** The research population was taken from private bank customers who use credit cards, ranging from traders to entrepreneurs in the city of Banda Aceh as many as 20. and 5 employees of private banks with a total population of 25 respondents.

#### Procedure methodology

After written informed consent was obtained, a well-designed questionnaire was used to collect the data of the recruited patients retrospectively. The questionnaire included socio-demographic characteristics such as age, gender, nationality.

All respondents were interviewed with structured interviews and can change according to the conditions and the flow of the interview. Data was also obtained through direct observation and then analyzed by triangulation in which to match the results of interviews with the reality in the field.

#### Statistical analysis

As a way to draw conclusions from the research results that have been collected, a qualitative normative analysis method will be used. Normative, because this research is based on existing regulations as positive legal norms.

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<sup>7</sup>Mahmoedin H.A.S., 100 Causes of Bad Credit..., p. 39.

#### 4. RESEARCH RESULT

After collecting all information related to the estimated value of the tourism sector's economic losses, the tourism sector Basically, the use or utilization of credit cards in payment traffic is the realization of the agreements that have been made by the parties involved in the use of credit cards. The agreement made by the parties with a double point with a dual position in the company/bank is a triangular agreement between the three parties:

- a. Company/bank credit card issuer with credit card holder/ card holder.
- b. Company/bank credit card issuer with entrepreneur/ merchant accepting credit card (Merchant).
- c. Credit card holders with entrepreneurs / merchants who accept credit card payments. This agreement is an agreement that is incidental in nature, in the context of transactions and or services at certain times.

Basically, the triangular agreement mentioned above is an agreement that each stands alone, but is mutually beneficial in material terms with the dual subject of the credit card issuing company/bank. The main agreement occurs between the issuer and the credit card holder, which essentially provides credit facilities. The agreements entered into by the parties in a triangular agreement must basically be made on the basis of the terms and conditions of the Civil Code Book III specifically Article 1320 concerning the legal requirements of an agreement. An agreement must meet four conditions, namely:

- a. Agree with those who bind themselves
- b. The ability to make an engagement
- c. A certain thing
- d. A lawful reason

In practice, a credit card agreement is a standard or standard agreement, because all the terms of the agreement have been prepared or prepared by the company/bank, so that the prospective credit card holder only fills out the form and signs the agreement text that has been prepared by the credit card issuing company/bank. From the text of the agreement, it can be seen that the rights of the credit card holder include:

- a. Using a credit card as evidence to obtain goods and or services.
- b. Using it as a means of taking cash.
- c. Extending the validity of the credit card that is owned will get a new replacement, if it is damaged or lost.

For more details will be described about how the legal relationship between the parties in the use of credit cards.

#### a. Legal Relationship between the Holder and the Credit Card Issuer

##### 1) Credit Card Usage Agreement

The use of a credit card is an activity of using a credit card by the holder to obtain goods or services by payment using a credit card. Judging from the legal aspect, the use of credit cards by cardholders is based on an agreement, namely an agreement to provide facilities to provide goods and or services without having to pay in cash, between the issuer and the cardholder, and an agreement between the credit card issuer and its partner (Merchant).

Bearing in mind and based on the principles contained in the Civil Code Article 1338 paragraph (1) that the agreement is a law for the parties who make it, it can be said that the juridical use or use of a credit card starts from the provisions of Article 1338 of the Civil Code paragraph (1) which states that: "all agreements made legally valid as law for those who make them".

The use of credit cards as a means of payment arises as a direct result of existing agreements. When examined further, it turns out that in the Civil Code and also in the Criminal Code there is nothing that regulates credit cards. However, based on the provisions of Article 1319 of the Civil Code which stipulates those agreements, both those with a name or not, even with any name made by the parties, are subject to the general provisions of the agreement, as regulated by Chapter One and Chapter Two of Book III of the Civil Code<sup>8</sup>.

Based on the provisions of Article 1338 of the Civil Code which states that the agreement and the terms of the agreement that have been made legally binding on the parties such as the law and based on the principle of freedom of contract for the parties.

The same is true for credit card issuance agreements. Credit card agreements can be said to be included in the classification of standard agreements (standard agreements). Credit cards are classified in standard agreements because: Documents containing the terms of the agreement have been prepared and determined in advance by the issuer/ issuer/ as a creditor, so that the credit card holder (as a debtor) only has a choice whether to accept the terms that have been determined in advance by the credit card. publisher and then signed the agreement text as a sign of agreement. Or do not sign as disagree so that you do not become a credit card holder as the applicant has fulfilled

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<sup>8</sup>Kasmir, Banks and other Financial Institutions, Jakarta: Raja Grafindi Persada, 2017

all the requirements and then signed the agreement text then there is an agreement and each party on the terms of the agreement that has been signed. From the text of the credit card agreement, it can be seen how far the legal relationship of the parties is to the rights and obligations that must be fulfilled.

Given the target to be achieved by the company (credit card issuing bank) to gain the widest market share, of course, issuers need to also expand cooperation with merchants as widely as possible so that standard agreements have been prepared. One of the things that is emphasized as the main condition is that: "entrepreneurs who are carried out by credit card holders at their place of business".

Employers must also provide guarantees that the price given to credit card holder consumers is the same as the price for other consumers. In addition, there are other obligations that are procedural in nature in terms of securing the entire transaction process.

The rights and obligations of the payee by credit card (merchant) are as follows:

(1) Obligations

- (a) Serving all transactions for the purchase of goods and services made with a valid credit card and the holder comes from the issuing bank that cooperates with him.
- (b) Connecting the issuer to notify each transaction that occurs.
- (c) Contact or notify the issuer if there are irregularities in the use of a credit card.
- (d) Check the blacklist that is sent periodically by the issuer, before accepting payment by credit card.
- (e) Sending purchase invoices by credit card for invoices made against the issuer.

(2) Meanwhile, the rights of the credit card payment recipient are:

- (a) The recipient of a credit card payment has the right to refuse a payment made by a person for the purchase of a number of goods using a credit card, if the recipient doubts the validity of the credit card.
- (b) Receive profit sharing from the beneficiary bank for a number of payment for purchase transactions made by credit card.
- (c) Increase the price of each item purchased using a credit card, several percent (between 20% to 40%) higher than the purchase price with cash.
- (d) Attaching or extending the credit card striker, from the issuing bank that cooperates with him on the shop front door, window window, cash register or other places that are possible for it.

Sellers are merchants appointed by the issuing party based on the credit card usage agreement, such as supermarkets, restaurants, hotels, shops. The seller is a party to the credit card usage agreement who is entitled to receive payment from the issuer based on the purchase receipt addressed to him.

### 1. Protection of the Parties in the Use of Credit Cards

Seeing the fact that more and more banks can prove the misuse of credit cards by irresponsible people, so that it can harm card holders, bank issuers try to reduce abuse activities and at the same time protect card holders by taking the following actions:

- a. Issuing card products with good holograms and magnetic strips is not easy to imitate, although it must be made at a high cost because it uses sophisticated electronic equipment.
- b. Credit cards are equipped with the latest passport photos from the card holder that have been programmed into the computer, so it is difficult for people or syndicates to replace the photos that are already attached to the card.

Banks in providing protection to card holders, focus more on the manufacture of these credit card products, because nowadays, card abuse syndicates are very wide and are everywhere. Syndicates can consist of merchants, bank personnel, who are free to enter and exit the issuer bank environment or the card holder themselves. This makes it difficult for the bank to monitor the merchant and the bank concerned, because it is difficult to track their behavior in card abuse.

So a better way to protect the card holder is to create a card product that is of high quality and that is not easily abused. Basically, the use of credit cards as a means of payment is an agreement made by the parties involved in trade transactions. The agreement that occurs is an agreement that each stands alone, where there is a main agreement which essentially provides credit facilities.

Agreements entered into by the parties must refer to the terms and conditions of the Civil Code Book III in particular:

- a. Article 1320 concerning the conditions for the validity of an agreement.
- b. Article 1338 concerning the principle of agreement, where every agreement is a law for the parties who make it and binds each other.

### 2. Legal Protection of the Parties from Civil Law Aspects

Basically, in the activity of using credit cards as a means of payment, the civil law aspect is relatively more dominant compared to other legal aspects. Legal relationships that occur in the use of credit cards as a means of payment include several agreements that are interconnected with one another. In the mechanism for using a credit card agreement involving three parties, each party enters into a double agreement and has a dual position as well. The legal relationship between the Issuer and the Card holder occurs because of the credit card agreement which is included in the standard agreement. The agreement stipulates in detail the rights and obligations of the Issuer and Cardholder.

The legal relationship between the merchant and the credit card holder is based on a sale and purchase agreement. Merchants as sellers are obliged to deliver goods and or services to cardholders as buyers.



Meanwhile, the credit card holder's obligations directly do not need to be fulfilled by the merchant, because the credit card agreement is taken over by the issuer. On the other hand, the merchant's rights cannot be claimed directly from the buyer (credit card holder), but must be transferred to the credit card issuer

## **5. CLOSING**

### **5.1 Conclusion**

The legal relationship in the form of payment for business transactions with credit cards involves three parties, namely the issuing bank (the bank that issues the card), the card holder (the card holder) and the merchant (places that accept credit card payments). The three parties have different legal relationships. These parties, especially credit card holders, must be legally protected so that they do not experience losses when transacting and making payments by credit cards.

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