LEGAL ASPECTS AND ROLE OF OJK IN BANK DIGITAL BY DIGITAL BANKING SERVICES DURING POST-COVID 19 PANDEMIC IN INDONESIA

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ABSTRACT

Objective: The purpose of this research is to analyze the implementation of bank digital by digital financial services that are able to maintain bank secrecy and personal data security; and to analyze the application of prudent banking principles in the implementation of bank digital by digital services in Indonesia; and it also aim to analyze the role of the OJK in regulating and supervising Bank Digital by digital services post Covid 19 pandemic.

Research Method: The method in this research is normative juridical research with a statutory approach and a conceptual approach, using secondary data in the form of: a) Primary legal materials include Law No. 10 of 1998 concerning Banking, Law No.21 of 2011 concerning the Financial Services Authority, Law No.27 of 2022 concerning Personal Data, Civil Code, OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks; b) Secondary legal materials include literature, scientific articles. Analysis of qualitative normative data, namely by interpreting data based on legal theory, legal principles and legal norms.

Results: Article 1 number 3 and 16 of the Banking Law and OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks that every party carrying out activities to collect funds from the public in the form of deposits must obtain a business license as a Bank from the OJK. Indonesian Legal Entity Banks (BHI) can operate as Digital Banks and provide digital services. Article 40 of the Banking Law requires banks to maintain bank secrecy. Article 65 of the Personal Data Law prohibits legal subjects use personal data without the permission of the data owner. Article 2 of the Banking Law requires banks to carry out their business activities based on the prudent principle. Banks are required to apply “knowing your customer” principle in providing credit to customers or collecting funds from customers (Article 8 of the Banking Law). Article 7 of the OJK Law states that the OJK has the authority and duties to regulate and supervise banks.

Conclusion: the implementation of a digital bank with digital services is able to maintain the security of bank secrecy and personal data, because it is implemented based on the Banking Law and the Personal Data Law. Implementation of the Bank's prudential principles in digital banks with digital services by applying the principle of getting to know the bank's customers. The OJK's role in regulating and supervising digital banks in digital services needs to be increased so as to provide legal certainty in their implementation.

Keywords: digital bank with digital services, bank secrecy and personal data, prudential principles, role of the ojk.

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ASPECTOS LEGAIS E PAPEL DO JOGO NO BANCO DIGITAL PELOS SERVIÇOS BANCÁRIOS DIGITAIS DURANTE A PANDEMIA PÓS-COVID-19 NA INDONÉSIA

RESUMO

Objetivo: O objetivo desta pesquisa é analisar a implementação do banco digital por serviços financeiros digitais que são capazes de manter o sigilo bancário e a segurança de dados pessoais; e analisar a aplicação de princípios bancários prudentes na implementação do banco digital por serviços digitais na Indonésia; e também visa analisar o papel do OJK na regulamentação e supervisão do Banco Digital por serviços digitais após a pandemia da Covid 19.


Resultados: Artigo 1.º, n.º s 3 e 16, da Lei Bancária e Regulamento n.º 12/POJK.03/2021 do OJK relativo aos bancos comerciais, segundo o qual todas as partes que realizam atividades de recolha de fundos do público sob a forma de depósitos devem obter uma licença de exercício da atividade bancária junto do OJK. Os bancos indonésios de pessoas jurídicas (BHI) podem operar como bancos digitais e fornecer serviços digitais. O artigo 40.º da Lei Bancária exige que os bancos mantenham o sigilo bancário. O artigo 65 da Lei de Dados Pessoais proíbe os sujeitos jurídicos de usarem dados pessoais sem a permissão do proprietário dos dados. O artigo 2.º da Lei Bancária exige que os bancos exerçam as suas atividades com base no princípio da prudência. Os bancos são obrigados a aplicar o princípio do “conhecimento do seu cliente” ao conceder crédito aos clientes ou ao recolher fundos dos clientes (artigo 8.º da Lei Bancária). O artigo 7.º da Lei do OJK estabelece que o OJK tem a autoridade e os deveres para regular e supervisionar os bancos.

Conclusão: a implementação de um banco digital com serviços digitais é capaz de manter a segurança do sigilo bancário e dos dados pessoais, porque é implementada com base na Lei Bancária e na Lei de Dados Pessoais. Implementação dos princípios prudenciais do Banco em bancos digitais com serviços digitais, aplicando o princípio de conhecer os clientes do banco. É necessário reforçar o papel do OJK na regulação e supervisão dos bancos digitais no domínio dos serviços digitais, de modo a garantir a segurança jurídica na sua aplicação.

Palavras-chave: banco digital com serviços digitais, sigilo bancário e dados pessoais, princípios prudenciais, papel do trabalho.

1 INTRODUCTION

The Covid 19 pandemic has had a fundamental impact on changes in activity patterns in society. Before the Covid 19 pandemic occurred, all community activities were carried out freely, including the payment system. Due to Covid 19 pandemic, all
community activities are carried out on a limited basis and must comply with health protocols. The Covid 19 pandemic is one of the driving forces in digitizing the payment system, because it is considered to be the key to national economic recovery, apart from Covid 19 vaccination. With digitalization in the payment system, it makes it easier for people to carry out transactions during the Covid 19 pandemic.[1]

Against the background of developments in technology, information and communication to facilitate the public in transaction activities during the Covid 19 pandemic, it has had an impact on changing people's behavior patterns in using the services of financial service institutions. The increased use of information technology leads to a new era, namely digital banking by fully utilizing digital technology through devices and software as delivery channels.[2]

The existence of bank digital can be accessed anytime and anywhere, thereby minimizing direct interaction between bank employees and customers, as well as increasing the efficiency of operational activities and quality of service to its customers. Bank digital is expected to contribute to the development of digital finance and/or financial inclusion.

According to the World Bank, financial inclusion is a financial service that is useful and affordable in meeting the needs of society and its businesses in terms of transactions payments, savings, credit and insurance that are used responsibly and sustainably. [3] It is hoped that financial inclusion can reduce people who are unbanked or do not have a bank account because they do not have access to basic banking services such as savings.

The existence of bank digital has coloured financial services, which until now were carried out with face-to-face system, and now starting to shift towards digital. Apart from providing convenience for customers, bank digital brings out the bad side of digital banking services, namely cybercrime. Leakage of customer data, misuse of customer data by irresponsible parties is the number one crime in the banking world, especially in the digital era like now. [4]

Banking transaction activities at banks digital carried out with digital banking services will have an impact on the management of personal data of saving customers and their deposits which in the Indonesian Banking Law is regulated by the secrecy principle, there will be a threat of leakage with the use of electronic banking. This is due to the many parties involved, both from the banking side (such as Bank Directors, Bank
Commissioners, Bank Employees) and service providers, or those who are affiliated with banks, so from a legal perspective they require legal protection for the security of personal data of customers who save their savings funds. So the problem in this research is how the implementation of bank digital with digital financial services is able to maintain bank confidentiality and personal data security; and analyze the application of prudential banking principles in the operation of bank digital with digital financial services in Indonesia. In the regulation and supervision of banking business activities in Indonesia, authority is given to the Financial Services Authority (OJK) in the OJK Law, so with the possibility of leaks of bank confidentiality and the implementation of the precautionary principle in bank digital with digital financial services. So, what is the role of the OJK in regulating and supervising Bank digital with digital financial services after the Covid 19 pandemic.

2 THEORETICAL FRAMEWORK

According to Article 1 number 22 of OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks, a digital bank is an Indonesian Legal Entity Bank (BHI) which provides and carries out business activities primarily through electronic channels without a physical office other than the head office, or using an office physically limited. BHI Bank is a bank that carries out banking business activities in the form of an Indonesian legal entity in accordance with statutory provisions, including intermediary banks. Legal entity means an entity which has the rights and obligations to carry out its own actions. Legal entity is legal subjects similar to people. Requirements to be categorized as a legal entity are the existence of assets with specific purposes that are separate from the personal assets of the partners or founders, it has the interests which is common interests, and also there are several people as administrators of the body in that legal entity.

According to fictional theory, a legal entity is only a symbol of the totality of the collection of people associated with that legal entity.[5] Basically, those who have a will are humans, but people create in their imagination, legal entities as legal subjects are considered the same as humans. People act as if there are other legal subjects, but these unreal entities cannot carry out actions, so those who do are humans as their representatives. [6] Meanwhile, according to organ theory, a legal entity is an entity that forms a will through the means or organs of the entity. The functions of legal entities are
equated with human functions. According to the wealth theory of office, a legal entity is a group of people who have common interests (the interests of their members), and have rights and obligations which are the collective responsibility of all their members. According to the theory of juridical reality, legal entity is a concrete, real reality, although it cannot be touched, but is a juridical reality. This theory emphasizes that equating legal entities with humans is limited to the only legal field. In other words, an Indonesian Legal Entity (BHI) is a legal subject that supports the rights and obligations created by Indonesian law in a fictional way (persona ficta), and it has its own assets. It can be sued in front of a judge.

Article 40 of the Banking Law requires banks to keep confidential the information of customers who deposit their deposits. According to bank secrecy theory, it can be divided into absolute and relative bank secrecy. Articles 2 and 29 paragraph (2) of the Banking Law regulate that banks carry out their business activities based on the principles of economic democracy and the principle of prudence. The precautionary principle is a principle which states that banks in carrying out their functions and business activities are obliged to be careful in order to protect public funds entrusted to them, including in the distribution of funds guided by legislation.

Article 7 of the OJK Law grants the authority and duties of banking regulation and supervision to the OJK. The essence of supervision is to prevent as early as possible the occurrence of irregularities, waste, misappropriation, obstacles, mistakes and failures in achieving goals and objectives as well as carrying out organizational tasks. Supervision is part of the legal enforcement aspect whose instruments include: 1. Supervision. 2. Sanctions. Supervision is carried out on the compliance of community members so that mandatory provisions or prohibited provisions are not violated. Sanctions are also an instrument of imposition.

3 RESEARCH METHOD

This legal research is normative (doctrinal) legal research, which focuses on viewing law as a complete system including a set of legal principles, legal norms, and legal rules (written and unwritten). This research was conducted using a statutory approach and a conceptual approach. Legislative approach research is research carried out by examining all laws and regulations relating to related issues. In this research, what will be studied are the laws and regulations related to digital banks. Meanwhile,
research with a conceptual approach is research that departs from the views and doctrines that develop in legal science, which gives rise to legal understandings, legal concepts and legal principles that are relevant to related issues. [8] In this case it is an issue related to digital banks.

In this research secondary data was used in the form of: (a) Primary legal materials are legal materials that are authoritative. It means they have authority, in the form of statutory regulations, official records or minutes in making legislation, and judges’ decisions.[8] In this research, the following are: Law Number 7 of 1992 concerning Banking; Law Number 10 of 1998 concerning Amendments to Law Number 7 of 19992 concerning Banking (Banking Law); Law Number 27 of 2022 concerning Personal Data Protection (Personal Data Protection Law); Law Number 21 of 2011 concerning the Financial Services Authority (OJK), Financial Services Authority Regulation Number 12/POJK.03/2021 concerning Commercial Banks. (b) Secondary Legal Materials are all legal publications that are not official documents regarding the basic principles of legal science and the views of qualified scholars, includes textbooks, legal dictionaries, legal journals, and commentaries on court decisions. The data analysis used in this research is qualitative normative analysis by describing it in a quality manner in the form of regular, coherent, logical sentences, non-overlapping and effective, making it easier to interpret data and understand analysis results whose interpretation is based on legal norms, legal principles and legal theory.[9]

4 DISCUSSION

4.1 IMPLEMENTATION OF DIGITAL BANK WITH DIGITAL FINANCIAL SERVICES CAPABLE OF MAINTAINING BANK CONFIDENTIALITY AND PERSONAL DATA SECURITY

Banks are business entities that have a strategic role in supporting the implementation of national development, in order to increase equitable development and economic growth, as well as national stability in order to improve the standard of living of the people, by collecting funds from the community in the form of savings and lending them to the community in the form of credit or other forms. Activities to collect funds from the community are carried out in the form of current accounts, savings and deposits, while activities to channel funds are carried out through providing loans to the community, such as credit.
The types of banks are differentiated according to their business activities, namely:

a. Commercial banks are banks that carry out business activities conventionally and/or based on sharia principles and in their activities provide services in payment traffic.[10] Commercial bank activities include collecting funds from the public in the form of savings, and lending funds to the community in the form of credit or loans, providing other banking services such as money transfer, clearing, collection, safe deposit box, credit cards, foreign exchange, bank guarantees, money orders, bank references, letters of credit, tourist checks, receiving deposits, serving payments, playing in the capital market.

b. Rural Credit Banks (BPR) are banks that carry out their business activities conventionally or based on sharia principles. In carrying out its business activities, Rural Banks do not provide payment services and traffic, and are known to serve micro, small and medium entrepreneurs.

Apart from that, the types of banks are differentiated according to the principles in determining their business activities:

a. Conventional bank is banks that in its activities, both fund raising activities and fund distribution activities, providing and charging compensation in the form of interest or a certain amount of compensation in a certain presentation of funds for a certain period. [11] The principles applied to conventional banks use principles originating from the Dutch colonial era (principles in the Civil Code).

b. Sharia banks are banks that carry out their business activities by applying Islamic principles in the Koran. In determining prices and seeking profits for sharia banks, financing is based on profit sharing (mudarabah), financing with the principle of capital participation (musharakah), buying and selling goods at a profit (murabahah), capital goods financing based on pure rental without options (ijarah), transfer of ownership of rented goods from the bank or other parties (ijarah wa iqtina), transfer of ownership of rented goods from the bank or other parties (ijarah wa iqtina). [12]

Along with the rapid development of information technology, people's lives have entered a new era, which is often called the era of industrial revolution 4.0. This era is marked by the development of various technological innovations such as the Internet of
Things (IoT), Cloud Computing, Artificial Intelligence (AI), and Machine Learning. The use of various technologies in the financial services sector has brought significant changes to the banking industry. One of them is digital banking services, which these services are intended for bank customers to obtain information, communicate, and carrying out banking transactions via electronic media developed by optimizing the use of customer data in order to serve customers more quickly, easily and according to customer needs (customer experience), and can be done completely independently by the customer. To support these conditions, the government provides support for banking digitalization and makes banks the main stakeholders in the digital financial economy, including collaboration between banks and fintech (open API) which has led to the growth of digital banks.

<table>
<thead>
<tr>
<th>Bank Digital</th>
<th>Digital Banking</th>
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<tr>
<td>A bank digital is a bank that has implemented the concept of digitalization, which the bank's business activities use electronic channels in the form of mobile applications which are equipped with various online transaction facilities.</td>
<td>Digital banking is a form of service or conventional activity service that is presented in digital form, such as m-banking, e-banking, which also includes other online transactions.</td>
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<tr>
<td>Bank digital are financial institutions</td>
<td>Digital banking is part of the additional services or facilities of conventional banks</td>
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<td>Bank digital have a limited number of physical offices, namely the head office</td>
<td>Conventional banks that provide digital banking have many head offices.</td>
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<tr>
<td>Conventional banks will add branch offices and ATMs, the costs required are very large</td>
<td>The presence of a digital bank that is all online can accelerate customer growth, because you only need to use a smartphone and the internet to access your needs</td>
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Source: Processed by Dr. Sulistyandari, Faculty of Law, Universitas Jenderal Soedirman, E-mail: sulistyandari2605@unsoed.ac.id, Orcid: https://orcid.org/0000-0002-7756-9954

A digital bank according to Article 1 number 22 of OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks, is an Indonesian Legal Entity Bank (BHI) which provides and carries out business activities primarily through electronic channels without a physical office other than the head office, or using an office physically limited. BHI Bank is a bank that carries out banking business activities in the form of an Indonesian legal entity in accordance with statutory provisions, including intermediary banks.

What is meant by a legal entity is an entity that has the rights and obligations to carry out its own actions. Legal entities are legal subjects like people. Requirements to be categorized as a legal entity include, among other things, the existence of assets with a
specific purpose that are separate from the personal assets of the partners or founders, the interests being aimed at are common interests, and the existence of several people as administrators of the entity.

According to fictional theory, a legal entity is only a symbol of the totality of the collection of people associated with that legal entity. [5] Basically, those who have a will are humans, but people create in their imagination, legal entities as legal subjects are considered the same as humans. People act as if there are other legal subjects, but these unreal entities cannot carry out actions, so those who do are humans as their representatives. [6] Meanwhile, according to organ theory, a legal entity is a body that forms a will through the means or organs of the body. The functions of legal entities are equated with human functions. [6] According to the wealth theory of office, a legal entity is a group of people who have common interests (the interests of their members), and have rights and obligations which are the collective responsibility of all their members. [6] According to the theory of juridical reality, legal entity is a concrete, real reality, although it cannot be touched, but is a juridical reality. This theory emphasizes that equating legal entities with humans is limited to the legal field only. [6] In other words, an Indonesian Legal Entity (BHI) is a legal subject that supports the rights and obligations created by Indonesian law in a fictional way (persona ficta), and has its own assets and can be sued or sued in front of a judge.

Legal entities according to legal classification are public legal entities and civil legal entities, which civil legal entities are private entities established by the individual for certain purposes, namely seeking profit, social, political, cultural, arts, sports, etc. according to law that applies legally. Those included in civil legal entities are: [13]

1. Limited Liability Company (PT), established by a company to seek profits and wealth, the implementation activities of which are carried out by the Board of Directors, the arrangements are carried out based on Article 33 of Law Number 40 of 2007 concerning Limited Liability Companies.
2. Cooperatives founded by their members for the purpose of mutual welfare of the members with a family and joint business system with a regulated personality in Law Number 25 of 1992 concerning Cooperatives and the implementation of its activities is carried out by the management.
Based on Article 21 paragraph (1) of Law No. 10 of 1998, the legal form of a Commercial Bank can be:

1. Limited Liability Company
2. Cooperative
3. Regional Companies.

Based on the Indonesian Sharia Banking Law, the legal entity form of a Sharia Bank is a Limited Liability Company (PT).

Based on Article 23 of OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks, BHI can operate as a digital bank. BHI Bank is required to have a physical office as its head office, and must meet the following requirements:

a. Having a business model that uses innovative and safe technology to serve customer needs.
b. Have the ability to manage a prudent and sustainable digital banking business model.
c. Have adequate risk management
d. Fulfilling governance aspects including meeting directors who have competence in the field of information technology with other competencies in accordance with OJK compliance regarding fit and proper assessments for the main parties of financial services institutions.
e. Carry out protection for customer data security
f. Providing contributive efforts towards the development of the digital financial ecosystem and/or financial inclusion.

Digital Banks can operate through the establishment of a new Bank BHI as a Digital Bank or the transformation of Bank BHI into a Digital Bank. The provisions for the establishment of a Digital Bank apply mutatis mutandis to the establishment of the New BHI Bank which will operate as a digital bank, both in terms of capital, ownership and licensing, except as specifically regulated in OJK Regulation no. No.12/POJK.03/2021 concerning Commercial Banks.

Both Commercial Banks (syariah or conventional), Rural Banks and Indonesian Legal Entity Banks in carrying out all their business activities must comply with and comply with applicable national banking laws. Banking law is a set of positive laws that regulate everything about banks, including institutions, business activities, as well as methods and processes for carrying out their business activities.[14] The nature of our
banking law is imperative law, which forces banks in carrying out their business to submit and comply with the guidelines that have been implemented in the law. Bank Indonesia and the Financial Services Authority have the authority to take action against the bank concerned by imposing administrative sanctions if it does not implement the established guidelines. However, banks are still permitted to make internal regulations that are guided by Bank Indonesia's general policies, this is within the framework of internal bank supervision, so that banks are expected to be able to implement their policies with full responsibility.

According to the doctrine, banking secrets are anything related to the finances and other matters of the Customer which according to banking world customs must be kept confidential by the Bank. According to the theory of bank secrecy, it is divided into 2 (two), namely absolute and relative. Absolute bank secrecy, namely everything related to finances and other matters of the Customer (both depositing Customers and Borrowing Customers), must be kept confidential by the Bank. Bank secrecy is relatively speaking, meaning that only certain matters relating to the finances of certain customers at the Bank are kept confidential.[15] The Indonesian Banking Law adheres to relative banking secrecy, because what is kept secret in banking is only the information of the customer who is depositing with his savings with several exceptions, among other things, that bank secrets can still be penetrated in terms of tax collection by tax officials, criminal cases, civil cases, processing of state receivables with the granting of permission by the OJK, without permission from the OJK, leaking bank secrets carries criminal sanctions and fines.

So according to the Indonesian Banking Law, leaking banking secrets is a banking crime. With Commercial Banks being allowed to provide financial services with digital services as regulated in Financial Services Authority Regulation Number 12/POJK.03/2021 concerning Commercial Banks as implementing regulations of the Indonesian Banking Law, then it must be in accordance with the confidentiality principles adopted in the Banking Law. If there is a leak of banking secrets in a Digital Bank with digital services, you can be sure that you will receive criminal sanctions and fines.

Apart from that, in order to secure customer personal data in Indonesia, there is Law Number 27 of 2022 concerning Personal Data Protection, the provisions of which include: In processing Personal Data, the Personal Data Controller is obliged to maintain the confidentiality of Personal Data; The Personal Data Controller is obliged to supervise
every party involved in the processing of Personal Data under the control of the Personal Data Controller; Personal Data Controllers are obliged to protect Personal Data from unlawful processing. These violations will receive administrative sanctions from the Institution which will be regulated in Government Regulations and the Government Regulations are currently being prepared. What is meant by Personal Data Controller is every person, public body and international organization that acts, individually or jointly in determining the purposes and exercising control over the processing of Personal Data. Meanwhile, personal data is distinguished as being specific, including:

a. health data and information;
b. biometric data;
c. genetic data;
d. criminal record;
e. child data;
f. personal financial data; and/or
g. other data in accordance with statutory provisions.

General personal data includes:
a. full name;
b. gender;
c. citizenship,
d. religion; marital status; and/or
e. Personal Data combined to identify an individual.

Article 65 of the Personal Data Protection Law prohibits anyone from violating the law: a. Obtain or collect Personal Data that does not belong to them with the intention of benefiting themselves or others which may result in loss to the Personal Data Subject; b. disclose Personal Data that does not belong to him; c. using the law Personal Data that does not belong to him. Article 66 of the Personal Data Protection Law prohibits creating false Personal Data or falsifying Personal Data with the intention of self-serving or other people which could result in harm to other people.

From the description above, the implementation of a digital bank with digital financial services in Indonesia, even though in banking practice, there is a violation of bank confidentiality obligations regarding customer personal data, However, there is legal protection, namely criminal sanctions and fines which are regulated in the Indonesian Banking Law. Violations of personal data including Customers' personal finances are also
regulated in the Indonesian Personal Data Law with administrative sanctions for Personal Data Controllers who have leaked it, just who the institution is that has the authority to impose administrative sanctions has not yet been regulated. So, in this research it is recommended that implementing regulations for the Personal Data Protection Law be immediately formed to provide more legal certainty.

4.2 APPLICATION OF PRUDENTIAL PRINCIPLES IN THE OPERATION OF DIGITAL BANK WITH DIGITAL FINANCIAL SERVICES.

Digital Banks can operate through the establishment of a new Bank BHI as a Digital Bank or the transformation of Bank BHI into a Digital Bank. The provisions for establishing a Digital Bank apply mutatis mutandis to the establishment of a new BHI Bank which will operate as a digital bank, both in terms of capital, ownership and licensing, except as specifically regulated in OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks.

Both Commercial Banks (syariah or conventional), Rural Banks and Indonesian Legal Entity Banks in carrying out all their business activities must comply with and comply with applicable national banking laws. Banking law is a set of positive laws that regulate everything about banks, including institutions, business activities, as well as methods and processes for carrying out their business activities,[14] so that the nature of Indonesian banking law is imperative law, namely forcing banks in carrying out their business to submit and comply with the guidelines that have been implemented in the law. Bank Indonesia and the Financial Services Authority have the authority to take action against the bank concerned by imposing administrative sanctions if it does not implement the established guidelines, however, banks are still allowed to make internal regulations that are guided by the general policies of Bank Indonesia and the OJK, this is within the framework of the bank's internal supervision, so that the bank is expected to be able to implement its policies with full responsibility.

In implementing partnerships between banks and customers, banks must not only submit to and comply with national banking laws, but also apply banking legal principles in order to create a healthy banking system in banking business activities. One of the principles of banking law that must be applied is:[16] the principle of prudence, which banks in carrying out their functions and business activities are obliged to apply the principle of prudence in order to protect public funds entrusted to the bank (Article 2 and
Article 29 paragraph 2 of the Banking Law). One implementation of the precautionary principle is to know the customer (Know How Customer), namely that the bank, in carrying out its business activities, must know and know the identity of the customer.

In the legal relationship between the Bank and its Customers, there are 2 (two) Customers, namely Saving Customers and Lending Customers. Thus, the Bank must know its two customers. When a bank carries out business activities in distributing funds/providing credit, the bank must know its Lending Customers, that the Indonesian Banking Law regulates about providing credit to Borrowing Customers, the banks are required to analyze the character, abilities, capital, collateral and business prospects of their customers, known as the 5 Cs (Character, Capacity, Capital, Cholateral and Condition of Economy). The purpose of implementing this provision is to apply the principle of prudence so that it can be ensured that funds distributed or loaned will return to the Bank and will not be lost. When a Bank carries out business activities to collect funds in the form of deposits (savings, deposits, current accounts or the equivalent), Banks are required to get to know their deposit customers and monitor the customer's transaction activities to see if they match their profile. The purpose of this provision is to apply the precautionary principle so that the Bank is not used as a place for money laundering which will affect the Bank's reputation. Therefore, this includes reporting every suspicious transaction by a Depositing Customer to PPATK and OJK.

With the existence of a Digital Bank by providing digital services, Banks are still obliged to apply the principle of prudence by getting to know their customers. In practice, several banks, within the framework of the precautionary principle, get to know their customers through face-to-face or non-face-to-face methods, Then, as a form of caution, trace the customer's profile by asking for the customer's identity (KTP) and this is confirmed by the bank at the authorized institution. Apart from that, Digital Bank will only provide digital services to customers who meet certain requirements, for example only to customers from bank employees or customers who have become regular customers of the bank, provided that there must be deposits that can be used as cash collateral.

The application of the precautionary principle of getting to know your customer in digital banking is carried out when opening or closing an account and when applying for credit. When opening an account, prospective customers carry out the administration process online without needing to visit a bank office, by preparing their Resident Identity
Card (KTP) and Taxpayer Identification Number (NPWP) to be uploaded to the digital banking system. Next, the original document verification process will be carried out virtually, and once successful, you can make an initial deposit which can be done using the e-banking feature. [17] Likewise, the account closing process can be done online without the need to visit the head office. Applying the principle of prudence by getting to know customers to avoid various possibilities of financial institutions becoming a venue for crimes and illegal activities carried out by customers, banks or other parties. One of the crimes and illegal activities is violating bank secrets and violating the Personal Data Protection Law.

Thus, the application of the precautionary principle of Digital Bank with digital financial services has been implemented in accordance with the law by getting to know its customers, and carried out consistently, even though in banking practices there are violations of the Banking Law and the Personal Data Protection Law, violators are given criminal sanctions and fines.

4.3 THE ROLE OF OJK IN REGULATING AND SUPERVISING DIGITAL BANK IN PROVIDING DIGITAL FINANCIAL SERVICES

In the Big Indonesian Dictionary, a role is a set of behavior that are expected to be possessed by people in society. Definition of role according to Soerjono Soekanto,[18] that is, it is a dynamic aspect of a position, if someone carries out their rights and obligations in accordance with their position, then they are carrying out a role. Thus, what is meant by the OJK's role in regulating and supervising digital banks in digital financial services in this discussion is related to the rights and obligations of the OJK as a banking regulator and supervisor.

The Financial Services Authority (OJK) is an independent institution which has the duty and authority to regulate and supervise all activities in the financial sector, including the banking sector. The Financial Services Authority (OJK) was formed with the aim of ensuring that all activities in the financial services sector can be carried out in an orderly, fair, transparent and accountable manner. In addition, the OJK institution aims to create a financial system that grows sustainably and stably, and is able to protect the interests of consumers and society.

The function of the Financial Services Authority (OJK) is to be able to organize an integrated regulatory and supervisory system for all activities in the financial sector,
including the banking system. The OJK institution has the task of regulating and supervising financial services activities in the banking sector, capital markets sector and non-bank financial industry sector. The authority of the OJK institution in the banking sector includes, among others: [19]

1. In relation to the regulation and supervision of financial services in the banking sector, the OJK institution has the relevant authority to grant permits for the establishment of banks and also bank business activities.
2. The OJK institution also has the authority to regulate and supervise bank health, including regulation and supervision of digital banks. These regulations and supervision include bank reports, bank performance, credit testing of debtor information systems, and bank accounting standards.
3. Regulation and supervision of various aspects of bank prudence including bank governance, bank inspection, risk management, and the principle of knowing your customer and preventing money laundering.
4. Implement operational policies for supervision of financial services activities.
5. Supervise the implementation of the duties carried out by the chief executive.
6. Decide on written orders to financial service institutions and certain parties.
7. Appoint statutory management.
8. Determine the use of statutory managers.
9. Ratify administrative sanctions on parties who commit violations of laws and regulations in the financial services sector
10. Grant and revoke business permits.

The economic condition of a country cannot be separated from financial circulation. The Covid-19 pandemic has had a significant impact on the economy in Indonesia, so the presence of the OJK institution is very important in regulating and supervising financial services activities from various sectors, one of which is the banking sector. Apart from that, the Financial Services Authority is also tasked with regulating and protecting all financial activities so that they can run well and healthily in accordance with applicable regulations.

The role of the OJK Institution during the Post Covid 19 Pandemic period, apart from being a regulatory and supervisory institution for the financial services industry, OJK also plays a role in supporting government policies to encourage the business sector which has an impact on national economic recovery. OJK also strengthens coordination
with stakeholders in order to maintain financial system stability, regulates and supervises all financial service activities from various sectors in order to create financial system stability. Apart from that, the OJK institution also issued various policies to maintain financial sector stability and to provide legal certainty, in order to create financial sector stability during the Covid 19 pandemic to support national economic recovery efforts. One of them is issuing OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks, which is a form of the function, duties and authority to regulate and supervise financial services activities in the banking sector. Apart from that, to anticipate business and banking industry development trends, including developments and innovations in technology and information in digital banks to support economic growth and national stability.

The essence of supervision is to prevent as early as possible the occurrence of irregularities, waste, misappropriation, obstacles, mistakes and failures in achieving goals and objectives as well as carrying out organizational tasks. In administrative law studies, supervision is part of the legal enforcement aspect whose instruments include: 1. Supervision. 2. Sanctions. Supervision is carried out on the compliance of community members so that mandatory provisions or prohibited provisions are not violated. Sanctions are also an instrument of imposition. In practice, banking supervision is carried out using 2 (two) methods, namely direct and indirect. Direct supervision is carried out by checking directly with the bank periodically once a year, while indirect supervision is carried out by evaluating bank reports to the OJK, be it business activity reports, debtor information system reports, suspicious financial transaction reports, etc. Direct supervision in practice uses a sample method, so that if there is a violation of the bank's compliance with the law, not all of them will immediately be known to the banking supervisory institution. In practice, it takes time before a violation is discovered, therefore it is recommended that the aim of banking supervision is to prevent it early and achieve the goal of banking supervision to achieve a healthy banking system. There needs to be improvements in banking supervision methods.

From the description above, the OJK's role in the regulatory function regarding Digital Banks has issued OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks, which regulates the authority of commercial banks to become Digital Banks and provide digital financial services. The OJK's role in its supervisory function is to supervise it by carrying out regular inspections and this function should be improved in
order to ensure that there are no violations that are detrimental to customers or the Bank itself.

5 CONCLUSION

Based on the discussion of issues related to legal aspects and the role of OJK in digital banking digital financial services after the Covid 19 pandemic in Indonesia, it can be concluded that:

1. Implementation of a digital bank with digital financial services in Indonesia even though in banking practice there is a violation of the bank's confidentiality obligations regarding customer personal data. However, there is legal protection, namely criminal sanctions and fines which are regulated in the Indonesian Banking Law. Violations of personal data including Customers' personal finances are also regulated in the Indonesian Personal Data Law with administrative sanctions for Personal Data Controllers who have leaked it. Just who the institution has the authority to impose administrative sanctions has not yet been regulated, so in this research it is recommended that implementing regulations for the Personal Data Protection Law be immediately formed to provide more legal certainty.

2. Implementation of the precautionary principle of Digital Bank with digital financial services has been implemented in accordance with legislation by getting to know its customers, and carried out consistently, even though in banking practices there are violations of the Banking Law and the Personal Data Protection Law, violators are given criminal sanctions and fines.

3. The role of OJK institutions during the post-Covid 19 pandemic period, apart from being a supervisory institution for the financial services industry, OJK also plays a role in supporting government policies to encourage the business sector which has an impact on national economic recovery. The OJK institution in its regulatory role issues various policies to maintain financial sector stability and to provide legal certainty, to create stability in the financial sector during the Covid 19 pandemic to support national economic recovery efforts, one of which is OJK Regulation No.12/POJK.03/2021 concerning Commercial Banks. The OJK's role in its supervisory function is to supervise it by carrying out regular
inspections and this function should be improved in order to ensure that there are no violations that are detrimental to customers or the Bank itself.
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