

Criminal Responsibility for Theft of Personal Data by Bank Employees and Misuse of Identity by Merchants Providing BRI EDC Cash Swipe Services

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Abstract

The purpose of this study is Cash swipe transactions or commonly called Gestun, or the scientific term is called (Cash Withdrawal) to be a solution for credit card customers who want to make cash withdrawals but not through ATMs. Card customers simply visit shops that have credit card swipe machines (EDC), then withdraw cash according to the desired amount. By doing Gestun, credit card customers seem to be shopping for goods through the shop, but what is obtained is not goods but money. So customers do not take goods but take cash in the amount of the desired withdrawal or the value of the price of the goods. Credit cards are often the target of crime because of the benefits in their use; especially with made-up pretexts are the most common crimes because people often use credit cards for purchases and down payments based on credit facilities. Credit card fraud is usually called credit card misuse and can be classified into various categories: issuing credit cards through credit card companies, using credit cards at franchise stores and banks, and others. Credit card misuse due to the application of open laws to be disputed in accordance with various uses of credit cards Cash swipe is one form of credit card misuse. The purpose of writing this law is to find out the regulation and supervision of cash swipes in Indonesia and to find out how the responsibilities of the parties that facilitate cash swipes, especially for Acquirers and Merchants in Indonesia

Keywords: Cash Swipe; EDC; Credit Card;;

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INTRODUCTION

Currently, cash swipe is one of the many payment systems that are targeted for misuse of credit card functions. And the credit card itself is a payment tool other than using cash that can be used to buy goods using a credit card in certain places that provide access to the service. In order to make it easier for customers to make payment transactions, credit card transactions also make it easier for customers who are cashless or often interpreted as people who do not carry cash or prefer payments via e-money or money and digital wallets, but payment using this credit card is a payment process that has been through an agreement in advance. The cash swipe transaction itself is a method of withdrawing an amount using a credit card as if we were giving goods, where we do not get the goods but instead we get money that is equivalent to the goods we have (Rumlus and Hartadi). The items used for the cash swipe tricks vary from electronic goods to non-electronic goods and various goods available in online stores can be the reason for the cash swipe service providers to be used as cash swipe objects offered to customers. Cash swipe or often referred to as gestun is a financial activity carried out for people who are in need and fast and over time this practical and cash withdrawal practice has spread to the online world so that many users or many online entrepreneurs open cash swipe services through social media. and it is still very unfortunate that there are still many people who do not realize and do not know that cash swipe activities are illegal activities (Kornelius, 2021).

Cash swipe activities that are often considered as a way for credit card holders to withdraw cash and are in need and quickly become members of the mega decision, by doing cash swipes through merchants who provide cash swipes using EDC machines, many people outside open businesses by opening cash swipe businesses using EDC machines (Olifiansyah, 2021) and this practice of disbursing funds or cash swipe service providers can use online applications or there are already services that provide services online and basically there is no difference in disbursement of funds or cash swipes offline or online. The difference is only with the media used. And online cash swipes really take advantage of the electronic money feature and get all the points obtained from online store purchases. and also cash swipe disbursement offline using an EDC machine.

Online cash swipes often use valuable objects to be cashed out for example by pretending to buy electronic goods but what customers get is not in the form of goods but will be in the form of cash. The requirements for making online cash swipes are only to provide a telephone number, email and other personal data and online cash swipe activities can and have higher risks. Therefore, cash swipe activities have been determined to be illegal activities because they have several risks that can arise.

Bank Indonesia has issued regulations on cash swipe activities by issuing Bank Indonesia Regulation No. 14/2/PBI/2012 concerning the Implementation of Card-Using Payment Instrument Activities (APMK) (Nissa et al, 2021). Article 8 paragraph (2) and in connecting that the ginseng regulation is illegal and can harm the Acquirer, it is mandatory to stop the cooperation of traders who continue to carry out the cash swipe activities.

Moreover, using a credit card as a tool is the same as misusing the function of a credit card. Because it can cause the impact of cash swipes is data theft and various other information that can be taken from the perpetrators of cash swipes because when swiping cash we are required to show our personal data. Data theft is the act of stealing and seizing data from the original source to gain personal gain and many personal data are stolen and many methods are used to steal personal data for personal or group interests. The stolen data will not be used to be registered online and the stolen data can vary from personal information, name, address, credit card number and various information about the victim's job which can be used as a reason for threats.

MATERIALS AND METHODS

The type of research used in this writing is normative legal research and in this research, it emphasizes more on answering existing problems and conducting research using several approaches, namely legal regulations, conceptual approaches and case approaches. (Marzuki, 2010).

RESULTS AND DISCUSSION

Cash Swipe Transaction

Cash swipe is an activity of increasing cash through a merchant using a tool called an EDC machine. The flow of the cash withdrawal process is that the credit card owner comes to the merchant who provides cash swipe merchant services and then instead of swiping in exchange for getting goods or buying, the result of the cash swipe itself is to disburse cash at the price of the goods sold by the merchant. The first loss that arises is that this is a practice that has been prohibited by Bank Indonesia, which has determined that this is a transaction with confusing statistics because there is no clarity whether this is a buying and selling transaction or a cash transaction and in fact in a cash swipe transaction there is actually no consumer protection that regulates the transaction because if the official withdrawal from a credit card has been clearly determined, but if you make a cash swipe at a merchant, the interest rate is not regulated by the bank.

As an institution that has the right to regulate and supervise related to cash swipe activities and has implemented supervisory actions in order to help eradicate cash swipe practices and in addition to implementing and issuing regulations that prohibit cash swipe activities (Rumlus and Hartadi). The government will be able to directly enforce and take firm action against all parties who still provide and facilitate cash swipe activities and cash swipe services. Even though there are criminal witnesses and cash swipe practices continue through illegal and very detrimental activities, as a service provider will also receive a firm warning from the authorities and receive sanctions in the form of sanctions that have been written.

So that's the danger and impact of cash swipe transactions and so you credit card users and online payment applications should use the platform properly and never try to make cash swipe transactions because it is already included in illegal activities and there are already laws that regulate it. and this activity can cause many impacts, one of which is the possibility of causing addiction because it is easy to get money because cash swipe activities are not only detrimental to yourself but also detrimental to many parties including banks, applications and the state, so there are legal regulations that regulate cash swipe transactions, and also the state (Lalungkang et al, 2024).

Although cash swipe credit card seems to be an easy transaction to withdraw funds, do not take it lightly because it has many risks behind it. Apart from providing convenience and benefits at the beginning, we also have to be selective with the impacts and risks caused by this illegal activity because it will definitely be detrimental in the long term.

Sometimes since the existence of cash swipe activities that make it easy for credit card owners to cash out and then credit card holders often cannot control the bills that are increasingly overflowing due to the illegal practice of cash swipe. And resulting in monthly bills becoming overflowing and many and ending up causing bills that pile up and worse can fail in the payment process next month, if credit card owners can only make minimum payments then in the end the bills will get bigger and pile up and cause a pile of bills and will experience collector bills that will cause serious debts and problems.

Therefore, it is better for credit card holders to use the credit card function wisely and correctly as they should in order to avoid cash swipe practices that can have negative effects on the debt and finances of personal customers. And the activity of cash swipe by credit card users or service providers or merchants is very vulnerable to occur and is used for money laundering and theft practices (Lalungkang et al, 2024).

Therefore, through this practice, credit cards lose their function and turn into a means of payment and a means to get into debt and the use of cash swipe credit cards is a very easy activity and this practice is also called for misuse by users and besides that the use of cash swipe by merchants can also increase the risk of money laundering and credit card fraud (Saputra et al, 2024).

Payment Methods

Along with the development of the era and the development of technology that is very modern and experiencing rapid development, the payment method is now not only with cash but there are many ways that can be done to replace cash that we can pay as a substitute currency for cash or cash payments, in Indonesia there are already many payment methods that can be done when paying for cash substitutes that can be paid other than cash. The importance of following the development of this business economic system cannot be ignored, with the advancement of technology and digital transformation that continues to develop by making payments also experiencing many changes and rapid developments and experiencing significant changes that are widely experienced in the development of Indonesia.

Starting with only being able to make cash payments until now being able to make digital payments, even E-WALLET and other payment systems, even many people who rarely carry wallets and prefer to make payments using digital wallets and use payments available through smartphones. and the payment system is also called payment and infrastructure that regulates and has provided and even facilitated the value process between money and individuals or Indonesian financial institutions.

That is what makes a series of procedures from technology designed to facilitate the implementation of financial payment transactions efficiently used for personal interests that can harm many people. The payment system is the backbone that supports very complex economic activities, and this system only facilitates the exchange of goods and services and transfers money into digital form so that this case accelerates and simplifies financial transactions. If we raise the discussion about digital transformation and payment systems or payment methods have undergone rapid and significant evolution or development. The development of transactions from cash payments to digital and non-dollar payment methods marks a change and paradigm in the way people transact in Indonesia. Many people are beginning to realize that this modern payment system is not just about facilitating and simplifying the transaction process but creating a financial ecosystem that will continue to grow and use technological innovation and consumer integrity that continues to change and develop where initially credit cards became one of the most sophisticated payment instrument developments, now many and have developed rapidly other payment instruments replace manual or CASH payments. Many further developments have occurred in the world of technology, namely in the world of payments or transactions where e-wallets or digital wallets and payment applications have become very important and have an important role in everyday life and this evolution not only includes the transformation of payment methods but also involves many new technologies such as technologies that support many new technologies and create other conveniences.

Types of Payment Methods

Cash

The cash payment method is the most basic and common method because since ancient times until now this payment method is still used for transaction methods and in payments using cash financing with money

Bank Transfer

The bank transfer process can be done through several platforms, including internet banking and mobile banking services and the method used for interbank transfers is by making transactions directly sending cash through an agreed account number

E-wallet

The payment process with the E-wallet method is an online digital payment tool that often has functions similar to a digital wallet, this payment method requires a code to be able to display how many billing codes must be paid.

Credit Card

The payment method using this credit card is to have a very intentional payment service for its holder because payment using this credit card has a high risk because payment using this credit card has a bill that must be paid per credit card, not deducted from the existing balance like payment using other digital wallets. However, payments with this method often get attractive offers such as getting points and rewards that make many people tempted to use this payment tool.

Debit Card

This type of payment is also very commonly used in everyday life and is directly connected to the bank account of each owner, debit card payments can make it easier and allow us as card users to have access that can be used by all credit card owners.

This debt can easily make payment transactions and can even make cash withdrawals through ATMs or payment terminals non-cash.

QRIS

Regardless of the way of naming it which causes a lot of controversy and debate, Qris, a modern payment method, has become popular in Indonesia because the system makes payments using the system code as a medium to show the total bill that must be paid and can make transactions easily

EDC Machine

The use of an EDC machine that has a role in cash swipe transactions that often causes failure in making transactions and data errors to other merchants or even data theft. Then the definition of an EDC machine itself is a service that is used for non-cash transactions and usually EDC machines are often available in malls, cafes, minimarkets and supermarkets and other shopping places. Get to know an EDC machine that links a payment receiver using a credit card object and a link between an account and a bank and in general the EDC machine accepts payments that can be connected to an account and the form of the machine EDC is like a mobile phone with an old-school model with a small screen and small numbers like an old-fashioned telephone and has a fairly thick thickness, and the left side is usually available for card swiping. In order to validate incoming data as a tool for making reports from the analysis of data that has been collected, the EDC machine is issued by banking and can be connected and monitored by the banking server.

EDC is a machine that is used by swiping a card that can be used for credit card payment transactions, debit cards and other prepaid cards that are placed at merchants. With the presence of an EDC machine, customers will certainly find it easier to make payments and make transactions using credit cards with EDC machines that are available everywhere. Customers will certainly find it easier to make non-cash transactions and customers only need to bring their credit or debit cards and in addition to having a payment function, the EDC machine also functions to make cash withdrawals, transfers, even to top up cards for E-toll and purchases using QR Codes are also available for ATMs that already use CHIO so there is no need to do the swipe phase or (swiping) and inserted into the EDC machine (Deawit and Frans, 2022).

The EDC machine is a swipe machine that can be used to accept purchase transactions and non-cash payment transactions and as a non-cash transaction tool, the EDC machine can make it easier for consumers to make payments because consumers do not carry cash and can make payments only by using the EDC machine and the presence of an EDC machine actually really helps merchants or customers in a cafe or restaurant because of the limited cash back, so if you make a payment using the EDC or swipe system, the restaurant will not be confused about finding change in the transaction. For business owners and the existence of this EDC machine is very necessary for the continuity of the business that is being run, apart from having many functions where it makes it easier to transact income for renting EDC machines, it is also very easy to run a business, the payment method using QRIS for e-wallets is very necessary because now many people are interested in rarely using cash payments and prefer to make payments non-cash. In addition to helping EDC machine transactions, many shops make it easier to withdraw customer transaction fees to use EDC machines. And in general EDC machines.

Failure of Implementation of EDC Machine Function System

In this research case, there are several criminal acts that arise from using EDC machines which cause losses in the form of spreading personal data, for example, the existing case is theft of stolen data carried out by bank employees who have received customer data and then sell the customer's name to merchants to make cash swipe transactions. And cash withdrawals using EDC machines are one of the activities that pose a high risk and this cash

withdrawal activity itself has often become one of the problems that often causes conflict between merchants and banks or cash withdrawal customers. With the many cases of personal data theft that focus on using personal data of bank customers carried out by bank members and merchants briefly and it can be concluded that at this time the process when cash swipe or gestun is not in a safe procedure, then the data checker that appears valid usually freely makes transactions not with the original identity appears with a prespei and suspicions that raise questions whether when making a cash swipe transaction which is under the auspices of an official bank but passes data screening that ensures whether when making a withdrawal the funds are really the same data owner as the customer who is coming to the merchant and is submitting a cash swipe transaction and receiving the money (Samsul, 2013).
Personal data theft

Personal data theft is a crime of misuse of someone's personal data that is often found in a problem that does not know how it is found and secured by a company that understands the principles and protection of personal data, it is very necessary to maintain its privacy. Which data can be stolen and misused by certain parties so that a person's data and information can be stolen and misused by irresponsible parties and people. There are no regulations that can fully examine crimes that are included in the abuse of power of information systems in the theft of personal data and occur in the use of personal data in the form of overcoming personal data from theft in electronic media in the midst of the era of digital economic globalization that often occurs so that it creates a situation that provides legal protection for each person's personal data and how to overcome it properly through legal or non-legal means as a "guard" so that developments towards a digital economy run orderly. However, with that, there are many overcoming personal data in Indonesia in legal instruments that deal with it specifically. In this case, the theft of personal data was deliberately admitted by BRI bank employees who colluded with fellow BRI employees to steal customer data to conduct cash swipe transactions to merchants who cooperate with the bank, then they carried out their actions according to the needs and plans that had been agreed upon by the perpetrators, who were more than one person. The bank employees stole personal data in order to fulfill personal gain to get interest from the results of the cash swipe.

Privacy Overall, the protection of personal data is related to the concept of privacy and it itself is an idea that can maintain and create the integrity and dignity of every person personally and privacy itself is another term and then used for other countries and developed to relate to personal data as a right that must be protected and cannot be disturbed in his personal. Discussing the existence of privacy means discussing the rights and obligations and a concept of human rights that must be fulfilled. and talking about human rights there are many things that cover human rights that need to be fulfilled in fulfilling human privacy. And although the protection of personal data is related to the concept of privacy and the concept itself, although recognized as a human right as a variety of concepts that become political freedoms for the realization of political freedom. Having political freedom, spiritual and religious, even with the existence of individual rights, the rights that should exist to determine one's own shame and freedom to carry out other private expressions as human beings. Universal Declaration of Human Rights (UDHR) Article 12, which states: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks." Merchant Responsibilities

Specifically, the merchant has an important obligation in carrying out cash swipe practices and others because carrying out cash gestun activities is the merchant's party, so the merchant party also directly carries out the transaction with the owner of the cash swipe card and credit card so that it has a big influence on the validity of the gesthun. Merchantio becomes the main carriage for gestun nai activities and conducting swipes that can be

eradicated if merchants are selective, sorting and understanding and have a sense of concern for the dangers of the day on the effects caused by cash swipes and do not prioritize the benefits obtained personally and the obligations of merchants in relation to eradicating the practice of cash swipes in Indonesia by not providing cash swipe services if there are customers who have credit cards asking to carry out cash swipe services.

The obligation is the same as stating whether there are other Merchants and those who can process gethun activities are authorized authorities and this is a self-aware cash swipe that causes many things that we must be aware of where you as a merchant need to have full awareness in carrying out efforts to avoid social and criminal sanctions. such as The existing regulation should be more considered.

A primary obligation of merchants related to eradicating cash swipe practices in this country also does not provide gesthun services using the tools used and obligations and there are also arguably the same as processing if there is a request from customers to submit a cash swipe request at the merchant's place and there are other obligations in cash swipe activities, the authorities who are authorized have an obligation to terminate cooperation between banks providing EDC machines and cash swipe merchants

Criminal Liability for perpetrators of personal data theft and merchant service providers

Liability That someone who uses an account including an ATM card and uses an EDC machine using someone else's identity without rights or against the law is included in prohibited acts as stipulated in Article 30 paragraph (1) of Law of the Republic of Indonesia No. 19 of 2016 concerning amendments to Law of the Republic of Indonesia No. 11 of 2008 concerning Information and Electronic Transactions. k Another person without rights also means that the person uses the Banking Electronic System without rights or without authority that is not justified

Bank employees as one of the perpetrators of personal data theft and identity forgery. Liability is a concept that refers to the responsibility of a person or party to explain, be responsible for, and take consequences for actions, decisions, or policies taken. This concept is often applied in various contexts, such as government, companies, organizations, or individuals Consequences There are if there is a violation or error, the responsible party must be ready to accept the consequences, either in the form of sanctions, the merchant party has been proven to blame and proven to be wrong in committing the act

Pisna intentionally and without the right to fight the law and access other people's data and systems. In any way it is not justified Sentencing the merchant party to imprisonment for 1 (one) year with the provision that the sentence does not need to be carried out unless there is another order in the judge's decision that has permanent legal force because the Defendant committed another crime before the end of the probation period for 1 (one) year 6 (six) months and a fine of Rp. 100,000,000.00 (one hundred million rupiah) with the provision that if the fine is not paid it is replaced with imprisonment for 2 (two) months

CONCLUSION

From the discussion above, it can be concluded that the following: It can be concluded that cash swipe transactions carried out by merchants providing cash swipe services can be included in criminal activities which have harmed victims whose personal data was stolen to be used in purchase transactions at merchants providing cash swipe services, which means that cash swipe activities provided by merchants are criminal acts. Cash withdrawal activities at service providers do not go through an official data checking process by the merchant, so when a customer wants to make a cash swipe through a merchant, the merchants calmly make transactions according to the customer's direction without checking whether the

identity listed with the customer who is making the transaction is the same person, and this negligence is one of the actions that can result in very fatal losses because in this case it results in theft of personal data which is a violation regulated in What is the content of the ITE Law Number 11 of 2008 Article 28. There are several factors that contribute to the occurrence of criminal acts, especially cases of personal data theft, starting from factors regarding law enforcement officers and security. and official law to the lack of knowledge about the law that the people of Indonesia have not studied enough. The cause of the occurrence of criminal cases of data theft is not free from factors that can be seen from each other such as others and someone in maintaining their personal data is still negligent and the length of the process of handling cases of personal data theft which is still a special concern in handling cases of personal data theft crimes.

In this case, what the author expects is as already in the laws and regulations related to the application of human for perpetrators of personal data theft and for claims regarding cash withdrawal transactions are illegal transaction activities, so it is hoped that this writing can provide education and knowledge for readers to be more careful with offers for cash withdrawal businesses or cash swipe transaction offers with the lure of fast disbursement and various other lures because it should be noted that cash swipe transactions are illegal transaction actions and can cause losses for customers if they are not careful in making transactions.

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