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## LEGAL STRATEGY TO PREVENT AND OVERCOME ABUSE OF FUNDS IN DIGITAL WALLETS

**Maharani Trisni Zulaiha<sup>1</sup>, Lamijan<sup>2</sup>, Hono Sejati<sup>3</sup>**

Universitas Darul Ulum Islamic Centre Sudirman GUPPI, Indonesia

E-mail: maharanitrisni51@yahoo.com<sup>1</sup>, imamlamijan@gmail.com<sup>2</sup>, sejatihono@gmail.com<sup>3</sup>

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### KEYWORDS

E-Wallet; Legal Strategy; Misuse of Funds

### ABSTRACT

E-wallet, or electronic wallet, is an application or software that enables users to store, manage, and conduct financial transactions electronically. E-wallets usage is able for various purposes, such as making payments, transferring money, or storing payment information for online transactions. Despite the advantages of e-wallets, there are still risks associated with their use, such as the potential loss of consumer funds and the possibility of personal data leaks due to inadequate security measures on the platform. It can disadvantage consumers as users of e-wallets. Law Number 8 of 1999 concerning Consumer Protection contains various provisions aimed at directing manufacturers and businesses, especially those in the business sector, to behave in a manner that supports national economic development. Bank Indonesia has implemented a legal protection system for digital wallet users, starting from the issuance of regulations and policies. One such policy is the creation of guidelines for the operation of payment system services, especially for the use of digital wallets. These guidelines are regulated in Bank Indonesia Regulation Number 20/6/PBI/2018, which discusses the operation of payment systems through digital wallets. This regulation, known as the Bank Indonesia Electronic Money Regulation, establishes licensing and supervision procedures for electronic money operations, including the use of digital wallets. Bank Indonesia not only regulates operational procedures but also emphasizes consumer protection for payment system users, including those using digital wallets, by issuing Bank Indonesia Regulation Number 16/1/PBI/2014 concerning Consumer Protection for Payment System Providers. Additionally, there is also Bank Indonesia Regulation Number 22/20/PBI/2020, which complements Bank Indonesia Regulation Number 16/1/PBI/2014. This regulation is more specific in regulating the obligations and responsibilities that must be fulfilled by providers, as part of the government's efforts to protect consumers.

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### INTRODUCTION

The internet has ushered the global economy into a new era known as the digital economy. This is marked by the increasing economic activities leveraging the internet as a means of communication. For instance, in trade, more and more transactions are conducted through electronic commerce or e-commerce (Indrajit, 2001). The digital era, as a trade based on advanced technology, has fundamentally transformed conventional trade where interactions

between consumers and companies previously conducted directly have become indirect. It shifts the traditional business paradigm by developing interaction models between producers and consumers in the virtual realm. The trading systems used in e-commerce are designed to support electronic signatures, from the purchasing process, and examination, to the delivery of goods (Barkatullah & Prasetyo, 2005).

The advancement of information technology has had a significant impact on people's lives, creating convenience and comfort. Like human life, digital technology continues to evolve. Commercial transactions, especially in payment systems, are greatly influenced by the rapid development of technology and information (adi Astiti, 2018). The development of financial technology opens up opportunities to build various platforms to facilitate people in financial activities. In this digital era, the economy has begun to integrate through online systems, facilitating economic activities for society. Financial participant companies utilize this technology by storing public funds in electronic form, known as e-wallets.

An e-wallet, or electronic wallet, is an application or software that enables users to store, manage, and conduct financial transactions electronically. E-wallets can be used for various purposes, such as making payments, transferring money, or storing payment information for online transactions. Electronic wallet transactions (e-wallet) are electronic payment transactions conducted online. Here are some functions of e-wallets:

a. Storing money electronically

E-wallets allow users to store money electronically, enabling them to make transactions without cash or physical cards.

b. Digital payments

E-wallets are used for digital payments, both in physical stores through QR codes or Near Field Communication (NFC) technology and for online purchases on websites and apps.

c. Money transfers

With e-wallets, users can transfer money to other users, both within the same network and across platforms, quickly and easily.

d. Integration with other services

E-wallets are often integrated with other services, such as bill payments, ticket purchases, and transportation services, providing flexibility in various transactions.

e. Security and authentication

E-wallets typically come with security features such as encryption, two-factor authentication, and biometric scanning (such as fingerprint or facial recognition), to ensure transaction security and user information.

f. Loyalty and special offers

Some e-wallets offer loyalty programs, discounts, and special offers to users, as a way to increase usage and user engagement.

g. User convenience

E-wallets are designed for ease of use, with intuitive interfaces and customer support to assist users with questions or issues.

Bank Indonesia has expressed that in this modern era, regulations regarding the provision of payment system services need to be restructured because this is a new aspect implemented in Indonesia's financial system. Therefore, the payment process must adhere to the principles

of security, smoothness, efficiency, and effectiveness, and prioritize consumer protection. With the presence of E-Money, it is considered more practical and efficient compared to cash payments.

Companies providing e-wallet platforms not only offer more efficient and practical services but also provide additional benefits to consumers, such as cashback rewards every time they make transactions. In Indonesia, some popular e-wallets are GoPay (Go-Jek), OVO (Lippo Group), DANA (PT. Espay Debit Indonesia Koe), LinkAja (Telkomsel), and many more. Despite the advantages of e-wallets, there are still risks associated with their use, namely the potential loss of consumer funds and the possibility of personal data leakage due to inadequate security measures on the platform.

Based on Article 4 of Law Number 8 of 1999 concerning Consumer Protection, consumers have the right to convenience, security, and safety in consuming goods or services, as well as the right to compensation, damages, and replacements if the received goods or services do not comply with agreements or standards. Furthermore, there is also Financial Services Authority Regulation Number 1/POJK.07/2013 addressing consumer protection in the financial services sector. Consumers of electronic money deemed invalid are also provided legal protection if their cards are lost or damaged.

Based on the explanation above, an interesting legal issue to discuss is how to strategize legally to prevent and address the misuse of funds in E-Wallets.

## METHOD RESEARCH

The research method employed to create this writing is normative legal research, which is a legal research method conducted by examining library materials and secondary data, wherein the approach used is normative juridical (statute approach) with a descriptive-analytical nature (Soerjowinoto, 2006).

### Approach

The normative approach is a method used to examine issues in the context of law and legislation, including rules that can be used as a basis to examine issues and their legal consequences. In this case, an example is Law Number 8 of 1999 concerning Consumer Protection. The normative approach is applied to specific legislation or written laws related to the concept of law enforcement regarding E-Wallets. This research depicts the situation of the object being studied, focusing on regulations and legal protection concepts related to legal strategies to prevent and address fund misuse in E-Wallets (Soemitro, 1990).

## RESULTS AND DISCUSSION

### E-Wallet According to Indonesian Positive Law

E-wallet, or electronic wallet, is an application or feature designed to facilitate payment transactions for users. Users have accounts within the application, which include information about the amount of money they have in the account. The money in the E-Wallet can be used to make various payment transactions. As a replacement for conventional wallets, e-wallets provide users with a more convenient way to store and manage their money, without the need for reliance on cash or physical credit/debit cards (Clevelda & Kharisma, 2019). Digital wallets provide users with the ability to perform various transactions, such as online and offline

shopping payments, money transfers, bill payments, purchasing phone credits, and various other services.

Typically, digital wallets are linked to users' bank accounts or credit cards. Through the digital wallet application downloaded and installed on their digital devices, users can easily access and manage their balance or funds in their digital wallets. To make transactions, users are required to enter the necessary information, such as the amount of money to be sent or paid, and the recipient or merchant's number, and then confirm the transaction using predetermined security methods, such as passwords or fingerprints.

Additionally, e-wallets often offer various additional features such as loyalty programs, special discounts, and integration with other applications such as online transportation services, online food purchases, or e-commerce. It makes the use of e-wallets more attractive and provides additional benefits to users, as they can easily access various services and receive special offers. Overall, e-wallets provide convenience, speed, and flexibility in conducting financial transactions. With e-wallets, users no longer need to carry cash or physical credit cards, as they can make transactions using their digital devices. Furthermore, e-wallets also offer the benefit of transaction recording and monitoring, making it easier for users to manage their finances more efficiently.

The existence of E-wallets has been acknowledged by the state, as evidenced by the formation of Bank Indonesia Regulation Number 18/40/PBI/2016 concerning Payment Transaction Implementation. Article 1 number 7 of this regulation defines electronic wallets or e-wallets as electronic services used to store payment instrument data, including payment instruments such as cards or electronic money, as well as to store funds used for payments. The regulation also regulates the payment transaction processing process by payment system service providers and supporting providers. Article 4 paragraph (1) of Bank Indonesia Regulation Number 18/40/PBI/2016 states that any party acting as a payment system service provider must obtain prior approval from Bank Indonesia or obtain approval from Bank Indonesia.

Furthermore, E-Wallets are also regulated in Law Number 11 of 2008 concerning electronic information and transactions. Article 1 number 2 of Law Number 11 of 2008 Concerning Electronic Information and Transactions states that electronic transactions are legal acts carried out using computers, computer networks, and/or other electronic media. From the explanation of the article above, it can be said that an action of exchanging information through an electronic network can be considered as an electronic transaction.

Then, Article 21 paragraph (4) of Law Number 11 of 2008 concerning Electronic Transaction Information states that if losses in electronic transactions are caused by the failure of electronic agents due to the negligence of service users, all legal consequences become the responsibility of the service users. Thus, the service provider is obliged to be responsible for providing compensation for what the service user experienced.

The last legal basis is Bank Indonesia Regulation Number 16/8/PBI/2014 concerning Amendments to Bank Indonesia Regulation No. 11/12/PBI/2009 concerning Electronic Money, which states that electronic money is a payment instrument, thus meaning that e-money is not a new type of currency because the nominal or currency value expressed in e-money is still in Rupiah. Additionally, electronic money is merely a payment instrument or system.

Electronic money is regulated in Article 1 number 3, which states that electronic money is a payment instrument that meets the following criteria (Situngkir, 2018):

- a. issued based on the value of money deposited in advance to the issuer
- b. the value of money is stored electronically in a server or chip medium
- c. used as a payment instrument to merchants who are not the issuer of the electronic money;  
and
- d. the value of electronic money managed by the issuer is not considered a deposit as referred to in laws regulating banking.

### **Legal Strategy to Prevent and Address Misuse of E-Wallets Funds**

The development of financial technology has created a new phenomenon, namely e-wallets or digital wallets, which have now become a very important and commonly used payment tool by modern society. E-wallets provide a solution for people to conduct transactions quickly, easily, and efficiently. However, like the two sides of a coin, this progress also brings several challenges and risks (Fitria, 2023). One of the main concerns of users is the loss of balance in e-wallets. It is not without reason that technical errors, cybercrime actions, or other external disruptions can result in financial losses for users. When users report such issues, they often receive unsatisfactory responses. Slow responses, complicated claim procedures, and sometimes failures to recover lost funds are common problems encountered.

Financial Services Authority Regulation (OJK) No. 6/POJK.07/2022 requires Financial Services Business Providers (PUJK) to guarantee the integrity and security of the information technology they use, as well as to protect consumer data and personal information. Cases related to data and information security should serve as a warning for these services to improve their security systems and provide more effective and responsive issue-resolution mechanisms. Electronic wallets are digital services that allow users to store payment information such as cards or electronic money, as well as store funds and make payments.

To establish an e-wallet service, service providers must meet certain requirements. Additionally, service providers also need to obtain appropriate licenses, which can be obtained through banks, non-bank institutions, or limited liability companies. Companies must also have legality, clear profiles, compliance with the law, operational readiness, and secure and reliable systems. During the payment process, companies must implement risk management and information security standards effectively. In cases of transaction cancellations and refund requests, e-wallet providers must promptly refund funds to users. They must also have procedures to ensure that the refund process runs smoothly. The refunded funds must originate from the source used in the transaction.

Information security is an effort to protect information and related essential elements, whether in the form of systems or hardware used to store and transmit information. However, security in e-wallets often isn't sophisticated enough, resulting in many victims experiencing losses due to weak security systems. Therefore, a legal strategy is needed to prevent fund misuse in e-wallets, considering the potential risks associated with electronic transactions and digital financial services. Government efforts to prevent fund misuse in e-wallets typically involve various aspects of regulation, supervision, and law enforcement. Here are some common efforts undertaken by governments to prevent fund misuse in e-wallets:

- a. Enhancing clear and stringent regulations

The government issues specific regulations to govern the use of e-wallets and electronic transactions. These regulations include security requirements, consumer protection, and fair business practices, such as those outlined by Bank Indonesia and the Financial Services Authority (OJK) in Indonesia.

b. Improving Strong Security Standards

The government mandates e-wallet providers to implement strong security standards, including data encryption, two-factor authentication, and monitoring systems to detect suspicious activities. This helps prevent hacking and data misuse.

c. Anti-Money Laundering (AML) and Counter-Terrorist Financing (CFT):

The government implements strict rules regarding Anti-Money Laundering (AML) and Counter-Terrorist Financing (CFT) to prevent the use of e-wallets in illegal activities. This includes the obligation for e-wallet providers to report suspicious transactions to the authorities.

d. Identity Verification and KYC (Know Your Customer)

The government requires e-wallet providers to implement strict KYC procedures, including user identity verification before opening an account or conducting transactions. This helps ensure that only legitimate individuals can use e-wallets.

e. Supervision and Regular Audits:

Government authorities conduct regular supervision and audits of e-wallet providers to ensure compliance with regulations and security standards. This helps detect and prevent potential violations or misuse.

f. Consumer Education and Awareness:

The government promotes consumer education and awareness regarding the risks and safe practices of using e-wallets. With better knowledge, consumers can be more cautious and protect themselves from fund misuse.

g. Collaboration with Law Enforcement Agencies

The government collaborates with law enforcement agencies to address cybercrime and financial crimes related to e-wallets, including sharing information and resources to identify and prosecute legal violations.

h. Strict Sanctions and Law Enforcement

The government imposes strict sanctions for regulatory violations, including fines, business activity freezes, and license revocations. Powerful law enforcement helps prevent and reduce fund misuse in e-wallets.

By taking these steps, the government can help ensure that e-wallets become safe and reliable payment tools for the public while preventing fund misuse and other illegal activities. Currently, the government's strategy in preventing fund misuse crimes in e-wallets is to continue using laws related to e-wallets, but with a firmer and unbiased government role, particularly regarding legal protection against fund misuse in e-wallets regulated under Law Number 8 of 1999 concerning consumer protection.

Legal protection can be defined as a series of efforts undertaken by the government or competent authorities to protect the rights of the people using binding regulations. The elements of legal protection include protective actions, responsible parties for protection, and methods used to protect these rights (Amdery et al., 2022). Law Number 8 of 1999 concerning

Consumer Protection contains several provisions aimed at directing manufacturers and business entities, especially those operating in the business sector, to act by national economic development. In the event of violations by these manufacturers or business entities, legal sanctions, both administrative and criminal, will be enforced. Acts contrary to the goal of establishing a healthy business climate can be considered criminal acts. This protection is reflected in Article 19 of Law Number 8 of 1999 concerning Consumer Protection, which states that business actors are responsible for providing compensation for damages, pollution, and losses arising from the consumption of goods or services produced or traded.

The compensation provided may be in the form of a refund or replacement of goods or services of the same type or equivalent value, and this compensation shall be provided within a maximum period of 7 days from the transaction date. The compensation provided to consumers does not preclude the possibility of criminal imprisonment claims based on further evidence of wrongdoing. However, Article 23 states that if a business entity refuses to respond to or fails to fulfill compensation for its mistakes, it can be sued through the consumer dispute resolution body. Therefore, e-wallet providers are obliged to compensate for the losses experienced by consumers.

Bank Indonesia implements legal protection for e-wallet users by establishing several regulations and policies. One such policy is the creation of guidelines for the operation of payment system services, particularly regarding the use of digital wallets. These guidelines are outlined in Bank Indonesia Regulation Number 20/6/PBI/2018, which addresses the operation of payment systems through digital wallets. This regulation, also known as the Bank Indonesia Electronic Money Regulation, covers licensing and supervision procedures for the operation of electronic money, including digital wallets. In addition to regulating operational procedures, Bank Indonesia also emphasizes protection for payment system users, including digital wallet users, by issuing Bank Indonesia Regulation Number 16/1/PBI/2014 concerning Consumer Protection for Payment System Providers (Nurdin, 2018).

Furthermore, Bank Indonesia Regulation Number 22/20/PBI/2020 was designed as an enhancement of Bank Indonesia Regulation Number 16/1/PBI/2014. This regulation provides more detailed provisions regarding the obligations and responsibilities that must be fulfilled by providers, demonstrating the government's commitment to consumer protection. However, Indonesia currently does not have specific legislation governing digital wallets. Nevertheless, there are regulations covering electronic transactions and electronic money, including digital wallets. However, in practice, these regulations are often ineffective. Many digital wallet users still face issues such as fund loss, data breaches, and other difficulties, while businesses do not always have solutions or take responsibility for consumer losses.

Therefore, Indonesia needs to specifically formulate regulations concerning digital wallets to provide legal certainty to all parties, including users. With specific rules addressing digital wallets, crimes related to fund misuse in digital wallets can be promptly addressed, ensuring that consumers no longer need to fear using e-wallets.

## CONCLUSION

The electronic wallet, colloquially referred to as the "e-wallet," represents a software application enabling users to electronically store, administer, and execute financial transactions. Its multifunctional capabilities encompass payment facilitation, fund transfers,

and the archival of payment particulars pertinent to online transactions. Transactions via e-wallets entail the electronic processing of financial transactions conducted over digital platforms. Despite the manifold benefits conferred by e-wallets, their utilization remains fraught with inherent risks, including the plausible forfeiture of consumer assets and the vulnerability to privacy breaches precipitated by suboptimal security measures on the platform. Such hazards pose a considerable detriment to consumers engaging with e-wallet services.

Law Number 8 of 1999 concerning Consumer Protection contains various provisions aimed at directing producers and businesses, especially those engaged in business activities, to behave in a manner that supports national economic development. If there are violations committed by these producers or businesses, they will be subject to legal sanctions, both administrative and criminal. Actions contrary to the goal of fostering a healthy business climate can be classified as criminal acts. Bank Indonesia has implemented a legal protection system for digital wallet users, starting with the issuance of regulations and policies. One such policy is the establishment of guidelines for the provision of payment system services, especially for the use of digital wallets. These guidelines are regulated in Bank Indonesia Regulation Number 20/6/PBI/2018, which addresses the provision of payment systems through digital wallets. This regulation, known as the Bank Indonesia Electronic Money Regulation, establishes licensing and supervision procedures for the provision of electronic money services, including the use of digital wallets. Bank Indonesia not only regulates operational procedures but also emphasizes protection for users of payment systems, including those using digital wallets, by issuing Bank Indonesia Regulation Number 16/1/PBI/2014 concerning Consumer Protection for Payment System Providers. Additionally, there is also Bank Indonesia Regulation Number 22/20/PBI/2020, which is an enhancement of Bank Indonesia Regulation Number 16/1/PBI/2014. This regulation is more specific in regulating the obligations and responsibilities that must be fulfilled by providers, as part of the government's efforts to protect consumers.

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