

CHAPTER I – INTRODUCTION

1.1 Background

Technology has changed our lives. The internet, smart phones, tablets, social media networks, e-commerce platforms, and e-wallets have become inherent to our daily lives. Everything is just one click away. The development of technology is endless and rapidly changing. Browsing the internet is increasingly faster, entertainment is easy to access, and online transactions can be done instantly. With all of these revolutions, technology has also made our lives easier, faster, better, and more fun.¹

The internet (interconnection network) is the primary mode of information and communication that is accessible to most people all around the world. The internet enables connectivity from Jakarta to Oregon just as Tokyo to London. It has revolutionized how people work, expanded the global knowledge base and provided a variety of ways of bringing people and cultures closer together.² It does not only benefit our personal lifestyle but also the business industry. Through electronic commerce (e-commerce) the seller and consumer exchanges information and goods or services through the internet, with the principle of trust. This modernized method of business operation accommodates efficiency in time, transportation, cost, growth and expansion.

¹ “Technology in Our Life Today and How It Has Changed: Updated for 2020.” AgingInPlace.org, 12 Nov. 2019, www.aginginplace.org/technology-in-our-life-today-and-how-it-has-changed/, accessed by 18 March 2020

² McKenzie, Eleanor. “The Impact of the Internet on Globalization.” Techwalla, Techwalla, 2 Nov. 2018, www.techwalla.com/articles/the-impact-of-the-internet-on-globalization, accessed by 18 March 2020

The development of technology becomes even more sophisticated as e-wallets (electronic wallets) or also known as digital wallets, are in high demand. E-wallets function the same as a physical wallet supporting a cashless economy. The balance in e-wallet can be filled through ATM (automated teller machine), e-banking (internet banking) or m-banking (mobile banking). It is a method for keeping money in electric form but later it became popular because it is suitable to provide a convenient way for internet users to store and use shopping information online.³

An e-wallet is a part of e-money (electronic money), but it is different from an e-money because it is server based unlike e-money that are chip based such as BCA Flazz, Mandiri E-Money, Nobu E-Money, and etc. Whereas e-wallet are e-money based on servers.⁴ Hence, the usage requires connection to a server. E-wallets are also classified as non-bank payment system service providers (Penyelenggara Jasa Sistem Pembayaran Non-Bank). E-money is in the form of cards and commonly used for toll road transactions, public transport payments, and purchase transactions for entertainment. On the other hand, e-wallets are commonly used for online shopping, offline retail outlets, telephone credit purchases, and routine payments in tokens or bills.⁵ Data from Bank Indonesia (bi.go.id) indicates

³ Nurfitriyani, Siti Julianingsih, and Information System Laboratory. "Kelemahan Dan Kelebihan e-Wallet." School of Information Systems, sis.binus.ac.id/2019/10/19/kelemahan-dan-kelebihan-e-wallet/, accessed by 18 March 2020

⁴ DBS BusinessClass. "The 5 Differences Between E-Money and E-Wallet." Differences Between E-Money & E-Wallet | DBS BusinessClass Indonesia, DBS BusinessClass, 17 June 2020, www.dbs.id/id/sme/businessclass/articles/innovation-and-technology/the-5-differences-between-e-money-and-e-wallet, accessed by 17 June 2020

⁵ "Ulasan Lengkap : Izin Dari Bank Indonesia Bagi Penyelenggara Electronic Wallet (Dompet Elektronik)." Hukumonline.com/Klinik, www.hukumonline.com/klinik/detail/ulasan/lt5a6044018cc44/izin-dari-bank-indonesia-bagi-penyelenggara-ielectronic-wallet-i-dompet-elektronik, accessed by 18 March 2020

that e-wallet transactions are more dominant than e-money. By the year or 2019, the value of transactions of e-wallets reach up to 13.000 trillion rupiah in comparison to e-money which was less than 4.000 trillion rupiah. Then by the year of 2020, the value of transactions of e-wallet increased to 16.000 trillion rupiah whereas the e-money decreased to around 2.000 trillion rupiah.⁶ This initiates the global development for online purchases and the e-wallet top ups are the most frequently used digital feature in the Covid-19. As of May 27th 2020, there are a total of 50 Electronic Money operators licensed by Bank Indonesia for bank and non-bank institutions.⁷

Due to the Covid-19 pandemic, the World Health Organization (WHO) and government authorities encourage physical distancing policy that has moved consumers to do contactless activities. Coronavirus can be easily transmitted if the droplets land on inanimate objects nearby an infected individual and are subsequently touched by other individuals.⁸ This includes physical money as a medium for the virus from an infected person. Thus, the shift to e-wallets to prevent the transmission from one to another. As the Indonesian government implements the Large-Scale Social Restriction (Pembatasan Sosial Berskala Besar, 'PSBB')

⁶ "Statistik Sistem Pembayaran." Jumlah Uang Elektronik - Bank Sentral Republik Indonesia, www.bi.go.id/id/statistik/sistem-pembayaran/uang-elektronik/contents/jumlah_uang_elektronik.aspx, accessed by September 10 2020

⁷ "Payment System License Information." List Of Electronic Money Operators Licensed By Bank Indonesia - Bank Sentral Republik Indonesia, www.bi.go.id/en/sistem-pembayaran/informasi-perizinan/uang-elektronik/penyelenggara-berizin/Contents/Default.aspx, accessed by 18 March 2020

⁸ Ather, Amber, et al. "Reply to 'Coronavirus Disease 19 (COVID-19): Implications for Clinical Dental Care.'" *Journal of Endodontics*, vol. 46, no. 9, 2020, p. 1342., doi:10.1016/j.joen.2020.08.005.

policy, there is a call for using the digital payment to prevent Covid-19 transmission, echoed by the Bank of Indonesia governor.⁹

The support for ensuring e-wallet payment transactions from the government is helpful to fight coronavirus transmission. The stronger intention to use e-wallet will come when the consumers feel the support from the government.¹⁰ Nevertheless, the current pandemic would sustain social distancing rules that could last for years. Hence without access to digital payments, individuals not only miss out on an apparatus to guarantee quarantine measures during outbreaks but also the benefits of financial inclusion and ever more digitized global trade beyond Covid-19.¹¹ In fact, more and more digital wallet companies are collaborating with e-commerce companies. Moreover GoPay, OVO and Bank Negara Indonesia has become the official government payment partners for the newly launched Kartu Prakerja initiative. Kartu Prakerja is a government initiative to pay for training of retrenched workers affected by the pandemic.¹²

Although these e-wallets are convenient and flexible, it is far from flawless. The measures taken to protect the users in e-wallet transactions are merely existing, there is legal vacuum in the regulation governed by the authorities. Without a specific law that protects the users' interest, it is considered harmful and unfair for

⁹ Aji, Hendy Mustiko, et al. "COVID-19 and e-Wallet Usage Intention: A Multigroup Analysis between Indonesia and Malaysia." *Cogent Business & Management*, vol. 7, no. 1, 2020, doi:10.1080/23311975.2020.1804181.

¹⁰ Aji, Hendy Mustiko, et al. "COVID-19 and e-Wallet Usage Intention: A Multigroup Analysis between Indonesia and Malaysia." *Cogent Business & Management*, vol. 7, no. 1, 2020, doi:10.1080/23311975.2020.1804181.

¹¹ Written by Yan Xiao, Project Lead. "How Digital Payments Can Help Countries Cope with Pandemics." *World Economic Forum*, www.weforum.org/agenda/2020/05/digital-payments-cash-and-covid-19-pandemics/.

¹² Mhijanto. "Indonesian E-Wallet Race 2020 - GoPay, OVO, DANA, or LinkAja." *M2insights*, 8 July 2020, m2insights.com/the-2020-indonesian-ewallet-race/, accessed by 18 March 2020

the users. There are issues arising as a result of disclosure of data or data leak, that lead to the occurrence of unauthorized transactions in e-wallets. Two e-wallet users, Aura Kasih and Maia Estianti experienced break in of their account balance back in November and December 2019. Aura Kasih claimed to have lost millions of rupiah,¹³ while Maia Estianti claimed that the balance in her account was stolen and other personal accounts were broken into.¹⁴ The resolution to these problems are to report to the customer service, but no legal certainty is guaranteed. Certainly, there have been more than just these two cases that happens as a result of using e-wallet payment systems, and is still existing without clarity on the users legal rights.

The current regulations that refer to this matter are Bank Indonesia regulations concerning Electronic Money (PBI 2009 and PBI 2018); Bank Indonesia regulations concerning Organization of Payment Transactions (PBI 2016); Law No. 8/1999 concerning Consumer Protection (UUPK); Law on Information and Electronic Transactions (UU ITE); and Government Regulations about Electronic Systems and Transactions Operations (PP PSTE). Evidently these Laws do not cover the resolution to unauthorized transactions, do not discuss the responsibilities or specific duties of the e-wallet in relation to situations like such. Therefore, users can only rely on the terms and conditions of the e-wallet to guide their daily transaction activities and understand the efforts made by the e-wallet to

¹³ Mediatama, Grahanusa. "Pembobolan Saldo Gopay, Antara Hacker, Kelengahan Korban Dan Perusahaan - Page All." Kontan.co.id, 20 Jan. 2020, keuangan.kontan.co.id/news/pembobolan-saldo-gopay-antara-hacker-kelengahan-korban-dan-perusahaan?page=all, accessed by 18 February 2020

¹⁴ Setuningsih, Novianti. "Saldo GoPay Maia Estianty Dikuras Hingga Penipu Bobol Akun Pribadi Lainnya Halaman All." KOMPAS.com, Kompas.com, 28 Dec. 2019, www.kompas.com/hype/read/2019/12/28/091946566/saldo-gopay-maia-estianty-dikuras-hingga-penipu-bobol-akun-pribadi-lainnya?page=all%2C. accessed by 2 October 2020

secure the users personal information. These terms and conditions act as a binding contract between the user and e-wallet operator. The market leader of the e-wallet operator is GoPay, under the multi-service platform of Gojek PT Aplikasi Karya Anak Bangsa. Go-Pay operates as an e-money operator with permission from Bank Indonesia No. 16/9/ DKSP on 17th of June 2014,¹⁵ as the market leader. GoPay is chosen by the majority of consumers (54%) as the digital wallet they would continue to use, and is the most well-known (58%) of the digital wallet companies, followed by Ovo (29%).¹⁶

Amongst others, the qualified aspects as a Payment System Service Provider includes legality and company profile, law, operational readiness, system security and reliability, business feasibility, adequacy of risk management, and consumer protection.¹⁷ With the decision of choosing the most desirable e-wallet, users must also be aware to the terms and conditions set by the e-wallet. The terms and conditions of Go-Pay and Ovo are provided as an account is made and is also published in their official website. The terms and conditions constitute a contract under the Indonesian Civil Code (ICC). The user's account will activate and function if all the personal data is completed and all the terms and conditions is accepted by the potential user.

The terms and conditions of Go-Pay and Ovo share some similarities but also differ from one another. For example, the terms under 'Obligations, Statements

¹⁵ Handayani, Maulida Sri, and Ahmad Zaenudin. "Gopay Vs OVO: Dompok Digital Bertarung Memaksimalkan Dukungan." *Tirto.id*, Tirto.id, 19 Aug. 2019, tirto.id/gopay-vs-ovo-dompok-digital-bertarung-memaksimalkan-dukungan-egmF, accessed by 23 February 2020

¹⁶ "Ipsos Media Conference - Strategi Menang Tanpa Bakar Uang." Ipsos, 12 February 2020, p. 1

¹⁷ Article 9 par (1) PBI/18/2016

and Warranties' are different as Go-Pay requires 21 or married, or underage but with consent of parents while Ovo requires 18 or married. The terms and conditions of force majeure from the two e-wallet service providers also vary from one another. Therefore, there are some differences in terms and conditions of each e-wallet that may have an impact on protection of respective user. However ideally, users deserve consistency in treatment and a clear regulation that governs loss resulting from any action or omission by the responsible e-wallet; unauthorized transactions.

Singapore, one of the leading Southeast Asian country; has strong and coordinated legal system. Singapore has a clear legal framework that works well for their overall development. Just like any other regulation enforced by the Singapore government, the regulation imposed on e-wallet operations and consumer protection is specific and systematic. The idea is to resort to Singapore, to learn from the more advanced in the aspect of financial system and from the more orderly government. The Monetary Authority of Singapore (MAS) follows the paradigm of agility and tech product development, MAS listens to the ASEAN Fintech community and ensures it remains in front of new patterns, and continually advances its strategies to coordinate the development of needs and form factors while offsetting economic risk and eliminating possibilities of market abuse.¹⁸

According to MAS, over 32,000 QR codes have been deployed across various merchant categories such as retail stores, hawker centers and supermarkets,

¹⁸ People | MIT CSAIL. people.csail.mit.edu/taolei/wmt/en-de.src.dict., accessed by 2 October 2020

as of September 2019.¹⁹ A report by GlobalData revealed that the coronavirus pandemic is likely to help drive digital payments' adoption in Singapore, with non-cash payments expected to take a 54% market share in 2020.²⁰ In comparison to Indonesia, Singapore protects its e-wallet users differently. Singapore has a system that is often amended to suit the new standards of the community. Although it is a rules based community with no room for negotiation, they are able to balance the control and support of the e-wallet user interests. Singapore imposes the Payment Services Act (PS Act) and E-Payment User Protection Guidelines. The PS Act regulates the licensing and regulation of payment service providers and the oversight of payment systems in Singapore, that also entails the legal consequences in the event of loss of users money and technology risks.²¹ Whilst the E-Payment User Protection Guidelines consist of regulations that attributes to the interests of its users in losses that are not a part of the users liabilities.

Singapore's GrabPay claims that its own social impact report that 77% of overall cashless transactions on the app were performed using GrabPay, and that the use of application is 1.3 times higher than the overall cashless usage in Singapore.²² Second in place is DBS PayLah!, which is the only semi-closed bank-

¹⁹“Chart of the Day: Pandemic Spurs Digital Payment Take-up in Singapore.” Singapore Business Review, [sbr.com.sg/financial-services/news/chart-day-pandemic-spurs-digital-payment-take-in-singapore.](https://sbr.com.sg/financial-services/news/chart-day-pandemic-spurs-digital-payment-take-in-singapore/), accessed by 2 October 2020

²⁰ “Chart of the Week: Pandemic Spurs Digital Payment Take-up in Singapore.” Asian Banking & Finance, [asianbankingandfinance.net/financial-technology/news/chart-week-pandemic-spurs-digital-payment-take-in-singapore.](https://asianbankingandfinance.net/financial-technology/news/chart-week-pandemic-spurs-digital-payment-take-in-singapore/), accessed by 2 October 2020

²¹ “New Payment Services Act to Strengthen Consumer Protection, Promote Confidence in e-Payments: MAS.” CNA, 28 Jan. 2020, www.channelnewsasia.com/news/singapore/new-e-payment-services-act-law-mas-12360476, accessed by 23 March 2020

²² “Which e-Wallet App Is the Most Used in Singapore?” Singapore Business Review, [sbr.com.sg/financial-services/news/which-e-wallet-app-most-used-in-singapore.](https://sbr.com.sg/financial-services/news/which-e-wallet-app-most-used-in-singapore/), accessed by 2 October 2020

provided e-wallet enlisted. According to the study, DBS PayLah! is aligned with the Monetary Authority of Singapore's vision to allow users without a bank account to utilise electronic payment (e-payment) services.²³

Although it is inevitable to completely have no unauthorized transaction in the e-wallet system, Singapore's GrabPay is able to attend and compensate for the unauthorized transactions happening in its users accounts. Tiffany Weiling claimed she was charged for S\$2,680.5 without her knowledge or consent on December 8th 2019. She called Grab, but failed to get an explanation from them but after nine hours, she called them again and was told that a refund was being processed.²⁴ MAS noted that there has been a rise in incidents of data theft and fraud involving payment cards in many jurisdictions around the world, therefore emphasizing to financial institutions in Singapore that they are required to implement the necessary controls to protect customers from unauthorised access to their information and fraudulent transactions.²⁵

The Singapore system works better than Indonesia because the regulations published by the Singaporean authorities are in favour of the consumers. Namely, they are forward looking and comprise of policies that clearly address the liabilities of each party; the user and the e-wallet operator in the process of resolution for unauthorized transactions that can be in the form of theft, fraud or any other financial

²³ "Which e-Wallet App Is the Most Used in Singapore?" Singapore Business Review, sbr.com.sg/financial-services/news/which-e-wallet-app-most-used-in-singapore/, accessed by 2 October 2020

²⁴ "S'pore Woman Claims GrabPay Charged Her S\$2,680.53, Grab Says She Triggered Payment." Mothership.SG - News from Singapore, Asia and around the World, mothership.sg/2019/12/grabpay-charge/, accessed by 2 October 2020

²⁵ "MAS: Security Measures for Payment Cards in Singapore Are Robust." Monetary Authority of Singapore, www.mas.gov.sg/news/media-releases/2014/security-measures-for-payment-cards-in-singapore-are-robust, accessed by 2 October 2020

crime that causes a loss to consumer. The legal regime in the Singapore regulation does not require complex procedures that involves parties aside from the user and the e-wallet itself.

Without clear regulations, Bank Indonesia is very involved in the operational activities of e-wallet operators, these e-wallets must consult to an appointed relationship officer chosen by Bank Indonesia for every detail, which creates a more time-consuming and complicated process. To address situations of unauthorized transactions that cause losses for the consumers, a clear regulation must strictly determine the duties of the user and e-wallet operator. The current regulations provided in Indonesia lacks of clarity and rigid policies, hence resulting discrepancies and unjust practices. It is seen that clear and specific regulations regarding protection of e-wallet users could drive encouragement to a greater cashless payment systems and for a greater environmental impact.²⁶

Hence, the exposure to Singapore Laws could enlighten and benefit Indonesia to refer to important clauses in Singapore's regulation. The comparative analysis is significant to satisfy the demands of e-wallet users, to eradicate the legal vacuum in the system. Particularly, to resolve matters upon the occurrence of unauthorized transactions and the role of the laws to protecting the consumers. A regulatory framework that comprises of all the legal relationship of user and e-wallet operator, with a well-constructed legal regime is appropriate in respect to the development of technology and society. Based on the description that has been

²⁶ FinCoNet, "Online and mobile payments: Supervisory challenges to mitigate security risks", September 2016, p. 44

stated, the Author is interested in submitting a thesis entitled, **CONSUMER PROTECTION ON UNAUTHORIZED TRANSACTIONS FOR E-WALLET USERS: COMPARATIVE LEGAL ANALYSIS OF INDONESIA AND SINGAPORE.**

1.1 Formulation of Issues

In regards to the topic of this thesis, the Author will discuss the following formulation of issues:

1. What is the legal regime for e-wallet transactions in Indonesia and Singapore?
2. In unauthorized transactions, what measures are taken by the Indonesian government to protect the e-wallet users? How is it comparable to Singapore?

1.2 Research Purpose

The Authors purpose of writing this thesis to answer the formulation of issues stipulated above, namely:

1. To review how e-wallet users are protected under the Indonesian legal system
2. To review and compare rules and regulations on e-wallet transactions imposed in Singapore

1.3 Research Benefits

1.3.1 Theoretical Benefits

The Author hopes that this research will give an insight regarding protection towards e-wallet users. Since the Bank Indonesia regulation does not protect the e-wallet users in transaction issues and UUPK's nature is physical (offline)

transactions, there is no standardized system for it. This results in the inconsistency between legal rights of users and legal obligation of e-wallet service providers. The Author hopes this research will induce a new regulation regarding the protection of e-wallet user that extends to the resolution of unauthorized transactions. The Author hopes this research would add on into the knowledge of Consumer Protection in the Indonesian Law, namely the importance of safeguarding consumers in electronic platforms.

1.4.2 Practical Benefits

The Author hopes this research will enlighten the government and Bank Indonesia to ensure protection for e-wallet users. The Author realizes that the establishment of a new law is needed to increase the comfort for the users. This entails specific and appropriate provisions to ensure security and just in e-wallet transaction issues and unauthorized transactions. In addition, the Author hopes that this research can be useful for general public, lawyers, creditors, and other officials who directly or indirectly have a relation to e-wallet service providers and consumer protection. In the vein of a cashless and more environmental friendly way of living, the Author hopes that this research can support the Indonesian legal system to fulfil the needs of society towards the new and improved.

1.4 Framework of Writing

This thesis is arranged into five main chapters that will show clarity to readers in understanding the discussion of this thesis.

CHAPTER I: INTRODUCTION

The introduction chapter is divided into five parts, which are background, formulation of issues, research purpose and research benefits.

CHAPTER II: LITERATURE REVIEW

This chapter consist of the literature review, the Author divides this chapter two-sub chapters; theoretical and conceptual framework. The theoretical framework begins with the general overview of consumer protection, that comprises of the general overview in Indonesia and general overview in Singapore; and general overview of electronic money in Indonesia. The Author will also discuss briefly the protection of e-wallet user under Indonesian legal system and under Singapore legal system. The conceptual framework will elaborate on a number of important variables for this research namely; e-wallet terms and conditions; e-wallet consumer rights; and protection of personal data and unauthorized transactions.

CHAPTER III: RESEARCH METHOD

This chapter will discuss the type or research, type of data, data analysis technique as well as the type of research approach. Moreover, the types of research, data, data analysis technique and research approach that the Author use to discuss the issues in this thesis.

CHAPTER IV: DISCUSSION AND ANALYSIS

The fourth chapter will discuss the research problem alongside the solution. This chapter will be divided into two sub-chapters. The first sub-chapter will explain the

protection of e-wallet users in Indonesia and Singapore; applicable laws and regulations for protection of e-wallet user in each country. The second sub-chapter is the comparison of user protection in unauthorized transactions in reference to the law in Indonesia and Singapore based on the terms and conditions of e-wallet operators.

CHAPTER V: CONCLUSION AND RECOMMENDATION

The last chapter will explain the conclusion, answering the issue that have been analysed in chapter four. Namely, how Indonesia can improve the protection of e-wallet users by referring to Singapore's regulations. The Author will also provide recommendations, by addressing the issue and improving the e-wallet transaction system.

