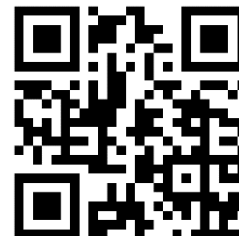


## Protection of Electronic Money Saving Customers At the Bank



Rina Kristina<sup>1</sup>, Dewi Astutty Mochtar<sup>2</sup>, Kadek Wiwik Indrayanti<sup>3</sup>

<sup>1,2,3</sup> Master of Law Study Program Postgraduate Program at Merdeka University, Malang, Indonesia

Terusan Dieng Number 62-64 Malang 65146

**ABSTRACT:** Currently developing again with the emergence of a new payment instrument in the form of a certain amount of money stored in an electronic media owned by someone, this payment instrument is known as Electronic Money. As a means of payment, the acquisition and use of Electronic Money (e-money) can be considered quite easy. Prospective holders or users only need to deposit a certain amount of money to the issuer or through issuing agents and the total value of the money will be digitally stored in electronic media. The problems raised in this paper are regarding the characteristics and status of electronic money as a non-cash payment instrument in banking products and the urgency of legal protection against stored customer electronic money. This type of thesis research uses normative juridical research. The results of this study are that electronic money is essentially cash that is converted into electronic data that is stored on storage media on cards in the form of chips or servers belonging to electronic money holders. The value of the electronic money is also recorded on electronic media managed by the issuer of electronic money. Payment transactions with electronic money are carried out by transferring funds electronically at merchant payment terminals (merchant), by directly reducing the value of electronic money on electronic media managed by electronic money holders. The status of the value of money received by the electronic money issuer, both for the results of the electronic money issuance and refilling, is a float fund, which is the obligation of the electronic money issuer to electronic money holders and traders at the time of billing reconciliation by the merchant to the electronic money issuer and the urgency of guaranteeing funds Customers using electronic money by customer fund guarantee institutions (LPS) have not yet reached the point where they really need them. Because currently existing regulations regarding electronic money, both those regulated by Bank Indonesia Regulations and Financial Services Authority Regulations are still able to protect the rights of customers who use electronic money, but it is possible that in the future IDIC will guarantee the funds of electronic money customers. Considering the very rapid development of electronic money users and the very large circulation of money, then of course LPS can be present as a guarantee institution, of course with updated regulations. And at this time LPS is also reviewing with OJK about the need for LPS to be present as a guarantor of electronic money customer funds.

**KEYWORDS:** Protection, Electronics Money, Costumer, Bank.

### BACKGROUND

Law Number 8 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking (hereinafter referred to as the Banking Law) provides an understanding of banks, namely business entities that collect funds from the public in the form of savings and distribute them to the public in the form of credit and /or other forms in order to improve people's standard of living. Thus, every operating bank must be managed well because the stability of the banking industry is a very important component in overall economic growth. Industry in the banking sector is an important component in the national economy to be able to maintain balance, progress and unity of the national economy.

In this day and age, many technological developments are very rapid and influence the economy both internationally and in Indonesia. This development is mainly related to the development of the internet, because using the internet in various activities in people's lives can have a big impact in providing business changes, giving rise to new innovations that can support economic development.

One of the developments currently occurring in Indonesia is developments in the field of e-commerce or electronic commerce, namely transactions in trade involving individuals and organizations, based on digital data processes and transactions, including

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text, voice and closed networks such as America On Line. (AOL) which has an open network. E-commerce is a new discovery in trade that is valued more than conventional forms of trade in general.<sup>1</sup>

The development of e-commerce in Indonesia has been quite rapid, as can be seen, e-commerce activities have penetrated various types of business, from small-scale businesses to large-scale industries. The use of e-commerce technology for small business actors can provide flexibility in carrying out production, making it possible to deliver to customers more quickly and can also receive offers quickly and save more time and costs, where the aim is to be able to support fast transactions without paper.

Money has also undergone very big changes since it was known and used by society. especially in today's society, no one is unfamiliar with money and in social life it cannot be separated from activities related to money as a means of payment. In the process of development, it can be proven that from time to time payment instruments have undergone several significant changes.

Until now, it has developed again with the emergence of a new payment instrument in the form of a certain amount of money stored in an electronic medium owned by someone, this payment instrument is known as Electronic Money. As a means of payment, obtaining and using electronic money (e-money) can be considered quite easy. Prospective holders or users only need to deposit a certain amount of money to the issuer or through the issuing agents and the amount of money will be digitally stored in electronic media.

The increasing number of e-commerce transactions will trigger an increasing number of payments using electronic money. To protect this, the government issued a policy regarding the use of electronic money, known as e-Money, which is outlined in Bank Indonesia Regulation Number 18/17/PBI/2016 concerning the Second Amendment. Based on Bank Indonesia Regulation Number 11/12PBI/2009 concerning Electronic Money. Before that, we must first know the definition of e-Money itself, where the definition of e-Money is a means of payment that uses electronic media, namely computer networks and also the internet. The value of money from customers is stored in certain electronic media. e-Money is often also called Electronic Cash, Digital Money, Digital Cash, Electronic Currency or Digital Currency.<sup>2</sup>

Payments using Electronic Money payment tools (hereinafter referred to as e-money) do not require an authorization process and are not linked to an account at the issuing bank. Cards are very easy to transfer or transfer and the amount of money stored in Electronic Money is not a deposit as regulated in the Banking Law. This raises a question regarding the level of security and risks that will arise and have a detrimental impact on users of electronic money (e-money).

In the non-cash payment system, Bank Indonesia as the central bank in Indonesia has an interest in ensuring that the non-cash payment system used by the public runs safely, efficiently and reliably. Therefore, the development of the use of non-cash payment instruments must receive serious attention from Bank Indonesia considering that the development of non-cash payments is expected to reduce the burden of using cash and continue to increase economic efficiency in society. However, it is estimated that the aspects of convenience, security and public trust in cash will most likely be obstacles that must still be faced in the development of this non-cash payment instrument.

Trust is one of the elements that must be maintained by banking institutions, therefore public trust in these institutions must be strengthened. Currently, it is necessary to have a deposit guarantee system that is completely and firmly regulated because having a deposit guarantee can increase trust and ultimately provide strength to the banking system. For this reason, the state provides protection to the public as customers by implementing deposit guarantees in the form of explicit customer guarantees.<sup>3</sup> In Indonesia, the institution that provides guarantees for deposits is the Deposit Insurance Agency (hereinafter referred to as LPS).

Unlike debit cards or credit cards, e-Money cards do not require data confirmation or Personal Identification Number (PIN) authority when used as a means of payment and are not tied directly to the customer's account at the bank. This is because e-money is a stored value product where a number of monetary values have been recorded in the payment instrument used. Examples of existing e-Money products that have been issued by issuers which were then approved by Bank Indonesia include Flazz cards (BCA), e-Money cards from Bank Mandiri (E-Toll), then also e-Money cards from Bank Mega, cards Brizzi from BRI Bank, and others.

In accordance with universally applicable principles, every bank is obliged to guarantee public funds deposited with the bank concerned. In line with these basic principles, the provisions of Article 37 point b emphasize that to guarantee public savings in banks, an LPS will be established. Furthermore, Article 37 B also stipulates that LPS will be further regulated in government regulations. 8 The types of savings guaranteed by LPS are confirmed in Article 10 and Article 96 paragraph 1 of Law Number 24 of 2004 as amended by Law Number 7 of 2009 concerning the Deposit Insurance Corporation (hereinafter referred to as the LPS

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<sup>1</sup> Abdul Hakim Barkatullah dan Teguh Prasetyo, *Bisnis E-Commerce Studi Sistem Keamanan dan Hukum di Indonesia*, Ctk.Kedua, (Yogyakarta :Pustaka Pelajar, 2006), hlm. 2

<sup>2</sup> Prasetyo Budi Widagdo, *Perkembangan Electronic Commerce (E-Commerce) di Indonesia*, terdapat dalam [https://www.researchgate.net/publication/311650384\\_Perkembangan\\_Electronic\\_Commerce\\_E-Commerce\\_di\\_Indonesia](https://www.researchgate.net/publication/311650384_Perkembangan_Electronic_Commerce_E-Commerce_di_Indonesia), diakses pada tanggal 5 januari 2022

<sup>3</sup> Zulkarnain Sitompul, *Lembaga Penjamin Simpanan Substansi dan Permasalahan*, (Bandung : BooksTerrace & Library, 2007), hlm. 121

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Law). In Article 10 of the LPS Law, it is emphasized that the Deposit Insurance Corporation guarantees bank customer deposits in the form of demand deposits, deposits, deposit certificates, savings, and/or other equivalent forms. Meanwhile, Article 96 paragraph 1 of the LPS Law also confirms that the Deposit Insurance Agency carries out the function of guaranteeing deposits for banks based on sharia principles.

The customer deposit guarantee program also applies to banks based on sharia principles. This program for guaranteeing bank customer deposits based on sharia principles is further regulated in Government Regulation Number 39 of 2005 concerning Guaranteeing Bank Customer Deposits Based on Sharia Principles (LN of 2005 Number 96, TLN Republic Number 4542; hereinafter referred to as PP Number 39 of 2005).

Based on PP Number 39 of 2005, LPS guarantees customer deposits from banks based on sharia principles, both Commercial Banks and Rural Precredit Banks that carry out business activities based on sharia principles, as well as Sharia Business Units from conventional banks, in accordance with the provisions of the LPS Law.

Thus, it is clear that electronic money is not included as savings according to the Banking Law, because the value of the money deposited by the electronic money holder to the issuer is not placed in a bank account. These savings are essentially public funds placed in bank accounts. Because it is not a deposit, prospective holders and holders of electronic money do not have to open a bank account like ATM debit card holders, who must first open a bank account.

Currently, legal protection for customers using electronic money is very complicated with too many regulations governing it, and tends to be detrimental to customers as consumers. For example, if an electronic money issuer has its business license revoked as a bank, this means that the value of electronic money stored on an electronic money card is not included in the fund guarantee program from LPS. Because it is not a deposit, the balance deposited on an electronic money card does not pay interest. In order for the remaining balance recorded on an electronic money card to be protected, it is necessary to guarantee legal protection for funds stored in electronic money by placing them as privileged receivables, because currently the circulation of money in electronic money is very large, so it is very necessary to provide guarantees towards customer funds.

So, as long as there is remaining electronic value in the electronic money card, the electronic money issuer is obliged to return it to the electronic money holder. Seeing the very rapid development of electronic money users and the very large circulation of money, of course LPS can be present as a guarantee institution, of course with updated regulations. And currently LPS is also reviewing with the Financial Services Authority whether LPS should be present as a guarantor of electronic money customer funds.

## METHOD

This research is juridical-normative legal research. The technique for collecting legal materials in this research used library and document or archive studies, namely by collecting legal materials related to the research needs to be studied, in addition to various books and other supporting legal materials. The analysis technique used qualitative descriptive legal materials.

## DISCUSSION

### 1. Characteristics and Status of Electronic Money as a Non-Cash Payment Tool in Banking Products.

In banking institutions, transactions carried out by parties, namely customers and banks, are greatly influenced by technological advances. This is proven by the emergence of application technology-based banking transactions commonly known as electronic banking, where one of the products is electronic money or e-money.<sup>4</sup>

e-money is a stored value product or prepaid product, where there is a certain amount of funds or money value stored in an electronic medium owned by the customer or consumer. This "electronic" value is purchased by the customer or consumer and stored in their electronic media, where the value of the electronic money will decrease if the customer or consumer uses it to make a payment. When compared to debit or credit cards, online authorization is usually required and will involve debiting the customer's or consumer's bank account after the payment transaction is made, however, for electronic money management, online authorization is not required, but only offline by the electronic money holder.

Juridically, the definition of electronic money is contained in Article 1 point 3 of PBI No.11/12/PBI/2009 as last amended by PBI No. 18/17/ PBI/2016 which states as follows: "Electronic money is a means of payment that meets the following elements: issued on the basis of the value of money deposited in advance with the issuer; the value of money is stored electronically in a server or chip media; used as a means of payment to merchants who are not issuers of electronic money; and the value of electronic money managed by the issuer is not a deposit as intended in the law governing banking."

Electronic money is essentially cash without any physical form (cashless money), the value of which comes from the value of the money that is first deposited with the issuer, then stored electronically in an electronic medium in the form of a server (hard drive) or chip card, which functions as non-cash payment instrument to traders who are not the relevant electronic money issuer. The

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<sup>4</sup> Fifi Junita, *Aspek Risiko Dan Tanggung Gugat Bank Dalam Transaksi Pengiriman Uang Secara Elektronik*, 20 Yuridika, 2005, hlm.174.

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monetary value in electronic money is in electronic form (electronic value) which is obtained by exchanging a certain amount of cash or debiting an account at a bank and then storing it electronically in electronic media in the form of a stored value card. What is different from ATM cards, debit cards or credit cards, the value of the money is stored in the customer's account at the bank, whereas with electronic money, the value of the money is stored in a computer system device, cellphone, prepaid card or chip card. Furthermore, when the electronic money holder makes a payment transaction or fund transfer, the value of the money contained in the electronic money will also decrease according to the value of the payment transaction or fund transfer carried out like cash. On the other hand, the value of money in electronic money can increase when receiving payment or when topping up

In electronic money there is a certain amount of money that is stored electronically on a card, so its existence cannot be categorized as a savings product. This is because electronic money stores a certain amount of the value of electronic money after it is first deposited with the issuing bank, either in cash or by transfer. If you look closely at the concept of electronic money in Article 1 number 3 PBI No. 11/12/PBI/2009 as last amended by PBI No. 18/17/PBI/2016, it is clear that electronic money products are not savings, because the value of electronic money deposited by the electronic money holder to the electronic money issuer is not stored in a bank account, the value of the money deposited is recorded electronically on the card issued.

One source of bank funding comes from the public, originating from savings as a fund collection product. According to the Banking Law, funds sourced from the public are funds collected from the public, which are called savings, the form can be in the form of demand deposits, deposits, certificates of deposit and savings, as formulated in Article 1 number 5 of the Banking Law, which states that savings are funds that entrusted by the public to the bank based on an agreement to deposit funds in the form of demand deposits, deposits, certificates of deposit, savings, and/or other equivalent forms.

Even though money is a legal object, money is not a commodity, but rather a means of payment. Money functions as a medium of exchange and also as a unit of account in trade. Money as a medium of exchange to facilitate the exchange of buying and selling in society. Likewise, money is a unitary tool for calculating the basis for determining the price of each good or service that is exchanged or traded.

The type of money as a means of payment in trade transactions based on circulation can be divided into two types of money, namely currency and demand deposits. Currency is defined as cash that is used for legal payment transactions in everyday life. Currency consists of banknotes and coins. Banknotes are money made from paper money or similar raw materials, of course the material is durable, equipped with special security features in the design, materials and printing techniques so that they are not easily counterfeited. Meanwhile, coins are made from monetary metal, they can be made from gold, silver, bronze, aluminum, nickel or similar raw materials. These banknotes and coins can be issued by the government and/or the Central Bank. These two types of banknotes and coins are considered currency.

In reality, however, as long as money has exchange value with any goods or commodities, people will still use it. People can use money as a means of paying in cash directly, in order to fulfill their obligations, or in order to receive their rights from other parties. So in general it can be said that money actually has very broad uses.<sup>5</sup> The development of the economy and progress of society, especially related to the development of community trade, paper money is felt to have weaknesses in completing transactions for large amounts where a number of banknotes have to be carried around, giving rise to certain risks and impractical situations.<sup>6</sup> Then the idea arose from the community and in line with developments in banking to use demand deposits (current accounts, checking accounts or checks). This is done because with this check the amount of money required to complete the transaction can be easily written down and given to the person concerned and to exchange the amount stated in the check in question, the person can exchange it for cash at the bank.<sup>7</sup>

Money that is in a checking account at a commercial bank is often also referred to as demand deposits.<sup>8</sup> Demand deposits are money held in a bank that can be withdrawn by the holder at any time using a check or giro bill.<sup>9</sup> Withdrawals of demand deposits can be made by transfer or in cash by cashing out. As an issuer of demand deposits, it is not only the central bank, but also issued by commercial banks as the Demand Deposit Bank (BPUG).

From a macro perspective, demand deposits are safer because they do not affect the amount of currency. Although on the one hand, demand deposit instruments have advantages, on the other hand they also have weaknesses. The weakness is that demand deposits are not legal means of payment and must be accepted by everyone. Interested parties can refuse payment using demand deposit instruments. They may even say they would prefer to be paid in cash or currency.<sup>10</sup>

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<sup>5</sup> Y.Sri Susilo, *Bank dan Lembaga Keuangan Lain*, (Jakarta: Salemba Empat, 2004), hlm.8

<sup>6</sup> Thamrin Abdullah dan Francis Tantri, *Bank Dan Lembaga Keuangan*, (Jakarta: Raja Grafindo Persada, 2012), hlm.51

<sup>7</sup> *Ibid*, hlm.51

<sup>8</sup> Solikin dan Suseno, *Uang: Pengertian, Penciptaan, Dan Peranannya Dalam Perekonomian*, (Jakarta: Pusat Pendidikan dan Studi Kebanksentralan Bank Indonesia, 2002), hlm.11

<sup>9</sup> Thamrin Abdullah dan Francis Tantri, *Op.Cit*, hlm.52

<sup>10</sup> Sri Redjeki Hartono, *Penulisan Karya Ilmiah Tentang Aspek Hukum Penggunaan Kartu Kredit*, (Jakarta: Badan Pembinaan Hukum Nasional, 1994), hlm.

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According to Isnaeni Rokhayati, money circulating in society is not only paper money, but also demand deposits. BU is known as a money creator institution, namely creating demand deposits for the benefit of society. The creation of this money is an important task for banks, because apart from being for the benefit of society, banks also really need the creation of demand deposits in order to increase sources of funds for financing. There are several ways to create demand deposits, namely by:

### 1. Substitution

In this case, currency is replaced with demand deposits. The way a customer deposits his money in the bank in cash, then the bank replaces it with demand deposits. This means that the bank opens an account in the customer's name for the amount deposited and for this reason the customer is given a checkbook so that he can use it at any time to withdraw or withdraw the money. So, the substitution method for creating demand deposits is basically not to add currency, currency is stored in the bank and demand deposits are issued instead;

### 2. Exchange of Claims

Creation through exchange of claims, for example, a bank gives credit to its customers, but in this case the bank does not give cash to its customers, but the bank opens an account, either a checking account or a special loan account and includes a balance equal to the credit value. Then the customer is given a checkbook to use whenever the customer cashes in the credit. So, credit is not given in currency but in the form of demand deposits. This will increase the development and circulation of demand deposits, which is why many people say that increasing credit means increasing money;

### 3. Transformation

The transformation of demand deposits through this information is carried out by cashing in debts from third parties, whether private or government, or vice versa. The customer sells securities to the bank, then the bank buys the securities, but not with cash but with demand deposits. The method is that the bank adds the balance to the customer's account so that the account increases by the agreed price for the securities.

So it can be said that there are three ways in which demand deposits can be made, namely: by primary deposit, derivative deposit and loan deposit. The primary deposit method is done by depositing cash into the bank, which is then recorded in the customer's account, with withdrawals made by check or giro. Another way, namely the derivative deposit method, is carried out with securities transactions, selling securities to the bank, then the sales proceeds are recorded as a deposit at the bank concerned.

Finally, the loan deposit method occurs when credit is granted which is deposited into the account of the debtor customer concerned. Demand deposits can be called credit money, known in the mid-19th century. In modern times, demand deposits are known in various forms, for example checks, giro bills, credit cards, money orders, and several other types of securities. With currency and demand deposits, people can make direct cash payments.

But what about cash savings in the form of savings (savings deposits) and/or time deposits (time deposits) at the bank. Withdrawals from savings and time deposits cannot be made at any time. Typically, withdrawals from savings accounts and time deposits are in accordance with what has been agreed between the saver and the bank, for example within a certain period of time. Because withdrawals cannot be made at any time, the holders of savings accounts and time deposits are temporarily unable to make direct payments, they must wait until the savings account or time deposit matures. Money stored in savings accounts and time deposits is referred to as quasi money.<sup>11</sup>

There are two main differences between the three types of money, namely: first, if we look at the institutions that issue and circulate, it can be seen that currency is issued and circulated by the Central Bank, while demand deposits and quasi money are created and circulated by Commercial Banks.

The second difference, when viewed from its use, is that currency and demand deposits can be used directly as a means of payment, while quasi money cannot be used directly as a means of payment. In other words, currency and demand deposits are more liquid than quasi money.<sup>12</sup>

Payment transactions are carried out in cash using currency or non-cash using demand deposits. Cash transactions are transactions carried out using circulating cash, while non-cash transactions are transactions carried out without using circulating cash. These non-cash payment transaction tools are divided into three types, namely: letter-based non-cash payment tools, electronic-based non-cash payment tools; and mobile-based non-cash payment instruments.

Electronic-based non-cash payment instruments are further divided into two types, namely: Payment Instruments Using Cards (APMK) and electronic money. The APMK includes ATM cards, debit cards and credit cards; all of which can be called account-based cards. As is known, electronic money is essentially cash that is converted into electronic data which is stored on a storage medium, which could be a server medium or a chip card. Here the creation of demand deposits occurs by depositing cash (currency) whose value is placed in electronic money storage media. Electronic money can only be used as a means of payment by transferring it electronically for the purposes of payment transactions and/or fund transfers. So, electronic money is a non-cash payment tool,

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<sup>11</sup> Solikin dan Suseno, *Op.Cit*, hlm.12

<sup>12</sup> *Ibid*

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because the payment transaction mechanism uses indirect payments through electronic storage media in the form of a server or chip. It contains the value of electronic money which functions as a means of payment for demand deposits to traders who are not the electronic money issuers.

An object is not static, because its shape can increase. The rapid development of technology and culture gives rise to new objects, which previously were not objects, but are then considered to be objects. Objects are evolving, they have shifted from physical objects to digital objects. The development of digital objects cannot be separated from advances in technology and information, which have led humans to create electronic objects that can help make it easier for humans to carry out trading activities electronically. Then various digital service models in commerce and payments were born. Likewise, payment services at banks are currently developing rapidly towards electronic payment systems.

Perhaps in the past banks in providing their services emphasized more on the face to face model and were based on paper documents. However, since information technology has been able to support bank transaction systems, transaction models have prioritized non-face to face models and paperless documents or digital documents.<sup>13</sup> New technology has made it possible to pay for goods via internet services. Several methods will link electronic banking systems and electronic payment systems by connecting them to each other via the internet, including credit and debit card networks as well as electronic money based on stored values, smart cards or other technologies.<sup>14</sup>

From the concept of electronic money, it is clear that the value of electronic money is not much different from the value of money deposited at the time the electronic money is issued. Considering that electronic money has economic value, it is worth asking about the category of electronic money as an object in the material legal system. Not all objects in the world can be categorized as material things. At some point, what was originally not an object may later become an object.

In doctrine, the meaning of objects is also interpreted in various ways, it can be interpreted in a narrow sense or even interpreted in a broad sense. According to Soediman Kartohadiprodjo, what is meant by objects are "all tangible goods and rights (except property rights)"<sup>15</sup>. Then Sri Soedewi Masjchoen Sofwan interpreted<sup>16</sup> "objects are first of all tangible items that can be perceived with the five senses, but intangible items include objects as well." Furthermore, Subekti defines objects into three types<sup>17</sup>, namely:

1. The broadest meaning of the words "things" (zaak) is everything that people can judge. Here thing means object as opposed to subject or "person" in law;
2. There is also the saying that objects are used in a narrow sense, namely as objects that can only be seen; And
3. There is another thing that is used when referring to someone's wealth. If the word object is used to mean someone's wealth, then the word also includes things that cannot be seen, namely rights.

Lastly L.J. van Apeldoorn defines an object in the juridical sense as something which is the object of law, namely something whose essence is given by objective law. The same thing was also stated by H.F.A. Vollmar, that "objects are defined as anything that can become an object of law". Thus, Mahadi defines objects as including material objects and immaterial objects. Goods are material objects, while rights are immaterial objects. These goods and rights become objects of property rights.<sup>18</sup>

So, according to the doctrine, the meaning of objects is defined in a broad and narrow sense. Objects, in a broad sense, are defined as anything that can be owned by a person/legal entity or anything that can be used as an object of transaction. Meanwhile, objects in the narrow sense are limited to everything that is tangible or tangible objects (goods), namely items that can be captured by the five senses. Likewise, objects can be interpreted as part of a person's assets, which also include certain rights of a person. In other words, in a legal context, objects (zaak) consist of goods (goederen, lichamelijke zaken) and parts of assets (hak, rechten, onlichamelijke zaken), namely rights to goods or intangible objects. This is not much different from the juridical meaning of objects as regulated in Article 499 BW, namely everything that can be owned or controlled with property rights, which is part of wealth, including goods and rights.

Thus, in accordance with Article 499 BW, electronic money can be categorized as an object, because electronic money is property and can be controlled by the electronic money holder as their own. The value of cash deposited as the basis for issuing electronic money is converted into digital data in the form of numbers for a certain calculation system, which can be used in payment transactions. Deposits and transfers of funds in electronic money are in principle carried out electronically, for this reason electronic money is part of digital objects.

### 2. Legal Protection for Customers' Electronic Money Stored in Banks.

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<sup>13</sup> Budi Agus Riswandi, *Aspek Hukum Internet Banking*, (Jakarta: RajaGrafindo Persada, 2005), hlm.19

<sup>14</sup> Budi Agus Riswandi, *Hukum Dan Internet Di Indonesia*, (Yogyakarta: UII Press,2003), hlm.23

<sup>15</sup> Soediman Kartohadiprodjo, *Pengantar Tata Hukum Di Indonesia*, (Jakarta: Ghalia Indonesia 1984), hlm.12

<sup>16</sup> Sri Soedewi Masjchoen Sofwan, *Hukum Perdata: Hukum Benda* (Jakarta: Liberty,1981), hlm.13

<sup>17</sup> Subekti, *Hukum Perjanjian* (Jakarta: Intermasa,2014), hlm.54

<sup>18</sup> Mahadi, *Hak Milik Immateriil* (Jakarta: Binacipta, 1985), hlm.54

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After experiencing a banking crisis in 1998, Indonesia created a new institution called the Deposit Insurance Corporation (LPS). The purpose of LPS's presence is to be able to anticipate if a bank has to be closed and liquidated, so that it can still return funds originating from public savings. LPS is able to guarantee the return of public funds, because LPS has a role as insurance specifically for banking institutions. With LPS, it can be used as a way to overcome risks in the banking business. With a guarantee from LPS, LPS will make payments to banks, so that the risks faced by banking institutions can be minimized. Indirectly, LPS can also prevent negative shocks from society towards customers who save funds.<sup>19</sup>

The Deposit Insurance Corporation is regulated in the LPS Law. The LPS Law was motivated by the emergence of a Perpu which regulated changes to the LPS Law, but not many changes were made because only one article was changed, namely Article 11 concerning the value of savings guaranteed by the Deposit Insurance Corporation, the aim of which was to overcome the threat of a crisis which had the potential to result in a decline in public confidence in banking and endangering the stability of the financial system, among other things, is indicated by the presence of several banks and/or non-bank financial institutions experiencing liquidity difficulties, or experiencing turmoil which could have a negative impact on the stability of the national financial system.<sup>20</sup> With these changes and not as a replacement for law, what is in effect now is the LPS Law itself after undergoing changes that took effect from the date of promulgation, namely January 13, 2009.

The establishment of LPS was basically carried out as an effort to provide protection against two risks, namely irrational runs on banks and systemic risk. In carrying out business, banks usually only leave a small portion of the deposits they receive in case there is a withdrawal of funds by customers. Meanwhile, the largest portion of existing savings is allocated for providing credit. This situation causes banks to be unable to meet large requests immediately for the customer deposits they manage, if withdrawals occur suddenly and in large amounts. The limitation in providing cash funds is because banks cannot immediately withdraw the loans they have disbursed. If a bank cannot fulfill a customer's deposit withdrawal request, the customer usually panics and will close their account at the bank in question, even if the bank is actually healthy. Meanwhile, systemic risk occurs when the bankruptcy of one bank has a negative impact on other banks, thereby destroying the largest segment of the banking system.<sup>21</sup>

The function of LPS is to guarantee deposits from saving customers. In this case, savings are funds entrusted by customers to the bank in the form of current accounts, savings, time deposits, certificates of deposit, or other equivalent forms. Guaranteeing customer deposits also includes guarantees that are equivalent to deposits for banks that use sharia principles.

The types of deposits guaranteed by LPS are confirmed in Article 10 and Article 96 paragraph 1 of the LPS Law, which states that LPS guarantees bank customer deposits in the form of current accounts, deposits, certificates of deposit, savings, and/or other equivalent forms. Meanwhile, Article 96 paragraph 1 of the LPS Law emphasizes that LPS carries out the function of guaranteeing deposits for banks based on sharia principles. So the customer deposit guarantee program also applies to banks based on sharia principles. This program for guaranteeing bank customer deposits based on sharia principles is further regulated in the Government Regulation on Guaranteeing Bank Customer Deposits Based on Sharia Principles.

Based on PP no. 39/2005, LPS guarantees customer deposits from banks based on sharia principles, both Commercial Banks and Rural Precredit Banks that carry out business activities based on sharia principles, as well as Sharia Business Units from conventional banks, in accordance with the provisions of the LPS Law. 152 Thus, it is clear that Electronic money is not included as savings according to the Banking Law, because the value of the money deposited by the electronic money holder to the issuer is not placed in a bank account. These savings are essentially public funds placed in bank accounts. Because it is not a deposit, prospective holders and holders of electronic money do not have to open a bank account like ATM debit card holders, who must first open a bank account.

Provisions regarding the types of guaranteed deposits and payment mechanisms are regulated in Article 10 and Article 17 of the LPS Law. In relation to deposit payments, Article 19 of the LPS Law clearly stipulates that if customer deposit data is not recorded with the bank, LPS will not pay claims for these deposits. Customers who feel disadvantaged can submit an objection to LPS or the court.

In the event that LPS accepts a customer's objection, LPS will only pay the customer's deposit in accordance with the guarantee along with reasonable interest. Currently, LPS is reviewing the possibility of providing guarantees for customer funds stored in electronic money.

Based on research by Morgan Stanley, the average electronic money balance for individual customers reaches around IDR. 412,000 per month, or around Rp. 7 million per year. Large electronic money balances are generally owned by merchants who use electronic wallet services.<sup>22</sup> Based on survey results, in 2018 e-money transactions increased fourfold to Rp. 47.2 Trillion. This is equivalent

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<sup>19</sup>Gatot Supramono, *Hukum Uang di Indonesia*, (Bekasi: Gramata Publishing, 2014), hlm.95

<sup>20</sup>*Ibid*

<sup>21</sup> Halim Alamsyah, Transformasi Organisasi LPS, <http://lps.go.id/news/-/asset/publisher/Ec5A/content/latar-belakang>, diakses pada tanggal 20 Januari 2022

<sup>22</sup> CNBC Indonesia, <https://www.cnbcindonesia.com>, diakses pada tanggal 20 Januari 2022

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to the compound annual growth rate (CAGR) for the last 5 years, namely 75% and the e-money market share of 7.3% from non-cash transactions, placing Indonesia four years behind India.<sup>23</sup>

LPS board of commissioner's member Destry Damayanti said that his party had formed a team to discuss with the financial services authority (OJK) to review initiatives to expand guarantee coverage. According to him, electronic money balances deposited in digital wallets are different from those stored in deposits, current accounts or banking savings. In accordance with the mandate of the law, deposit insurance institutions can only guarantee funds that are defined as savings. So in relation to electronic money currently in circulation, as long as the funds are not defined as savings, LPS cannot enter there to provide guarantees.

According to Destry, his party is currently discussing the same options with the OJK regarding guarantees for crowdfunding financial technology platforms. (Crowdfunding). Even though Crowdfunding collects public funds, the managed funds are not defined as savings. The explanation is as follows: "So can this be included as savings, if the definition includes savings, of course there is an implication that it also includes collateral." This study was carried out in line with the increase in electronic money balance limits that can be stored on digital wallet platforms. In accordance with the current provisions in force, in Bank Indonesia Regulation Number 20 of 2018, the balance limit for unregistered electronic money users is IDR. 2 million. The balance limit for registered electronic money users can reach IDR 10 million.<sup>24</sup>

Since electronic money is not a deposit, electronic money itself is not guaranteed by LPS. If an electronic money issuer has their business license revoked as a bank, it means that the value of electronic money stored on an electronic money card is not included in the fund guarantee program from LPS. Because it is not a deposit, the balance deposited on an electronic money card does not pay interest. In order for the remaining balance recorded on an electronic money card to be protected, it is necessary to guarantee legal protection for funds stored in electronic money by placing them as privileged receivables, because currently the circulation of money in electronic money is very large, so it is very necessary to provide guarantees. towards customer funds. So, as long as there is remaining electronic value in the electronic money card, the electronic money issuer is obliged to return it to the electronic money holder.

However, the process of guaranteeing electronic money customer funds by LPS needs a more in-depth study so that there are no conflicts with the regulations that currently regulate electronic money. Currently, the study regarding whether LPS can guarantee customer funds is still at the stage of reviewing the definition of electronic money itself. And it is possible that in the future LPS will guarantee electronic money customer funds if they reach a point of agreement between LPS and OJK as the relevant institutions regarding customer funds.<sup>25</sup>

The urgency of guaranteeing customer funds for electronic money users by customer fund guarantee institutions (LPS) is currently not yet at the point where it is really needed. Because currently existing regulations regarding electronic money, both regulated by Bank Indonesia Regulations and Financial Services Authority Regulations, are still able to protect the rights of customers using electronic money, but this does not rule out the possibility that in the future LPS will guarantee electronic money customer funds. , seeing the very rapid development of electronic money users and the very large circulation of money, of course LPS can be present as a guarantee institution, of course with updated regulations. And currently LPS is also reviewing with OJK whether LPS should be present as a guarantor of electronic money customer funds.

It is hoped that in the future, with increasingly rapid technological developments, LPS will be given authority by the government to protect customers using electronic money, as a form of the government's efforts to create social justice for all Indonesian people, because currently, although there are many regulations governing the protection of customers using electronic money, However, in practice, many electronic money users still feel confused if a problem occurs. This is because there are too many regulations governing it so that there is overlap between one regulation and another. So, with the presence of LPS, it is hoped that it will be the answer to protecting customers who use electronic money, because it will make it easier for customers to claim funds if a problem occurs, by simply reporting to LPS as the institution authorized to handle deposit funds in Indonesia.

## CONCLUSION

1. Electronic money is essentially cash that is converted into electronic data which is stored on storage media on a card in the form of a chip or server belonging to the electronic money holder. The value of electronic money is also recorded on electronic media managed by the electronic money issuer. Payment transactions with electronic money are carried out by transferring funds electronically to the merchant's payment terminal, by directly reducing the value of electronic money on electronic media managed by the electronic money holder. The status of the value of money received by the electronic money issuer, both for the results of the electronic money issuance and the top-up, is float funds, which is the obligation of the electronic money issuer to the electronic money holder and merchant at the time of reconciling billing by the merchant to the electronic money issuer

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<sup>23</sup> *Ibid*

<sup>24</sup> Media Indonesia, LPS Kaji Jaminan Dana di Uang Elektronik, [https:// m.mediaindonesia.com](https://m.mediaindonesia.com), diakses pada tanggal 20 Januari 2022

<sup>25</sup> *Ibid*



## Protection of Electronic Money Saving Customers At The Bank

2. The urgency of guaranteeing customer funds for electronic money users by customer fund guarantee institutions (LPS) is currently not yet at the point where it is really needed. Because currently existing regulations regarding electronic money, both regulated by Bank Indonesia Regulations and Financial Services Authority Regulations, are still able to protect the rights of customers using electronic money, but this does not rule out the possibility that in the future LPS will guarantee electronic money customer funds. , seeing the very rapid development of electronic money users and the very large circulation of money, of course LPS can be present as a guarantee institution, of course with updated regulations. And currently LPS is also reviewing with OJK whether LPS should be present as a guarantor of electronic money customer funds.

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