

Pertanggungjawaban bank terhadap risiko pelanggaran data pribadi nasabah dalam penyelenggaraan open banking = Bank's liability to the risks of customers' personal data breach in the implementation of open banking.

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Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20513412&lokasi=lokal>

Abstrak

Perkembangan teknologi yang pesat di sektor jasa keuangan menggeser paradigma dan aktivitas industri Perbankan ke arah digitalisasi. Eksistensi Financial Technology (Fintech) dalam industri Perbankan mendisrupsi pasar keuangan yang selama ini didominasi oleh Bank sebagai badan usaha yang memberikan layanan jasa keuangan kepada Nasabah. Terlepas dari Bank yang telah memiliki layanan Perbankan digital, partisipasi Fintech sebagai pesaing di industri Perbankan menjadi ancaman yang serius bagi Bank karena Bank khawatir loyalitas Nasabahnya akan beralih ke Fintech. Dalam rangka mempertahankan eksistensinya, Bank berkolaborasi dengan Fintech dengan menyelenggarakan Open Banking. Bank membuka sistem internalnya kepada Fintech selaku Penyelenggara Pihak Ketiga melalui mekanisme data sharing menggunakan teknologi Open Application Programming Interfaces (Open APIs) agar Fintech dapat mengakses data Nasabah Bank, termasuk Data Pribadinya untuk diproses dalam rangka memberikan layanan kepada Nasabah. Metode penelitian yuridis normatif digunakan untuk menjawab rumusan masalah mengenai pengaturan terhadap perlindungan Data Pribadi di berbagai negara dan tanggung jawab Bank terhadap potensi risiko pelanggaran Data Pribadi Nasabah dalam penyelenggaraan Open Banking, seperti pengumpulan Data Pribadi melebihi persetujuan, kebocoran Data Pribadi akibat serangan siber dan gangguan keamanan sistem elektronik, pengambilan Data Pribadi tanpa hak akibat keterbatasan pengetahuan Nasabah terhadap layanan Open Banking, dan penurunan reputasi Bank. Dalam hal ini, Bank bertanggung jawab untuk melakukan manajemen risiko, menentukan standar data dan standar keamanan minimum, menyusun kontrak APIs yang memenuhi standar, membentuk standard governing body untuk mengawasi penyelenggaraan Open Banking, dan menyediakan layanan pengaduan dan penyelesaian sengketa bagi Nasabah.

.....The rapid development in financial service sector has shifted the paradigm and the activity of banking industry to digitalization which are indicated by the emergence of Fintech companies. The presence of Fintech in banking industry disrupts financial market that has been dominated by Bank as business entity providing financial services to customers. Despite the banks provision of digital banking services, Fintech participation as competitor in banking industry appears as serious threat to banks as banks are concerned of their customers' loyalty and trust that may shift to Fintech. In order to maintain its existence, bank collaborates with Fintech by implementing Open Banking. Bank opens its internal system to Fintech as third party provider through data sharing mechanism applying Open Application Programming Interfaces (Open APIs) technology so that Fintech can access bank's customers data, including their personal data to be processed to provide services to customers. The legal-normative research method is used to answer the research questions regarding the regulation of personal data protection in some countries and the bank's liability to the potential risk of customers' personal data breach in implementing Open Banking, such as the collection of customers' personal data that exceeds from its agreement, the leak of personal data due to

cyber attacks and disturbance of electronic system security, excessive access of customers' personal data without rights due to customers' limited knowledge of Open Banking service, and the degradation of bank's reputation. In this case, bank is liable to carry out risk management, to determine minimum data standards and security standards, to arrange APIs contract standard, to establish standard governing body to supervise the implementation of Open Banking, and to provide complaint and dispute resolution services for customers.