

Credit Card Holders and Users as a Means of Payment in Legitimate Commercial Transactions

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Abstract

This study aims to examine the legal aspects of credit card usage as a payment tool in commercial transactions, focusing on the mechanism of credit card use in buying and selling transactions, as well as legal protection for the parties involved. The research employs a normative juridical approach, relying on secondary data as the primary research material. Data was obtained from documents provided by Bank Danamon and BCA in Tangerang and analyzed using a normative qualitative method. Credit cards, issued by banks in Indonesia, are a form of credit facility provided by the issuing bank to users, enabling them to make purchases at designated locations. The findings reveal that, from a legal perspective, the use of credit cards involves incidental agreements that arise at the moment of a transaction, whether it is a purchase or a service. While the mechanisms for approval differ between issuing banks, the requirements and procedures are relatively similar. Legal protection for the parties involved in credit card transactions occurs during the signing of the credit card agreement between the issuer and the cardholder. However, there is no explicit legal framework governing this matter. Common challenges include fraud, forgery, and theft. To mitigate these risks, it is recommended to store credit cards securely, ensure the inclusion of signatures and photos on the front panel of the card, and prohibit card transfer to third parties. In the event of card loss, the cardholder must immediately contact the issuing bank.

Keywords: Credit Card, Legitimate, Commercial Transactions

1. Introduction

The legal applicability of credit cards in society, when it comes to the law, the role of law is considered essential for the creation and development of markets. The essential nature of law here is attributed to its ability to provide predictability to economic actors, or in other words, to offer legal certainty in the conduct of their business activities.

In fulfilling its role within society, the law plays a very important function. J.F. Glastra Van Loon, in his book *Dirdjosisworo*, outlines the following key functions of law: 1). Organizing society and regulating social interactions. 2). Resolving conflicts. 3). Maintaining and preserving order, rules, and, when necessary, enforcing them through force. 4). Understanding or preserving and maintaining the above. 5). Modifying the rules and regulations to adapt to the changing needs of society. 6). Regulating changes to ensure justice (*rechtvaardigheid*), efficiency (*doelmatigheid*), and legal certainty (*rechtzekerheid*).

The sale and purchase agreement is regulated under Book III, Chapter V, Articles 1457 to 1540 of the Indonesian Civil Code (KUH Civil). Article 1457 of the Civil Code defines a sale and purchase agreement as an agreement in which one party commits to transfer a property to another party, who agrees to pay the agreed price. From this definition, two obligations can

be identified in a sale and purchase agreement: 1). The seller's obligation to deliver the goods sold to the buyer. 2). The buyer's obligation to pay for the goods purchased to the seller.

Based on the definition in point 2, regarding the buyer's obligation to pay for the purchased goods, the payment must be in Indonesian rupiah. Given this understanding, it can be assumed that by presenting a credit card and signing the invoice provided by stores, restaurants, hotels, and others, the cardholder has effectively made a payment for the transaction. This is because payment (betaling) is not solely limited to debt settlement. From a technical legal perspective, payment is not always required to be in the form of a specific amount of money or goods but can also take the form of service fulfillment or immaterial payment.

Furthermore, payment can be made freely as long as the "understanding" is clear. Once it is understood that the payment made by an individual is intended to fulfill the agreement, it is sufficient for legal purposes. The scope of the discussion in this text is primarily focused on the Civil Code (KUH Civil) and the Criminal Code (KUHP), with a specific concentration on Book III of the Civil Code.

2. Methods

In this study, a normative juridical approach is used, which is a method of addressing issues to be researched based on legal principles, legal norms, applicable laws and regulations, and relevant legal theories. This approach provides a framework for proof or testing to ascertain the truth. The normative juridical approach is a procedure used to solve research problems by first examining secondary data, followed by field research. The data collected in this study includes secondary research materials, obtained from literature research and supported by field research.

2.1. Literature Research

The data obtained through literature research is secondary data, which includes primary, secondary, and tertiary legal materials:

a. **Primary Legal Materials:**

- 1) The 1945 Constitution and its Amendments.
- 2) Law No. 7 of 1992 on Banking, as amended by Law No. 10 of 1998 on Amendments to Law No. 7 of 1992 on Banking.
- 3) The Civil Code.
- 4) The Commercial Code.
- 5) Presidential Decree No. 6 of 1988 on Financing Institutions.
- 6) Minister of Finance Decree No. 1251/KMK-013/1998 on Provisions and Procedures for the Implementation of Financing Institutions.

b. **Secondary Legal Materials:**

- 1) Various decisions regarding Credit Cards.
- 2) Research results on Credit Cards.
- 3) Seminar proceedings on Credit Cards.
- 4) Various writings on Credit Cards.

c. **Tertiary Legal Materials:**

- 1) Legal Dictionaries.
- 2) Dutch-Indonesian Dictionary.
- 3) English-Indonesian Dictionary.
- 4) Indonesian Dictionary.
- 5) Encyclopedias.

2.2. Field Research

The data obtained from field research is primary data, concerning everything related to the subject of this writing. To gather this primary data, the research area and subject were defined. The data collection techniques are as follows:

- a. Library Research: In library research, the tool used is document study, which involves studying secondary data materials. First, laws and regulations related to Credit Cards, the object of this study, are grouped and organized into a systematic framework to facilitate analysis.
- b. Field Research: In field research, the tool used is interviews. The interview conducted is a semi-structured interview, where a list of questions is prepared in advance as a guide. However, variations in questions are allowed, adjusted to the interview situation. The aim is to achieve maximum fairness.

2.3. Data Analysis

Both secondary and primary data obtained from the research are grouped and classified according to their respective fields, then systematically organized and analyzed normatively and qualitatively. This analysis is based on legal knowledge, legal principles, legal concepts, and legal arguments.

3. Result and Discussion

3.1. Credit Card Issuance Procedure

The issuance of a credit card involves three main parties: the issuer, the cardholder, and the merchant. The procedure consists of several stages, which follow the fulfillment of the requirements set by the issuer. The steps are as follows:

- a. Filling out the application form.
- b. Completing the agreement form.
- c. Paying the initial deposit.
- d. Providing proof of a bank account or bank deposit.
- e. Presenting the company's deed of incorporation or business license (for applicants who own a business).

The next stage involves the issuer conducting an assessment of the applicant's ability to pay and their financial credibility. This assessment is crucial, as the applicant's financial capability and credibility are key considerations in determining whether the application will be approved or rejected. This preventive measure ensures that cardholders are capable of fulfilling their future billing obligations. If the issuer/bank determines that the applicant meets all the requirements and is trustworthy, the prospective cardholder is invited to sign the "Credit Card Membership Agreement."

3.2. Credit Card Usage Mechanism

The process begins with a legal relationship between the card issuer and the prospective cardholder, initiated by completing the "Credit Card Application Form." The procedure for applying for specific credit cards is outlined below:

BCA Credit Card

- a. Prospective BCA credit cardholders are required to fill out the credit card application form for every new credit card application.
- b. General requirements for BCA credit card applications include: 1) The applicant must be at least 21 years old and not older than 65 years old at the time of application. 2) The applicant must meet the following minimum income requirements:

- 1) For BCA Card Blue, Visa Card Classic, or MasterCard Regular: IDR 15,000,000/year.
- 2) For BCA Card Gold, Visa Card Gold, or MasterCard Gold: IDR 60,000,000/year.

3.3. Mechanism of Credit Card Usage in Commercial Transactions

The mechanism or operational process of credit card usage begins with the establishment of a legal relationship between the issuer (credit card issuer) and the prospective credit cardholder. This relationship specifically involves:

- a. The provision of credit facilities by the issuer to the cardholder.
- b. The provision of other facilities by the issuer to the cardholder.

Credit card companies, like other businesses, aim to expand their market share by fostering relationships and collaborations with various businesses that have significant potential and opportunities to directly engage with consumers. Businesses that operate in sectors directly related to consumers are considered effective partners for facilitating credit card services. The relationship and collaboration between the credit card issuer (bank or credit card company) and other businesses (merchants) are established through mutually beneficial agreements. Once an agreement is signed, a legal relationship is formed, typically lasting for a relatively long period.

The operational activities of credit card companies, cardholders, and their interactions with merchants require specific legal frameworks. Credit card operations are regulated under the authority of the Ministry of Finance. In general, the credit card mechanism as a payment tool is based on agreements that establish a legal relationship between three parties:

- a. The issuer and the cardholder.
- b. The cardholder and the merchant.
- c. The merchant and the credit card issuer.

These three legal relationships form an interconnected chain that cannot operate independently, as they are mutually dependent on each other:

- a. Each party benefits from the other.
- b. Cooperation among the three parties is mutually supportive and interdependent.

3.4. Credit Card Issuing Institutions

Credit card issuing institutions can include:

- a. Banks.
- b. Non-Bank Financial Institutions.
- c. Financing Companies.

Credit card companies, like other payment institutions, can take the form of limited liability companies or cooperatives. Financing activities conducted by such companies must be authorized by the Ministry of Finance. Credit card companies operate under the supervision and guidance of the Ministry of Finance, requiring them to submit mandatory business reports, including:

- a. Operational Reports.
- b. Financial Reports, which must be audited by a public accountant and published in daily newspapers.

This regulation serves as a form of public oversight, ensuring accountability to those entering into agreements with credit card companies and utilizing their products. Additionally, credit card companies, like other financing companies, are prohibited from directly raising

funds from the public in the form of demand deposits, savings, time deposits, or promissory notes. Promissory notes can only be issued as collateral for loans from banks.

Credit card companies may be established as limited liability companies or cooperatives, with operational licenses granted by the Ministry of Finance. Limited liability companies in the credit card sector can be owned by:

- a. Indonesian citizens, and/or
- b. Joint ventures involving foreign businesses and Indonesian citizens.
- c. **Shareholder ownership and requirements for foreign-owned enterprises**

3.5. Procedures for Obtaining a Credit Card

Before issuing a credit card, the issuer must establish a legal relationship between the involved parties. The issuance of a credit card typically involves three parties: the **Issuer**, the **Cardholder**, and the **Merchant**. The process follows several stages, but two main prerequisites must be fulfilled before issuance:

- a. **General requirements** these are standard conditions set by banks or companies for issuing credit cards, which include:
 - b. Completing an application form: The form must be filled out as provided by the issuing bank or company. It includes the following information:
 - c. Applicant's passport-size photograph. Applicant's identification details, including:
 - a. Full Name
 - b. Residential Address
 - c. Billing Address
 - d. Nationality
 - e. If applicable, company name, business sector, position, and company address.
 - f. Monthly income.
 - g. Bank details (if the applicant is a bank customer), including the bank's name, address, and account type.
 - h. Details of existing credit cards, if any, including the card's name and issuing bank.
- d. The form must be signed by the applicant and stamped with an IDR 6,000 duty stamp.
 - 1). Signing an agreement form with a stamp.
 - 2). Paying an initial deposit.
 - 3). Providing proof of a bank account or a fixed deposit in the bank.
- e. **Specific requirements** these are specific criteria set by certain banks. For example:
 - 1) **Bank of America** requires applicants to have a minimum account balance of **USD 250** and a monthly income of at least **USD 1,000**.
 - 2) **BCA** requires a sufficient account balance of approximately **IDR 250,000** but does not specify a minimum income.

3.6. Issuance of the Credit Card

Once all requirements are met and the bank or company deems the applicant eligible, the following details are determined:

- a. The **serial number** of the credit card.
- b. The **expiration date** of the card (for example, BCA cards are valid for one year).
- c. The **transaction limits** for purchases, which may vary depending on the type of merchant, such as retail stores, hotels, or restaurants.

Once the cardholder receives the credit card in its entirety, they will also receive a receipt that serves as proof of payment. After fulfilling the conditions required by the issuer, the following steps must be completed:

- a. Submitting an application/request form.
- b. Filling out an agreement form.

- c. Paying an initial deposit.
- d. Providing proof of a bank account or deposit at the bank, and/or
- e. Presenting the company's deed of establishment and business license (for those who own a business).

The next stage involves an assessment by the issuer to evaluate the applicant's ability to repay and their creditworthiness. This evaluation is critical as it serves as the basis for deciding whether the application will be approved. This precautionary measure aims to prevent future inability to settle any outstanding charges. If the issuing company or bank deems that the applicant meets all the required conditions and is deemed trustworthy, they will be invited to sign the credit card membership agreement.

3.7. Credit Card Usage

When making a payment with a credit card, the cardholder only needs to present the card. The payment officer will verify the following through a procedure:

- a. Checking the validity of the credit card: The cashier will confirm whether the credit card is still valid or has expired. If the card is no longer valid, the cashier will reject it.
- b. Cross-checking with the blacklist: If the card is valid, the cashier will check the most recent blacklist provided periodically by the issuing bank. This ensures that the credit card number has not been reported as lost or suspected of fraud. If the card number is on the blacklist, it will be rejected.
- c. Printing the transaction: If the card passes the checks, the cashier places it on an imprinter machine along with a triplicate invoice form and prints the details.
- d. Imprinting the details: The cashier uses the imprinter to transfer the cardholder's details onto the triplicate invoice form.
- e. Filling out transaction details: The cashier records the transaction date and amount on the invoice.
- f. Requesting approval for large transactions: If the transaction amount exceeds the purchase limit, the cashier will contact the issuer for approval. If approved, the authorization number must be written on the invoice.
- g. Signing the invoice: The cashier will ask the cardholder to sign the invoice without comparing it to the signature on the card. The cashier will then verify if the signature matches the one on the card.
- h. Distributing the invoice copies: The triplicate invoice will be separated, with one copy for the merchant, one for the cardholder, and one for submission to the issuing bank for billing purposes.

A few days later, the merchant will send the billing invoice along with supporting documents to the issuing company or bank. It typically takes one to two weeks for the billing amount to be disbursed. Before payment is made, the issuing bank will deduct a commission of 3% to 7% of the total amount.

3.8. Legal Protection for Parties from the Perspective of Civil Law

In general, civil law aspects dominate activities related to using credit cards as a payment instrument compared to other legal aspects. The legal relationships in credit card usage involve multiple interconnected agreements. In the credit card usage mechanism involving three parties, each party engages in dual agreements and holds dual positions. **Legal Relationships**

- a. **Issuer and cardholder** this relationship arises from the credit card agreement, which is a standard agreement. The agreement details the rights and obligations of both the issuer and the cardholder.
Cardholder rights include:
 - 1) Using the credit card as evidence to obtain goods and/or services.
 - 2) Accessing cash withdrawals.
 - 3) Additional rights, such as requesting card replacements or filing complaints.
- b. **Cardholder obligations include:**
 - 1) Paying the bills issued by the company/bank.
 - 2) Settling other obligations such as interest and fees.
 - 3) Paying administrative costs.
- c. **Issuer and merchant** the relationship between issuers and merchants is based on mutually beneficial cooperation agreements, obliging merchants to perform certain tasks. Issuers' rights include:
 - 1) Receiving administrative fees.
 - 2) Enforcing agreed-upon conditions. Issuers' obligations include:
 - 3) Paying merchants' claims within a specified period for transactions with cardholders. Merchants' rights include:
 - 4) Submitting claims to the issuer.
 - 5) Receiving payments for their claims. Merchants' obligations include:
 - 6) Accepting transactions conducted by cardholders in compliance with the terms.
 - 7) Serving cardholders in transactions for goods/services.
 - 8) Paying administrative fees.
- d. **Merchant and Cardholder** This relationship is based on a sales contract. The merchant, as the seller, must deliver goods or services to the cardholder as the buyer. However, the cardholder is not directly obligated to pay the merchant, as the credit card agreement transfers this obligation to the issuer. Similarly, the merchant's rights cannot be directly enforced on the cardholder but must be transferred to the issuer.

3.9. Legal Protection for Parties from the Perspective of Criminal Law

Credit card usage in society may involve criminal aspects, including potential crimes related to credit card misuse. **Collaboration** Crimes involve collaboration between two or more individuals, such as between the cardholder and credit card issuer staff, aiming for personal gain. **Types of Crimes in Credit Card Usage**

- a. **Fraud** examples include:
 - 1) Conducting fictitious transactions through collusion between the cardholder and merchant, causing losses to the issuer.
 - 2) Conducting transactions exceeding the actual amount.
 - 3) Using “authentic but counterfeit” credit cards.
 - 4) Fraud is typically aimed at personal or group benefit, targeting the issuer but sometimes harming merchants.
- b. Theft can involve stealing the card itself or related documents, leading to losses for the cardholder, issuer, and merchant until the stolen card is reported and blocked.
- c. **Forgery** examples include:
 - 1) Forging the credit card itself.
 - 2) Forging the authorized signature.
 - 3) Falsifying transactions or altering transaction slips.
 - 4) Creating duplicate credit cards.

3.10. Misuse in Credit Card Mechanisms

Misuse in credit card payment mechanisms can be perpetrated by any involved party or third parties. Misuse includes scenarios where issuers refuse to disburse funds or fail to fulfill agreed-upon obligations. Second, there are several types of criminal acts, such as: Forgery

Forms of forgery related to credit card usage include forging the credit card itself, forging authorized signatures, falsifying transactions or replacing slips, and duplicating credit cards. The primary objective of these forgery crimes is to benefit the perpetrator or a syndicate, with the issuing bank as the target. However, legitimate credit cardholders and merchants may also suffer indirect losses. To address the issue of forgery, merchants legally have two options for resolution:

Filing a claim against the buyer: This can be based on the theory that the agreement between the merchant and the buyer is a conditional sale and purchase agreement, as stated in Article 1253 of the Civil Code (KUH Civil), which reads: "An obligation is conditional if it is dependent on a future event that is uncertain, either suspending the obligation until such an event occurs, or canceling the obligation depending on whether or not the event occurs."

Article 1265 (1) of the Civil Code reads: "A condition precedent is a condition that, when fulfilled, terminates the obligation and restores everything to its original state as if the obligation never existed." Article 1265 (2) of the Civil Code further states: "This condition does not suspend the performance of the obligation; rather, it obliges the creditor to return what has been received if the specified event occurs."

3.11. Filing a claim directly against the issuer

This is because the issuer has already authorized the transaction (usually by telephone) to the merchant. By providing authorization, the issuer agrees and binds itself to pay for the goods/services. If the issuer fails to make the payment, the merchant can directly file a claim against the issuer.

If the credit card issuance agreement is void (e.g., due to fraud by the cardholder), the sale and purchase agreement must also be considered void. This is because the credit card usage agreement (between the issuer, cardholder, and merchant) is accessory to the primary agreement of credit card issuance between the issuer and the cardholder. If the merchant incurs losses as a result, the buyer may file a claim against the party responsible for the fraud, in this case, the cardholder. Such a claim can be based on unlawful acts under Article 1365 of the Civil Code or breach of contract under specific agreements.

Fraud forms of fraud include:

- a. Engaging in fictitious transactions, often involving collusion between the cardholder and the merchant, resulting in losses for the issuer.
- b. Conducting transactions exceeding the actual purchase amount.
- c. Using credit cards that are "genuine but fraudulent."

The objective of such fraud is to benefit individuals or groups at the expense of the issuing company/bank, and potentially the merchant as well.

To address this issue, the following criminal sanctions can be applied:

- a. Forgery of documents, as stated in Articles 263 and 264 of the Indonesian Penal Code (KUHP).
- b. Fraud, under Article 378 of the Penal Code.
- c. Corruption, if it involves government entities, state-owned banks, or government-owned companies.
- d. Patent-related crimes, under Articles 126 to 129 of Law No. 6 of 1989 on Patents.

3.12. Anticipating and Overcoming Barriers in Credit Card Usage

Misuse of credit cards, such as counterfeiting, theft, and fraud, often occurs due to negligence by credit cardholders, despite warnings provided by the issuing banks. To prevent these issues, the following rules for credit card usage should be observed:

- a. **Safe Storage:** Credit cards must be stored securely by the cardholder.
- b. **Signature Requirement:** Cardholders are required to sign on the designated signature panel located on the back of the card.
- c. **Non-Transferable:** Cards must not be transferred to anyone else. Only the cardholder is authorized to sign the sales draft.
- d. **Responsibility Before Reporting:** If the card is lost or stolen, the cardholder remains responsible for all transactions until the loss is reported to the issuing bank.
- e. **Liability for Losses:** Any losses or costs incurred due to the misuse of the card, PIN, or unreported theft/loss resulting from the cardholder's error or negligence shall be the sole responsibility of the cardholder.

By adhering to these rules, both cardholders and other stakeholders can mitigate risks associated with credit card misuse, including loss, counterfeiting, or fraud. All parties, especially credit cardholders, must comply with these guidelines as outlined by the issuing bank to ensure safe and responsible use.

3.13. Legal Protection for Stakeholders in Credit Card Usage

The widespread use of credit cards in society has significant implications, as the number of credit cardholders continues to grow alongside the increasing number of merchants accepting credit card payments. Credit card mechanisms encompass the interests of various stakeholders, including both private and public interests.

The extensive scope of interests in credit card usage involves multiple parties, such as:

- a. **Financial Institutions:** Banks and non-bank institutions that issue credit cards.
- b. **Merchants:** Businesses in the trade, goods, and services sectors (e.g., supermarkets, hotels, restaurants, transportation companies, and travel agencies).
- c. **Consumers:** Individuals who use credit cards as a payment method.
- d. Given the broad range of interests related to credit cards, from issuance to usage, legal aspects must also cover a wide spectrum.

3.14. The Roles of Stakeholders in Credit Card Issuance and Use

In the issuance and use of credit cards, several stakeholders are directly involved, namely: the bank or institution issuing the credit card (Issuer), the cardholder, and the merchant. Bank or credit card issuer the bank issuing the credit card acts as the entity responsible for paying the merchant in advance for all expenses incurred by the cardholder. Upon the due date, the bank collects payment from the cardholder by sending a credit card usage bill or billing statement. In the transaction mechanism for purchasing goods or services or withdrawing cash using a credit card, an essential part of the bank is the authorization department. Authorization refers to the mechanism by which the bank grants approval for transactions exceeding the floor limit set for merchants. This department serves as the control system that determines whether transactions are approved. Since the authorization department must handle requests for approval from all transactions, both domestic and international, it operates 24/7.

Three legal relationships typically arise in the use of credit cards:

- a. Between the bank or credit card company and the cardholder,
- b. Between the bank or credit card company and the merchant, and
- c. Between the cardholder and the merchant.

Cardholder a cardholder is the individual whose name is printed on the credit card and who is authorized to use the card at merchant locations. The cardholder is the legitimate holder of the credit card. The card is non-transferable and must be signed by the cardholder, distinguishing it from other negotiable instruments that can be transferred under specific clauses. A credit card holder benefits from the card in several ways:

- a. Security: Eliminates the need to carry large amounts of cash.
- b. Convenience: Simplifies transactions.
- c. Prestige: Reflects social status.
- d. International Use: Accepted globally.
- e. Cash Withdrawals: Enables cash advances.
- f. Travel Insurance: Includes coverage for trips.
- g. Flexible Payments: Allows structured payment plans.
- h. PIN Usage: Ensures secure payments through Personal Identification Numbers.

Merchants refer to businesses or establishments where credit cards can be used, such as hotels, restaurants, entertainment venues, and more. Not all businesses can become merchants for credit cards.

3.15. Legal Relationships Among Stakeholders in Credit Card Usage

The use of credit cards as a payment tool is based on agreements among the stakeholders. The agreements involve a triangular legal relationship between three parties:

- a. The credit card issuer (bank) and the cardholder,
- b. The credit card issuer (bank) and the merchant, and
- c. The cardholder and the merchant, whose agreement is typically incidental, limited to specific transactions or services at a given time.

The triangular agreement described above essentially consists of individual agreements that stand independently but are materially interrelated, creating mutual benefits for the involved parties, namely the credit card issuing company/bank. The primary agreement is established between the issuer and the credit cardholder, wherein the issuer provides credit facilities. Each agreement formed within the triangular arrangement must adhere to the conditions and provisions outlined in Book III of the Indonesian Civil Code, particularly Article 1320, which sets out the legal requirements for a valid agreement. These requirements include:

- a. Mutual consent of the parties involved.
- b. Legal capacity to enter into a binding agreement.
- c. A specific subject matter.
- d. A lawful cause.

In practice, credit card agreements are considered standard or pre-formulated contracts. From the content of the agreement, the rights of credit cardholders are defined as follows:

- a. To use the credit card as proof of payment for goods and/or services.
- b. To withdraw cash using the credit card.
- c. To renew an expired card and obtain a replacement for a damaged or lost card.
- d. To raise objections in cases of calculation errors or other discrepancies.

3.16. Legal Relationship Between the Credit Cardholder and the Issuer

The use of a credit card refers to the activity of utilizing the card to obtain goods or services through non-cash payments. Legally, the use of a credit card by the cardholder is based on an agreement, which provides facilities for purchasing goods and/or services without

immediate payment. This agreement involves the issuer and the cardholder, as well as the issuer's agreements with its merchant partners.

According to Article 1338(1) of the Indonesian Civil Code, agreements lawfully made by the parties are binding as law. Hence, the legal basis for the use of credit cards as a payment instrument derives from the principle that a validly executed agreement carries the same weight as statutory law for the parties involved.

Although there are no specific provisions in the Civil Code (KUH Civil) or the Commercial Code (KUHD) regulating credit cards, Article 1319 of the Civil Code states that all agreements, whether named or unnamed, are subject to the general principles of agreements as outlined in Chapters One and Two of Book III of the Civil Code. Furthermore, Article 1338 of the Civil Code provides that agreements, including their terms and conditions, are legally binding upon the parties. Based on the principle of freedom of contract, all agreed-upon terms are effectively law for the contracting parties. The same principle applies to credit card agreements. Once the applicant has met all the requirements and signed the agreement, mutual consent is established, solidifying the rights and obligations of both parties under the agreed terms.

4. Conclusion

Handling misuse of credit cards in terms of forgery, fraud, and theft, and ways to address it. Misuse may occur by any party involved in the credit card transaction process or a third party. The misuse includes:

- a. Issuer's failure to pay merchant if the issuer refuses to pay the purchase price to the seller (merchant) after a transaction occurs between the buyer and the seller or between the credit card holder and the seller.
- b. Criminal acts various criminal acts can arise, such as:
 - 1) Forgery Forms of forgery related to credit card use include forging the credit card itself, forging authorized signatures, faking transactions, or replacing slips or creating duplicate cards. The main goal of these criminal acts is to benefit the perpetrator or syndicate, typically targeting the issuing bank, but they can indirectly harm legitimate cardholders and merchants.
 - 2) Fraudulent activities in credit card use include conducting fictitious transactions, where there is cooperation between the cardholder and the merchant to deceive the issuer, performing transactions exceeding the real amount, or using "real but fake" credit cards. These criminal acts aim to benefit the perpetrator or group, often targeting the issuing company/bank, but can also harm merchants.
 - 3) Theft Forms of theft related to credit card use include stealing the credit card or documents associated with its use. This theft directly harms the credit card holder, the issuing company/bank, or the merchant.

The legal relationship between the parties in the use of credit cards as a payment tool is a realization of the agreement made between the involved parties. The agreement is a tripartite contract involving:

- a. The issuer (Bank/Company) and the cardholder.
- b. The issuer (Bank/Company) and the merchant.
- c. The cardholder and the merchant accepting credit card payments.

In the issuance and use of credit cards, there are several parties directly involved: the issuer (bank or credit card issuer), the cardholder, and the merchant. Essentially, this tripartite agreement stands independently, but materially benefits the issuer (the bank). The main

agreement is between the issuer and the cardholder, providing credit facilities. The agreements made between the parties in this tripartite contract serve as the law for the involved parties.

5. Suggestions

- a. To address misuse of credit cards due to loss, forgery, or fraud, it is the responsibility of all parties, particularly the cardholder, to comply with the rules on credit card use and storage as communicated by the card issuer during the credit card approval process.
- b. There is a need for broader legal protection, not only for credit cardholders but also for merchants and issuers, who in certain cases also require balanced legal protection, including the clarification of each party's right to file claims against others.

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