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Digital Banks in Indonesia: Potential and Problems

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Abstract

Introduction: *Digital Bank based on POJK No.12/POJK.03/2021 Concerning Commercial Banks, is a bank incorporated in Indonesia that provides and carries out business activities mainly through electronic channels without a physical office other than the head office or using limited physical offices. Digital banks are then explained in Article 7B and Article 20A of the PPSK Law stating that both commercial banks and Islamic commercial banks can operate as digital banks. Based on this, the business fields of digital banks are the same as the business fields of commercial banks or Islamic commercial banks. Digital banks are divided into digital banks that are subsidiaries of conventional banks and banks that have been purely digital banks since their inception.*

Purposes of the Research: *Examine the potential of digital banks in supporting the economy and discuss the legal issues faced by digital banks.*

Methods of the Research: *This writing uses a normative legal research method with a statutory approach and a conceptual approach.*

Results Main Findings of the Research: *The results of the study show that in the current era of globalization where technology is not something that is difficult to access, digital banks are here to bring a breath of fresh air to the banking world. Customers will get instant services without having to come directly to the office to get 24-hour banking services. Digital banks have one problem, namely credit distribution carried out through applications or websites which causes credit analysis with the 5C method to not run optimally so that it will increase the ratio of non-performing loans or NPLs. Therefore, digital banks need to prepare a Bank Credit Policy (KPB) that accommodates digital bank credit distribution as part of digital bank risk management as mandated in Article 2 Number 1 of the Financial Services Authority Regulation Number 18/POJK.03/2016 concerning the Implementation of Risk Management for Commercial Banks. The policy must be able to make digital banks able to conduct credit analysis without sacrificing the principle of prudence. The policy can be in the form of a loan limit, tenor or examination of additional documents required so that there is no non-performing loan in the future.*

Keywords: Digital Bank; Prudent Principle; Banking Law.

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INTRODUCTION

National development aims to realize a just and prosperous Indonesian society based on Pancasila and the 1945 Constitution. The focus of national development is economic development that is carried out on a family basis by paying attention to harmony, alignment, and balance of elements of equitable development, economic growth, and national stability. Banking in this case plays a strategic role in development. Bank in terminology comes from the word "banca" which means a place to sit. Because in the Middle Ages, Italian bankers who gave loans did so by sitting on benches in the market yard.[1] A

[1] Munir Fuady, *Hukum Perbankan Modern*, Buku 1 (Bandung: Citra Aditya Bakti, 1999), p 13.

bank is a financial institution that is a place for individuals, private business entities, state-owned enterprises, and even government institutions to store their funds.[2] Kasmir defines a bank simply as a financial institution whose main activity is collecting funds from the public and distributing these funds back to the public as well as providing other banking services.[3]

Meanwhile, the definition of a Bank based on Article 1 Paragraph 2 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, hereinafter abbreviated as the Banking Law, is a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit and/or other forms in order to improve the standard of living of the people. Then in Article 13 of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law PPSK), a Bank is a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit or financing and/or other forms in order to improve the standard of living of the people. It can be concluded that a bank is an institution that provides services in the form of a place to store funds and distribute funds in the form of loans to people in need.

Based on Article 4 of the Banking Law, Indonesian banking aims to support the implementation of national development in order to improve equality, economic growth, and national stability towards improving the welfare of the people. Indonesian banking also has strategic goals and is not solely economically oriented, but also oriented towards non-economic matters such as issues concerning national stability which include political stability and social stability.[4]

In terms of function, there are 4 types of banks, namely:[5] a) Central Bank, namely a bank that has the right to circulate coins or paper money; b) Commercial Bank is a bank that in its business of collecting funds mainly accepts savings in the form of demand deposits and deposits. In its business, commercial banks mainly provide short-term credit; c) Savings Bank is a bank that in its business of collecting funds mainly accepts deposits in the form of savings and in its business mainly invests its funds in valuable papers; d) Development Bank is a bank that in its business of collecting funds mainly accepts deposits in the form of deposits and/or issues medium and long-term valuable papers. In its business, this type of bank mainly provides medium and long-term credit in the development sector; e) Other banks that will be implemented by law according to economic needs and developments.

Types of banks according to the PPSK Law are divided into Commercial Banks and People's Economic Banks (BPR). Commercial Banks are Banks that carry out business activities conventionally and/or based on Sharia Principles which in their activities provide services in payment transactions. While People's Economic Banks are Banks that carry out business activities conventionally or based on Sharia Principles which in their activities do not provide services in direct giro transactions.

The development of technology brings changes to society. This can be seen from the many digital platforms that are present in various sectors of life, ranging from health, education, business, finance, to religion. In addition, the Covid-19 pandemic which forced

[2] Hermansyah, *Hukum Perbankan Nasional Indonesia* (Jakarta: Kencana Prenada Media Group, 2013), p 7.
[3] Kasmir, *Bank Dan Lembaga Keuangan Lainnya* (Jakarta: PT. Raja Grafindo Persada, 2015), p 25.
[4] Hermansyah, *Hukum Perbankan Nasional Indonesia*, p 20.
[5] Rachmadi Usman, *Aspek-Aspek Hukum Perbankan Di Indonesia* (Jakarta: PT Gramedika Pustaka Utama, 2001), p 24.

people to limit interactions outside the home also further fostered this digital lifestyle.[6] Thus, it is not surprising that the banking world has also developed with the presence of digital banks.

Currently, the use of technology in people's economic activities is done digitally. Today's society no longer carries large amounts of cash. As a result, digital banks, also known as neobanks, have emerged as a direct result of the widespread adoption of cashless innovations by traditional financial institutions. All banking activities can be done with neobanks (also known as online banks, financial technology, fintech, virtual banks, or digital banks).[7] Digital Bank based on POJK No.12/POJK.03/2021 Concerning Commercial Banks is a bank incorporated in Indonesia that provides and carries out business activities mainly through electronic channels without a physical office other than the head office or using limited physical offices. Article 7B and Article 20A of the PPSK Law explains that both commercial banks and Islamic commercial banks can operate as digital banks. The business activities of digital banks are the same as the business activities of commercial banks as regulated in Article 6 Number 1, PPSK Law which includes: a) collect funds from the public in the form of Savings, Current Accounts, Time Deposits, Certificates of Deposit, and/or other similar forms; b) distribute funds in the form of Credit or Financing Based on Sharia Principles; c) carry out activities in the field of payment systems; d) place funds in other Banks, borrow funds from other Banks, or lend funds to other Banks, either by using letters, telecommunications facilities or with bearer drafts, checks, or other facilities; e) issue and/or carry out Securities transactions for the benefit of the Bank and/or Customers; f) provide a place to store goods and Securities; g) carry out business activities in foreign currency; h) carry out receivables transfer activities; i) carry out goods and Securities Deposit activities; and; j) carry out other activities with the approval of the Financial Services Authority.

Apart from these matters, Article 7 Number 1 of the PPSK Law, both general banks and digital banks can: a) carry out capital participation activities in LJK and/or other companies that support the Banking industry by fulfilling the provisions set by the Financial Services Authority; b) carry out temporary capital participation activities outside LJK to overcome the consequences of Credit or Financing failures Based on Sharia Principles, on the condition that they must withdraw their participation; c) act as the founder of the Pension Fund and manager of the Pension Fund in accordance with the provisions of laws and regulations regarding Pension Funds; and/or d) cooperate with other LJK and cooperate with other than IJK in providing financial services to Customers.

In Indonesia, there are several digital banks including Bank Jago, Bank BCA Digital (Blu), Allo Bank, Bank SeaBank Indonesia, Bank Neo Commerce (BNC), Bank Raya, and Bank Aladin Syariah, SuperBank, Bank Mayora and Bank Jasa Jakarta.[8] In addition to these banks, there are also Digibank and Line Bank. Among these banks, some are subsidiaries of conventional banks and some are not part of conventional commercial banks but banks that have been purely digital banks since their inception. Similar to conventional banks, digital

[6] E. Murdiyanto, T. Akbar, and A. R. Sari, "Digitalisasi Sebagai Upaya Adaptif Industri Pasar Modal Di Era Disruption: Dampak Pada Eksistensi WPPE Di Masa Pandemi Covid-19," *Management and Business Review* 5, no. 2 (2021): 150–162, https://doi.org/https://doi.org/10.21067/mbr.v5i2.5741.

[7] Davin Matheus and Eso Hernawan, "Pengaruh CAR , ROI , Dan EPS Terhadap Roa Pada Perbankan Yang Tengah Proses Menjadi Digital (Neo Bank)," *Prosiding: Ekonomi Dan Bisnis* 2, no. 2 (2022): 883–92.

[8] Aprilia Ika, "Bank Digital Di Indonesia Makin Ramai, Siapa Yang Modalnya Paling Kuat?," Kompas.com, 2023, https://money.kompas.com/read/2023/04/25/090000326/bank-digital-di-indonesia-makin-ramai-siapa-yang-modalnya-paling-kuat-?page=all.

banks also have products for savings and loans. Customer needs in the form of opening accounts, banking transactions such as withdrawals, payments and transfers as well as information needed by customers can easily be accessed using applications from digital banks. Unlike digital banking services such as internet banking and mobile banking which in certain circumstances still require customers to be present at their offices, digital bank customers do not need to be physically present at all to receive services. Another difference is that digital banks generally do not have physical offices or can use limited physical offices.

Credit facilities are also provided by digital banks to their customers. In June 2022, SeaBank distributed 13.95 trillion Rupiah, Bank Jago as much as 7.26 trillion Rupiah, Bank Neo Commerce as much as 7.04 trillion Rupiah, Allo Bank as much as 6.71 trillion Rupiah, and Blu which has distributed credit as much as 1.75 trillion Rupiah.[9] The distribution of loans by digital banks is not done face-to-face at the bank's office but through the application or website of the digital bank so that the process becomes easier because prospective debtors only need to prepare the required documents and upload them. This writing will discuss the potential of digital banks and legal issues related to digital banks, especially the principle of prudence in credit distribution carried out by digital banks.

METHODS OF THE RESEARCH

Normative legal research discusses doctrines or principles in legal science[10]. This writing uses a normative legal research method with a statutory approach and a conceptual approach.

RESULTS AND DISCUSSION

A. Potensial of Digital Bank

Conceptually, there is a difference between digital banks and conventional banks that provide digital services such as mobile banking and internet banking. Digital banks can generally carry out all banking activities from opening accounts, transfers, deposits, to closing accounts via smartphones/electronic devices without the need to be physically present at the bank. In addition, another fundamental difference is that digital banks generally do not have physical offices (other than the head office) or can use limited physical offices. Meanwhile, conventional banks that provide digital services are generally not yet able to provide all their services digitally. In addition, conventional banks are identical to the very large number of branch offices.[11] Digital banks are the future of banks. Digital banks have several advantages over conventional banks, including: a) One Application for All Banking Needs; b) No need to come to the bank office; c) 24-hour non-stop service; d) Has many promotions

Digital banks can be accessed through applications that can be downloaded and installed on smartphones or similar devices. By using the application, customers can carry out banking activities such as checking balances, making payments or transferring funds. Customers who want to get digital banking services easily can get these services without

[9] Rika Anggraeni, "Ini Bank Digital Penyalur Kredit Tertinggi, Bukan Bank Jago Atau Allo Bank," finansial.bisnis.com, 2022, https://finansial.bisnis.com/read/20220807/90/1563914/ini-bank-digital-penyalur-kredit-tertinggi-bukan-bank-jago-atau-allo-bank.

[10] Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009), p 24.

[11] Otoritas Jasa Keuangan, "Transformasi Digital Perbankan: Wujudkan Bank Digital," 2022, https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/Article/40774.

having to come to the office where the bank operates. This is because digital banks do not have or have limited physical offices.

The application can be accessed from wherever the customer is via the internet network. Access to this bank can also be done for 24 hours non-stop, making it very easy for customers to get banking services. Of course, this is very different from conventional banks where customers must come to the bank's physical office and only during certain service hours. Customers are greatly helped by digital access, providing convenience in transacting and accessing banking products without having to come to the bank. So that transaction activities run effectively and efficiently. Of course, in its implementation there are still shortcomings, but over time digital banks will continue to develop and improve for the convenience of the community.[12]

B. Implementation of the Prudential Principle in the Distribution of Digital Bank Credit

The provisions of Article 2 of Law Number 10 of 1998 concerning Banking state that Indonesian Banking in conducting its business is based on economic democracy by using the principle of prudence. This also applies to digital banks in running their businesses both in managing customer funds and in distributing credit to debtors. In its development, digital banks have several potential problems, one of which is credit distribution.

Types of banking credit can be distinguished based on certain qualifications. One of them is based on the purpose of its use, including[13]: 1) Productive credit, which is credit used to increase business or production or investment; 2) Consumptive credit, which is credit applied for to purchase consumer goods personally by individuals or businesses; 3) Trade credit, which is credit used for trading activities to purchase merchandise where the proceeds from the sale of the merchandise will be used to pay off the credit.

Based on the rapid development of Indonesian banking products and services which are increasingly diverse and complex, the application of the principle of prudence in banking activities is becoming increasingly urgent and relevant.[14] This also applies to digital banks. In carrying out their business, digital banks are also required to use the principle of prudence. Digital bank regulations in Indonesia have not been specifically regulated so that they are the same as other general banks, namely using POJK General Banks.[15]

Prudent which means wise or the principle of caution is not a new term, but contains a new concept in responding more firmly, in detail and effectively to the various risks inherent in banking businesses. So prudential is a concept that has elements of attitude, principles, policy standards and bank risk management techniques in such a way that it can avoid the slightest consequences that can endanger or harm stakeholders, especially depositors and customers.[16] The principle of prudence can be defined as a principle or principle which states that in carrying out its functions and business activities, it is mandatory to act carefully in order to protect the public funds that have been entrusted to

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[12] Mahmud Yusuf, Sumarno, and Parman Komarudin, "Bank Digital Syariah Di Indonesia : Telaah Regulasi Dan Perlindungan Nasabah," *Jurnal Ekonomi Islam* 13, no. 2 (2022): 2579–6453.

[13] Kasmir, *Manajemen Perbankan*, Jakarta: Raja Grafindo Persada 2006, hal 99

[14] Lastuti Abubakar and Tri Handayani, "Telaah Yuridis Terhadap Implementasi Prinsip Kehati-Hatian Bank Dalam Aktivitas Perbankan Indonesia," *De Lega Lata* 2, no. 1 (2017): 68–91.

[15] Direktorat PK Kementerian Keuangan, Ditjen Perbendaharaan, "Odading - Digital Banking," 2022, https://djpb.kemenkeu.go.id/direktorat/pkn/id/odading/2919-digital-banking.html#:~:text=Bank Digital sendiri berdasarkan POJK,menggunakan kantor fisik yang terbatas.

[16] Permadi Gandapraja, *Dasar Dan Prinsip Pengawasan Bank* (Jakarta: Gramedia Pustaka Utama, 2004), p 22.

it.[17] The principle of prudence is risk control through the application of provisions so that it has a supervisory system that can work optimally to protect customers. The implementation of credit or financing must pay attention to the principles of healthy credit, especially the obligation to apply the prudential banking principle. The application of this prudential banking principle is closely related to the function of the bank as an agent of trust, namely that the bank is obliged to maintain the interests and trust of the community in carrying out its business activities, most of which are funded by public savings.[18] Banks, to find out or determine whether someone is trustworthy enough to obtain credit, use an analysis instrument known as the fives of credit or 5C. In the principle of caution regarding the 5C of Credit, which includes the 5C principle, it is: 1) Character; 2) Capital; 3) Capacity; 4) Collateral; 5) Condition of Economy[19]

Character means the intention or desire of a person who will become a debtor to carry out his obligations. The bank must be sure that the prospective debtor has good intentions to pay his installments. Capital is the sources of income owned by the prospective debtor. The more sources of income the prospective debtor has, the easier it will be for the debtor to pay his installments. Capacity is the ability of the prospective debtor to carry out his obligations. The bank must have confidence that the debtor is able to manage his business so that the debtor is able to pay the loan installments. Collateral is a guarantee given by the prospective debtor to the bank. This is to prevent the risk that the prospective debtor will later have difficulty fulfilling his obligations, the guarantee can be in the form of tangible or intangible objects which will later be used to pay off the debt if the debtor defaults. And the last is the condition of the economy which means that the provision of debt to the debtor also considers the political, economic, social and cultural conditions that can affect the smooth running of the business at a certain time.

Digital banks in providing credit to debtors with a scheme without collateral. One of them is digibank which claims credit disbursement within 60 seconds where prospective debtors are required to be 21 to 55 years old.[20] Allobank also distributes credit with paylatter and instant cash schemes through third parties who have collaborated with them. This loan application can be accessed by prospective debtors through the application they have provided. Allobank debtors can use loans from Allobank to shop at merchants who have collaborated with Allobank.[21] Bank Jago also distributes credit with a scheme similar to Allobank. Prospective debtors can apply for credit through a third party, namely Kredit Pintar. Both the Bank Jago application and the Kredit Pintar application must be connected first before submitting a credit application.[22] In 2024, it was reported that the Non-Performing Loan (NPL) ratio of digital banks during 2023 increased. PT Bank Raya Indonesia Tbk (AGRO) is one of the banks with the highest gross NPL level. This digital bank owned by the BRI Group has an NPL of 4.4% or an increase of 150 basis points. Then PT Bank Neo Commerce Tbk (BBYB) which also has a fairly high gross NPL or is at the level

[17] Usman, *Aspek-Aspek Hukum Perbankan Di Indonesia*, p 18.

[18] Lastuti Abubakar and Tri Handayani, *Implementasi Prinsip Kehati-hatian Melalui Kewajiban Penyusunan dan Pelaksanaan Kebijakan Perkreditan atau Pembiayaan Bank,* Jurnal Rechtidee, Vol 13, No 1(2018): 62-81.

[19] Sutarno, *Aspek-Aspek Hukum Perkreditan Pada Bank* (Bandung: Alfabeta, 2004), p 3.

[20] Digibank, "Produk Pinjaman," accessed September 13, 2023, https://www.dbs.id/digibank/id/id/pinjaman/produk-pinjaman/digibank-kta-instan.

[21] Allobank, "Syarat & Ketentuan Paylater & Instant Cash," accessed September 16, 2023, https://cerdasbelanja.grid.id/read/523668163/cara-pinjam-uang-di-allo-bank-pakai-allo-paylater-untuk-belanja?page=all.

[22] Bank Jago, "Partner Jago," accessed September 16, 2023, https://jago.com/id/jago/support/faq/partner-jago/kredit-pintar/menggunakan-jago-sebagai-akun-penerima-pinjaman-kredit-pintar.

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of 3.7%. This figure has increased by around 114 basis points. PT Bank Digital BCA also experienced an increase in gross NPL by 101 basis points to 1.1%.[23] Even though the OJK considers that the increase in NPL is still within reasonable limits, this increase in NPL cannot be underestimated.

The purpose of implementing the precautionary principle is none other than to ensure that banks are always in a liquid or solvent state. By implementing the precautionary principle, it is hoped that the level of public trust in banking will remain high so that people are willing and do not hesitate to save their funds in the bank.[24] The provision of credit by digital banks that do not require collateral or a review process to get to know the customer better certainly has risks. The good intentions of the debtor to carry out their obligations to pay installments cannot be detected by the bank. Problematic credit will certainly affect the bank's profit level so that it is feared that it will cause more serious problems not only for digital banks but also for the country's economy. Therefore, good risk management is needed in the provision of credit by digital banks.

The obligation of banks to implement risk management is stated in Article 2 Number 1 of the Financial Services Authority Regulation Number 18/POJK.03/2016 Concerning the Implementation of Risk Management for Commercial Banks. The risks referred to include credit risk. Credit risk includes credit concentration risk, counterparty credit risk, and settlement risk. Credit concentration risk is the risk that arises due to the concentration of the provision of funds to 1 (one) party or a group of parties, industry, sector, and/or certain geographic areas that have the potential to cause significant losses that can threaten the continuity of the Bank's business. Counterparty credit risk is the risk that arises due to the failure of the counterparty to fulfill its obligations and arises from types of transactions that have certain characteristics, for example transactions that are influenced by movements in fair value or market value. Settlement risk is the risk that arises due to the failure to deliver cash and/or financial instruments on the agreed settlement date of the sale and/or purchase of financial instruments. Credit Risk Management in credit distribution by digital banks is very crucial because the credit granting process is very easy.

Based on Article 3 of the Financial Services Authority Regulation Number 42 / POJK.03 / 2017 Concerning the Obligation to Prepare and Implement Bank Credit or Financing Policies for Commercial Banks, Bank credit or financing policies as referred to in Article 2 must at least contain and regulate the main points as stipulated in the Guidelines for Preparing Bank Credit or Financing Policies as follows: 1) the principle of prudence in credit or financing; 2) organization and management of credit or financing; 3) Credit or Financing approval policies; 4) documentation and administration of Credit or Financing; 5) supervision of Credit or Financing; and 6) settlement of problematic Credit or Financing. The principle of prudence in credit or financing includes 4 points, namely: 1) Inclusion of the Principle of Prudence; 2) Main Policies in credit or financing; 3) Procedures for assessing the quality of credit or financing; 4) Professionalism and integrity of credit or financing officials.

Every bank credit policy (KPB) must clearly and firmly contain the principle of prudence in credit which at least includes the main policies in credit or financing, procedures for

[23] Adrianus Octaviano, *OJK Buka Suara Terkait NPL Bank Digital Yang Kompak Naik di 2023,* 2024, https://keuangan.kontan.co.id/news/ojk-buka-suara-terkait-npl-bank-digital-yang-kompak-naik-di-2023

[24] Santoso AZ Lukman, *Hak Dan Kewajiban Hukum Nasabah Bank* (Yogyakarta: Pustaka Yustisia, 2011), p 38.

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assessing the quality of credit or financing, and the professionalism and integrity of credit or financing officials. The distribution of credit to the public by digital banks will certainly make it difficult for banks to know the character, capital, capacity, and collateral of prospective debtors. This is because credit distribution is carried out through electronic devices without direct face-to-face meetings. It is difficult for banks as creditors to know the character, ability to pay of debtors and the capital owned by debtors who apply for loans. With limited information for digital banks to conduct credit analysis, digital banks can only rely on the Financial Information Reporting System (SLIK) which cannot analyze the character of prospective debtors. For this reason, digital banks must have a KPB that can accommodate this condition as a form of banking risk management mandated in . Some policy options for digital bank credit can be in the form of limiting loan limits, loan tenors, or checking other documents to determine the eligibility of prospective debtors.

Digital banks that do not implement risk management may be subject to administrative sanctions as stipulated in Article 32 of the POJK on General Bank Risk Management in the form of: a) written warning; b) reduction in the Bank's health level; c) freezing of certain business activities; d) inclusion of members of the management, Bank employees, and/or shareholders in the list of parties who have received the predicate of Failing in the fit and proper assessment or in the administrative records of the Financial Services Authority as stipulated in the provisions of the Financial Services Authority; and/or e) dismissal of Bank management.

The sanctions aim to ensure that banks always ensure that every policy and procedure in running their business remains in accordance with what the state expects through laws and regulations. Thus, digital banks need to formulate policies in implementing credit analysis while still paying attention to the principles of prudence even though the credit process is carried out digitally.

CONCLUSION

Digital banks are banks that provide digital banking services without the need for branch offices. Customers can freely get banking services without having to be physically present at the bank so that it is more practical. Digital banks are here to answer the current development of information technology so that they have great potential for the banking world because they provide convenience for their customers. Even though they have potential and are called banks of the future, digital banks still have several shortcomings, one of which is the distribution of credit carried out through applications or websites. Thus, credit analysis using the 5C method will not run optimally so that it will increase the ratio of non-performing loans or NPLs. Therefore, digital banks need to prepare a Bank Credit Policy (KPB) that accommodates the distribution of digital bank credit as part of the digital bank risk management mandated in Article 2 Number 1 of the Financial Services Authority Regulation Number 18/POJK.03/2016 Concerning the Implementation of Risk Management for Commercial Banks. The policy must be able to make digital banks able to conduct credit analysis without sacrificing the principle of prudence. The policy can be in the form of a loan limit, tenor or examination of additional documents required so that problematic credit does not occur in the future.

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