JURISPRUDENSI
Jurnal Ilmu Syari'ah, Perundang-undangan dan Ekonomi Islam
https://doi.org/10.32505/jurisprudensi.v17i2.11741
Vol. 17 No. 2 (July-December 2025): 274-289

Legal Protection of Customers Against the Loss of Funds in Bank BCA: A Civil Law Analysis and the Role of the Financial Services Authority

Atis Ika Ernawati[1]
Universitas Muhammadiyah Bima, NTB, Indonesia
atisikaernawati31@gmail.com

M. Jasuli Ramadhan
Universitas Muhammadiyah Bima, NTB, Indonesia
mjasuliramadhan@gmail.com

Damianus Wanda Ndapa
Universitas Muhammadiyah Bima, NTB, Indonesia
wandandapa7@gmail.com

Bachder Syarif Arkiang
Universitas Muhammadiyah Bima, NTB, Indonesia
bachderarkiang@gmail.com

Miftahuddin
Universitas Muhammadiyah Bima, NTB, Indonesia
azfaizhal@gmail.com

Submission	Accepted	Published
Jun 20, 2025	Sep 25, 2025	Sep 26, 2025

Abstract

Ideally, the banking sector has a legal obligation to safeguard customers' funds with a high standard of prudence, yet in reality, cases of fund loss still frequently occur, including at Bank BCA. This situation raises doubts about the effectiveness of the legal protection available to customers when their rights are harmed. This study aims to examine the forms of legal protection for customers from the perspective of civil law and to evaluate the role of the Financial Services Authority (OJK) in resolving and restoring losses caused by fund loss in banks. This article falls under library research with a qualitative approach. The methodology used is normative legal research. The findings

[1] Corresponding Author

show that civil law provides a basis for protection through compensation mechanisms arising from breach of contract or unlawful acts, which may be claimed by customers against the bank. On the other hand, OJK serves as a regulator and external supervisor that plays an important role in ensuring justice for customers through regulation, supervision, and alternative dispute resolution mechanisms outside the court via LAPS SJK. The synergy between civil law instruments and the role of OJK has proven to be an essential instrument in providing legal certainty while maintaining public trust in the banking system.

Keywords: *Legal Protection, Customers, Fund Loss, OJK*

Abstrak

Idealnya, perbankan memiliki kewajiban hukum untuk menjaga dana nasabah dengan standar kehati-hatian yang tinggi, namun realitasnya kasus kehilangan dana masih kerap terjadi, termasuk di Bank BCA. Situasi ini menimbulkan keraguan terhadap efektivitas perlindungan hukum yang tersedia bagi nasabah ketika hak-haknya dirugikan. Penelitian ini bertujuan untuk mengkaji bentuk perlindungan hukum nasabah dalam perspektif hukum perdata serta mengevaluasi peran Otoritas Jasa Keuangan (OJK) dalam penyelesaian dan pemulihan kerugian akibat kehilangan dana di bank. Artikel ini tergolong dalam penelitian pustaka berbasis kualitatif. Metodologi yang digunakan adalah studi hukum normatif. Hasil penelitian menunjukkan bahwa hukum perdata memberikan dasar perlindungan melalui mekanisme ganti rugi akibat wanprestasi maupun perbuatan melawan hukum yang dapat diajukan nasabah terhadap bank. Pada sisi lain, OJK hadir sebagai regulator dan pengawas eksternal yang berperan penting dalam menjamin keadilan bagi nasabah melalui pengaturan, pengawasan, serta mekanisme penyelesaian sengketa di luar pengadilan melalui LAPS SJK. Sinergi antara instrumen hukum perdata dan peran OJK terbukti menjadi instrumen penting untuk memberikan kepastian hukum sekaligus menjaga kepercayaan publik terhadap sistem perbankan.

Kata Kunci: Perlindungan Hukum, Nasabah, Kehilangan Dana, OJK

Introduction

Modern banking plays a highly vital role in managing public funds and supporting the overall functioning of a nation's economy. As an intermediary institution, banks do not merely serve as fund collectors and distributors, but also as guardians of public trust in the national financial system. This trust constitutes the fundamental basis of the relationship between customers and banks, since without confidence in the safety of their funds, people will be reluctant to deposit their money in banks. Therefore, customer fund protection becomes a strategic issue that is not only related to individual interests, but also to the stability of the

financial system as a whole (Nguyen Kim, 2024). Law No. 7 of 1992 on Banking explicitly places the prudential banking principle as a normative foundation for all banking activities, with the purpose of ensuring that risk management is carried out professionally, transparently, and accountably. This principle is further reinforced through implementing regulations issued by the Financial Services Authority (OJK) and Bank Indonesia, thereby establishing a legal framework that requires banks to exercise prudence in conducting business activities, particularly in managing third-party funds (Ningsih et al., 2025).

In practice, the problem of customer fund loss still frequently occurs, even involving large, reputable banks such as Bank Central Asia (BCA). One notable case is Johanna Susyanti versus BCA, in Central Jakarta District Court Decision No. 223/Pdt.G/2013/PN.Jkt.Pst, where the panel of judges found the bank negligent in protecting its customer's funds. The bank was proven to have failed in internal verification, resulting in an account breach that caused a loss of IDR 9,900,000 to the customer. This case demonstrates that even though BCA is known for having a reliable security system, there remain weaknesses in internal supervision that directly affect consumer losses. From a civil law perspective, such negligence may be categorized as an unlawful act as regulated under Article 1365 of the Indonesian Civil Code, thereby giving rise to liability for compensation (Kardinata & Sihombing, 2025). A bank's failure to safeguard customer funds represents not only non-compliance with regulations but also opens the door to civil lawsuits.

Ideally, every bank operating in Indonesia should be able to guarantee the overall security of customer funds through the implementation of prudential principles, the use of advanced security technologies, and strict internal supervision. Banks are also obliged to provide maximum legal protection to customers, whether in the form of prevention, handling, or compensation in the event of fund loss (Asmara, 2023). Regulators such as OJK should also operate effectively to ensure that all financial institutions comply with prudential banking principles and to provide dispute resolution mechanisms that are fast, simple, and low-cost for consumers. Thus, in principle, customers should not be left to struggle alone when suffering losses, as they have access to both litigation through civil lawsuits and non-litigation avenues facilitated by OJK. However, in reality, such protection is often far from optimal. Civil legal proceedings require complex proof of causal links between bank negligence and customer losses, while dispute resolution mechanisms at OJK face technical challenges, including limited resources and case complexity.

This gap raises both academic and practical concerns. On one hand, regulations clearly require banks to implement prudential principles and provide legal protection to customers. On the other hand, various cases reveal weaknesses in implementation, both on the part of banks and regulators. Civil lawsuits often fail to deliver satisfactory outcomes due to difficulties in proving negligence and the limited assets available for compensation. Meanwhile, although OJK's role is normatively strong, in practice it has not yet been fully effective in providing legal assistance or resolving disputes in a fast and adequate manner. This gap underscores a serious issue concerning the effectiveness of legal protection for customers against fund loss, especially in large banks like BCA, which should ideally serve as role models in applying prudential principles.

Based on this context, this research aims to analyze in depth the forms of legal protection available to customers who suffer fund losses in Bank BCA. Its primary objective is to examine to what extent civil law, particularly Article 1365 of the Civil Code on unlawful acts, can serve as a basis for claiming compensation from negligent banks. In addition, this study also explores the role of OJK as both regulator and dispute resolution facilitator, which normatively has the authority to provide legal assistance, mediate consumer disputes, and even file lawsuits on behalf of customers. Accordingly, this research seeks to answer two essential questions: what is the scope of a bank's civil liability when customer funds are lost, and how effective is OJK's role in providing legal protection and remedies for customers.

The contribution of this research is both theoretical and practical. Theoretically, it enriches the body of knowledge in banking law by providing a normative analysis of the application of prudential principles and their connection with banks' civil liability. It also expands the understanding of OJK's role in consumer protection within the financial services sector, which has often been perceived merely as a preventive regulator. Practically, this research offers policy recommendations that may serve as a foundation for banks to strengthen internal supervision systems, enhance risk management transparency, and reinforce OJK's role in carrying out supervision and dispute resolution functions. Thus, the findings of this research are expected to provide applicable solutions for the establishment of a more accountable, transparent, and equitable banking legal system, while simultaneously enhancing public trust in the national banking industry.

Literature Review

Studies on legal protection for customers regarding the loss of funds in banks are not new, as this issue has long been a concern of academics, legal practitioners, and regulators. Rizky and Devi Siti Hamzah Marpaung, in their work titled*; "Pertanggungjawaban Bank BCA Terhadap Nasabah Atas Kelalaian Bank Mentransfer Dana Serta Upaya Penyelesaiannya,"* discuss in detail the civil liability of BCA Bank resulting from technical errors in the fund transfer process. This article emphasizes that as the custodian and manager of customer funds, banks must not commit negligence in service, because any form of financial loss suffered by customers becomes the legal responsibility of the bank. The research findings show that banks are obliged to provide compensation as a form of legal liability and protection of customer rights (Rizky & Marpaung, 2022). The similarity with this research lies in the emphasis on the civil liability of banks toward customers, both positioning banks as legal subjects bound to the principle of prudence and fiduciary duty. However, the difference is that Rizky and Devi's work focuses more on technical negligence related to fund transfers, whereas this study broadens the scope by examining the loss of customer funds as a direct result of the failure to apply the principle of prudence, and relates it to the role of OJK as an external regulator.

Rizky Maharani Prastita, in her article; *"Peran OJK Dalam Proses Pengembalian Dana Nasabah Bank Yang Hilang Dan Keseuaiannya Dalam Perspektif*

Islam," places greater emphasis on the institutional aspect, namely the position and authority of OJK in regulating and supervising banks, particularly in the context of returning lost customer funds. This research is interesting because it not only examines mechanisms under positive law but also analyzes their conformity with Islamic law perspectives. The findings affirm that OJK possesses strategic dispute resolution instruments, including out-of-court mediation, to ensure that customers obtain justice (Prastita, 2018). The similarity with this study lies in the focus on OJK's role in customer fund recovery. However, the difference is quite significant: Rizky Maharani emphasizes a normative approach based on Islamic law, while this study places greater emphasis on civil law analysis under the Indonesian Civil Code (KUH Perdata) and OJK regulations. Thus, this research aims to provide a more comprehensive interpretation from the perspective of civil law and modern banking regulation, without overlooking the external regulatory role carried out by OJK.

Agustina et al., through their article; *"Perlindungan Hukum Terhadap Hilangnya Dana Nasabah Bank BRI Yang Melanggar Prinsip Kehati-Hatian Bank,"* add another dimension to the discussion, namely how violations of the principle of prudence can cause actual harm to customers. Their study emphasizes that a bank's negligence in implementing the principle of prudence can be categorized as breach of contract or an unlawful act, thereby granting customers the right to claim compensation. This study highlights BRI Bank as a case study and successfully demonstrates that the bank's failure to carry out its internal control system constitutes a serious form of legal negligence (Agustina et al., 2024). Its similarity with this study lies in the same focus on the legal implications of violating the principle of prudence. The difference is that Agustina et al.'s work emphasizes the BRI Bank case, while this study examines the BCA Bank case with the additional focus on the synergy between civil law instruments and the strengthening role of OJK as an external supervisor. Thus, this study expands the scope by highlighting the relationship between the bank's civil liability and the regulator's obligation to maintain public trust.

From previous studies conducted, it is clear that the legal protection of customers who lose funds in banks has been widely discussed in the literature, whether from the perspective of bank liability, dispute resolution mechanisms, or the role of regulators. However, no study has specifically combined civil law analysis, the principle of prudence, a concrete case study of BCA Bank, and the involvement of OJK within an integrative analytical framework. This is what constitutes the research gap as well as the main contribution of this paper, namely to present a comprehensive analysis of customer legal protection in the context of lost funds due to bank negligence, by combining the normative civil law approach and the role of regulators, thereby producing outcomes that not only enrich academic discourse but also provide practical recommendations for regulators, the banking sector, and financial service consumers.

Research Methodology

This article falls under qualitative library research. The methodology used is a normative legal study. The primary sources consist of banking-related laws and regulations, particularly Law No. 10 of 1998 on Banking, OJK (Financial Services Authority) regulations concerning consumer protection in financial services, as well as relevant court decisions regarding disputes over lost customer funds. The secondary sources include journals and scientific articles published within the last five years that discuss customer legal protection, the principle of prudence in banking, and the role of financial supervisory institutions. Data validation was conducted using a triangulation technique between regulations and literature, namely by comparing statutory texts, court decisions, and expert opinions in banking law to ensure consistency of argumentation.

The data validity test was carried out using a legal hermeneutic approach, namely interpreting norms contextually based on the development of digital banking practices and concrete cases that have emerged in court. Data analysis was conducted through a deductive-comparative pattern, starting from the explanation of general norms in banking law, then compared with practices in Bank BCA, and critically analyzing the role of civil law and OJK in recovering customer losses. The drafting of the article is structured with a juridical-analytical argumentative pattern, which systematically outlines the applicable regulations, practical problems, and normative solutions, thereby producing a synthesis relevant to the development of customer protection law in Indonesia.

The Prudential Principle of BCA in Customer Fund Protection

The prudential principle serves as the main foundation of modern banking practices, as banks are not merely financial intermediaries but also institutions that safeguard public trust. Bank Central Asia (BCA), as one of the largest private banks in Indonesia, carries a significant responsibility to ensure that customer funds remain safe, stable, and protected from all forms of risk (Junita et al., 2023). Based on Law No. 7 of 1992 on Banking, later amended by Law No. 10 of 1998, this principle is not merely an internal guideline but a binding legal norm that must be observed by all banks. The implementation of the prudential principle covers various aspects such as risk management, internal supervision, transaction verification systems, and compliance with national regulations. However, although the rules are normatively clear, practical implementation reveals serious challenges, particularly in the digital era where banking services face growing risks of technology-based crimes.

The application of the prudential principle in BCA can be observed through the implementation of risk management regulations as stipulated in OJK Regulation (POJK) No. 1/POJK.03/2013 on Banking Risk Management and Bank Indonesia Regulation (PBI) No. 310/2001 on the Know Your Customer (KYC) principle. These regulations require banks to identify customers from the outset, monitor transactions, and ensure adequate internal supervision systems. Data from UNDIP's repository on BCA Cilegon Branch shows that BCA has established a Customer Due Diligence Unit (UKPN) responsible for coordinating and reporting suspicious transactions to PPATK. This step demonstrates BCA's institutional

commitment to implementing KYC in accordance with national legal standards (Sihotang & Kurniawati, 2025). However, the rapid development of technology and the rise of cybercrimes such as skimming, phishing, and OTP spoofing prove that regulation alone is insufficient, as banks continue to face security gaps that may harm customers.

One of the most crucial aspects of the prudential principle is protecting customer funds from losses caused by bank negligence or errors. In the juridical framework, bank negligence may constitute an unlawful act under Article 1365 of the Indonesian Civil Code (KUHPerdata). Weaknesses in implementing the prudential principle are not only regulatory violations but also open the possibility of civil lawsuits (Mulyati & Dwiputri, 2018). A notable case occurred in 2013, with Central Jakarta District Court Decision No. 223/Pdt.G/2013/PN.Jkt.Pst. In this ruling, the judge declared BCA negligent in protecting customer funds due to a failure in verifying changes to customer data, and the bank was ordered to pay compensation of Rp 9.9 million. This decision illustrates that BCA's internal audit and security systems at the time did not meet the prudential standards required by law, setting an important precedent for assessing bank liability.

Beyond BCA, other studies also highlight weaknesses in banking systems regarding the prudential principle. Research by Putri et al. on Supreme Court Decision No. 1111K/PDT/2013 shows that unauthorized fund withdrawals are not unique to BCA but also occur in other banks (Putri et al., 2016). This phenomenon highlights systemic weaknesses still haunting Indonesia's banking industry. The prudential principle must be applied through credit risk management using the 5C concept: Character, Capacity, Capital, Collateral, and Condition. The analysis emphasizes that internal audit systems must be continuously implemented to detect suspicious transactions early. However, although BCA has established antifraud systems and online monitoring, real-world evidence still shows customer fund losses due to skimming and phishing attacks. This proves that prudential implementation still has deficits, especially in the digital technology and customer security literacy context.

In the digital era, the prudential principle in banking extends beyond traditional risk management to include cybersecurity. Online forums such as Reddit, where users discuss banking security, show how customers share experiences of online fraud involving BCA. Customers are often reminded not to click suspicious links, to activate two-step verification, and to change PINs regularly. This phenomenon reflects that self-education among customers has become a crucial form of additional protection (Novika et al., 2021). However, ideally, this education should not rely solely on online communities but be integrated into BCA's official policies to provide comprehensive customer protection. Thus, the prudential principle in the digital era requires not only stronger technology systems but also continuous customer education initiatives.

From the perspective of law enforcement, violations of the prudential principle may also constitute criminal offenses. Sukarini and Primasari explain that Article 49 of Law No. 10 of 1998 stipulates that violations of banking SOPs and improper fund management may incur criminal liability (Sukarini & Primasari, 2022). However, this provision faces a major challenge because the distinction between administrative and criminal violations remains vague. As a result, banks

often face legal uncertainty due to varying interpretations in enforcement processes. This situation is further complicated by inconsistent court rulings, putting banks in a difficult position to determine the boundary between procedural errors and criminal offenses that could implicate management. For BCA, such legal uncertainty is a serious challenge, given its position as a retail bank with a vast customer base in Indonesia.

Another case that illustrates weaknesses in the prudential principle can be seen in Central Idam District Court Decision No. 38/Pdt.G/2017/PN.Idm, analyzed by Sukarini and Juliastuti. In this case, the judge assessed that the prudential principle as a form of customer legal protection was not optimally applied by the bank. The data verification and security control systems failed to prevent unauthorized access to customer funds (Sukarini & Primasari, 2022). This decision reinforces the argument that Indonesian banks, including BCA, still face significant challenges in implementing the prudential principle comprehensively. Therefore, applying the prudential principle is not only about regulatory compliance but must be realized as adaptive systems against emerging risks, particularly in the digital era.

Given this reality, BCA must undertake more comprehensive systemic improvements. First, BCA needs to strengthen automated fraud detection systems using artificial intelligence and machine learning to identify abnormal transaction patterns in real time. Second, BCA should enhance the frequency and quality of internal audits, covering not only financial audits but also technology and operational procedures. Third, BCA must prioritize digital literacy programs for customers, emphasizing security practices such as vigilance against OTP misuse, suspicious links, and social engineering tactics. Such customer education should go beyond general campaigns, incorporating personalized approaches through data-driven notifications, such as push alerts during online transactions.

Furthermore, banking regulations in Indonesia must be strengthened to ensure the prudential principle provides optimal protection for customers. Current regulations largely frame bank liability within civil lawsuits under Article 1365 of the Civil Code, whereas many cases of fund losses should also be considered administrative or even criminal violations. Therefore, clearer regulations are needed to provide legal certainty for banks like BCA in applying the prudential principle (Rizky & Marpaung, 2022). More explicit and detailed regulations would help balance customer protection with the sustainability of banking operations. Thus, the prudential principle becomes not only a legal doctrine but also a measurable and accountable operational standard.

In a global context, the application of the prudential principle at BCA can also be compared with international banking practices. Many developed countries have adopted Basel Accords standards, emphasizing capital adequacy, risk management, and financial reporting transparency as part of customer fund protection. For BCA, aligning with these international standards would strengthen its reputation and credibility, ensuring customer funds are protected not only from domestic risks but also global ones. This is particularly important given BCA's involvement in international transactions connected to the global financial system. Accordingly, BCA's application of the prudential principle must continue evolving in line with global standards to remain competitive in international banking.

In conclusion, although BCA has complied with formal regulations regarding KYC, risk management, and transaction security, the implementation of the prudential principle in customer fund protection still has weaknesses. The greatest challenges lie in digital security and customer literacy, which have yet to fully align with technological advancements. Therefore, BCA must view the prudential principle not merely as a normative obligation but as a moral commitment to uphold public trust. Public trust is the main capital for the sustainability of the banking industry, and it can only be maintained if customer funds are truly safe and protected (Novika et al., 2021). Without a comprehensive application of the prudential principle, risks of fund loss due to negligence or digital crime will continue to loom, harming both customers and the bank's reputation. Thus, BCA must adapt to technological changes, strengthen supervisory systems, and provide ongoing education for customers. At the same time, the state, through banking authorities, must clarify regulations to ensure that banks' legal responsibilities for customer losses can be enforced proportionally.

Legal Protection for Customers Against Bank Fund Losses

Banking is a vital institution that functions as an intermediary, collecting funds from the public and channeling them back in the form of credit or other financial products. This role positions banks not merely as profit-driven business entities, but also as institutions that bear significant legal responsibility for the funds entrusted to them (Anggraini & Fasa, 2024). Public trust is the cornerstone of banking operations, as without it, the mechanisms of fund collection and credit distribution cannot run effectively. Therefore, legal protection for customers becomes indispensable, especially when fund losses occur due to negligence or violations committed by banks. Law No. 10 of 1998 on Banking emphasizes the obligation of banks to maintain public trust, which means that the legal relationship between customer and bank is fiduciary in nature, with full accountability for any resulting loss. This protection is reinforced through civil, administrative, and even criminal legal frameworks that complement each other in safeguarding customer rights.

The primary foundation for legal protection of customers against fund loss can be found within civil law, particularly Articles 1365 and 1367 of the Indonesian Civil Code (KUH Perdata). Article 1365 stipulates that any unlawful act that causes harm to another person creates an obligation for the perpetrator to provide compensation. Article 1367, on the other hand, regulates vicarious liability, namely the accountability of an employer for unlawful acts committed by their subordinates in the scope of their duties. Thus, if a bank employee commits fraud or negligence resulting in customer fund loss, the bank as an institution remains liable for compensation (Rizky & Marpaung, 2022). This perspective is reinforced by legal doctrine and contemporary research, affirming that a bank's responsibility includes both direct and indirect liability as regulated by civil law provisions.

In practice, customer fund losses may arise in various forms, ranging from teller mis-transfers, customer service negligence in data input, to systematic fraud by employees exploiting internal control loopholes. All losses resulting from

employee actions essentially remain the responsibility of the bank. The subordinate relationship between banks and employees provides strong legal grounds that institutions cannot evade the legal consequences of their subordinates' actions. Recent studies further emphasize that losses caused by bank employees within the scope of their duties legally shift to the institution. This reflects the real implementation of vicarious liability aimed at maximizing customer protection, who legally are often in a weaker position than banks. Beyond civil law, legal protection for customers is also guaranteed by administrative provisions under the supervision of the Financial Services Authority (OJK). Regulation No. 6/POJK.07/2022 explicitly stipulates that banks, as financial service providers, are liable for customer losses caused by errors, negligence, or legal violations by management, employees, or third parties acting on behalf of the bank (Putri et al., 2016).

This provision provides legal certainty that bank liability is not only tested through civil lawsuits, but may also entail administrative sanctions. These sanctions may include mandatory compensation, fines, suspension of business activities, or even revocation of licenses if the violation is proven severe. The relevance of administrative provisions becomes more prominent in the digital banking era, where fund loss cases are often triggered by cyberattacks, phishing, and electronic system breaches. In such cases, banks are obliged to follow up on customer complaints within a specified timeframe—five business days for oral complaints and ten business days for written complaints—and to provide a settlement offer in the form of compensation. If the bank ignores or refuses settlement, customers may report to OJK or file claims with the Consumer Dispute Settlement Agency (BPSK) or the district court. Thus, administrative regulations offer faster and more practical dispute resolution alternatives compared to conventional litigation, while still leaving room for judicial settlement.

The criminal aspect also plays a significant role in providing customer legal protection. Article 49 of the Banking Law stipulates that bank executives or officers who intentionally or negligently fail to implement prudential principles, thereby causing losses, may face imprisonment ranging from three to eight years and fines up to IDR 100 billion. If the act involves malicious intent or gross negligence, sanctions may increase to up to fifteen years' imprisonment and a minimum fine of IDR 10 billion. These criminal provisions reflect the state's seriousness in prioritizing customer protection, given that banking crimes have systemic impacts threatening national financial stability (Albabana, 2020). Legal protection also applies in cases of human error, such as misdirected fund transfers. In such cases, the legal basis still refers to Article 1365 of the Civil Code on compensation for unlawful acts. If the fault is proven to originate from the bank, the institution remains liable, and the customer retains the right to pursue claims through administrative or civil channels. This mechanism underscores that customer protection is not merely theoretical, but can be practically enforced through various legal avenues.

Furthermore, technological advancements have driven the introduction of additional regulations, such as Regulation No. 11/POJK.03/2022, which mandates banks to maintain the security of their electronic systems. If cyberattacks or data breaches lead to fund loss, banks remain obliged to bear customer losses. In cases

of mass losses, the law even allows customers to file a class action as a form of collective protection. This demonstrates that legal protection is now not only individual but also communal, making it more adaptive to the dynamics of modern banking risks (Agustina et al., 2024). Beyond banking and civil law, customer protection is also reinforced by consumer protection law. Law No. 8 of 1999 requires businesses, including banks, to provide compensation or restitution if their services cause harm. This further highlights the overlap between banking law and consumer protection law in ensuring customer security. Thus, legal protection for customers spans multiple dimensions that strengthen one another.

Nevertheless, despite the comprehensive regulations, the greatest challenge lies in implementation. Banks often attempt to evade liability by blaming customers, particularly in cases of account breaches due to phishing. In reality, customers are structurally the weaker party and therefore require stronger protection. Consistent supervision by OJK and the courage to impose strict sanctions are key to ensuring banks fulfill their obligations (Ningsih et al., 2025). Without firm law enforcement, existing regulations risk becoming ineffective rules without coercive power. Moreover, the effectiveness of legal protection is also influenced by the accessibility of dispute resolution mechanisms. Court litigation is often seen as complex, costly, and time-consuming, discouraging customers from pursuing legal remedies. The presence of alternative institutions such as BPSK, OJK mediation mechanisms, and class actions thus becomes crucial in providing faster and more efficient solutions. With these alternatives, customers gain not only legal protection but also practical certainty in securing their rights.

Customer Loss Recovery: The Role of Civil Law and the Financial Services Authority (OJK)

Civil law holds a strategic position in providing legal protection for customers who suffer losses due to negligence or misconduct by financial service institutions. The primary principle that serves as the foundation is Article 1365 of the Indonesian Civil Code concerning unlawful acts (*onrechtmatige daad*), which affirms that any action causing harm to another party must be compensated by the party responsible (Kerap, 2018). This means that when customers suffer losses caused by a bank or its employees, civil law provides an open legal avenue to claim compensation. Such compensation not only covers material losses, such as lost funds, but also immaterial damages experienced by customers—for example, anxiety, trauma, or reputational harm due to data breaches. Civil lawsuits may be filed individually by customers or collectively through a class action mechanism, which facilitates resolution when the number of victims is substantial. However, in practice, the effectiveness of this pathway depends greatly on the availability of the perpetrator's assets that can be seized to cover the losses. If assets have already been transferred or are difficult to trace, recovery of funds through civil proceedings can be obstructed.

Moreover, civil law provides judicial instruments for victims to seek compensation through court mechanisms. In this context, the court has the authority to decide the defendant's obligation to pay damages or surrender remaining assets. However, the main requirement for the plaintiff is to prove the

causal relationship between the unlawful act and the resulting harm. Liability theory emphasizes that victims' rights to recovery can only be granted if it is proven that actual losses occurred, along with negligence or misconduct by the offender, and a direct causal link between the two (Nurani et al., 2023). In the context of personal data breaches, for instance, Law No. 27 of 2022 on Personal Data Protection (PDP Law) provides an additional basis for victims to pursue accountability. Article 65 of the PDP Law even imposes administrative and criminal sanctions on parties who intentionally or negligently disclose customers' personal data. Thus, civil law remedies can run parallel to criminal or administrative mechanisms, offering more comprehensive protection.

In civil practice, customers have the right to claim compensation in the form of fund restitution, damages, or restoration of personal data leaked due to financial institutions' negligence. In some cases, courts may even order the seizure of the perpetrator's assets to ensure compensation is paid. However, significant obstacles often arise during the enforcement stage, where customers must still struggle to recover their lost funds because asset tracing is complex, especially if the funds have already been transferred to other accounts or used in cross-border illegal transactions (Pantow, 2025). This represents a fundamental weakness of civil mechanisms, making customer loss recovery often ineffective. Nevertheless, civil law remains an important instrument for upholding justice and establishing a clear legal basis for the liability of financial service institutions.

On the other hand, the Financial Services Authority (OJK) plays a crucial role in complementing civil mechanisms for customer protection and loss recovery. Article 30 of the OJK Law grants the institution authority to facilitate dispute resolution between consumers and financial institutions, provide legal assistance, and even file lawsuits on behalf of customers. This means OJK acts not only as a preventive regulator overseeing the financial system but also as a repressive and restorative institution safeguarding customer interests in disputes (Sudirman et al., 2024). Through this mechanism, OJK serves as a counterbalance for customers, who are often in a weaker position when dealing with large financial institutions. OJK Regulation No. 1/2013 specifies that OJK may facilitate dispute resolution within a maximum of 30 working days, extendable as needed. This mechanism provides an alternative, faster, cheaper, and more efficient dispute resolution outside court. Typically, this process involves mediation or facilitation, where OJK acts as a neutral party that listens to customer complaints while pressuring financial institutions to take responsibility.

The effectiveness of this mechanism can be seen in various real-world cases, such as when OJK compelled illegal investment managers to return part of the customers' funds. OJK often takes proactive steps to monitor and crack down on illegal financial entities, protecting customers from further losses. Thus, OJK's role extends far beyond that of a mere facilitator, becoming an active actor in financial law enforcement. Empirical studies show that OJK's presence significantly accelerates customer loss recovery. For instance, in cases of illegal fintech, OJK not only accepts complaints but also cooperates with law enforcement agencies to shut down illegal operations and secure company assets (Makur & Astutik, 2023). This demonstrates OJK's catalytic role in bridging administrative, civil, and criminal remedies. OJK also has authority to impose administrative sanctions on financial

institutions that violate rules, ranging from warnings, fines, and business suspension to license revocation. With such authority, OJK wields strong leverage to compel financial institutions to assume responsibility for customer losses.

OJK's supervisory role has been strengthened since its establishment under Law No. 21 of 2011, which transferred supervisory powers from Bank Indonesia and Bapepam-LK. OJK employs a risk-based supervision system using Regulatory Technology (RegTech) and Supervisory Technology, enabling it to focus not only on financial aspects but also ensuring financial institutions' compliance with legal norms and business ethics. This modern supervisory system allows OJK to detect potential violations early, thereby reducing customer loss risks. However, limitations in human resources and technology remain major challenges to supervisory effectiveness. Despite this, challenges persist both in civil proceedings and in OJK's mechanisms. In civil law, the main obstacle lies in asset tracing and lengthy legal procedures, while in OJK's mechanism, challenges stem from limited supervisory capacity and legal assistance (Wicaksono, 2024). Customers still frequently face bureaucratic hurdles, even though OJK is normatively granted broad authority. Moreover, customer loss recovery is often hampered when funds are transferred abroad or entangled in complex transactional networks. This underscores the necessity of synergy between civil remedies and OJK's role to ensure truly effective legal protection.

For example, in personal data breach cases, customers may pursue civil remedies for compensation, but the process is time-consuming. Meanwhile, OJK can exert direct pressure on financial institutions to improve security systems and provide compensation without waiting for court rulings. Such synergy must be continuously strengthened to accelerate loss recovery. Furthermore, the rapid development of digital financial technology has heightened risks of data breaches and fraud, requiring legal protection for customers to be adaptive and responsive (Makur & Astutik, 2023). Beyond recovery, OJK also plays a preventive role that is equally important. Through financial literacy programs, OJK seeks to enhance public financial literacy and inclusion, making customers more alert to potential risks. These educational programs are also part of the strategy to reduce future disputes. In this regard, OJK functions not only as a regulator but also as an advocate for consumer interests. This dual role distinguishes OJK from traditional supervisory institutions that usually focus solely on repressive measures.

It can thus be said that civil law and OJK's role are two complementary legal instruments in providing customer protection and loss recovery. Civil law offers a strong juridical foundation for compensation claims through court mechanisms, while OJK acts as an independent regulator capable of expediting recovery through facilitation, supervision, and administrative sanctions. However, implementation challenges remain key issues to be addressed—both in terms of proving claims under civil law and OJK's limited supervisory capacity. Strengthening synergy between civil remedies and OJK's role, supported by adaptive technology and regulations, will enable a more effective customer protection system. Comprehensive protection will not only enhance public trust in financial service institutions but also reinforce national financial system stability. Therefore, continuous academic studies and regulatory reforms are essential to ensure justice and legal protection for customers are truly realized.

Conclusion

Legal protection for customers over fund losses at Bank BCA essentially rests on the principle of prudence in banking as well as the civil law liability inherent in the contractual relationship between the bank and its customers. A deposit agreement creates an obligation for the bank to safeguard customers' funds; thus, when losses occur, customers have the right to claim compensation based on breach of contract (*wanprestasi*) or unlawful acts. This demonstrates that civil law plays a central role in ensuring customers' rights remain protected when risks of fund loss arise, whether due to the bank's internal negligence or third-party crimes.

On the other hand, the Financial Services Authority (OJK) serves as both regulator and external supervisor that strengthens legal protection for customers. OJK not only provides guidance through regulations but also offers out-of-court dispute resolution mechanisms via the Financial Services Sector Alternative Dispute Resolution Institution (LAPS SJK), giving customers a faster and more efficient avenue to obtain justice. The collaboration between civil law instruments and OJK's role is therefore key to creating legal certainty and public trust in the banking system, particularly in the context of Bank BCA's increasingly complex digital services that are vulnerable to cybercrime risks.

References

Agustina, A., Suitela, P. C., & Siahaan, T. P. (2024). Perlindungan Hukum terhadap Hilangnya Dana Nasabah Bank BRI yang Melanggar Prinsip Kehati-hatian Bank. *Syariah: Jurnal Ilmu Hukum*, *2*(1), 171–179. https://doi.org/10.62017/syariah.v2i1.2626

Albabana, N. (2020). Pertanggungjawaban Hukum Bank atas Kelalaian Pegawainya terhadap Debitur yang Terkena Bi Checking: *Jurnal Esensi Hukum*, *2*(1), 49–63. https://doi.org/10.35586/esensihukum.v2i1.24

Anggraini, M., & Fasa, M. I. (2024). Strategi Pemasaran Syariah dalam Meningkatkan Loyalitas Pelanggan di Perbankan Syariah. *Jurnal Intelek Dan Cendikiawan Nusantara*, *1*(5), Article 5.

Asmara, Y. (2023). *Perlindungan Hukum Atas Hilangnya Dana Nasabah di Rekening Bank Menurut Hukum Positif di Indonesia*. https://glosains.staiku.ac.id/index.php/Glosains/article/view/14

Junita, D., Eldrida, M., Febrina, I., Novriani, A., Hendrawan, Bora, A., & Sari, R. M. (2023). Implementation of Bank BCA's Risk Management Strategy in Franchise-Based Business Financing. *Indonesian Journal of Multidisciplinary Sciences (IJoMS)*, *2*(1), 126–136. https://doi.org/10.59066/ijoms.v2i1.318

Kardinata, H., & Sihombing, J. (2025). Reconstruction of Arrangements on the Role of the Financial Services Authority in Bank Health Supervision Post-Law on Development and Strengthening of the Financial. *Journal of Lifestyle and SDGs Review*, *5*(1), e02812–e02812. https://doi.org/10.47172/2965-730X.SDGsReview.v5.n01.pe02812

Kerap, K. R. (2018). Perlindungan Hukum terhadap Nasabah Penyimpan Dana dalam Likuidasi Bank oleh Lembaga Penjamin Simpanan Berdasarkan Undang-Undang Nomor 7 Tahun 2009. *Lex Privatium*, *6*(1), 27–34.

Makur, A., & Astutik, S. (2023). Analisis Peran Otoritas Jasa Keuangan (OJK) dalam Pengawasan dan Regulasi Industri Perbankan di Indonesia. *Gemah Ripah: Jurnal Bisnis*, *3*(02), 42–46.

Mulyati, E., & Dwiputri, F. A. (2018). Prinsip Kehati-hatian dalam Menganalisis Jaminan Kebendaan sebagai Pengaman Perjanjian Kredit Perbankan. *Acta Diurnal: Jurnal Ilmu Hukum Kenotariatan*, *1*(2), 134–148.

Nguyen Kim, Q. T. (2024). Corporate Governance, Corporate Social Responsibility, and Bank Performance in Vietnam with Mediators. *Cogent Business & Management*, *11*(1), 2336654. https://doi.org/10.1080/23311975.2024.2336654

Ningsih, A. S., Prasaja, R. C., Maharani, F. T., & Wardhani, H. P. (2025). Peran Otoritas Jasa Keuangan (OJK) Dalam Mengatur dan Mengawasi Tingkat Kesehatan Bank. *The Prosecutor Law Review*, *3*(2), 57–75.

Novika, A. T. N., Abbas, I., & Rustan, M. (2021). Penerapan Prinsip Kehati-hatian terhadap Pemberian Kredit Bank Mandiri Kota Makassar. *Qawanin Jurnal Ilmu Hukum*, *2*(1), 1–12.

Nurani, E., Wiryanto, W., & Riyanto, S. (2023). Optimalisasi Perlindungan Konsumen atas Kebocoran Pengelolaan Data Pribadi dalam Pinjaman Online. *Jurnal Hukum Jurisdictie*, *5*(2), 51–69. https://doi.org/10.34005/jhj.v5i2.133

Pantow, R. T. (2025). Tindak Pidana Penipuan dalam Transaksi Online sebagai Kejahatan Terorganisir dan Kaitannya dengan Pencucian Uang. *Peshum: Jurnal Pendidikan, Sosial Dan Humaniora*, *4*(3), 4604–4615. https://doi.org/10.56799/peshum.v4i3.8971

Prastita, R. M. (2018). Peran OJK dalam Proses Pengembalian Dana Nasabah Bank yang Hilang dan Keseuaiannya dalam Perspektif Islam. *Al-Irfan: Journal of Arabic Literature and Islamic Studies*, *1*(1), 121–140. https://doi.org/10.36835/al-irfan.v1i1.3224

Putri, S. K., Turisno, B. E., & Widanarti, H. (2016). Kewenangan Otoritas Jasa Keuangan (OJK) dalam Perlindungan Hukum terhadap Nasabah Bank yang Melakukan Pelanggaran Prinsip Kehati-hatian (Studi pada Putusan Mahkamah Agung Nomor 1111 K/Pdt/2013). *Diponegoro Law Journal*, *5*(2), 1–15. https://doi.org/10.14710/dlj.2016.10961

Rizky, R., & Marpaung, D. S. H. (2022). Pertanggungjawaban Bank BCA terhadap Nasabah atas Kelalaian Bank Mentransfer Dana serta Upaya Penyelesaiannya. *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora*, *9*(1), 198–209. https://doi.org/10.31604/justitia.v9i1.198-209

Sihotang, E. T., & Kurniawati, R. P. (2025). Pengukuran Dimensi Kualitas Layanan terhadap Kepuasan Nasabah: Studi pada PT Bank Central Asia, Tbk Surabaya. *Jurnal Administrasi dan Manajemen*, *15*(2), 166–178. https://doi.org/10.52643/jam.v15i2.4682

Sudirman, D. C., Husna, N. A., Alaika, S. P., Syahranni, A., & Azdy, D. (2024). Otoritas Jasa Keuangan Dalam Melindungi Nasabah Perbankan. *Deposisi: Jurnal*

Publikasi Ilmu Hukum, *2*(1), 292–301. https://doi.org/10.59581/deposisi.v2i1.2441
Sukarini, E. E., & Primasari, I. K. (2022). Praktik Penegakan Hukum Tindak Pidana Perbankan Melanggar Prinsip Kehati-Hatian. *Gema Wiralodra*, *13*(1), 256–272. https://doi.org/10.31943/gw.v13i1.245
Wicaksono, D. B. (2024). Potensi Sengketa Kewenangan Pengawasan OJK dengan BI dan LPS: *Fundamental: Jurnal Ilmiah Hukum*, *13*(2), 190–200. https://doi.org/10.34304/jf.v13i2.283