

RENEWAL OF CRIMINAL LAW AGAINST ABUSE OF CREDIT CARDS

Eka Nugraha, Syukri Akub, Badriyah Rifai, Marthen Arie,
Hasanuddin University Graduate
Email: eka17nugraga@yahoo.co.id

ABSTRACT

The use of credit cards for payment in lieu of cash since the introduction of the first credit card ever more widely known and used by people. On the early introduction of this credit card, the wearer is limited to certain circles. However, a few decades later the credit card industry primarily enter the end of the Decade of the 1970s, has penetrated almost throughout all parts of the world, including Indonesia. A credit card is issued by most commonly used by the public and apply the current International consists of a range of brands, among others, a very popular one is Visa and Master Card are each issued by the credit card company international and Master Card International.

In practice many found the works in banking that may be subject to sanctions as set forth in the book of the law of criminal law (Criminal Code).

Keywords: criminal law Update, credit card misuse,

INTRODUCTION

The credit card industry in Indonesia has become an important part of the economy of Indonesia as a whole. As payment instruments credit cards have become part of life of a society that cannot be separated again. Improvement of the technology in terms of payment transaction made use of the card is an important part in the process of our daily lives.

Means of payment using the card one in the form of a credit card which is set in the Governor of the Bank Indonesia Regulation (PBI) about regulation in the use of credit cards is not relevant anymore, along with the development of the age of development in Indonesia that is ever increasing covers all aspects of life. The construction itself can indeed not that caused the emergence of a new criminal offence (criminogenic), especially when the results are distributed appropriately and fairly to all the people and support the entire social conditions.

In the development of society, with all the problems, there are some members of the public who can easily meet the needs of his life, and vice versa there are other people who are experiencing difficulty in meeting the needs of his life. The impact of the crime trend there is doing in order to meet the needs of the living, which certainly will be very disturbing and unsettling society, as said by Bongger that "Crime is the act very antisocial, which was opposed by the State knowingly."¹

¹ Bongger, W.A.1977. Pengantar Tentang Kriminologi, Terjemahan A. Koesnoen, Ghalia Indonesia.

The result of the financial services community will need ever-increasing and diverse, so the role of the banking world is increasingly required by all walks of life, both of which are in developed countries or developing countries. Currently, development of the banking world is increasingly rapidly and modern both in terms of product range, quality and technology. Banking increasingly dominate the business and economic development of a country. Even the very existence of the banking activity and determine a country's progress in the economic field, therefore it is no wonder if the country's shattered banking, it will lead to the destruction of the economy of the country concerned as happened in Indonesia in 1998 and 1999.²

Nowadays to Transact can be used a variety of means of payment, ranging from the most traditional to the most modern. In the early years before the introduction of money as means of payment per transaction done through exchanges between the goods with goods or goods with the service, or the service with the service. The transaction at the time it was known by the name of the barter system in the development of further found in the most efficient and effective to do transactions, i.e. with the use of "money".

Risks that arise and must be faced is like the risk of loss, falsification or exposed to robbery. As a result of activities the use of cash as a payment tool began to diminish its use. "Plastic card" or more commonly known by the name ' "credit card (credit card) or a" plastic money "which is able to replace the function of money as means of payment.

A credit card is a type of card in lieu of physical money, as a means of Exchange in a wide range of needs³. In addition to the credit card used for various purposes, so that its use can be multi-functional. Risks such as the above more or less can be refuse with the use of this credit card. Its use is felt more safe and practical for any purpose, such as to travel, let alone credit cards nowadays can already be used for all activities internationally.

A credit card is a card issued by a bank or financing agency, which was given to the customer to be used as means of payment at various places such as supermarkets, markets, hotels, restaurants, entertainment venues, and other places. In addition, this card can also be cashed at various places like at an ATM (Automated Teller Machine). ATM which is known by the term Platform Independent Cash usually scattered in various places such as in shopping malls, entertainment and office space.

The use of credit cards in Indonesia can be said is still relatively new, but it has been very widely used as a payment instrument since it entered the Decade of the 1980s especially after deregulation, deregulation is a Government policy that reduced the share that the factors that protect the banking industry of an economy. (Eric. R. Reidenbach and Robert e. Pitts, 1986:232)⁴

Credit card business is classified as a group of venture financing on the basis of a decision of the Minister of Finance No. 1251/KMK/013/1988 on 20 December 1988. Citibank and Bank Duta (merged with bank Danamon) can be described as a fairly influential in the bank pioneered the development of correctional or the use of credit cards in Indonesia with Visa and Master

² Kasmir, 2000, *Manajemen Perbankan*. PT. Raja Grafindo Persada, Jakarta, hal 16

³ Info Bank, Edisi No. 144 Tahun 1989 hal. 62

⁴ <http://thimutz.blogspot.com/2010/10/pengertian-dan-dampak-deregulasi-dari.html>

Card then followed by some banks that act as a Publisher or provider of these types of credit cards are credit cards that have been in circulation and can be used by the public as a means of payment is currently in Indonesia along with Visa and Master Card are Amex Card , International Diners, BCA Card, Procard, Exim Smart, Ambassador Card, Kassa Card and some other cards issued by banks. Generally these credit card promulgated by public banks and finance companies. Issuance of credit cards by banks must go through the procedures set by bank Indonesia. While the permit issuance of credit cards by companies financing provided by the Treasury Department. For example, Diners Card by PT. Jaya Indonesia International Diners and Kassa Kassa by PT. Card Multi Finance.⁵

The use of credit cards for payment in lieu of cash since the introduction of the first credit card ever more widely known and used by people. On the early introduction of this credit card, the wearer is limited to certain circles. However, a few decades later the credit card industry primarily enter the end of the Decade of the 1970s, has penetrated almost throughout all parts of the world, including Indonesia. A credit card is issued by most commonly used by the public and apply the current International consists of a range of brands, among others, a very popular one is Visa and Master Card are each issued by the credit card company international and Master Card International.

In practice many found the works in banking that may be subject to sanctions as set forth in the book of the law of criminal law (Criminal Code). The crime of banking operates only to violation of law No. 10 of 1998, namely the issue of legality permits the establishment of a bank.

In legislation, crime in banking are grouped in three types of works, including:

- a) Crime in the field of treaty/legality of the bank, be running a similar business bank.
- b) Crime of forgery of documents used as security or collateral credit many times so that credit gets repeatedly with the intent to commit fraud.
- c) Forgery involving traffic giral, among others, the form of forgery and use of forgeries and transfer application letters and the use of other banks clearance/all with the intent to commit fraud.

Among these three types of crime in banking such as above, the crime of abuse of credit cards is included in these types of crimes of forgery involving traffic giral. Criminal acts in the field of banking credit card occurs by way of forged credit cards with the help of a bank official handed him a credit card stolen/faked findings and signatures valid credit card holder.

Mabes Polri noted credit card forgery to reach 7,000 cases. Today, there are over nine million credit cards in circulation in Indonesia. The cards were published by 20 banks incorporated in the credit card Association Indonesia (AKKI), both domestic and foreign. Credit card promulgated the banks generally wear international licenses such as Visa International, MasterCard International, and American Express. Credit card crime is on the rise with growth reaching 20-30% per year. Of data during the course of 2002, AKKI losses reached Rp 35 banks to Rp 50 billion. While the credit card Association Indonesia (AKKI)

⁵ Dahlan Siamat, 2001, *Manajemen Lembaga Keuangan*, Edisi III, Lembaga Penerbit FE UI. Hal 309

estimates in 2007, losses due to credit card crime in the country reached Rp 35 billion.⁶

Based on the data of the Bank Indonesia (BI) latest as of April 2010, the value of the loss of the card above the credit card fraud reached Rp 1.672 billion. that the total value of such losses consisted of six cases of credit card fraud, namely falsification of the card, the card is lost or stolen, the card is not accepted, card not present (CNP) fraud, applications, and cases of fraud, etc.

The existence of multiple carding mode i.e. the counterfeiting, i.e. genuine or fake cards were changed to resemble the original card. Perpetrators of counterfeiting is an individual or a syndicate with huge funds and extensive network. Another mode is to use the specific software generally available. The offender also can steal data over the phone by calling someone and preach that the use of the card has reached the limit. The owner of the card is certainly surprised and complain. This complaint is addressed, abuser by requesting card number and other data to check on the database. The traps of the Prize also often managed to hook people to mention his credit card number.

If the comparison between the Court ruling with a reality that is happening at the moment in which cases concerning abuse of credit cards at present almost no incoming field the Court while his case very much happening in Indonesia. This is because the provisions include Article 265 and article 377 of the Penal Code is not relevant for use in prosecuting the perpetrators of crime cope/credit card because it has a few weaknesses, among others:

1. A credit card cannot be interpreted as a letter of
2. Things that are forged in the misuse of a credit card pin is another person who has successfully stolen through fraud by phone to the victim.

Theoretical Foundation

The development of society and the change of society requires the renewal of the law. It concerns the politics of law, is a good fit with the circumstances and the situation at a time.

The preparation of the book of the law of national criminal law to replace the book of law criminal law remains Netherlands colonial Government with all its changes is one of the efforts in the framework of the development of national laws. The effort made in directional and integrated in order to support the national development in various fields in accordance with the demands of the development as well as the level of legal awareness and dynamics that develop within the community.

As for theories used in this paper are:

1. The Theory of Criminal Law Policy

Policy approaches include the notion that intertwined between the goal-oriented approach, the approach of rational, economical and pragmatic approach, as well as the value-oriented approach. Crime is designation, which means that crime is defined by other than criminals. Crime is behaviour subject to judgement of other.

Evil is the designation, which means a crime defined by other than criminals. The crime

⁶ <http://suaramerdeka.com/v1/index.php/read/cetak/2008/02/27/2653/Kejahatan-Kartu-Kredit-Rp-35-Miliar>

is subject to the behaviour of other assessments. So law enforcement policy is indispensable to tackling crime.

Criminal law enforcement policy is a series of process consists of three stages, namely policy:

- a. Stages of legislative policy (formulate) controlling or formulate what could deeds are convicted and what sanctions could be imposed by lawmakers.
- b. The stage of judicial policy/applicative that is applying the criminal law by the law enforcement agencies, ranging from police, prosecutors, and the courts.
- c. Executive policy stage/performing administrative criminal law in concrete, by implementing the criminal apparatus.⁷

Crime prevention efforts or policy in fact is an integral part of the protection of society (social defence) and the efforts of achieving the well-being of society. The formulation of the purpose of criminal politics that ever also stated in one report the Exercise Courses organized by UNAFEI in Tōkyō 1973 cited in the Criminal Aspect in Studies dissertation

The following credit card abuse:

Most of group members agreed some discussion that "protection of the society" could be accepted as the final goal of criminal policy, Although not the ultimate aim of society, which might perhaps be described by terms like "happiness of citizens", "a wholesome and cultural living", "social welfare" or equality".

Sudarto posited three meanings about the criminal policy that is:

- a. In a narrow sense, namely the overall principle and methods became the basis of the reaction to the violation of the law in the form of criminal
- b. In the broad sense i.e. is the overall function of the law enforcement apparatus, including the workings of the Court and the police.
- c. In the broadest sense is the entire policy, made through legislation and official agencies, which aim to uphold the Central norms of society.

Thus it can be said that the political criminal in fact is also an integral part of the social politics (i.e. policy/effort to achieve social welfare) Some of the crimes that got the attention of the United Nations Congress on *The Prevention of Crime and The Treatment of Offenders*, where the 5th Congress in 1979 in Geneva, mentioning among others:

1. *"Crime as a business" means crime aimed at obtaining material through the activities in the business or industry, which generally carried out organized and carried out by those who have a controlling position in the community; included in these crimes, among others, related to the pollution of the environment, consumer protection and in the fields of banking, in addition to other crimes commonly known by "organized crime", "white collar crime", and corruption.*

⁷ Barda Nawawi Arief, 1998 *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*. PL Citra Aditya Bakti Bandung, hal.30

2. Criminal acts related to the results of the work of art and a wealth of culture, cultural objects, and cultural heritage. Crime related to alcohol and substance abuse.
3. Violence between individuals (interpersonal violence), particularly among adolescents.
4. The Act of violence that is both national and international Trans, commonly referred to as acts of terrorism.
5. Crimes related to the traffic of motor vehicles.
6. Crime-related transfers (migration) and the transition of displaced due to natural disasters and wars; issues related to transfers for example concerning passport and visa violations, counterfeiting documents, expose labour, prostitutes, and so on. Issues related to refugees, among others, the problem of the diversion of aid and the issue of espionage.

Efforts and policies to create a good criminal law regulations in fact cannot be released from the purpose of tackling crime. So political policies or criminal law is also part of criminal politics, then politics is synonymous with criminal law sense "policy for tackling crime by criminal law".

2. The New Theory of Criminal Law

With regards to understanding criminal law update Barda Nawawi Arief posited that is:

Criminal law update can reorientation and reform of the criminal law in accordance with the central values of the socio-political, socio-philosophic, and socio-cultural community Indonesia informing social policy, criminal policy, law enforcement and policy in Indonesia.

Renewal of criminal law can be said to be an update on the issue of banned deeds or acts that can are convicted; perpetrators of crime; and criminal sanctions that are basically it lies on the issue as to the Act what should are convicted; terms what should have met to deal with/accountable person who's doing it; and sanctions (criminal) what they should have been charged to that person. But criminal law is seen as a system of regulating the whole of the statutory rules of criminal law, so that updates to the system of criminal law (penal system reform) includes renewal of the substance criminal law, updates the structure of the criminal law, and criminal law culture updates.

The conception about credit cards

Introduction for Credit Card

Citing a thorough understanding of credit cards in the research thesis A.A. Sagoeng Poetri Praniti in the title of the criminal aspects of the Study in the misuse of credit cards among other things⁸:

In The Encyclopedia Americana

“Credit card is a means of identification by which of the owner may obtain consumer credit for the purchase of goods or service rather than pay cash. At the time of sale he

⁸ Praniti, A.A. Praniti, A.A. Sg.2003. dalam Penelitian Tesis Kajian Aspek Pidana Dalam Penyalahgunaan Kartu Kredit (Credit Card).Pascasarjana Universitas Udayana.hal90

present his card to the seller, who records the purchaser's name and account number along with the price of purchase records are sent to a central billing office that calculates the total price of purchases made by the card owner during the business month and send him a bill. The purchaser returns his personal check covering all or part of the total to the central office, which allocates the money to the establish entitle to it”.

Are according to Hill Dictionary,

“Credit Card is a card identification which allows the holder to purchase goods and services in the present and pay for them in the future. Credit Card is issued by Bank, Hotels, Travel organization, to individual who are classified a good credit risk a small fee, must be paid in advance by the individual to obtain certain credit card”.

According To Peter Salim

“A credit card is a card issued by a Bank or financial institution for their subscription-subscription to be able to buy goods and services from. Companies that accept credit cards, without payment by cash.”

“A credit card is a payment tool that allows the cardholder to obtain goods or services from merchants, where rules have been made (directly or indirectly) by the person who issued the card, as well as the regulations for making amends on the merchant. The card holder pays to the manufacturer of the card according to the specific plan limits.”

In article 1 paragraph (8) of the decision of the President of the Republic of Indonesia No. 61 in 1988 about the financing institution said that credit card companies (credit card company) is a business entity doing business financing to buy goods and services using a credit card.

Thus the credit card is a card issued by a Bank or other financial institution, where the owner of the card in a transaction can obtain goods or services by showing a card that can also serve as a means of payment in cash.

The urgency of renewal of criminal law against the crime of credit card Abuse

The life of modern society in the era of globalization is a versatile complex changes in various aspects of human life, both in the field of social, economic, political, science and technology. This poses a lot of problems and require adaptation and adjustment immediately so that the pace of developments can be anticipated. The development of increasingly multi-dimensional feels when confronted on the demands and needs of such a diverse human.

A dynamic law however still left behind by the development community, especially in a legal system that tends to be continental Europe embraced the principle of legality so it's not surprising if along with the development in the society so many types of crime at the moment that is difficult for accountable according to law. This is due to the emergence of various types of crimes recently that hasn't been able to allow by law.

The existence of deficiencies or gaps in our law is severe challenges for scientists of the law, and to respond to these challenges, the law should not too much see in the form of statistic

(low in books), but must also be seen in the form of operational (Law In Action) or in other words how the law works in reality conditions of society. This role was or whether the law can only be seen on the "Law in Action" from the law itself

A legal loophole means that there are acts that are already contrary to the direction of the goal of the law but not affordable by the law itself, which in the real thing can be seen with the emergence of an imbalance in the middle of the community, while the governing law is far from there. This usually happens due to a pattern of development that so quickly while legal action was likely to move slowly.

It has become common knowledge that development very quickly today it's very presence spurred by advances in technology in the field of eltromagnetika who converted in digital form, where all information can be packaged in a digital information that can then be processed and deployed quickly.

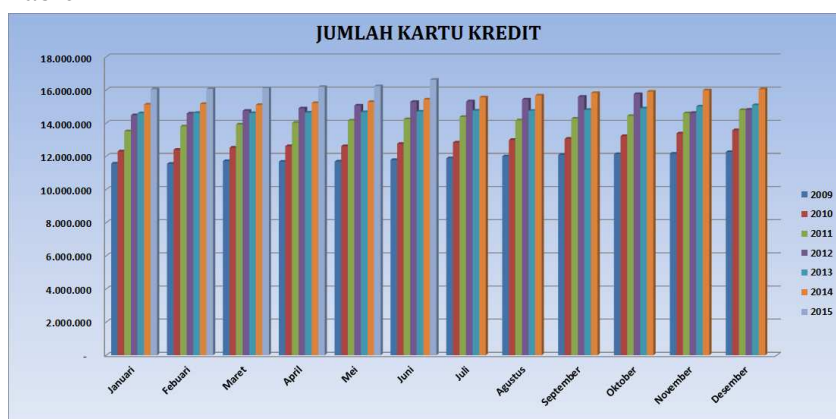
Digital information technology brings impacts that were so positive for the life of the community by having sides of speed, accuracy, and ease-the much compared to conventional technology, but the positive impact of these go hand in hand with negative impact for people who abuse the technology, and this is where things often cause problems due to the modern technology world tends to be invisible so indeed very vulnerable to abuse.

One of the developments that took place in the middle of modern society nowadays is ingression of information technology in a world of transactions. The transaction is now no longer rely on conventional methods by using cash as a means of transaction. The cash has been replaced with modern facilities such as an ATM card, credit card, PayPal etc.

Of the many modern means in the middle of the community, which is often a concern and being debated was the presence of a credit card as a means of transaction which in fact is so make it easy for the community but on the other hand turns out to contain because of weakness has led to many losses.

Based on the results of research in Bank Indonesia credit card growth data obtained Indonesia as follows:

Table 1



Secondary data source: Bank Indonesia June 2015

While the data of the transaction amount and the value of credit card transactions in Indonesia as follows:

Years	The Number Of Credit Card	The Amount Of The Transaction	The Value Of Transactions (Million)
2009	12.259.295	177.817.542	132.651.567
2010	13.574.673	194.675.233	158.687.057
2011	14.785.382	205.303.560	178.160.763
2012	14.817.168	217.956.183	197.558.986
2013	15.091.684	235.695.969	219.026.985
2014	16.043.347	250.543.218	250.177.517
Juny 2015	16.621.918	132.652.766	133.475.758

Secondary data source: Bank Indonesia June 2015

Rapid development of these crimes caused by:

1. Rapid development of science and technology that ultimately tend to abused by Parties not responsible
2. the weakness of the company's credit card issuer,
3. The weakness of the bank
4. The downside of the community
5. The weakness of law enforcement.

The problem of law enforcement did not significantly affect an increasing number of credit card-related crimes. Law enforcement ' influential ' reasoned that the issue of enforcement is only one factor, but there are still many other factors that are also influential, and is seen after confirmed it turns out the factors in question are factors that have been outlined in previous interviews.

The influence of law enforcement was dominant against these problems, the following views:

1. Technology progress and opportunities misused form is already commonplace and inevitable therefore is the impact of the global changes that occur in a country anywhere, it's just a developed country they are able to control this.
2. The downside of corporate credit card issuers also can't be seen as dominant factor because in Indonesia, credit card companies are companies that have been very famous and recognized the security system, and any other country using such companies ;
3. The weakness of the banks also can't be used as an excuse by the existing at bank because the system is handled by the company as described in points 2.
4. The weakness of the public nor can be classified a large factor influence due to the community basically users that cannot be burdened above error events that occur, it is not fair if a shortage of careful and ignorance they cannot be said to be

a factor in the causes of the increase in credit card crime because they are the one who should be given a Ministry in this regard, including security in the use of credit cards.

Judge substance that is still very limited in an attempt to suppress the rate of increase in credit card-related crimes. the current rules are only able to reach the modus operandi of the conventional, while the modus operandi that belongs to modern very difficult reachable by the existing criminal law, it is the one who makes the perpetrators cannot be arrest so as not to cause a sense of trepidation to do because in fact the crime so much that cannot be further processed.

The different opinions related suggests that the quality of the apparatus became the dominant factor, based on a reason which is also strong enough that the perpetrators are difficult because the quality of the apparatus is very limited to find them. It encourages them to continue doing this crime because it believes that they are hard to get caught by law enforcement.

Credit card crime in anyway is divided into two phases, namely:

- As target credit card crime
- As for the definition of the thing was: a crime that aims to obtain a legitimate credit card functions, where the perpetrators in various ways trying so that encompasses the u.s. act if having a valid credit card
- The crime of making unauthorized credit cards as a means of crime;

As for the definition of the thing is: the perpetrator managed to achieve its purpose, then using it to advantage themselves;

credit cards for those who are not entitled to with as the legitimate owner of the act as it is definitely classified an act which seeks to move others to benefit himself, so can arrest with article 378 of the CRIMINAL CODE on fraud.

Crimes using the credit card is not valid as a means of crime already need not discussed further because the substance of the existing law are able to reach out to these crimes. a comprehensive law is law that afford preventive, use of invalid credit cards is just the finalization of crime and in practice have been very practical use, the actors are able to make unauthorized credit cards will not be bound by the law when the card is given to another person to use, due to her is simply the maker but not the credit card users.

The problem is crime making a credit card as a target, where the offender uses a variety of modus operandi to be able to act as if it has a valid credit card. There are several modern modus operandi at this time used in credit card abuse.

The modus operandi is basically it's hard to reach by the positive law of Indonesia which is now, as for the basis of the analysis of the authors is to try rajaalihaji.com articles that are considered to be related to the above, modus operandi and by eliminating clauses can only be reach crime against a credit card with a conventional, such as modus operandi by forcing others to squeeze/can get a credit card with its conventional mode, or with the other. As for the modus operandi of modern and lively at this time is:

1. Modus Operandi *Non received Card*

Was the perpetrator of the acts committed with the use of the credit card is not accepted by the credit card holder. An example of this is the modus operandi when credit cards are sent by people who are not entitled to. In practice the offender appended his signature in the signature (signature panel) which is still empty and conduct transactions in stores by signing a sales draft and acting as though a legitimate card holder.

2. Modus Operandi *Lost Or Stolen Card*

The mode is done using the original card is stolen or findings, examples include when the perpetrators get a credit card from a credit card thief and use it with a minimal amount of transaction value or a small amount e.g. Rp. 100.000,-(one hundred thousand rupiah) so it does not need to be authorized. The perpetrators very worried when the credit card is authorized because the card number system has been blocked so should be arrested.

3. Modus Operandi *Altered Card*

A great way to use the perpetrators using the original card that modified the data. The perpetrators use the original card is stolen or darkening that is then heated and the relief cards are dissolved so that, after the relief then reprinted (re-embossed) with new data, while the magnetic stripe data filled the newly (re-encoded), the data can be from the Point Of Compromise (POC), among others, persons of traders, members of the bank and those of the near-near the vicinity of the legitimate card holder, after that card so then the perpetrator of the transaction to the merchant and usually great deals as well as the possibility of unscrupulous traders involved.

4. Modus Operandi *Totally Counterfeit*

5. A great way do the perpetrators of crime by using a credit card which is entirely false. The perpetrators of the print/making a mock picture card logo is valid, this is done by means of embossing and encoding. The type of forged cards that can be used as the original card at merchants with the correct transaction. Usually the offender had previously attempted to perform the authorization test. This modus operandi can be successfully carried out because of the fake credit cards quality and are very difficult to distinguish the original credit card or if there is cooperation between the cardholder with a plurality of traders.

6. Modus Operandi *White Plastic Card*

A great way done principals by using the original data that is subsequently printed in plain card (white plastic).

Modusnya namely printed numbers embossed on the credit card is recorded and then printed on plain plastic about the size of the original, without credit card logos and other visual signs, in addition magnetic stripe behind this card filled with cardholder data by way of encoding. The legitimate card holder data obtained from point of compromise in cooperation with officials of the bank. Transactions using the card this can occur due to the cooperation fully with the person of traders because the plain card should not be used to Transact and subsequent sales invoiced to draft Manager.

7. Modus Operandi *Record of Charge Pumping Multiple Imprint*

Is committed by perpetrators of crime by doubling sales draft which will be charged on the issuing bank. Examples in practice usually the person doing the printing of the merchant sales draft more than once, subsequent sales draft results doubling sold or handed over to other merchants to charge persons with fictitious data then the signature is emblazoned in vain or mimic the cardholder's signature is valid only after it was invoiced to the maintainer, so as if the actual transaction results.

8. Modus Operandi *Altered Amount*

The modus operandi is done by changing or adding to the nominal values stated on the sales draft from the card used in the transaction in the shop. For example, transactions that occur is Rp. 100.000,-(one hundred thousand rupiah) converted to Rp. 1.000.000,-(one million rupiah) and further amended draft sales invoiced to the Manager.

9. Modus Operandi *Skimming*

Is the theft of the whole credit card holder data contained in the magnetic tape credit card electronically. The stolen data is moved on the other cards like the original card is lost, to a white plastic cards or other cards like the fake cards. And the tools used is called a skimmer.

10. Modus Operandi *Wire-Tapping*

Is data theft via the telecommunication line between EDC with existing systems at the bank to get the data of the credit card holder contained in the credit card's magnetic tape.

11. Modus Operandi *Inline-Tapping*

It is the modus operandi that is done by the theft of data through the phone cord connected with EDC or PC based POS (cashier machine/cash register) to get the data of the credit card holder contained in the credit card's magnetic tape.

12. Modus Operandi *Internal Compromise*

Bank customer data theft is assisted by officers of the bank by making use of the customer database. And with that data the perpetrator can make a fake credit card and insert that data into or use such data for online transactions.

13. Modus Operandi *Change program Electronic Draft Capture*

This mode can change the Electric program Draft Capture IE tools EDC authorization property managers lent on the merchant. The program in this tool are engineered so that it can be done without the need for authorization or operated there credit card physically.

14. Modus Operandi *Fictitious Merchant*

The modus operandi is done by pretending to be a trader or have a shop. For example the perpetrator filed an application to become a merchant bank with fake data, then perform a transaction as if there were in the shop transactions, usually the card being used is counterfeit cards or stolen card that hasn't got blocked. After the sales draft then traded be charged to bank manager where the funds are transferred by land after the bank and its subsequent fictional traders this will disappear by leaving his shop just to avoid the Bill.

15. Modus Operandi *Internet Phishing*

That is the Act of obtaining personal information such as your User ID, PIN, bank account numbers, and credit card numbers of victims illegally.

A common technique often used is making the exact same site with an official website with the domain name that is similar to the official website and then exploit omissions in terms of internet users typing or by sending an email or through social networking Make hyperlinks to Web-site of the perpetrator.

From the study of aspek of criminal law can be seen several articles that are considered law enforcement officers can use to ensnare deeds perpetrators credit cards currently in the criminal code is Article 263, 362, 369, 372 of the Penal Code, the Penal Code 322. Whereas in other terms can also be used the provisions of article 30 and 31 of the Act No. 11 of 2008 of the information and electronic transactions

However, from some of the modus operandi has been explained before, there are 4 new modus operandi which is currently not yet reached by the Indonesian criminal law i.e.:

1. Modus Operandi *Totally Counterfeit*
2. Modus Operandi *White Plastic Card*
3. Modus Operandi *Internal Compromise*
4. Modus Operandi *Internet Phishing*

Of the fourth such mode 4 are particularly vulnerable is the Modus Operandi of Internet phishing scams because of these technical mode is easy to do, and the famous case is the case of Phasing BCA in 2001, following a brief description of what happened:

In 2001, the internet banking fuss by internet banking fraud case belongs to the BCA, such cases are conducted by a former student, ITB Bandung and is also one of the employees of online media (satunet.com) named Steven Haryanto. Surprisingly this is not Electrical Engineer Steven or computer science, but rather a chemical engineer. This idea arose when Steven was also the wrong type in the website address. Then he bought the domain-the domain of the internet with a price of about u.s. \$ 20 using the name with the possibility of the wrong people to type and display exactly the same with the internet site www.klikbca.com IE banking BCA, kilkbca.com, klikbca.com, klickbca.com, klikbac.com

People will not be aware that he has been using the site overlay because asphalt is presented similar to the original site. The hackers were able to get a User ID and password of a user who enters sutis asphalt.

The urgency of renewal of criminal law related credit card crimes relating to aspects of the purpose of the law, namely, fairness, certainty and benefit.

The policy of criminal law in the draft Criminal Code against criminal acts of abuse of credit cards;

1. The design of the book of the law of criminal law as a form of renewal of criminal law, is part of an effort to respond to all the crime phenomenon that developed in the community, it is therefore a series of changes and additions have been carried out in order to include the latest crimes that emerged as a result of advances in technology.

2. In the draft Criminal Code which is the equivalent of the corresponding articles in the Criminal Code currently includes:

3. Article 548 (Secret subtle) 1) every person who opens up the secrets that must be saved because the Office or his profession a secret, either now or in the past, are convicted with imprisonment of no longer than 2 (two) years or a maximum fine of criminal Category III.

4. Article 452 of the draft Penal Code (falsification of letter)

5. Are convicted because of counterfeiting a letter, with imprisonment of no longer than 6 (six) years or a maximum fine of criminal Category IV, any person who: Made incorrectly or faking letters that may give rise to a right, the Alliance or the exemption of debts, or intended as evidence of a thing, with intent to use or to have other people use as if its contents are true and not false use of the letter, if it can give rise to a loss.

6. Article 602 of the draft Criminal Code (Theft)

7. Every person who takes an item that is partially or completely the property of another person, with the intention to have such articles are against the law, are convicted because of theft, with imprisonment not more than 5 (five) years or a maximum fine of criminal Category IV.

Article 613 (Embezzlement)

Everyone that is against the law to have an item that is partially or completely the property of other people, that is in its power not because of the crime, are convicted because of embezzlement, with imprisonment of no longer than four (4) years or a maximum fine of criminal Category IV.

Article 619 (fraud)

Everyone that is against the law with the intent to benefit yourself or others with a false name or a false position, abuse of religion, using trickery or a series of words lie persuade people so give an item, make a recognition of debt, or remove accounts receivable, are convicted because of fraud, with imprisonment of no longer than four (4) years or a maximum fine of criminal Category IV.

Existing provisions in the criminal code that can be connected with a crime related to credit card, not subjected to changes in the draft Criminal Code currently (year 2012 draft). Information and electronic transactions that are set in the draft Criminal Code are not as wide as that provided for in law number 11 year 2008 of the information and electronic transactions will remain if it is linked with the problem of evil associated credit cards, this is already contained in the draft article that expressly mention about it. This is regulated in article 379 are set as follows:

Are convicted with imprisonment of no longer than 10 (ten) years or a maximum fine of criminal Category VI, any person who:

a) *Use or access the computer or electronic systems without rights or exceeds his authority with the intention of obtaining profits or obtaining financial information from the Central Bank, banking institution or financial institution, credit card issuer, card or payment or that contain report data of customer;*

b) *Use or access the data in any way credit cards or payment cards belonging to others without rights in electronic transactions for profit.*

The second provision above reveals that there is already a more attention toward credit card related crimes in the draft Criminal Code, it appears that the compilers of this draft already saw a growing crime phenomenon in society. The above settings seem more specific and already touching the user data area is certainly the thing that are crucial in the credit card, in addition to. The foregoing is in fact a progress compared to the current Criminal Code because in the Criminal Code currently there is not a single mention of bright title credit cards, in addition to that subject in the Criminal Code is still limited to individual people instead of people according to the law so that the Criminal Code could not reach the whole range of stakeholders which rights and obligations different from the formulation in the draft Criminal Code which uses the term everyone.

Although more advanced than the Criminal Code but if connected with article 30 of law No. 11 of 2008 of the information and electronic transactions, it appears that deeds is regulated in the draft Criminal Code above is included into the staple form of 'hacking' which generally set that every tort access Computer and/or electronic systems belong to others in any way been classed as a criminal offence.

Based on the things that are put forth above it can be concluded that in the draft Criminal Code the last (2012) yet there are significant developments towards the setting of credit card related crimes in the draft even though it already showed more attention to the problem.

With regard to the renewal of criminal law (Criminal Code) relate to crimes credit card, some criminal deeds that can be formulated as a form of criminalization against credit card crime, the following can be recommended :

Create, mimic, and or and or doing physical changes against a credit card are against the law so that the card can be used to Transact the selection of the phrase ' make, and or mimic, and or do physical changes against a credit card " covers all the crimes that made the physical credit card as target crimes;

The selection of the phrase ' against the law ' is used in order to make the Act of arrest exactly is the Act of using the methods inappropriate things which can include very much the modus operandi and on one side to prevent people using legitimate methods to arrest into the article;

The selection of the phrase ' so that the cards can be used towards transaction ', is used so that the perpetrators of the arrest does not include the people who create, mimic, or modify the credit card to another interests such as props.

The formulation of the act as above according to the author already reach every modus operandi that leads to credit card (physical), including:

Altered Card, Totally Counterfeit, and White Plastic Card

Acquiring and or change the credit card holder data either stored for limited periods of time or for a period that is not specified in the device manual or electromagnetic devices are against the law;

The selection of the phrase ' acquiring and or change the credit card holders ' data, covering all the acts that led to the data, because the data against an admittedly only know two acts namely (Read and Write) that in terms of open source programing are known with the symbol mode 777 (full access/row (read write)).

Rationale ' good stored for a specified period of time or for an unspecified period of time ' is to reaffirm that there is data here belongs to temporary data in a form that is sometimes not considered data by lay people as data.

The selection of the phrase ' stored in the device manual device or elektromagnetik ' is based on the idea that data against an, now can only be stored in a document manually (hard) as well as digital documents (soft).

The selection of the phrase ' against the law ' is used in order to make the Act of arrest exactly is the only infringe rather than those entitled as officer devoted to it;

The formulation of the act as above according to the author already reach every modus operandi that leads to credit card data, including:

Altered Card, Skimming, Wire-Tapping, Inline-Tapping, Internal Compromise, and Internet Phishing.

Use the data transactions that are not actually from a transaction using a credit card as a means to gain an advantage for themselves or others.

The selection of the phrase ' using the data transactions that are not actually from a transaction using a credit card as a means of ' based on the idea that each act of manipulating the data either directly or indirectly, have entered into this item.

The selection of the phrase ' for the purpose of gaining an advantage for oneself or others ' avoid arrest people who make changes to the data with a goal that deserved such a change data for correction.

The formulation of the act as above according to the author already reach every modus operandi that leads to a sales draft data of credit card transactions, including:

Record of Charge Pumping Multiple Imprint and Altered Amount

Are against the law to make changes on a system in hardware or software used in an electronic transaction using a credit card as a means of payment that can outwit a system so it does not run as expected.

The selection of the phrase ' against the law ' is used in order to make the Act of arrest exactly is the only violate the rights of those who do not repair the device or test device;

The selection of the phrase ' on a system in hardware or software that is used in a transaction the electronic using credit card as means of payment ' is used in order to reach all of the infrastructure that can be used in a transaction the electronic use credit cards as a means of payment.

The selection of the phrase ' who can outwit a system so it doesn't run properly ' aims in order for deeds that reach is exactly just that is manipulation tool or system.

The formulation of the act as above according to the author already reach every modus operandi that leads to data infrastructure within a payment system using a credit card as means of payment, such as

Manipulating Electronic Draft Capture.

Let the occurrence of the act as mentioned above but are concerned to know and have a duty to not let it;

The selection of the phrase ' Let the occurrence of the act as mentioned above ' is to reach out to the Act the issues in criminal law referred to by delict omits '

The selection of the phrase ' the concerned but aware of and have a duty to not let it ' to limit that can are convicted later just though people who know that it happened and just let it though there is obligation for him to prevent or overcome his occurs.

The whole of works reach all methods of credit card-related crimes that are developing now (including the Modus Operandi Totally Counterfeit, Modus Operandi White Plastic Card, Modus Operandi Internal Compromise, and Modus Operandi Internet Phishing).

Based on the above formula, then the Description article credit card related crimes in the draft Criminal Code should be as follows:

- (1) *Are convicted with..... Any person who intentionally::*
1. *Create, mimic, and or and or doing physical changes against a credit card are against the law so that the card can be used to Transact*
 2. *Acquiring and or change the credit card holder data either stored for limited periods of time or for a period that is not specified in the device manual or electromagnetic devices are against the law*
 3. *Use the data transactions that are not actually from a transaction using a credit card as a means to gain an advantage for themselves or others.*
 4. *Are against the law to make changes on a system in hardware or software used in an electronic transaction using a credit card as a means of payment that can outwit a system so it does not run as expected.*
 5. *Any person who deliberately let the occurrence of the act as mentioned above but are concerned to know and have a duty to not let it.*

CONCLUSION

The urgency of renewal of criminal law (Panel Code) against criminal acts of abuse of the credit card (credit card) is to reach all forms of crime related to credit card that has not been reached by the current criminal law in order to be processed and accounted for according to the criminal law matters which may give detention, and vengeance that accordingly for the perpetrators and give a sense of the fair for those who have been wronged, in addition the delivery of the effects will arise in the middle of the community so that it can provide benefit by holding the rate of crime and loss can be in Barcelona. The urgency of this update because criminal laws that exist today include the Criminal Code could not reach all the mode of this crime.

References

Barda Nawawi Arief, 1994, *Kebijakan Legislatif Dalam Penanggulangan Kejahatan dengan Pidana Penjara*, Penerbit: Universitas Diponegoro Semarang,

-----, 1998 *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*. PL Citra Aditya Bakti Bandung,

Bonger, W.A.1977. Pengantar Tentang Kriminologi, Terjemahan A. Koesnoen, Ghalia Indonesia.

Dahlan Siamat, 2001, *Manajemen Lembaga Keuangan*, Edisi III, Lembaga Penerbit FE UI.

Kasmir, 2000, *Manajemen Perbankan*. PT. Raja Grafindo Persada, Jakarta,

Praniti, A.A. Praniti, A.A. Sg.2003. *Kajian Aspek Pidana Dalam Penyalahgunaan Kartu Kredit (Credit Card)*. Pascasarjana Universitas Udayana

Peter Hoefnagels G. 1973. *The Other Side of Criminology*. Kluwer – Deventer. Holland.

Info Bank, Edisi No. 144 Tahun 1989 ,

<http://thimutz.blogspot.com/2010/10/pengertian-dan-dampak-deregulasi-dari.html>

<http://suaramerdeka.com/v1/index.php/read/cetak/2008/02/27/2653/Kejahatan-Kartu-Kredit-Rp-35-Miliar>

<https://errors505.wordpress.com/contoh-kasus-phishing/>