

Questioning Data Protection in Open Banking System

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Bank of Indonesia had launched new payment standard called National Open API Payment Standard (“**SNAP**”) in response to the challenge of digitalization era. The new payment standard is regulated through Members of the Board of Governors Regulation Number 23/15/PADG/2021 concerning Implementation on National Open API Payment Standard (“**PADG 23/2021**”). Open Application Programming Interface (“**API**”) is utilized by banks to conduct a banking system called open banking. By implementing open banking, the providers will be able to make banking data is accessible to their consumers, banks or third parties. However, the question arises on the protection of consumers data.

Open banking is a model which uses banking data that is shared through API to third parties. Financial Services Authority (“**OJK**”) defines open banking as a system that provides users with a financial institution data network through the use of API.¹ Using APIs, the providers are able to give access to their data to consumers and banks or third parties. The data in the provider’s system is owned by individual consumers. Therefore, banks and/or fintechs who would like to access or give access to the data, need the consumer's permission. To put it simply, Open API is the library owned by the providers, banks or fintechs, which provide information on consumers data and the library itself can be accessed by the provider’s affiliated parties that have the consumer’s authorization.

That being said, the administration of open banking shall in regards to consumer’s consent. In Indonesia, bank’s consumer data may be shared to other parties only if there is a written permission from the consumer itself.²

SNAP is formulated based on the comparison from other countries’ regulation, namely the European Union’s PSD2, the United Kingdom’s Open Banking Standard, Hong Kong’s Open API Framework, Australia’s Competition and Consumer Act, Japan’s Amendment of Banking Act 2017, and also Singapore’s Finance as a Service: API Playbook. SNAP covers the technical and operational aspects as well as the governance guidelines.³ The governance guidelines cover consumer protection, data protection, precautionary requirements, and also contract standards.

¹ OJK, Blueprint for Digital Transformation in Banking, pg. 161.

² Article 44A paragraph (1) Law 10/1998.

³ Article 3 paragraph (2) of PADG 23/2021.

Banks and non-bank institutions can act as the provider or the user of open banking. These institutions shall operate their open banking system in accordance with SNAP.

Additionally, SNAP does not only control the pre-establishment requirements of an open banking service. After the service is launched, the provider must submit a report regarding the implementation of SNAP in their system. Both the provider and the user must report the consumer's protection aspect, including plan and report on implementation of education, and report on handling and settling consumer complaints.⁴

It is notably that Bank of Indonesia aims to create uniformity in the development of open banking. However, as banks are engaged in mobilizing funds from the public⁵, Bank of Indonesia and OJK have the responsibility to protect the public's interest which potentially become the vulnerable party in this practice. Eventually, the transparency of data in conducting the Open API may create bigger risks for the consumer's safety.

Considering the immense use of personal data in Indonesia today, Indonesia is yet to have its own Personal Data Protection Law. Minister of Communications and Informatics ("MOCI") stated that the stipulation of data protection is dispersed in 32 (thirty-two) different sectoral laws.⁶ The discourse of Personal Data Protection Bill has been raised since 2012. However, the bill has not been passed even now, when in fact, the enactment of Personal Data Protection Law could give data owners a legal protection. With the implementation of SNAP means the urgency of Personal Data Protection law is more necessary than ever.

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⁴ Article 49 paragraph (2) Bank of Indonesia Regulation Number 22/20/PBI/2020.

⁵ Article 1 number 2 of Law 10/1998.

⁶ "Lindungi Data Pribadi, Ada Empat Unsur Penting Pengaturan RUU PDP," <https://www.kominfo.go.id/content/detail/27503/lindungi-data-pribadi-ada-empat-unsur-penting-pengaturan-ruu-pdp/0/artikel> accessed on January 31st, 2022.