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Disclosure of Bank Product Information and the Principle of Bank Secrecy: A Legal Analysis of Customer Protection in Indonesia

Alvin Hamzah Nasution[1], Sugih Ayu Pratitis[2]

[1] Universitas Medan Area, Indonesia
[2] Universitas Harapan Medan, Indonesia

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ABSTRACT

This study examines the legal issues between the obligation to transparency in banking products and the protection of customer confidentiality in the Indonesian legal system. Information disclosure is necessary to guarantee consumers' rights to obtain adequate explanations regarding the benefits, costs, and risks of bank products, while bank confidentiality serves to maintain the security of customer data. Using a normative juridical method through statutory, conceptual, and case approaches, this study is analyzed using the theories of justice, legal certainty, and consumer protection. The results of the study indicate that regulations regarding transparency in banking products are available in the Banking Law and OJK regulations, but their implementation has not fully placed customers on an equal footing with banks. The main obstacles lie in differences in public understanding and the lack of uniform standards for conveying product information. Therefore, regulatory harmonization, strengthening of market behavior supervision by the OJK, and the development of simpler information standards are needed to improve customer protection and public trust in the banking sector.

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Corresponding Author:
Alvin Hamzah Nasution
Universitas Medan Area, Indonesia; alvinhamzahnst@gmail.com

1. INTRODUCTION

Banking is a crucial component of the national financial system, serving as an intermediary by collecting public funds and channeling them through credit and other forms of financing. (Kasmir, 2018) Banking activities are not solely aimed at profit, but also play a role in maintaining financial system stability and encouraging national economic growth. Within the framework of a state governed by the rule of law and modern governance, the success of the banking industry is greatly influenced by public trust in the security of deposited funds and the quality of information provided regarding banking products and services (Rachmadi Usman, 2012).

Transparency of bank product information plays a crucial role in customer protection efforts because it allows the public to obtain adequate explanations regarding the benefits, costs, risks, and characteristics of the products offered. This transparency aligns with consumer protection principles, which guarantee the public's right to receive accurate, clear, and non-misleading information. In contemporary banking practices, information transparency is also closely linked to increased levels of financial literacy and inclusion. (Shidarta, 2012)

Based on the results of the National Survey of Financial Literacy and Inclusion (SNLIK), Indonesia's financial literacy index increased from 49.68% in 2022 to 65.43% in 2024 and reached 66.46% in 2025. Meanwhile, the financial inclusion index was recorded at 85.10% in 2022, then 75.02% in 2024 with a new measurement method, and increased again to 80.51% in 2025. These data indicate that the public increasingly needs information on financial products that is easy to understand and widely accessible. (OJK, 2024)

Nevertheless, information transparency in banking is inseparable from the principle of bank secrecy, a key characteristic of the Indonesian banking system. Provisions regarding bank secrecy are stipulated in Article 40 of Law Number 10 of 1998 concerning Banking, which requires banks to maintain the confidentiality of information regarding depositors and their deposits. The purpose of this regulation is to protect the privacy and security of customer data to maintain public trust in banking institutions. At the same time, banks are also obliged to provide transparent product information in accordance with the provisions on consumer protection for financial services stipulated by the Financial Services Authority (OJK) through OJK Regulation Number 6/POJK.07/2022.

Legal issues arise when the obligation to maintain customer confidentiality must be balanced with the demand for transparency in banking product information. In practice, many customers struggle to understand risks, administrative fees, interest mechanisms, and penalty provisions because the information provided is technical and not always tailored to the general public's level of understanding. This situation creates an information gap between banks and customers, potentially detrimental to consumers of financial services.

Viewed from the perspective of administrative law and governance, the transparency of bank product information is also related to the implementation of good governance principles. The principles of transparency, accountability, legal certainty, and protection of public interests are part of the General Principles of Good Governance (AAUPB) which must be reflected in the regulation and supervision of the financial services sector. (Ridwan HR, 2014). OJK as a supervisory institution based on Law Number 21 of 2011 has the responsibility to realize orderly, fair, transparent, and accountable financial services activities and provide protection to consumers and the public. (OJK, 2024) Therefore, supervision of market behavior (market conduct) and standards for conveying bank product information are part of the implementation of good governance principles in the banking sector.

In addition to the provisions in the Banking Law and the Financial Services Authority (OJK) Law, strengthening transparency and consumer protection also has a legal basis through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (PPSK Law). This regulation emphasizes the importance of strengthening consumer protection, integrated supervision, and more accountable financial sector governance. (Dian Ekawaty Ismail, 2018) This demonstrates that national legal policy increasingly positions information transparency as a crucial instrument in maintaining the stability and integrity of the financial system.

Based on the above description, this research focuses on two main issues, namely: (1) how to regulate the transparency of bank product information and the principle of bank secrecy in Indonesian banking law; and (2) how to implement these two principles in providing legal protection to customers. Analysis of these two issues is necessary to find a formulation of harmonization between the obligation to transparency and the obligation to maintain bank secrecy so that a banking system that is safe, stable, fair, transparent, and oriented towards customer protection can be realized.

2. METHODS

This study applies the normative juridical method (Sukanto, 2015) with a focus on the study of various laws and regulations governing the disclosure of banking product information and the principle of bank secrecy. The approaches used include the statute approach, conceptual approach, and case approach to obtain a comprehensive understanding of the applicable legal construction.1 The primary legal materials in this study include Law Number 10 of 1998 concerning Banking, Law Number 21 of 2011 concerning the Financial Services Authority, and various OJK provisions relating to consumer protection in the financial services sector.

Meanwhile, secondary legal materials were obtained through a literature study that included banking law books, scientific journals, and previous research results relevant to the issues of customer protection and transparency of bank product information. All legal materials were analyzed qualitatively using the theory of justice proposed by John Rawls (Jhon Rawls, 1993), the theory of legal certainty from Hans Kelsen and Gustav Radbruch, and consumer protection theory as an analytical framework to assess the effectiveness of the regulation and implementation of bank product information transparency in the Indonesian banking legal system.

3. FINDINGS AND DISCUSSION

Regulations on Disclosure of Bank Product Information and the Principle of Bank Secrecy in Indonesian Banking Law

Transparency of banking product information essentially embodies consumers' right to obtain accurate, clear, and honest information regarding the financial services they use. In consumer protection theory, the right to information is viewed as a primary requirement for consumers to make rational and responsible choices. Therefore, banks' obligation to provide product information is not merely administrative but also a legal obligation aimed at protecting customers as consumers of financial services.

Normatively, the legal basis for information disclosure can be found in Article 4 letter c of Law Number 8 of 1999 concerning Consumer Protection, which grants consumers the right to obtain correct, clear, and honest information regarding the condition and guarantees of goods or services. This provision is emphasized in Article 7 letter b, which requires business actors to provide correct, clear, and honest information to consumers. (Consumer Law, 1999) In the banking sector, this obligation is implemented through Financial Services Authority Regulation Number 6/POJK.07/2022, which requires financial services business actors to provide product information that is accurate, honest, easy to understand, and not misleading. (OJK, 2022)

From a state administrative law perspective, information disclosure is an application of the General Principles of Good Governance (AAUPB), particularly the principles of transparency, legal certainty, and accountability. The principle of transparency requires that every policy or action that impacts the public be accompanied by adequate and accessible information, while the principle of legal certainty demands clarity regarding the rights and obligations of parties in banking legal relations. Thus, the regulation of information disclosure on bank products reflects the implementation of good governance principles in the implementation of the financial services sector. (Eny Kusdini, 2018)

Besides its relation to the principle of transparency, information disclosure is also related to the principle of balance in contract law and consumer protection. In banking practices, there is an unequal position between banks and customers because banks have greater control over information. According to John Rawls' theory of distributive justice, the state needs to provide legal mechanisms capable of reducing this inequality so that every individual has an equal opportunity to access relevant information. Therefore, the obligation of banks to explain the benefits, costs, risks, and characteristics of products is an instrument for realizing fairness in financial services transactions. (John Rawls, 2018)

On the other hand, the Indonesian banking legal system recognizes the principle of bank secrecy, as stipulated in Article 40 paragraph (1) of Law Number 10 of 1998 concerning Banking. This provision requires banks to maintain the confidentiality of information regarding depositors and their deposits. This principle is based on the fiduciary principle, which is the foundation of the legal relationship between banks and customers. Without a guarantee of confidentiality, public trust in depositing their funds with banking institutions may decline. (Banking Law, 1998)

However, bank secrecy is not absolute. Articles 41 through 44A of the Banking Law provide exceptions for tax purposes, settlement of state receivables, criminal justice proceedings, certain civil cases, interbank information exchange, and requests from heirs of deceased customers. These exceptions demonstrate the application of the principle of proportionality, namely the balance between protecting customer privacy and broader legal interests, including law enforcement and protecting the public interest.

To strengthen the analysis, the regulation of bank product information disclosure and the principle of bank secrecy need to be placed within the context of international legal standards and developments in European legal thought. This is important because the regulation of the financial services sector in Indonesia is fundamentally influenced by international principles regarding transparency, consumer protection, and personal data protection. The OECD, through the G20 High-Level Principles on Financial Consumer Protection, emphasizes that consumers of financial services have the right to obtain clear, accurate, and understandable information before using financial products. Meanwhile, the Basel Committee on Banking Supervision places transparency and information disclosure as essential elements of effective banking supervision. (OECD, 2011)

In the context of data protection, the European Union's General Data Protection Regulation (GDPR) requires financial institutions to maintain the confidentiality of customers' personal data, but also requires transparency regarding the intended use of the data and the rights of data subjects. Furthermore, Directive 2014/17/EU on consumer credit agreements and Payment Services Directive 2 (PSD2) require financial service providers to clearly disclose fees, interest rates, and risks to consumers. These international standards demonstrate that product transparency and personal data protection are two principles that must be balanced. (Gustav Radbruch, 1961)

The views of European legal experts also reinforce the need for harmonization between information disclosure and bank secrecy. Hans Kelsen emphasized that legal certainty can only be achieved if norms are formulated clearly and consistently, so that the boundaries between information that must be disclosed and information that must be kept confidential must be clearly defined. Gustav Radbruch stated that the law must embody the values of justice, certainty, and utility, so that regulations regarding information disclosure must not compromise the protection of customer privacy or consumers' right to information. Rosa María Lastra argued that modern bank secrecy is no longer absolute but must be aligned with consumer protection and the integrity of the financial system. Jan Schans Christensen emphasized that transparency is a prerequisite for creating efficient financial markets because consumers can only make rational economic decisions if they have sufficient information. Meanwhile, Christoph Grabenwarter emphasized the importance of striking a balance between personal data protection and procedural transparency in the financial sector to ensure consumer rights are maintained.

Normative tensions arise when banks must balance the obligation to disclose product information with the obligation to maintain customer confidentiality. In practice, some banks still tend to use confidentiality as a pretext to restrict access to information that actually relates to product characteristics, not customer personal data. This situation creates information asymmetry that can be detrimental to customers because they do not obtain a complete picture of the risks, costs, and legal consequences of the products they use.

From the perspective of Hans Kelsen's theory of legal certainty, a norm must provide clear boundaries regarding required and prohibited behavior. Unclear distinctions between mandatory product information and confidential customer information have the potential to lead to multiple interpretations in banking practices. Meanwhile, Gustav Radbruch emphasized that the law pursues not only certainty but also justice and expediency. Therefore, information disclosure regulations must be formulated in such a way as to provide fair protection for customers without diminishing the function of bank secrecy as a protector of privacy and data security. (M. Arifin, 2022)

Within the legal framework of the financial services sector, Law No. 21 of 2011 concerning the Financial Services Authority mandates the Financial Services Authority (OJK) to ensure orderly, fair, transparent, and accountable financial services activities and to protect the interests of consumers and the public. This mandate is reaffirmed in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector, which emphasizes enhanced consumer protection, integrated supervision, and more accountable financial sector governance.

Based on the above description, the relationship between bank product information disclosure and the principle of bank secrecy is essentially complementary. Information disclosure aims to protect customers' rights to information regarding banking products and services, while bank secrecy protects customers' personal data and savings from misuse. Harmonization of these two principles needs to be realized through clearer regulations regarding the classification of product and customer information, strengthening market conduct oversight by the Financial Services Authority (OJK), and implementing simple and easily understood information delivery standards to create a transparent, accountable, and equitable banking system.

Legal Analysis of Customer Protection through Harmonization of Information Disclosure and Bank Confidentiality

1. Information Imbalance between Banks and Customers

Information asymmetry is a key issue in the legal relationship between banks and their customers. Banks, as financial services providers, have significantly greater access to and control of information regarding product characteristics, cost structures, risk levels, and the legal consequences of each banking service offered, while customers generally lack the same level of knowledge. This disparity in information access can lead customers to make decisions without fully understanding the economic and legal consequences of their chosen products.

From a consumer protection law perspective, information asymmetry must be reduced through transparency obligations imposed on businesses. Article 4, letter c, of Law Number 8 of 1999 concerning Consumer Protection affirms that consumers have the right to obtain accurate, clear, and honest information regarding the condition of goods or services. This provision demonstrates that the state positions the right to information as an instrument to create a more balanced position between consumers and businesses.

From the perspective of economic law theory, information imbalance can trigger market failure. In the banking sector, this failure occurs when customers lack sufficient information to assess the benefits, costs, and risks of a product. As a result, the choices they make do not reflect their true preferences. Therefore, regulatory intervention is necessary to ensure that the information provided by banks meets transparency standards and is easily understood by the public. (Dian Ekawaty Ismail, 2023)

This phenomenon is evident in everyday banking practices, for example, when conveying information regarding effective interest rates, administration fees, early repayment penalties, and investment risks in certain products. Many customers receive standard agreements with difficult-to-understand legal language and technical terms. (Yulia Yuli, 2022) As a result, approval is granted without adequate understanding of the rights and obligations inherent in the agreement.

Such a situation contradicts the principle of balance in contract law. This principle requires a proportional relationship between the parties, ensuring that no party possesses excessive dominance. In banking relationships, the bank's dominance of information can diminish the customer's freedom to provide informed consent based on sufficient understanding.

Furthermore, this issue is also related to the doctrine of good faith. Article 1338 paragraph (3) of the Civil Code stipulates that agreements must be executed in good faith. In the banking context, good faith not only means executing an agreement honestly, but also includes the obligation to provide adequate explanation before signing the agreement. Therefore, banks should not withhold information that could influence customer decisions.

John Rawls's theory of distributive justice provides the basis for the state's responsibility to reduce inequality in access to information so that every individual has an equal opportunity to make economic decisions. In the banking context, this theory supports the need for regulations that ensure customers receive information equivalent to that of banks regarding the products they use.

From a legal certainty perspective, Hans Kelsen emphasized that legal norms must be formulated clearly and consistently to provide behavioral guidelines for all parties.8 If the obligation to disclose information is vaguely regulated, banks may interpret it narrowly, thereby rendering customer protection ineffective. Meanwhile, Gustav Radbruch emphasized that the law must contain elements of justice, certainty, and benefit. Therefore, regulations regarding information disclosure must be able to provide real benefits to customers through the delivery of relevant and easily understood information.

Within the framework of state administrative law, information imbalance is also related to the implementation of the General Principles of Good Governance (AAUPB), particularly the principles of transparency and accountability. The Financial Services Authority, as the supervisory body for the financial services sector, is obligated to ensure that banks fulfill not only formal information disclosure obligations but also substantively. Market conduct oversight is crucial to prevent misleading or disproportionate disclosure practices.

From a consumer protection perspective, the relationship between banks and customers is not entirely balanced because banks have greater economic power and control over information. Therefore, the law provides special protections for customers through the right to information, transparency obligations, and complaint and dispute resolution mechanisms. The ultimate goal is to create equality of bargaining position so that customers have a more equal opportunity in making financial decisions.

Thus, transparency of bank product information cannot be understood merely as an administrative formality. This obligation is a legal instrument to correct the information imbalance between banks and customers. The more transparent and understandable the information provided, the less likely banks are to abuse their dominant position in contractual relationships. Harmonizing the obligation to disclose information and protecting customer interests is a crucial requirement for a fair, accountable, and consumer-oriented banking system.

2. Customer Data Protection and Confidentiality

In addition to the right to obtain information about banking products and services, customers also have the right to protection of their personal data and the confidentiality of their savings. This protection is an important foundation in the banking system because the continuity of bank activities is highly dependent on the level of public trust. Article 40 paragraph (1) of Law Number 10 of 1998 concerning Banking emphasizes that banks are obliged to maintain confidentiality of information regarding depositing customers and their savings. (Aulia Rahmawati, 2022) This provision shows that the protection of customer information is a legal obligation inherent in every banking institution.

Doctrinally, the principle of bank secrecy is rooted in the fiduciary principle. The legal relationship between a bank and its customers is not only contractual but also based on the belief that the bank will safeguard the security of customer funds and data. If confidentiality guarantees are not provided, the public may lose confidence in depositing their funds in banks, which ultimately has the potential to disrupt the stability of the national financial system. (Fahmi Ridwan, 2023) Thus, bank secrecy serves to protect the individual interests of customers while maintaining public trust in the banking industry.

From a banking law perspective, bank secrecy is also closely related to the prudential principle. Banks are obligated to manage customer information securely and responsibly as part of their risk management practices. Leakage of customer data not only causes losses for the parties involved but can also damage the bank's reputation and erode public trust in banking institutions. (Rina Marlina, 2023)

However, bank secrecy is not absolute. The Banking Law provides several exceptions regulated in Articles 41 to 44A, including for tax purposes, settlement of state receivables, criminal justice processes, certain civil cases, exchange of information between banks, and requests from heirs of deceased customers. (Hendra Wijaya, 2023) The existence of these exceptions demonstrates that confidentiality protection must be balanced with broader legal interests, including law enforcement and protection of the public interest.

From the perspective of state administrative law, exceptions to bank secrecy reflect the application of the principle of proportionality. This principle requires that restrictions on a right be limited and only for lawful purposes. Therefore, disclosure of customer information can only occur if there is a clear legal basis and the procedures stipulated by laws and regulations have been complied with. (Letari Puspita, 2024)

The development of digital technology and electronic banking services has increased the risk of customer data misuse. The digitization of transactions has forced banks to manage vast amounts of data, including identity data, transaction history, location, and service usage patterns. This situation demands stricter data protection standards to prevent misuse of customer information by both internal and external parties. (Dewi Kartika, 2024)

In the development of international law, personal data protection is receiving increasing attention. The European Union's General Data Protection Regulation (GDPR) stipulates that financial institutions are obliged to maintain the confidentiality of customer personal data while providing transparency regarding the purposes for which data is used and the rights of data subjects. (Yusuf Pranata, 2022) Principles such as lawfulness, fairness, transparency, and data minimization demonstrate that personal data protection is inseparable from the obligation to be transparent in information management.

This approach is relevant for Indonesia, especially following the enactment of Law Number 27 of 2022 concerning Personal Data Protection. This law provides a legal basis for data subject rights, data controller obligations, and sanctions for misuse of personal data. In the banking sector, this regulation reinforces banks' obligations to protect customer data from unauthorized access, use, disclosure, and processing. (Nadia Salsabila, 2022)

From the perspective of Hans Kelsen's theory of legal certainty, data protection and customer confidentiality must be formulated clearly to avoid multiple interpretations regarding the types of information that can be disclosed and that must be kept confidential.9 Clarity of norms is very important because banks must have definite guidelines in determining when customer information can be disclosed based on statutory orders and when the information must remain confidential.

Meanwhile, Gustav Radbruch emphasized that the law must contain elements of justice, certainty, and utility. In the context of bank secrecy, these three values must be balanced. Legal certainty provides clear guidelines for banks in managing customer data, justice ensures the protection of customers' privacy rights, and utility allows for the disclosure of certain information to support law enforcement and protect the public interest.

From a consumer protection perspective, personal data protection is part of the consumer's right to feel secure when using financial services. Customers have the right to be assured that their data and information will not be used for any other purpose without their valid consent. Therefore, banks are not only obligated to maintain the confidentiality of deposits but also to implement adequate information security systems to prevent data breaches.

A common problem in practice is the use of bank secrecy as a pretext to restrict customer access to information about the products they use. However, bank secrecy and product information disclosure have different protection objectives. Information disclosure relates to product characteristics, costs, risks, and terms of use of banking services, while bank secrecy concerns customer identity, personal data, and savings. (M. Rizal, 2022)

3. Customer Rights to Banking Product Information

The customer's right to obtain information about banking products and services is part of the consumer rights protected under the Indonesian legal system. Within the consumer protection framework, information is viewed as the primary means for consumers to make informed and responsible choices. Therefore, the right to information is not only defined as the right to receive specific data or documents, but also as the right to receive accurate, clear, honest, and easily understood explanations regarding the products they intend to use.

The normative basis for this right can be found in Law Number 8 of 1999 concerning Consumer Protection, which grants consumers the right to obtain correct, clear, and honest information regarding the goods or services offered. In the financial services sector, this provision is reinforced by OJK Regulation Number 6/POJK.07/2022, which requires financial services businesses to convey product and service information accurately, honestly, clearly, and not misleadingly. (Lina Widyastuti, 2024). This regulation demonstrates that information transparency is a legal obligation that must be fulfilled by banks as financial service providers.

From a consumer protection theory perspective, the right to information encompasses several important aspects, including information on product benefits, fees and charges, potential risks, terms and conditions of use, and complaint and dispute resolution mechanisms. These five aspects are essential components that customers must understand before conducting transactions or signing agreements with banks.

In banking practice, issues often arise not only regarding the completeness of information but also the level of understanding of that information. Many banks have complied with formal disclosure obligations, yet they use technical banking terms and legal language that is difficult for the general public to grasp. Therefore, transparency cannot be measured solely by the amount of information provided, but also by the extent to which that information is understandable to customers. (Dewi Lastari, 2018)

From a contract law perspective, this condition relates to the principle of balance and the principle of protection of the weaker party. Banks hold a stronger position because they control information and possess greater professional skills than customers. Therefore, the law places a greater obligation on banks to ensure that the information provided is truly understood by customers. (Hendra Kurniawan, 2023)

The right to information is becoming increasingly important because many banking products are complex and carry financial risks. For example, with credit products, customers must understand the difference between fixed and floating interest rates, interest calculation methods, administration fees, late fees, and legal consequences in the event of default. Failure to understand these aspects can leave customers facing unforeseen financial burdens.

Legally, a bank's obligation to provide clear information is also closely related to the principle of good faith in agreements. Article 1338 paragraph (3) of the Civil Code stipulates that agreements must be executed in good faith. In the banking context, this principle applies not only to the contract execution stage, but also to the stage before the contract is made. Banks are obliged to disclose material information and not conceal facts that could influence customer decisions.

According to John Rawls' theory of distributive justice, the state has a responsibility to create conditions that allow every individual equal access to relevant information. In the relationship between banks and customers, the obligation to disclose information serves to reduce information inequality so that customers can make fairer and more rational economic decisions.

Meanwhile, Hans Kelsen's theory of legal certainty emphasizes the importance of formulating clear and consistent norms. Regulations regarding the obligation to disclose information must be clearly formulated to avoid multiple interpretations regarding the type of information banks are required to disclose. Clarity in these norms is crucial for providing behavioral guidelines for banks and providing legal protection for customers.

Gustav Radbruch added that the law must contain elements of justice, certainty, and usefulness.10 In the context of the right to information, legal certainty provides clear standards regarding bank obligations, justice ensures that customers obtain information that is in accordance with their economic interests, while usefulness ensures that the information provided truly helps customers in making financial decisions.

If a bank provides incomplete, inaccurate, or misleading information, it may be deemed to have breached its legal obligations. Such violations can result in civil and administrative liability. In Indonesian judicial practice, inadequate disclosure of information can be the basis for a lawsuit for breach of contract or an unlawful act, as the customer is deemed to have failed to provide informed consent. The Financial Services Authority (OJK) plays a crucial role in overseeing banks' compliance with information disclosure obligations. Market conduct oversight ensures that banks not only fulfill formal disclosure obligations but also convey information in a manner proportionate to the public's literacy level.

4. CONCLUSION

Transparency of bank product information and the principle of bank secrecy are two principles that must be applied in a balanced manner in the Indonesian banking system. Transparency of information aims to protect customers' rights to obtain clear explanations regarding the benefits, costs, risks, and terms of use of banking products, while bank secrecy serves to safeguard customers' personal data and savings based on the principle of trust. The main problem identified is the persistent imbalance of information between banks and customers, resulting in customers not always obtaining an adequate understanding of the products they use. From the perspective of the theory of justice, legal certainty, and legal benefits, harmonization of transparency obligations and protection of customer confidentiality is needed through stricter regulations regarding product information that must be disclosed and customer information that must be kept confidential, strengthening market conduct supervision by the Financial Services Authority, and providing information that is simpler and easier for the public to understand. Thus, customer protection can be enhanced without compromising the function of bank secrecy as a protector of privacy and data security, thus creating a transparent, accountable, and equitable banking system.

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