

Legal Analysis of Cash Scams on Paylater Limits as a Preliminary Mode of Criminal Activity

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ABSTRACT

Advancements in financial technology have simplified transactions through Paylater services, yet they have also created opportunities for misuse, such as the practice of gesek tunai (gestun), which is carried out through fictitious transactions on e-commerce platforms. The purpose of this study is to examine the legal construction of the “unlawful act” element based on criminal law theory and to determine whether gestun practices in Paylater limits can be categorized as an initial modus operandi of criminal offenses. This research employs primary legal sources, including the Indonesian Criminal Code (KUHP), the Electronic Information and Transactions Law (ITE Law), the Anti-Money Laundering Law (Law No. 8 of 2010), OJK Regulation No. 10/POJK.05/2022, Bank Indonesia Regulation No. 11/11/PBI/2009, and relevant court decisions, using a normative juridical methodology through statutory and case approaches. The findings indicate that gestun in Paylater services meets the criteria of an initial modus operandi of criminal conduct because it involves transaction manipulation that may constitute fraud (Article 378 of the KUHP), embezzlement (Article 372 of the KUHP), money laundering (Law No. 8 of 2010), and even continued offenses (Article 64 of the KUHP). According to both monist and dualist theories, this activity is legally prohibited and also violates administrative regulations issued by the Financial Services Authority (OJK) and Bank Indonesia. This study underscores the importance of enhancing public digital literacy and revising criminal law provisions to specifically regulate the misuse of fintech services.

KEYWORDS Cash Swipe, Paylater, Criminal Acts, Fintech.



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INTRODUCTION

In recent years, the development of Indonesia's financial technology has advanced significantly, especially in internet-based trading. Online transactions have made it easier for consumers and traders to conduct computer-based businesses (Zhao et al., 2019). One can imagine how easily potential consumers can access the freedom to meet their needs by leveraging advances in online shopping technology (Faulds et al., 2018; Grewal et al., 2021; Parise et al., 2016; Verhoef et al., 2017). In Indonesia, platforms such as Shopee represent a new direction for trade media (Ekasari et al., 2023; Fatimah & Adinugraha, 2024; Kelvin & Novani, 2023; Wiradinata, 2024). Although these online shopping sites were initially met with skepticism in the community—since the goods needed by consumers were only displayed through images on mobile phone screens, unlike direct shopping where consumers can physically handle items to assess authenticity, quality, and size suitability, often at a higher price—e-commerce services like Shopee now offer relatively cheaper prices, discounts, and promotions. Coupled with easy payment options like Paylater, this has transformed consumer behavior (Faisal, 2024; Halim et al., 2024; Kamil et al., 2024; Kusmalinda, 2025).

Paylater-based digital loan services provide easy access to credit without physical collateral. Paylater operates like a credit card: shop first, pay later. With just a Paylater credit limit, consumers can buy needed goods and pay within one month of purchase. This fintech product is increasingly popular as a solution for e-commerce use to meet individual needs (Abdillah, 2020; Nilasari et al., 2022; Nwani et al., 2023). However, new technologies like Paylater can enable problems, including crimes in financial technology known as Cash Swipe (GESTUN) (Istiqomah et al., 2024; Jallow et al., 2024). Cash Swipe involves contrived shopping using a Paylater limit by pretending to buy fictitious goods, as if receiving them. In reality, this process yields cash from third parties, namely business actors offering the service (Chen et al., 2019; Pena et al., 2021).

The Cash Swipe phenomenon has long occurred in credit card services and has reemerged in Paylater on online shopping platforms. Easy access to quick cash via simple processes makes Paylater Cash Swipe an entry point for crimes like fraud and embezzlement. For example, in Jambi (2025), suspect Wike Widiati (26, IRT) deceived 32 victims via social media groups. Victims borrowed via Shopee Paylater, buying fictitious goods through online store links with promises of 30-47% cashback, resulting in losses of IDR 4.8 billion via fictitious checkout for limit-to-cash conversion (funds not liquid). Charged elements included fraud (Articles 378 & 379 of the Criminal Code). She was arrested in February 2025, with the trial at the Jambi District Court. Another case in Kudus (2023) involved victim Yunita (21), deceived via e-commerce (possibly Shopee). She scanned a barcode to cash out a IDR 10 million limit (funds not liquid), bearing IDR 3,000,000 installments via scan barcode for fictitious transactions; the promised cash transfer failed. This met fraud elements (Article 378 of the Criminal Code) due to transaction manipulation and was reported to the Kudus Police.

Law enforcement faces major hurdles due to the sophistication of illegal operations leveraging Paylater capabilities. Cashback transactions occur through the platform's official processes, appearing legitimate on the surface, making it hard for authorities to prove criminal intent (*mens rea*). Even when transaction structures show manipulation, many cases are dismissed as mere contractual breaches due to unclear boundaries between crime and civil issues. Withdrawing cash via Paylater has adverse implications for criminal law and banking regulation. The Financial Services Authority (OJK) and Bank Indonesia view such actions as administrative violations. However, case developments show that administrative strategies alone lack deterrent effect. A mismatch exists between legal standards and digital crime dynamics, with no specific rules governing deviant user behavior in fintech services. This underscores the scarcity of scientific studies on the legality and criminal responsibility of ATM cash withdrawal activities (*gestun*) in Paylater services—or comprehensive analyses of how criminal law views transaction manipulation as an illegal act, particularly as a preliminary mode of criminal activity, as in *Legal Analysis of Cash Scams on Paylater Limits as a Preliminary Mode of Criminal Activity*. Most prior research focuses on economic factors, consumer protection, or civil perspectives.

In fact, *Gestun* behavior mimics legitimate buying and selling intentions, but OJK deems it illegal and prohibits it per POJK No. 10/POJK.05/2022, as it deviates from intended purposes and risks enabling crime. Therefore, this paper examines the criminal law perspective on Cash Swipe (GESTUN) transaction engineering in Paylater as an initial mode of criminal acts related to fraud, embezzlement, and continuing offenses.

Cash withdrawals (gestun) through electronic payment systems like Shopee Paylater pose increasingly complex legal challenges, per prior studies. Research by Nafisah Qothrotun Nada (2024), titled "Enforcement of Shopee Paylater-Based Electronic Payment Norms in Tegal Regency," finds violations of regulations like OJK Regulation No. 10/POJK.05/2022 on technology-based co-funding services. It highlights regulatory challenges from Paylater misuse and calls for stricter enforcement of electronic payment norms.

In line with this, Dody Farhanul Hakim (2024), titled "Juridical Review of The Phenomenon of Cash Swipe Transactions in Shopee E-Commerce Based on Article 1320 of The Civil Code," identifies three key parties: seller, buyer (Paylater user), and Shopee as platform provider. It concludes the transaction fails valid agreement criteria due to unclear/misrepresented purposes and banking violations, urging clearer regulatory frameworks for e-commerce financial transactions.

Furthermore, Tony Yuri Rahmanto (2019), "Law Enforcement Against Electronic Transaction-Based Fraud Crimes," equates e-commerce fraud with traditional fraud (differing only in tools: direct to online/computer-based). Existing laws—the ITE Act for technology and Criminal Code for fraud—suffice, but implementation falters due to five factors: public unawareness, inadequate technical infrastructure, legislative gaps, insufficient officials, and slow technology adoption. A legal basis exists, but obstacles persist.

Another relevant study by Alif Oksaryan Mulyana and Diana Lukitasari (2022), titled "Application of The Rules of Continued Acts in The Decision of Criminal Cases," applies continuing acts rules when acts are interconnected from a single will (key to Article 64 of the Criminal Code), distinguishing from Real Concours.

To assess whether Paylater cash withdrawal engineering (GESTUN) qualifies as an initial mode of criminal acts—especially fraud, embezzlement, or continuous deviance—this study uses criminal law theory to examine unlawful elements in Cash Swipe transactions. It advances criminal law knowledge on fulfilling criminal elements in Paylater fictitious transactions as preliminary crimes. Benefits include heightened awareness among legal practitioners and the public that such engineering risks criminal punishment, preventing dismissal as non-prosecutable phenomena.

RESEARCH METHOD

This study employed a normative juridical approach. It utilized statute and case approaches to analyze criminal law enforcement in financial technology, focusing on Paylater electronic payment norms, Cash Swipe, and related ongoing criminal acts.

Primary legal materials included the Criminal Code, Financial Services Authority (OJK) regulations, Bank Indonesia legal regulations, and court decisions on Cash Swipe cases. Secondary legal materials comprised textbooks, scientific journals, and papers on criminal law, financial technology, and business ethics. Tertiary legal materials, such as legal dictionaries and encyclopedias, supplemented these sources.

Data collection involved library research from literature and archives, including primary, secondary, and tertiary materials like laws, research reports, books, articles, and news. Field research gathered data from legal phenomena and direct actors involved in Cash Swipe cases.

The study applied a descriptive-analytical method to provide a clear, comprehensive, and systematic depiction of the issues, examining data against applicable legal regulations for an objective analysis.

RESULT AND DISCUSSION

Qualification of Cash Swipe as an Initial Mode of Criminal Acts

In Paylater's service, cash withdrawal transaction engineering, sometimes referred to as a "gestun," is essentially the practice of users taking advantage of digital credit limits to obtain cash through fraudulent transactions. This is done by pretending to buy a product or service from a third party, which serves as a fake promoter on the internet, but in reality they are only paid after deducting the service fee. The question is, does this qualify as a form of initial mode of criminal behavior? After reviewing the Paylater cash withdrawal process. Paylater services, such as those provided by the *e-commerce platform*, are intended to make it easier to purchase products with the buy now pay later method without the need for physical collateral. Cash withdrawal scams, on the other hand, take advantage of this process by getting customers to choose a counterfeit, then pay using Paylater, and then a third party (a cash withdrawal service provider) refunds the money after deducting a certain fee. Although it looks simple, it actually involves manipulating the digital credit system.

This technique often violates the Financial Services Authority (OJK) law based on POJK No. 10/POJK.05/2022, which regulates information technology-based financing services. This rule emphasizes that credit limits must be used for legitimate purchases and not for unauthorized cash withdrawals. In addition, because such fraudulent transactions can jeopardize the integrity of the country's payment system, Bank Indonesia Regulation No. 11/11/PBI/2009 expressly prohibits it.

In addition to being an administrative offense, Gestun paylater can be the basis for criminal charges. According to Indonesian criminal law, an act that is illegal and punishable is considered a criminal offense. This need is met by gestun transactions because it is contrary to the restrictions of the laws that have been declared unlawful by the OJK and BI. This suggests that if left unregulated, it can lead to systemic problems including rising personal debt and instability in the fintech industry. This is not just a small mistake, rather, it is a deliberate manipulation that goes against the purpose of credit services that are supposed to encourage financial inclusion rather than become a means of exploitation.

The initial mode means that cash withdrawals with paylater credit limits may be the first step in a series of illegal activities, including fraud or embezzlement. Cash withdrawals are often used for fraudulent schemes, where perpetrators take advantage of fake transactions to defraud victims. For example, by promising fast cash but ultimately failing to pay the bill. This is in accordance with Article 378 of the Criminal Code, which defines fraud as an act committed to gain an unlawful advantage through deception. The subjective aspect, such as malicious intent, is fulfilled when the perpetrator deliberately manipulates the transaction for personal gain, while the objective element is indicated by the losses suffered by the platform or the victim. In addition, according to Article 372 of the Criminal Code, cash fraud can develop into embezzlement that occurs when credit limits are utilized without the intention of returning.

Formal and material criminal acts are distinguished by criminal law theory. Gestun is often formal because the violation occurs when a fraudulent transaction is completed without the need for concrete evidence of loss. But in reality, it often becomes important when it incurs real losses, such as a default that burdens the service provider. This is comparable to the way criminal law interprets a continuous act (Article 64 of the Criminal Code), which states that a series of gestun transactions can be considered as an illegal unit if they come from the same intention. Frequent cash withdrawal transactions have the potential to develop into systematic criminal schemes, such as money laundering, where fintech technology is used to launder money from illegal activities. If cash withdrawals are used to hide illegal sources of funds, laws such as the Money Laundering Prevention and Eradication Act (TPPU Law) may apply. Paylater loans pose a danger to economic stability in addition to being a personal problem. If lured by this convenience, users will often get caught up in a cycle of debt that can lead to additional illegal activities such as document forgery to raise credit limits.

The Financial Services Authority (OJK) often warns that this method is unlawful and poses a criminal risk in terms of prevention, but indeed law enforcement is still inadequate due to the lack of digital forensic evidence. Gestun as an initial mode can be shown by examining the intentions of the perpetrators, if there is an element of embezzlement or fraud, this is clearly the initial mode. On the other hand, if there are no casualties and only for emergency purposes, this can be completely administrative even if it is still against the law. This financial advancement has a social impact that should not be ignored. Due to the persistent lack of financial literacy, Indonesians will be easily tempted by the prospect of getting a quick buck without considering the possibility of criminal prosecution. According to research, financial advancements make customers more vulnerable to their personal information being compromised and leveraged for further fraud. All of this starts with a small transaction and develops into a criminality mentality. Therefore, legal changes are needed such as incorporating fintech into the Criminal Code to ensure stricter enforcement. Because it breaks the rules and opens up opportunities for crimes such as fraud and embezzlement, manipulating advances on Paylater can be categorized as an initial mode of criminal behavior.

Juridical Construction of Unlawful Elements in Paylater Cash Swipe Practices

The criminal law theory used to research the engineering of cash swipe transactions (gestun) on Paylater focuses on the concept of legal invalidity which is an important component in criminal acts. This aspect, as stipulated in Article 1 paragraph (1) of the Criminal Code, states that there is no crime without prior laws and regulations. There are two theories in criminal law, namely formal and material. Violations of strict written legal standards are referred to as formal offenses. Meanwhile, violations of society's social norms or sense of justice are referred to as material elements. The Financial Services Authority Regulation (POJK) No. 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services, which requires the use of credit limits in accordance with the intended purpose for real transactions, not for fictitious cash withdrawals, is one of the regulations that clearly violates the formal theory in Gestun Paylater transactions.

In addition, because these transactions can compromise the integrity of the country's payment system, Bank Indonesia Regulation (PBI) No. 11/11/PBI/2009 concerning the Implementation of Payment Instrument Activities using Credit Cards expressly prohibits this.

Because this is contrary to the purpose of the Paylater service which is intended to facilitate the purchase of products or services and not to use it as a way to obtain a cash loan by manipulating transactions. From the point of view of criminal law theory. According to *the monism* approach, an activity is immediately considered illegal if prohibited by law, further evidence of its impact on society is not required. This argument applies in the case of gestun because the creation of fake transactions meets the criminal element, especially related to Article 378 of the Indonesian Criminal Code regarding fraud, where the perpetrator uses deception to obtain unlawful profits for himself.

On the other hand, dualism theory distinguishes the illegal component as a separate criterion, equally relevant in a more in-depth examination, where it must be proven that the "gestun" violates societal norms such as consumer protection. In this case, recent gestun often involves subjective characteristics such as malicious intent (*dolus*), where the perpetrator deliberately manipulates transactions to evade official interest rates or regulations thereby strengthening his interpretation of the law as a criminal offense. When viewed from a fintech perspective, the legal construction of illegal transactions in the disbursement of money (gestun) becomes more complicated. This component is used in the Criminal Code, such as in Article 378 which highlights the existence of fraud or false statements, to make the disbursement of money a criminal offense. Because fraudulent transactions are a type of deliberate manipulation of legal standards, gestun is often the starting capital for this article. In addition, if the gestun involves the manipulation of electronic data on the Paylater platform can be proven through losses experienced by the victim or the system, then Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), especially Article 28, can be applied.

The concept *of nullum crimen sine lege* (there is no crime without law) emphasizes that cash withdrawals on Paylater meet this criterion because Gestun on Paylater is expressly prohibited by law. Legal analogies are needed to link Paylater's cash withdrawal to offenses such as fraud or embezzlement because the specifications of the Criminal Code do not yet fully cover fintech advances (Article 372 of the Criminal Code). From the point of view of victimology, criminal theory also emphasizes the protection of victims. In this case, users of Paylater's services are often victims of illegal schemes in which their personal information is used for fraudulent transactions that result in financial and psychological losses. Because cash withdrawals undermine public trust in the digital financial system.

Juridical constructions have a wide range of theoretical implications. First, in terms of enforcement, Bank Indonesia and the Financial Services Authority (OJK) are very important in preventing cash transactions from Paylater through strict supervision, however, inadequate digital forensic infrastructure sometimes makes it difficult to prove illegal aspects in court. Second, because many users of Paylater's services are tempted by the ease of cash withdrawals without understanding the dangers of illegality, the social implications include increased public financial awareness. Third, to eliminate the unclear similarities of the element of legal invalidity, changes in the law are needed such as amending the Criminal Code to expressly include fintech crimes. Furthermore, according to criminal theory, the disbursement of credit limits or gestun can be associated with continuous acts (Article 64 of the Criminal Code) which allows the court to impose severe penalties because a series of fraudulent transactions is considered a criminal act if it comes from the same motive. Cash swipes on Paylater are seen

from criminal law theory as a strong legal construction for unlawful elements, both formally through regulatory violations and materially through their social consequences.

CONCLUSION

This study, grounded in Indonesia's positive law including POJK No. 10/POJK.05/2022, PBI No. 11/11/PBI/2009, and the Criminal Code, demonstrates that gestun (cash disbursement) in Paylater services constitutes an initial mode of criminal acts—such as fraud (Article 378), embezzlement (Article 372), and continuing acts (Article 64)—beyond mere administrative violations, due to fictitious transactions' invalidity, platform losses, payment manipulation, and data misuse, amid regulatory gaps in fintech. The normative juridical approach effectively linked OJK rules, PBI, Criminal Code, and ITE Law to affirm gestun's formal-material violations and criminal elements like mens rea and legality principles, though it overlooked empirical dynamics such as actor behaviors, economic drivers, law enforcement challenges, digital literacy vulnerabilities, and platform fraud detection. For future research, empirical studies combining criminology and fintech analysis could explore user motivations, real-world enforcement barriers, and platform security measures to bridge normative gaps.

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