

E-Banking Offences and Interrelated Laws in Bangladesh

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Abstract

“Electronic Banking” refers to the systems that enable bank customers’ access to accounts and general information on bank products and services through a personal computer (PC) or other intellectual devices. Internet facilities have been introduced in Bangladesh in June 1996 beginning a new era of automated banking and commerce. E-banking is the cornerstone and waves of the future banking services and security. Now most of the banks in Bangladesh are providing a number of E-Banking services and playing a pivotal role. E- Banking services is one of the great initiatives to bestow a part of modern world. It provides gigantic benefits to consumers in terms of ease and cost of transactions, either through internet, telephone, mobile or other electronic delivery channels. For many consumers, electronic banking means 24-hours access to cash through an Automated Teller Machine (ATM) or Direct Deposit of paychecks into checking or savings accounts. But in present time E-Banking involves numerous types of transactions. E-Banking offences are earlier occurred in Bangladesh. For the expansion and safeguard of transaction in country, here exist different types of laws. Laws look after the consumer's rights and liability with banking safety. Laws have been enacted in this field for interest of consumer and bank to ensure their function, duty and rights as so as liabilities. For personal and governmental safety there exist some rules and regulation and also those have some loopholes. This paper represents the painstaking scenario of e-banking services, offences and how laws cope and formulate a better e-banking environment in Bangladesh and tried to simplify future problems and ultimate possibilities to drawbacks them from E-Banking.

Key words: e-banking offences, e-banking laws, e-banking in Bangladesh, Bangladesh

1. Introduction

Global banking scenario has been changed; Cheques are now passing away and e-banking are widely welcomed as well as the statutory reforms has also been implemented in this regard for check and balance in this regard. E-Banking redeemed us a new metamorphose banking system and the advent of such banking propelling the status of business in a wide range. Globalization creates an environment where Bangladesh’s banks are to stay within the competition, they will have to move forward and that’s why e-banking system adapted by most of the banks. According to oxford dictionary, e-banking a method of banking in which the customer conducts transactions electronically via the Internet. Today e-banking play a key role in the national economy. ATMs, telephone banking, PC banking to internet banking are rapidly being introduced in Bangladeshi’s bank and that why without the authorization of Bangladesh. Bank no bank can remove any business document or record from their network. E-banking reduces costs and improving competitiveness by developing alternative distribution channels. It also increased the ability to enlarge their accessible customer stand. The widespread factors related with e-banking are simplicity of use, transaction security, expediency and speed. Presently, five basic services provided by online banking system worldwide. Users can view their account balance and transactions history, funds transfer between accounts, pay bills, request credit card advance and order cheques. Stock market transactions, submission of standardized accounting payment files for bank transfer are also provided by some banks. E-banking is now a global phenomenon. Apart from the developed world, the developing countries like as Bangladesh are also experiencing strong growth in such transactions. To secure electronic data interchange rules has been adopted and specified data accessing through computer network by a digital signature for customer rights and obligations. With this context there is also punishment for violation of banking rules and regulations. Government of Bangladesh’s emphasis on building a digital country, Upcoming ICT park, developing ICT infrastructure, waving taxes on computer peripherals are allocated and automation plan of the banking sector have brightened the prospects of e-banking in Bangladesh. So as to say “nice to have” but an “impossible to survive without” such bless of business.

2. Literature review

Different e-banking services provided by Bangladeshi banks. E-banking services provide customer access to accounts, the ability to move their money between services provide customer access to accounts, and making payments or applying for loans via e-Channels (M. Shah and S.Clarke, 2009). In all over the world technology changes our day to day task. Technology creates a favorable easy environment for people. Electronic banking is one of the parts of electronic business process. E-business has been continuously growing as a new industry during the last decade (Van Hoeck, 2001). The banking industry has been leading this trend in recent years, Bangladesh also take part in this modern technological sector.

That's why Bangladeshi banks can offer a broader variety and fresher facilities online to even more customers than possible before (Cezar, 2002).

E-banking can serve cheaper transactions facilities for the customer within a short time. This could turn yesterday's competitive advantage - a large branch network, into a comparative disadvantage, allowing e-banks to undercut bricks-and-mortar banks (Cezar, 2002). Technology provides faster and safe transitions to the customer. But some time there are some risks and offences occurred.

Some time there are occurring transaction risk, which are arises from fraud, processing errors, system disruptions, or other unanticipated events resulting in the institution's inability to deliver products or services. This risk exists in each product and service offered (Cezar, 2002).

The main problem for the act is that, especially with the development of the Internet, electronic fraud has become international and, even apart from the difficulty of catching the criminal (Brian Welch, 1999). That's why laws argued that if any person, without permission of the owner or any person who is in charge of a computer, computer system or computer network takes any initiative to crimes/offences he shall be punishable (The ICT act.2006). M. A. Mthembu(2010) opines high degree of sanctuary and secrecy is of ultimate significance to the upcoming parameter, shield and use of internet banking because of the challenges it poses on the payment system.

3. Objectives

- To know the e-banking's services exist in Bangladesh.
- To review the E-banking's offences and prevention laws in Bangladesh.
- To make the necessary recommendations to solve the e-banking related offences through electronic banking related laws.

4. Methodology

This paper has been done mainly based on secondary sources of data or information. The research based on secondary data attained through the Net, books, Bangladeshi different laws and correlated journals.

-Some of case histories of Bangladeshi court, related to e-banking offences are also consider for this paper for finding the present e-banking offences protection scenario.

-e-banking article from different reputed journal's facts also consider for this paper.

-Current diverse national and international daily newspaper's information also used in this paper.

5. The Features of Electric Banking

E-banking changes the value of banking brand. It has some features which creates an encouraging banking environment. Through e-banking people can make a transaction easily and safely. In the other side banks feel secured about their all transactions smoothly, swiftly, timely and accurately. Some of features which execute in present time:

1. Banks provided booths for online transaction in all over the country.
2. Non-stop cash withdrawal facility from the booths.24 hours, 7 days, and 364 day's banking.
3. without any queue quick cash withdrawal facility
4. Account checking facilities from any ATM booth in any time.
5. Account statement collection from ATM.
6. Money transfer facility from one account to another account at same bank through e-banking.
7. Present balance inquiry.
8. Check account balance through SMS service.
9. Personal Identity Number (PIN) can be change through e-banking.
10. Every transactions slips of bills.
12. Utilities bill paying facility.
13. Withdrawal money using Visa Card, MasterCard, Maestro and other banks debit card.
14. Withdrawal money from dollar account, which gives taka by converting foreign currency.
15. Remittances collection

6. E-banking offenses

Electronic banking introduces faster, safe transitions system. But in some cases we can see that some of people take several offences. These offences can destroy bank's client's confident, information confidentiality. Password fraud is one of the worst offences in the field of e-banking sector. Here are listed some of offences occurring in several times.

1. Password fraud.

2. Risk of debit or credit card counterfeit.
 3. Hacking problem
 4. Unlawful access into network system.
 5. The use of the laying devices
 6. The enactment of computer viruses and other ways of disruption.
 7. Deactivate protected equipment
 8. Forming, transferring, accepting, transforming, displaying and keeping some information
 9. Access in the restricted automated systems.
 10. Registration (logging) with reference to the forbidden resources
 11. Cryptographic methods (Hiding information of computer system.)
 12. The implementation of computer viruses and other ways of disturbance.
- (<http://onlinebdinfo.blogspot.com/2010/12/e-banking-features.html>)

7. Provisions regarding E-Banking offense in Bangladesh

In all over the world uncertainty, risk exists in everywhere. Some of people are dishonest. They create some of problem in ubiquitously. And that's why in Bangladesh government think that there are some chances of occurring e-banking offences in the new arena of technological development. Information Communication Technology Act 2006 is one of the great initiatives to protect offences of electronic business as well as e-banking sector.

According to ICT act 2006

Sec 56 Hacking or access without authorization

If any person:

A) Does any kind of offence knowing, it will hamper the resource, erase or change any computer system which will loss public assets.

B) Access into any computer, server, and network system without authorization.

It should treat as hacking crime/offence.

Penalty: Maximum 10 year, one crore taka or both of this penalty

Sec 61 penalty of accessing in restricted system

Unauthorized access into any computer system knowing that it is restricted by controller of government should be treated as unauthorized access.

Penalty: Maximum 10 year, 1,00,000 taka or both of this.

Sec 54 penalty of destruction into computer, computer system, etc

Damage any file, resource, document, data, program, network system should be treated as a crime.

Penalty: Maximum 10 year, 1, 00,000 taka or both of this.

Sec 55 penalty of cracking

If anybody does any hamper to any source code, hide code and desolate of any computer, computer program, computer system and computer network or does by another body will be treated as cracking offence/crime.

Penalty: Maximum 3 year, 3, 00,000 taka or both of this.

According to penal code of Bangladesh:

Sec 03: Punishment of offences committed beyond, but which by law may be treated within, Bangladesh.

Bangladesh has been introduced with electronic banking system with a few times before. In this regard law has been also enacted in a limited arena. Law change with the time and necessity of the people, although in the field law is new but demand of regulation are changing diplomatically, whereas the law has simplified e-banking system but also given relief for violation of such laws. There are various kinds of offense which are committing in everyday banking system.

Unauthorized access into computer network or system with a guilty mind for making hamper of the owner is punishable offence and may also punished with Maximum 10 year, 1, 00,000 taka or both of this. In this regard High Court Division, Bangladesh said that, access any network, computer system and whoever with bad intention whether it cause any hamper to owner without authorization or not shall be treated as crime. Where any person destruct any document for having any profit for himself or to make barrier to produce as evidence shall be punished imprisonment of either description for a term which may extend to two year, or fine or with both. In this context Bangladesh Bank has power to give proper management of any bank company generally. No bank exist in Bangladesh may deny the rules and regulation made by Bangladesh Bank and also has discretion to modify its own order or circular on a representation made to it.

Hacking is a common word in internet related matters and that's why it's also relevant to e-banking. If any person does any kind of offence knowing it will hamper the resource, erase or change any computer system which will loss public assets will be punished for maximum ten year, one lac taka or both penalty. If any person enters into or upon property in the possession of another with intention to commit an offence is said to commit criminal trespass and shall be punished for a term which

may extend to three months or with fine which may extend to five hundred taka or with both. High Court Division says changing source code will also be treated as offence in this regard.

All banks in Bangladesh are regulated by Bank Companies Act 1991 and bound to co-operate with the rules and regulation of Bangladesh Bank which are not inconsistent with the law. Where a bank claims interest in express of what is permitted by direction of Bangladesh Bank, the court can always give relief to the aggrieved party. Also direct that the Bank Companies Act clearly invest Bangladesh Bank with a strong regulatory power over the functioning and business of banking companies. Where any activities and function are occurred by any directorial body or by any person of a bank against public interest, Bangladesh Bank have proper jurisdiction to remove chairman, director or chief executive and may make order to stop such activities.

8. Conclusions

The study focusing on different e-banking offences and its inhibiting laws exist in Bangladesh. Examination of some case history proved that no one can go out from the laws. Different rules and regulations helps people to safe their e-banking transaction. Today People feel free to take e-banking service from the bank by supporting laws and technological helps. But some of problems exist in here. Sometime people take illegal inventiveness from the e-banking services. Laws prevent them, punished them. Some of laws should change through the risk and offences case history. Analysis of some case history shows that in some context laws existence is not so well-matched. That's why Bangladesh law ministry should take an initiative to modify certain laws according to internationally recognized e-banking laws. There need to follow the rules and regulation enacted by the parliament and run the banking business under proper and pure supervision of Bangladesh Bank which may tends toward the actual public interest of this country. In such disputed matter judicial decisions are also playing an important/vital role to get a relief and to ensure the legal interest of the mass people. Beside all of this, social awareness and moral values are needed to be confirmed more efficiently to prevent offences happening in this regard. And we believe that also there is an urgent need for the instituting of the Computer Security Response Team which obligation protect and sheltered information.

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