

Legal Protection for Online Loan Customers

Itok Dwi Kurniawan¹ Ismunarno² Suyatno³

Law Study Program/Faculty of Law, Universitas Sebelas Maret, Surakarta, Central java, Indonesia^{1,2}

Faculty Of Culture Study, Universitas Sebelas Maret, Surakarta, Central java, Indonesia³

Email: itokdwikurniawan@staff.uns.ac.id¹, ismunarno@staff.uns.ac.id²
suyatno_sasda@staff.uns.ac.id³

Abstract

The era of the industrial revolution 4.0 is marked by convenience in all things through information technology. One of the conveniences experienced by people in this digital era is in the field of Financial Technology. One of the fields in Fintech is online-based cash loans, in online-based lending and borrowing activities cause a problem, namely debtors who experience verbally abusive billing methods and personal data security. The purpose of this study is to provide information regarding how regulations in Indonesia provide legal protection and the role of OJK for online loan customers. The method used in this study uses normative legal research methods, by collecting secondary data that provides an explanation of the primary law used in this study, including books, scientific papers, papers, journal articles, and so on related to this research. . The results of this research are to provide legal protection for online loan debtors by carrying out a technology-based corporate supervision system. The form of protection provided by OJK will require OJK to stop business activities if the violation results in losses. Meanwhile, violations involving data dissemination, illegal access, and intimidation can be followed up through the realm of criminal law and submit a complaint to the Indonesian National Police.

Keywords: Legal Protection, Online Loans, Online Loan Customers



This work is licensed under a [Lisensi Creative Commons Atribusi-BerbagiSerupa 4.0 Internasional](https://creativecommons.org/licenses/by-sa/4.0/).

INTRODUCTION

In this era of digitalization, everything has been facilitated through information technology, information technology is a bridge to various aspects of life ranging from social, legal, educational, political, economic, and so on, which have evolved to be online-based. Information technology is a tool used by humans to transmit information to other humans, information technology helps to complete human social activities effectively (Setiawan, 2018). Along with these developments, information technology has created advantages for various aspects. The use of technology does not only revolve around the reach of getting information or communicating, but also includes matters of financial convenience, hereinafter referred to as Financial Technology (Fintech).

Meline Gerarita (in Immawati et al., 2019) gives the opinion that fintech is not a substitute for overall transactions, but a complement to the existing financial system. Fintech as the implementation of the use of technology in financial and banking services which are generally carried out by startup companies by utilizing existing software, internet, communication and computerization technology. In addition, fintech can be used as a tool to reduce fraud in transactions, and fintech is a legal payment without having to use it (Junadi & Sfenrianto, 2015). Fintech provides convenience in transacting in the current era because it considers time efficiency which is favored by the majority of people (Marisa, 2020). As we know that today's modern society has a tendency to want everything instantly and quickly, then fintech can be the answer to the problems of modern society.

One of the fields in Financial Technology is online-based cash loans, this online-based cash loan is made easier by the absence of collateral that must be given to creditors, also called

Unsecured Credit (KTA), users only provide identity guarantees and personal data based on Identity Cards . Loans are made using the Peer to Peer Lending (P2PL) basis, where the loan provider facilitates the online relationship between creditors and debtors (Baihaqi, 2018)

The practice of borrowing and borrowing uses an application on a cellphone that can be accessed and downloaded by the user. Applications related to online loans have regulations that regulate them, namely POJK Number 77/POJK.01/2016 concerning Loan Services for money based on information technology. There are online-based loans that are illegal and legal, in the research that the author does, will be discussed one online loan specifications, namely legal online loans, in the sense that the online lending platform is registered and licensed by the Financial Services Authority (OJK). If we look at the applications in smartphone application stores, there are lots of online loan applications that offer convenience in borrowing money, but not all of them are legal applications and are registered with the OJK.

In the midst of the rise of online loans, electronic agreements arise as a result of online agreements between debtors and creditors. An agreement or contract must contain 5 (five) principles of agreement, namely the principle of freedom of contract, the principle of consensualism, the principle of legal certainty (*pacta sunt servanda*), the principle of good faith, and the principle of personality (Muhtarom, 2014). These principles are intended to create a legal protection for parties who agree or make agreements.

In this electronic agreement regarding online loans it is necessary to review, also when an agreement has been made, there will also be violations between creditors and debtors. Problems that arise from an online loan agreement can be carried out by debtors who do not keep their due dates, or by creditors who collect debts with verbal and inhumane violence (Sugangga & Sentoso, 2020). In this case, the majority of inhumane collections are carried out by illegal online loans, but it is also possible that they are also carried out by legal loan providers. creditors, debtors, and online-based loan providers.

RESEARCH METHODS

The method used in writing this article is a normative legal research method, with a statutory approach and a conceptual approach. The technique of collecting legal materials used in writing this article is by studying literature on legal materials, which consist of primary legal materials and secondary legal materials. The analytical technique used in writing this article is a deductive analysis technique.

RESULTS OF RESEARCH AND DISCUSSION

The regulations for online loan services are written in the Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services. User's personal data and its use must be approved by the individual data_owner, unless otherwise specified in the provisions of the relevant Law. Sanctions for violation of personal information include written warnings and administrative arrangements in accordance with Article 47 Paragraph (1), fines for negligence, obligation to pay a certain amount, restrictions on business activities, and revocation of permits. In online loan application services, many people complain about the problem of online loan providers spreading personal information without prior notification without the owner's consent, as well as billing with threats

Based on the research results obtained, the accumulation of loan recipients (unit of account) in online loan applications in Indonesia as of May 2022 was 605.805,389 (Six Hundred Five Million Eight Hundred Five Thousand Three Hundred Eighty Nine) Recipients. Meanwhile, as many as 102 Financial Technology providers who are registered and licensed at the OJK, are

registered in the name of the electronic system, website, company, as well as licensed/registered certificates. Meanwhile, the Financial Services Authority (OJK) from 2018 to 2021 has eradicated illegal online loans as many as 3,156 entities.

The Ministry of Communication and Information (KOMINFO) as of January 1 to November 8, 2021 has received 12,885 public complaints regarding online loans. Complaints received were via WhatsApp chat with a total of 8,649 complaints, followed by complaints via email as many as 3,099 complaints, while the rest were reported via Twitter, the Lapor! site, content complaints, Instagram, and Facebook.

The forms of complaints with severe complaints found by OJK include: Disbursement without the consent of the applicant; the threat of dissemination of personal data; billing all cell phone contacts with terror/intimidation; billing with harsh sentences and there is an element of sexual harassment. According to Philip M. Hadjon (2011), legal protection is divided into preventive legal protection and repressive legal protection. Based on this, legal protection for users of online-based lending and borrowing services is divided into preventive and repressive protection. In Preventive legal protection on online-based lending and borrowing services, the government issues several regulations that form the basis, namely POJK LPMUBTI and SEOJK Governance for LPMUBTI. While repressive legal protection has a function to resolve if a dispute occurs in the future, in this case it is resolved through the judiciary. Violations involving the dissemination of data, illegal access, and intimidation can be followed up through the realm of criminal law and submit a complaint to the Indonesian National Police, because related to this matter, the issue of debts is a civil matter, not a criminal one.

Fintech organizers are prohibited from providing information that is not in accordance with existing regulations. Fintech operators who are proven to have violated the established regulations will be subject to administrative sanctions, written warnings, fines, restrictions on business activities, and revocation of business licenses. In addition to this, the OJK took preventive steps by removing a lot of existing illegal online loans, this was done so that people were not entangled in illegal online loans outside the umbrella of OJK regulations. In terms of consumer and public protection, financial authorities have the power to take steps to prevent harm to consumers and society. One form of protection is to demand that financial institutions stop some or all of the actions that can harm consumers and society (Fitriyani Pakpahan et al., 2020).

The role of the Financial Services Authority (OJK) in providing legal protection for online loan debtors is one of them by issuing OJK Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Borrowing-Lending Services (POJK LPMUBTI). Financial Services Authority Circular Letter 2/SEOJK.07/2014 concerning Service Settlement and Consumer Complaints Against Financial Service Providers, as well as Article 1 point 3 of POJK LPMUBTI states that information technology-based lending and borrowing services provide financial services with the aim of bringing together lenders and borrowers to enter into direct lending and borrowing agreements in Rupiah (Fais, 2021).

The form of protection provided by OJK will require OJK to stop business activities if the violation results in losses. In addition, OJK will conduct legal defense to protect the rights and interests of the public as consumers in the form of litigation in court against the aggrieved party. In addition, OJK will provide warnings to business activity organizers that are considered deviant in the form of a warning so that it can be immediately corrected, and OJK will provide information related to activities that can harm consumers or the general public.

CONCLUSION

Law Number 21 of 2011 concerning OJK in Article 28 states that OJK has the authority to take actions to prevent losses for debtors and the public, including: (1) Providing information

and education to the public on the characteristics of the financial services sector, services and products. (2) Requesting the Financial Services Institution to stop the activity if the activity has the potential to harm the community. (3) Other actions deemed necessary in accordance with the provisions of laws and regulations in the financial services sector. The role of OJK in providing legal protection for debtors is one of them by issuing OJK Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Borrowing-Lending Services (POJK). LPMUBTI). The OJK is authorized to impose administrative sanctions on online loan providers that harm consumers and the public in the form of: written warnings; fines, namely the obligation to pay a certain amount of money; restrictions on business activities; freezing of business activities; revocation of business licenses. data, illegal access, and intimidation can be followed up through the realm of criminal law and make a complaint to the Indonesian National Police.

BIBLIOGRAPHY

- Agung, A. A., & Erlina, E. (2020). Perlindungan Hukum Terhadap Konsumen Pengguna Jasa Pinjaman Online. *Alauddin Law Development Journal*, 2(3), 432–444.
- Asriah, S., & Dadang. (2019). Minat Bertransaksi Menggunakan Financial Teccnology (Fintech) di Kota Tangerang. *Jurnal Mahasiswa FEB Universitas Muhammadiyah Tangerang*.
- D. A. L., & Wirasila, N. (2018). Perlindungan Hukum Terhadap Konnsumen Transaksi e-Commerce dalam hal Terjadinya Kerugian. *Kerthasemaya*, 7(2), 6.
- Baihaqi, J. (2018). Financial Technology Peer-To-Peer Lending Berbasis Syariah Di Indonesia. *TAWAZUN : Journal of Sharia Economic Law*, 1(2),
- Fitriyani Pakpahan, E., Jessica, J., Winar, C., & Andriaman, A. (2020). Peran Otoritas Jasa Keuangan (OJK) dalam Mengawasi Maraknya Pelayanan Financial Technology (Fintech) di Indonesia. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 9(3), 559
- Hadjon, P. M. (2011). *Pengantar Hukum Administrasi Indonesia*. Gadjah Mada University Press.
- Junadi, & Sfenrianto. (2015). A Model of Factors Influencing Consumer's Intention to Use E-payment System in Indonesia. *Procedia Computer Science*.
- Kalsum Fais,(2021). Perlindungan Hukum Bagi Pengguna Layanan Pinjam Meminjam Uang Berbasis Tegnologi Informasi. *Al-Adl : Jurnal Hukum*, 13(1).
- Mamudji, S. (2006). *Penelitian Hukum Normatif*. PT. Raja Grafindo Persada.
- Marisa, O. (2020). Persepsi Kemudahan Penggunaan, Efektivitas, Dan Risiko Berpengaruh Terhadap Minat Bertransaksi Menggunakan Financial Technology. *Jurnal Adminnistrasi Kantor*, 8(2).
- Muhtarom. (2014). Asas-Asas Hukum Perjanjian : Suatu Landasan Dalam Membuat Kontrak. *Suhuf*, 26(1).
- Priyonggojati, A. (2019). Perlindungan Hukum Terhadap Penerima Pinjaman Dalam Penyelenggaraan Financial Technology Berbasis Peer To Peer Lending. *Jurnal Usm Law Review*, 2(2).
- Purnami, T., Hukum, F., Udayana, U., Putrawan, S., Hukum, F., & Udayana, U. (2020). Pinjaman Online Berbasis Peer To Peer Lending. *Jurnal Kertha Wicara*, 9(18)
- Setiawan, D. (2018). Dampak Perkembangan Teknologi Informasi dan Komunikasi Terhadap Budaya. *JURNAL SIMBOLIKA: Research and Learning in Communication Study*, 4(1).