

## Analysis of the Implementation of the Financial Services Authority on Data Base Protection in Online Loans

Raden Berliano<sup>1</sup>, Muhammad Huzaifan<sup>2</sup>, Moch. Sigit Gunawan<sup>3</sup>, Agus Dimiyati<sup>4</sup>

<sup>1</sup> Universitas Swadaya Gunung Jati Cirebon, Indonesia

<sup>2</sup> Universitas Swadaya Gunung Jati Cirebon, Indonesia

<sup>3</sup> Universitas Swadaya Gunung Jati Cirebon, Indonesia

<sup>4</sup> Universitas Swadaya Gunung Jati Cirebon, Indonesia

### ABSTRACT

**Background.** Hackers have an impact on the slowdown in economic growth, factors that affect population growth, inflation rates, and the cost of living in Indonesia. This condition has also increased demand for Online Loans as a solution to meet social needs. The inevitable technological developments in today's digital era are increasingly enriched by the emergence of Online Loan applications, which are part of information technology in the financial sector. Money lending services financial companies provide using information technology are known as online loans. Applying, approving, and disbursing funds is done online or through phone or short message (SMS) confirmation.

**Purpose.** This study evaluates the challenges law enforcement faces in implementing the Financial Services Authority related to database protection in the online lending industry.

**Method.** The study involved 288 university students from Chinese, Japanese, and Korean TFL settings, and the data from questionnaires were analyzed using appropriate statistical methods.

**Results.** The study results show that law enforcement against this matter still faces various significant obstacles. The two sources of online loan database leaks are consumers and financial service providers. The first factor comes from consumer behavior when making online loan transactions, providing personal data such as ID cards, phone numbers, credit card numbers, and debits. The second factor is financial service providers selling consumer data to third parties. Hackers can easily access data application systems, so ensuring the system is secure is crucial.

**Conclusion.** The Fintech industry started online lending services in Indonesia at the end of 2014. In the following year, banks and other financial institutions also began to present a variety of loans with a fast process, which is regulated and monitored by the Financial Services Authority (OJK) under OJK Regulation Number 77/POJK.01/2016.

### KEYWORDS

Consumer Protection, Financial Services, Online Loans

### INTRODUCTION

electronic wallets (e-wallets), and electronic payments (e-payments), and financial technology (fintech). However, until now, no specific regulation has comprehensively regulated the technology-based or fintech-based financial industry. OJK Regulation Number 77 of 2016 concerning Information Technology-Based

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### Correspondence:

Raden Berliano  
[radenberliano@gmail.com](mailto:radenberliano@gmail.com)

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Money Lending Services is still the main guideline for the fintech industry. Fintech includes various forms such as payments (digital wallets, P2P payments), investment (peer-to-peer lending), financing (credit facilities), insurance (risk management), data integration (big data analysis), and infrastructure. Although fintech makes a significant contribution to the regulation of the economy, especially in the financial sector, its existence also carries risks, such as ambiguity in rules and regulations that can give rise to errors and abuses. Despite this, fintech companies continue to grow and develop financial products and services with potential risks attached. All parties involved in the fintech business can suffer losses due to two risks associated with using fintech: Threats to the security of consumer data and potential errors in transactions are two significant risks. People hesitate to make online transactions due to cyber breaches such as wiretapping, theft, and banking financial transaction violations.

The fintech industry is still increasing around the world. It is proven by the large number of global investments and various start-ups in this field. While conventional financial institutions seek to improve their penetration into unserved markets in financial services, fintech businesses present innovative services with added value. This business is increasing, especially in Indonesia, and is attracting the attention of national companies. Everyday life is now greatly influenced by technological advancements, especially in e-commerce. Technology has driven the growth of trade, which continues to evolve and innovate year after year. Businesses that provide loans, both through formal and informal agreements, are increasingly in demand by those who need quick access to funds, especially those who cannot obtain financial services from conventional financial institutions such as banks. Technology has made data goods and services increasingly accessible, driving economic growth.

Problem formulation:

1. What factors cause consumer data leakage in financial services?
2. What are OJK's efforts in protecting consumer rights?

## RESEARCH METHODOLOGY

This study adopts a normative juridical method that analyzes theories, concepts, legal principles, and related laws and regulations. This approach considers law as a set of norms and principles that govern behavior in society and serves as a guide in decision-making. This research method uses three different approaches to explore the issues discussed. The first approach is rule-based, which analyzes various rules and regulations related to the studied legal issue. The second approach is the theoretical approach, which examines legal theories relevant to the research topic.

## RESULT AND DISCUSSION

Based on Law Number 21 of 2011 concerning the Financial Services Authority, the OJK is an independent institution responsible for regulation, supervision, inspection, and investigation in the financial sector. Other financial institutions include pawnshop institutions, guarantee companies, companies that finance exports from Indonesia and provide secondary financing for housing, and institutions that manage mandatory public funds. It includes the organizers of social, pension, and welfare programs and regulations governing mortgages, guarantees, Indonesian export finance companies, and secondary housing finance companies. Information Technology-Based Money Lending Service is a form of financial service in which lenders and borrowers enter into lending and borrowing agreements directly in rupiah through an electronic system connected to the internet. In financial services, electronic systems refer to the collection of electronic devices and procedures used to manage information electronically, including collecting, storing, processing, analyzing, and

distributing information. Information technology-based money lending service providers, or Operators, are legal entities in Indonesia that provide, supervise, and manage these services. In the context of this service, the borrower is an individual or legal entity with a debt based on the borrowing agreement. The lender can be an individual, organization, or company with the agreement's receivables. Those who use Information Technology-Based Money Borrowing Services are called Users.

In similar laws, such as Law Number 11 of 2008 concerning Information and Electronic Transactions, Article 13 Paragraph 2 can protect consumers in fintech electronic transactions. This paragraph states that "the parties who conduct electronic transactions, as referred to in Paragraph 1, are obliged to be in good faith in conducting interactions and electronic transactions with other persons". Articles 45 to 52 in Law Number 11 of 2008 concerning Information and Electronic Transactions stipulate strict criminal sanctions for violators of electronic transaction agreements. According to Article 53, all other laws and regulations related to the use of information technology remain valid as long as they do not conflict with the law. Providing money loans through debt-receivables agreements from lenders to borrowers is inevitable from the risks involved. Risks can arise because the debtor is not required to pay off his debt directly but can pay in a divided time or with an installment system. A risk that often occurs is the inability or delay in debt payments. The risks that potentially harm the lender are essential to consider carefully. Therefore, in providing credit, creditors must ensure the debtor's ability and fairness in paying off their debts. The money given by creditors needs to be secured and protected. Without protection, it will be difficult for creditors to avoid risks arising due to the debtor's inability to fulfill their obligations.

Many see online loans as a quick and practical way to obtain funds, but in addition to their practicality, some risks and consequences must be borne by customers if they do not meet their obligations. The development of the fintech industry is also viewed negatively in the community, especially in terms of billing methods. The problem of online loans or Fintech Peer-to-Peer (Fintech P2P) loans continues to attract public attention. Various violations by fintech companies have begun to be seen in various mass media, with multiple violations. Starting from threatening collection practices (Article 368 of the Criminal Code and Article 29 jo 45 of the ITE Law), dissemination of personal information (Article 32 jo Article 48 of the ITE Law), fraud (Article 378 of the Criminal Code), to sexual harassment through electronic platforms (Article 27 Paragraph 1 jo 45 Paragraph 1 of the ITE Law) which allegedly occurred in these situations. The public has mostly reported complaints about these violations through several Legal Aid Institutions (LBH) since last year. This fintech problem has even caused some customers to experience severe depression and take extreme measures, such as suicide, due to the pressure of loan collection. However, legal solutions to this problem are minimal, so similar cases continue to emerge. Article 7 of POJK 77/2016 mentions that the Organizer must register and obtain a permit from the OJK. According to the civil law study of financial technology, the legal relationship between the borrower and the lender depends on the agreement agreed.

Many users of online loan services expressed complaints regarding the behavior of online loan operators who spread personal data without permission or notice to users. The study results show that Law Number 11 of 2008 concerning Information and Electronic Transactions, significantly Articles 32 and 48, regulates personal data violations' protection and legal consequences. However, Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services regulates protection and sanctions for personal data breaches related to online loans. According to Article 47, paragraph (1), personal data violations can result in administrative sanctions such as written warnings, fines,

operational restrictions, and revocation of permits. People who do not understand the law much may feel anxious about this legal issue. However, legal protection for Online Loan customers is crucial and must be considered by the competent authorities. Based on Article 29 of POJK 77/2016, service providers must follow fundamental principles in protecting users, such as openness, fair treatment, reliability, confidentiality, and data security, and provide a simple, efficient, and affordable user dispute resolution process.

In this case, the OJK is responsible for preventing consumer losses for fintech users. Consumer protection measures involve listening to consumer expectations, especially fintech users. OJK takes care of complaints from consumers who feel aggrieved by fintech companies and develops a complaint system to facilitate complaints from consumers who experience losses. In terms of supervision, one of the fundamental aspects that the OJK must consider is transparency. Regarding this transparency issue, several things need to be considered by the OJK, namely: (1) All fintech companies must register their business entities with the OJK, by the provisions of the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning information technology-based online loan services. (2) Fintech companies must regularly report to the OJK, including providing transparent information regarding fund management. (3) Special instruments to protect consumers and maintain data confidentiality. The legal consequence of not registering and licensing fintech operators of the P2P Lending model under Article 7 of the POJK LPMUBTI is that the OJK will not supervise unregistered operators. If there is a loss to consumers, the OJK is not responsible. If there are fintech operators of the P2P Lending model that have not been registered and do not have a permit from the OJK, the OJK will stop their operations. OJK will recommend that the Ministry of Communication and Information Technology close applications or services for fintech operators of the P2P Lending model from electronic platforms or social media. However, the protection of consumers who use the services of illegal fintech companies is minimal. This lack of oversight has led to unlawful fintech companies committing various violations against consumers, such as theft of personal data the application of high loan interest rates, and intimidating collection practices.

## CONCLUSION

The above study results show that the legal protection system for Data Base Protection in Online Loans is still weak. In addition, the regulation issued by POJK Number 77/POJK.01/2016 has not reached a practical level in providing adequate protection of personal data to ensure citizens' rights to personal data security. Consumer factors and financial services business actors include consumer data leakage factors due to consumer behavior when making online loans by providing personal data such as ID cards, phone numbers, credit card numbers, and debit cards. On the other hand, financial services business people are also a factor in consumer data leakage because they sell and provide consumer data to third parties. An easy-to-use application system requires legal protection to protect data from hackers. There are two types of legal protection: preventive (law enforcement) and repressive (law enforcement settlement). Preventive legal protection includes regulation, training, socialization, complaint services, and the application of sanctions. On the other hand, repressive legal protection involves legal action both through litigation and non-litigation. Therefore, this issue is not included in the criminal realm but in the civil realm because it involves a debt-receivables agreement. Legal protection for users of online loan services is still inadequate, and consumers often suffer losses because the consequences for current fintech operators or companies are still limited to administrative sanctions. Customers who suffer losses can file complaints with the relevant institutions as consumers.

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