

## The Urgency of Revising The Finance Services Authority Regulation Number 77/POJK.01/2016 as An Umbrella Law in Practicing Peer to Peer Lending based on Financial Technology in Indonesia

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DOI: <http://dx.doi.org/10.15294/pandecta.v16i1.30397>

### Article info

#### Article History:

Received : January 30<sup>th</sup> 2021

Accepted: March 15<sup>th</sup> 2021

Published: June 1<sup>st</sup> 2021

#### Keywords:

peer to peer;

lending;

fintech;

borrower

### Abstract

*The presence of Peer to Peer Lending Based on Financial Technology (Fintech) in Indonesia is a real manifestation of a technological advancement. The advantage of technology is its simplicity, but like two sides of a coin, technological advances in financial services also cause polemics and problems. Based on complaints received by the Financial Services Authority, there are 2 things that are often complained about by borrower, it is regarding the unwise use of private data that is used as a way of collecting debt by peer to peer providers and the way they contact borrower for collecting debt. Even though it is considered controversial, the growth of fintech service providers has accelerated to 200%. These are show the urgency that the Financial Services Authority Regulation No.77/POJK.01/2016 requires revision because it is not in suitable with the current development of Fintech. The Financial Services Authority Regulation No.77/ POJK.01/2016 requires revisions regarding the restrictions on access on borrower's device, it must be only camera, microphone, and location only, no access to contact or gallery, then related to more detailed in regulating the operations of the fintech provider company, and related regulation for the minimum capital for the fintech provider company.*

### Abstrak

Kehadiran *Peer to Peer Lending* berbasis *Financial Technology* (Fintech) di Indonesia merupakan wujud nyata kemajuan teknologi. Keunggulan teknologi adalah kesederhanaannya, namun seperti dua sisi mata uang, kemajuan teknologi di bidang jasa keuangan juga menimbulkan polemik dan masalah. Berdasarkan pengaduan yang diterima Otoritas Jasa Keuangan, ada 2 hal yang sering dikeluhkan oleh peminjam, yaitu mengenai penggunaan data pribadi yang tidak bijaksana yang digunakan sebagai cara penagihan utang oleh *peer to peer provider* dan cara mereka menghubungi peminjam untuk menagih hutang. Meski dianggap kontroversial, pertumbuhan penyedia layanan tekfin meningkat hingga 200%. Hal ini menunjukkan urgensi bahwa Peraturan Otoritas Jasa Keuangan No.77/POJK.01/2016 perlu direvisi karena tidak sesuai dengan perkembangan Fintech saat ini. Peraturan Otoritas Jasa Keuangan No.77/ POJK.01/2016 memerlukan revisi mengenai pembatasan akses pada perangkat peminjam, harus hanya kamera, mikrofon, dan lokasi saja, tidak ada akses ke kontak atau galeri, kemudian terkait lebih rinci dalam pengaturan operasional perusahaan penyedia tekfin, dan peraturan terkait modal minimum bagi perusahaan penyedia fintek.



## 1. Introduction

Today, technology has become a natural thing to hear everyday. Technology can help people or groups work effectively, efficiently and quickly. Currently, financial institutions in Indonesia are increasingly developing<sup>1</sup> as a result of the economic growth rate of the times. This is evident from the increasing variety of financial instruments circulating in the financial system both in the banking sector and in the non-banking sector.

One of the developments in the Indonesian economy is based on the banking sector<sup>2</sup>. So, the existence of a bank also has the objective in supporting the implementation of national development in order to increase equity, economic growth and national stability towards increasing the standard of living of the people at large.<sup>3</sup>

One of the advances in finance is the adaptation of Financial Technology (Fintech). Fintech itself comes from the term financial technology or financial technology. According to The National Digital Research Center (NDRC), Fintech is an innovation in the financial sector that has a touch of modern technology.<sup>4</sup>

One of the kinds of fintech adaptation is the provision of lending and borrowing services to the public based on information technology called Peer to Peer Lending. This loan service is suitable for people who need small or micro credit, they will quickly get a loan without long process like apply for credit from a bank or other financial institution.

In addition, loan applications can be accessed by borrower or lenders through a non-stop twenty-four hour application. This

differs from a credit facility or bank financing in that the borrower who needs the loan must go to the desired bank office. In terms of collateral, this service does not require collateral, which is the next important differentiator from financing in the banking sector which requires collateral.

The first company in the world to offer peer to peer lending was Zopa in the UK in 2005<sup>5</sup>. The use of the peer to peer lending concept was in great demand after the impact of the 2008 financial crisis. However, in 2011, a company called Quakle had to be closed due to a failure rate of 100%.<sup>6</sup>

However, it is different from the development of peer to peer lending in America, which came a year after the existence of peer to peer lending in the UK, in 2006. There are several reasons that make peer to peer lending a popular industry and in demand by people in America.<sup>7</sup> *First*, the impact of the 2008 financial crisis, which resulted in the closure of new credit disbursements and an interest rate approaching 0% for depositors (people who deposit funds in banks) by banks. *Second*, restrictions based on borrower eligibility and the imposition of very high borrower rate standards. *Third*, the investor assesses that the loan period is quite long, which is around 3 years, which they do not want.

The emergence and success of financial companies<sup>8</sup> in the field of information technology-based lending and borrowing services or peer to peer lending based on financial technology (fintech) in the world has encouraged entrepreneurs in Indonesia to establish peer to peer lending companies

1 Wiwoho, J. (2014). Peran lembaga keuangan bank dan lembaga keuangan bukan bank dalam memberikan Distribusi keadilan bagi masyarakat. *Masalah-Masalah Hukum*, 43(1), 87-97.

2 Ayup Suran Ningsih, "Alternative Dispute Resolution as Soft Approach for Business Dispute in Indonesia," vol. 363 (Semarang: Atlantis Press, 2019), 26-33, <https://www.atlantis-press.com/proceedings/icils-19/125922696>.

3 Rachmadi Usman, *Aspek Hukum Perbankan Syariah Di Indonesia* (Jakarta: Sinar Grafika, 2012). Hlm 78

4 Frianti Pandia, *Manajemen Dana Dan Kesehatan Bank* (Jakarta: Rineka Cipta, 2012). Hlm 54

5 Hartanto, R., & Ramli, J. P. (2018). Hubungan Hukum Para Pihak dalam Peer to Peer Lending. *Jurnal Hukum Ius Quia Iustum*, 25(2), 320-338

6 Lin, M., Prabhala, N. R., & Viswanathan, S. (2013). Judging borrowers by the company they keep: Friendship networks and information asymmetry in online peer-to-peer lending. *Management Science*, 59(1), 17-35.

7 Galloway, I. (2009). Peer-to-peer lending and community development finance. *Community Investments*, 21(3), 19-23.

8 Ningsih, Ayup Suran. (2020) "License Revocation of Insurance Companies and Legal Protections of the Policyholders." *Jurnal Hukum Novelty* 11(1). 95-104.

in Indonesia. Nowadays, the presence of this peer to peer lending company is getting a lot of attention from the public and regulators, the Financial Services Authority (OJK). The issuance of the Financial Services Authority Regulation Number 77 / POJK.01 / 2016 concerning Information Technology-Based Lending and Borrowing Services is the first legal basis for the presence of peer to peer lending (P2P Lending) services in Indonesia.

As of April 30, 2020, the total number of registered and licensed fintech operators is 161<sup>9</sup> companies. The Peer to Peer platform that has a business license and is registered for the first time at the Financial Services Authority (OJK) is Danamas with the company name PT. The Loan Fund Market registered on July 6, 2017, the platform that recently joined the Financial Services Authority is Kottakkoin with the company name PT. Coco Digital Technology which was registered on December 20, 2019.

The ease of access and speed in the loan disbursement process and no collateral are very attractive factors to people who then choose P2P Lending providers as their favorite place to get loans.

This caused many entrepreneurs wanting to establish P2P Lending service providers in Indonesia. Although, experiencing a very rapid increase, P2P Lending has also caused polemics and problems. With so many people are interested in build P2P Lending company, it is important to pay attention in their fair<sup>10</sup> competition.

Based on the complaints received by the Financial Services Authority, there are 2 things that are often complained about by borrowers, These are regarding the unwise use of the borrower's personal data and how P2P Lending provider contact borrower to collect debt that are considered not in accor-

9 OJK, *Penyelenggara Fintech Terdaftar dan Berizin di OJK per 30 April 2020*, 2020, <https://ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Penyelenggara-Fintech-Terdaftar-dan-Berizin-di-OJK-per-30-April-2020.aspx> accessed on 15 August 2020 at 6:25 PM

10 Dhurotun Muniroh, Siti, and Ubaidillah Kamal. "The Indication of Unfair Business Competition Practice in the Implementation of Public Procurement Auction Using E-Tendering." *J. Priv. & Com. L.* 2 (2018): 78.

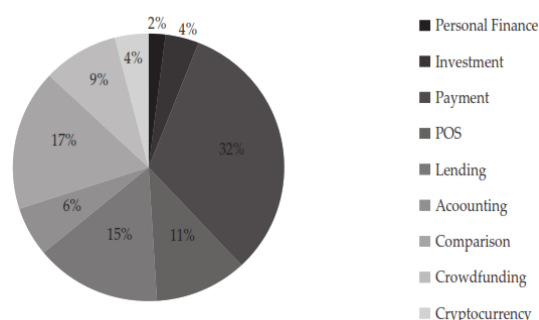
dance with applicable regulations.

Departing from these 2 (two) problems, the authors are interested in reviewing the Financial Services Authority Regulation Number 77/ OJK.01/ 2016 concerning P2P Lending in Indonesia as a umbrella law for the presence of P2P Lending in Indonesia. Is the regulation still suitable or needs to be revised in the Fintech-based Peer to Peer Lending arrangement in Indonesia?

## 2. Results and Discussion

### The Concept of Peer to Peer Lending

Peer to peer lending is one of the latest developments in the money lending and borrowing system utilizing existing technology, Financial Technology (Fintech). The lending method applied in peer to peer lending through an application or site that has been designed for the method of lending money without the need for collateral or collateral.<sup>11</sup>



**Figure 1.** Distribution of Financial Technology (Fintech) Dissemination in Indonesia<sup>12</sup>

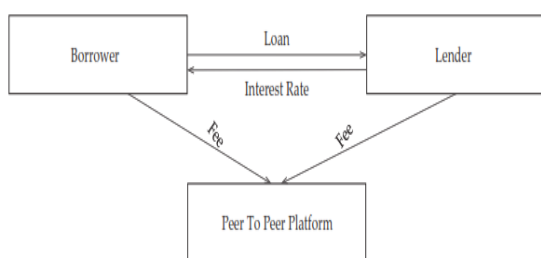
There are many kinds of Fintech which already operated in Indonesia, In the context of Indonesia, financial technology is defined by the authority as the adoption of information technology in the financial system that produces new business models, products and services that have an impact on monetary

11 Adi Setiadi Saputra, "Perlindungan Terhadap Pemberi Pinjaman Selaku Konsumen Dan Tanggung Jawab Penyelenggara Peer To Peer Lending Dalam Kegiatan Peer To Peer Lending Di Indonesia," *Ve/* 5, no. 1 (2019): 239.

12 Ichwan, I., & Kasri, R. (2019). WHY ARE YOUTH INTENT ON INVESTING THROUGH PEER TO PEER LENDING? EVIDENCE FROM INDONESIA. *Journal of Islamic Monetary Economics and Finance*, 5(4), 741-762.

and financial system stability.<sup>13</sup> In this respect, the most rapidly growing type of financial technology in the country is payment systems, with a market share of around 32 per cent. Peer to peer (P2P) lending, meanwhile, is ranked third (15 per cent) in Indonesia (see Figure 1).

Peer to peer lending is a service in the financial sector by utilizing the internet network to carry out the borrowing process. Although this money lending system does not use collateral or collateral, what is prioritized in the borrowing process through peer to peer lending is the official identity of the debtor that has been verified and registered by the state such as National Identity Card to Passport which will later become a handle for service providers in the future. there is default by the debtor.



Source: Havrylychuk & Verdier (2018)

**Figure 2.** P2P lending Business Model

Figure 2 illustrates the P2P lending business model. Typically, P2P lending involves three parties: lenders, peer-to-peer platforms, and borrowers. Lenders can benefit from the interest rates set for their loan/investment, peer-to-peer platforms earn profit from the fees paid by borrowers and borrowers can profit from their business activities.<sup>14</sup>

Service providers or also known as service providers in terms of information technology-based lending and borrowing, peer to peer lending platforms, are Indonesian legal entities that provide, manage, and operate information technology-based lending services.

This is as stipulated in the Financial Services Authority Regulation Number 77 / POJK.01 / 2016 concerning Information Technology-Based Lending and Borrowing Services detail in Article 1 point 8.<sup>15</sup> Service providers are required to have standard procedures in terms of handling consumer protection and complaints in accordance with related regulations. The basic thing that must be done by service providers is to have information services about service systems and related processes to make it easier for prospective customers to get convenience with these services.

Consumers in peer to peer lending services are debtors who are money borrowers or loan recipients. Based on POJK Number 77 / POJK.01 / 2016 concerning Information Technology-Based Lending and Borrowing Services, precisely in Article 1 point 7 regulates loan recipients or parties who have debts based on lending and borrowing agreements using technology services that are available in the financial technology network.<sup>16</sup>

In peer to peer lending services, consumers as debtors must meet administrative requirements for borrowing funds to be carried out. The administrative requirements required for the completeness of the requirements are the appropriate personal identities on the identity cards owned such as National Identity Cards (KTP), Driving License (SIM), to passports. In addition to the identity card, the job and income of a potential debtor is very important to consider the amount of loan funds that can be obtained from peer to peer lending service providers.

### Financial Services Authority Regulation (POJK) Number 77/ OJK.01/ 2016

Legal protection is the provision of protection to the interests of individuals protected by law.<sup>17</sup> In this aspect, protection ai-

13 Bank Indonesia (2017). Bank Indonesia Regulation Number 19/12 / PBI.2017. Regarding the Operation of Financial Technology.

14 Havrylychuk, O., & Verdier, M. (2018). *The Financial Intermediation Role of the P2P Lending Platforms*. Comparative Economic Study, 115-130.

15 Ratna Hartanto and Juliyani Purnama Ramli, "Hubungan Hukum Para Pihak Dalam Peer to Peer Lending," *Jurnal Hukum IUS QUIA IUSTUM* 25, no. 2 (2018): 300–328.

16 Hartanto, R., & Ramli, J. P. (2018). Hubungan Hukum Para Pihak dalam Peer to Peer Lending. *Jurnal Hukum Ius Quia Iustum*, 25(2), 320-338.

17 Ningsih, Ayup Suran, and Balqis Hedyati Maharani. "Penegakan Hukum Hak Cipta Terhadap Pembajakan Film Secara Daring." *Meta-Yuridis* 2.1 (2019).

med at consumers in the business world, both formally and materially, is very important.<sup>18</sup> A business in the financial services sector is a business that is very vulnerable to problems as a result of the actions of irresponsible individuals who cause losses. This action takes advantage of technological advances in the form of fraud and abuse, resulting in losses for the parties who use these services.<sup>19</sup>

The Financial Services Authority has a role in terms of consumer protection, including in terms of education regarding this protection as written in Law Number 21 of 2011 concerning the Financial Services Authority.<sup>20</sup> This protection is included in the development of fintech services that have been present in Indonesia.

Thus, the Financial Services Authority issued regulations regarding peer to peer lending as well as forming an organizational structure that has provisions to regulate, support and supervise various matters relating to developments including Fintech innovations. In the process, the Financial Services Authority collaborates and coordinates with several institutions related to financial technology services to maximize supervision in supporting the development of financial technology services, especially in this case peer to peer lending services.

Peer to Peer Lending Based on Financial Technology activities need to be regulated and supervised in the context of User protection, Provider of Peer Lending Based on Financial Technology (P2P Lending), and protection of national interests while still providing room for growth for start-up companies in order to increase financial inclusion in Indonesia.<sup>21</sup>

Based on that reasoning The Financial Services establish the POJK Number 77 / POJK.01 / 2016 contains provisions to minimize credit risk, protect User interests such as misuse of User funds and data, and protect national interests such as anti-money laundering and prevention of terrorism financing, as well as disturbances in financial system stability.

In practices P2P Lending perform quite good but, there are three problems that are quite crucial in protecting consumers in the financial industry, *first*, the lack of information starting from the stages of demand and supply, agreements, to product utilization. Then the *second* is related to the confidentiality and security of customer data or personal information in accordance with statutory regulations. And *lastly*, agreements that generally contain an exoneration clause.<sup>22</sup>

Besides all the problems inform before, Financial Technology also has a role in the wheels of Indonesia's economy, it can be breakdown into:<sup>23</sup>

- a) Provide structural solutions for the growth of the electronics-based industry (e-commerce)
- b) Encouraging the growth of small and medium enterprises and the birth of new entrepreneurs.
- c) Encourage creative ventures (such as artists, musicians, application developers, etc.) to achieve broad market distribution (critical mass)
- d) Enabling market development, especially those that are still unserved by conventional banking and financial services (unbanked population)

Peer to Peer Lending Based on Financial Technology is the provision of financial services to bring together lenders and loan recipients in order to establish a loan and borrowing agreement in the rupiah currency

18 Wedhitami, Bayangsari. "Upaya perlindungan Ekspresi Budaya Tradisional dengan Pembentukan Peraturan Daerah." *LAW REFORM* 9.2 (2014): 32-48.

19 Edi Santoso, *Pengaruh Era Globalisasi Terhadap Hukum Bisnis Di Indonesia* (Jakarta: Prenada Media Group, 2018). P 67

20 Otoritas Jasa Keuangan, *Kajian Perlindungan Konsumen Sektor Jasa Keuangan : Kredit Pemilikan Rumah ( KPR ), Otoritas Jasa Keuangan* (Jakarta: Otoritas Jasa Keuangan, 2017), [https://konsumen.ojk.go.id/MinisiteDPLK/images/upload/201807131448401\\_KPR.PDF](https://konsumen.ojk.go.id/MinisiteDPLK/images/upload/201807131448401_KPR.PDF)

21 POJK Number 77 / POJK.01 / 2016 explanation

22 Budi Rahardjo and Dewan Penasihat Asosiasi Fin Tech Indonesia, *Fintech: Layanan Baru, Ancaman Baru?* (Jakarta: Fin Tech Indonesia, 2017). P 78

23 Nofie Iman, Financial Technology and Financial Institutions, presented at the Gathering of the Bank Syariah Mandiri Hotel Grand Aston Yogyakarta Linkage Partners, 22 November 2016, <http://nofieiman.com/wp-content/images/financial-technology-lembaga-keuangan.pdf>, p 1-31

directly through an electronic system using the internet network.<sup>24</sup> (19/7/2019).<sup>28</sup>

Fintech Peer To Peer Lending (P2P Lending) also has a function similar to Crowdfunding, Crowdfunding<sup>25</sup>, which is a type of Fintech that offers fundraising services, this type of Fintech concept brings together fund owners with business actors who need funds, the lending and borrowing funds, but here the special of P2P Lending is the transaction without having to meet or meet face to face between lender and borrower.

Peer to Peer Lending Based on Fintech provider, referred to as the Operator service provider, are Indonesian legal entities that provide, manage and operate Peer to Peer Lending Based on Fintech Services.<sup>26</sup> It is further explained that the P2P Lending Provider provides, manages, and operates P2P Lending Services from the Lender to the Borrower whose source of funds comes from the Lender.<sup>27</sup>

### Why Financial Services Authority Regulation (POJK) Number 77/ OJK.01/ 2016 needs a revision?

The Indonesian Consumers Foundation (YLKI) noted that online loan complaints or P2P lending (fintech) were the highest complaints per semester I 2019. Fintech complaints are increasing considering that digital technology penetration is currently developing in Indonesia. YLKI Daily Executive Chairman, Tulus Abadi said, complaints about financial services have indeed increased at this time, especially regarding fintech interest which has been recorded soaring that is detrimental to society. "Lots of data on complaints about financial services, e-commerce, online loans (P2P Lending). But I haven't seen the data for sure. The complaints are usually high interest rates, irrational fines, to the tapping of personal data," he said in Jakarta, Friday

The Jakarta Legal Aid Institute (LBH) said that as of June 2019 there had been 4,500 complaints about financial technology (fintech) lending. This figure has jumped from the end of last year. *Kontan* noted, early December 2018, the number of complaints to LBH was 1,330. Public Lawyer for Urban and Community Affairs of LBH Jakarta, Jeanny Silvia Sari Sirait, said that the figure is a combined number throughout Indonesia. This number is the accumulation of total complaints via email, telephone, WhatsApp, and direct complaints. "This figure also includes online loan applications registered with the Financial Services Authority (OJK), "said Jeanny. According to Jeanny, the mode is relatively the same. This fintech mode includes accessing contacts on the borrower's cellphone, distributing photos of Identity Cards (KTP), also spreads personal photos of borrowers.<sup>29</sup>

From the explanation above it can be concluded that there are 4 (four) main complaints in P2P Lending, especially regarding lending collection. *First*, the way of third party<sup>30</sup> help in collecting the loan judged by borrower in very impolite way, they are used swear words and make some spam in calling and texting. *Second*, the high interest rate charged to borrower and the high late charge, the borrower judges the late charge is irrational. *Third*, P2P provider can access contact and photo gallery from borrower device, *Fourth*, sharing and using the borrower personal data in the wrong way in order to collect the loan.

From the 3 (Three) main complaints, here the authors analyze, *First*, regarding the use of a third party (debt collector) as a party

24 Article 1 number 3 POJK Number 77 / POJK.01 / 2016

25 Dhar, V., & Stein, R. M. (2017). FinTech platforms and strategy. *Communications of the ACM*, 60(10), 32-35.

26 Article 1 number 6 POJK Number 77 / POJK.01 / 2016

27 Article 5 number 1 POJK Number 77 / POJK.01 / 2016

28 Bawono Yadika, YLKI: Aduan Konsumen Terkait Fintech Mendominasi di Semester I 2019, 19 Jul 2019, 15:15 WIB, *Liputan6.com*, <https://www.liputan6.com/bisnis/read/4016800/yli-adi-an-konsumen-terkait-fintech-mendominasi-di-semester-i-2019>

Accessed on 14 September 2020; 1:03 PM

29 Agustinus Respati, Per Juni 2019, ada 4.500 aduan pinjaman fintech yang masuk ke LBH Jakarta, 29 Juli 2019 / 14:24 WIB, <https://keuangan.kontan.co.id/news/per-juni-2019-ada-4500-aduan-pinjaman-fintech-yang-masuk-ke-lbh-jakarta>, Accessed on 14 September 2020, 1:07 PM

30 Debt Collector

who help in collecting loan, it is not a violation, the Financial Services Authority (OJK) permits and regulates this. Authors make some suggestion that P2P Lending Provider must make sure and make a written agreement with the third party that loan collection will be carried out in a manner that is appropriate, polite, does not violate laws and human rights. *Second*, concerning the interest and late charge, POJK Number 77 / POJK.01 / 2016 did not regulate regarding interest and late charge. P2P provider company determine the interest rate only based on association deal. POJK Number 77 / POJK.01 / 2016 only regulated concerning loan value limit; P2P Lending Provider only can channel the loan from lender to borrower maximum 2 Billion Rupiah<sup>31</sup>. From that fact, POJK Number 77 / POJK.01 / 2016 needs to be revised, the regulation should regulate the clear range percentage of interest rate and late charge and the profit rate for the lender clearly. *Third*, concerning P2P Lending Provider company can access the whole contact and photo gallery from borrower's device. POJK Number 77 / POJK.01 / 2016 did not regulate this in detail, that's way the P2P Lending Provider company make such system that borrower must accept the term that make the P2P Lending Provider company can access the contact and photo gallery from borrower's device if they want to apply for the loan. Because of that fact, POJK Number 77 / POJK.01 / 2016 needs to be revised and regulate that the P2P Lending Provider company can only access the microphone, location, and camera, no more. Authors thinks that 3 (three) application is enough in order to provide the loan. *Fourth*, concerning sharing and using the borrower personal data in the wrong way in order to collect the loan, in Article 26 number a POJK Number 77 / POJK.01 / 2016 clearly stated that The P2P Lending Provider company is obliged to maintain **the confidentiality**, integrity and availability of **personal data**, transaction data and financial data that it manages from the time the data is obtained until the data is destroyed; so, it can be conclude that P2P Lending Provider

company which consciously and deliberately spread borrower's personal data just get a sanction from the Financial Services Authority (OJK). The problems are there are so many P2P Lending Provider company is not registered and licensed yet by the Financial Services Authority (OJK) but do the business, or simply it called illegal P2P Lending. Mostly, illegal P2P Lending company do the spread and using the borrower personal data in the wrong way in order to collect the loan. In that case only Police who can take an action to discipline the illegal P2P Lending company.

Regarding the existence of illegal Fintech companies to impose sanctions related to violations committed by Fintech organizers, the Financial Services Authority has a Cyber Patrol, where illegal Fintech eradication is carried out proactively through patrols conducted by the Investment Alert Task Force, OJK, Ministry of Technology and Information RI, and The Indonesian Joint Funding Fintech Association (AFPI). Based on the latest data from the Financial Services Authority, to date 2,591 illegal fintech lending operators have been closed by the Investment Alert Task Force (SWI). The public is expected to report to the Financial Services Authority or the Investment Alert Task Force if they find illegal fintech lending.

Regarding the sanctions imposed by the Financial Services Authority for violations committed by fintech lending operators, the Financial Services Authority has the right to impose sanctions in the form of fines, written sanctions, to revocation of business licenses or closure of fintech lending companies that are proven to have committed violations. However, the Financial Services Authority Regulation does not yet have strong legal force to be able to continue a legal problem that occurs in the field of fintech into the criminal realm.

In addition to the four issues discussed above, regulations related to company capital also get the attention of the author. The growth of P2P lending provider companies in Indonesia is beyond expectations.<sup>32</sup> One of

31 Article 6 number 2 POJK Number 77 / POJK.01 / 2016

32 Deputi Komisioner Pengawas IKNB II Departemen Pengawasan IKNB 2A Direktorat Pengaturan, Perizinan, dan Pengawasan Fintech, Perkembangan

the factors considered to have supported the growth of P2P lending provider companies is the regulation related to capital. In Article 4 Number 1 POJK Number 77 / POJK.01 / 2016 it is stipulated that the minimum capital to establish a P2P lending provider company is at least 1 billion rupiah, of course this figure is considered quite affordable with high profit projections, so that many parties are interested in establishing a P2P lending provider company. This capital-related regulation is important, because P2P lending provider companies need support of a supportive IT system as well as human resources and buildings and other infrastructure, which of course require large capital. The relatively affordable capital arrangement worries that the company can run the company in an improper manner. From this discussion chapter, it can be concluded that POJK Number 77 / POJK.01 / 2016 needs to revise.

### 3. Conclusion

The presence of P2P lending is a necessity for the demands of the era and technology. P2P lending provides a new option for Indonesians to invest and get loans. OJK issued regulations to regulate, protect, and supervise P2P lending practices in Indonesia, it is POJK Number 77 / POJK.01 / 2016. In practice, many people who are borrowers complain, especially regarding interest and very high late charge. POJK Number 77 / POJK.01 / 2016 needs to be revised to add regulation related to detail range percentage of interest, late charge and penalties. It is also related to data access by P2P lending provider to users, especially borrowers, from previously being able to access contacts and photo galleries to only microphone, location, and camera. In addition, to suppress the growth of P2P lending companies, additional regulations related to company capital are needed revised.

### 4. References

#### Books

- Budi Rahardjo and Dewan Penasihat Asosiasi Fin Tech Indonesia, *Fintech: Layanan Baru, Ancaman Baru?* (Jakarta: Fin Tech Indonesia, 2017).
- Pandia, Frianti. *Manajemen Dana Dan Kesehatan Bank* (Jakarta: Rineka Cipta, 2012).
- Santoso, Edi. *Pengaruh Era Globalisasi Terhadap Hukum Bisnis Di Indonesia* (Jakarta: Prenada Media Group, 2018).
- Usman, Rachmadi. *Aspek Hukum Perbankan Syariah Di Indonesia* (Jakarta: Sinar Grafika, 2012).

#### Journals

- Dhar, V., & Stein, R. M. (2017). FinTech platforms and strategy. *Communications of the ACM*, 60(10), 32-35.
- Dhurotun Muniroh, Siti, and Ubaidillah Kamal. "The Indication of Unfair Business Competition Practice in the Implementation of Public Procurement Auction Using E-Tendering." *J. Priv. & Com. L.* 2 (2018): 78.
- Galloway, I. (2009). Peer-to-peer lending and community development finance. *Community Investments*, 21(3), 19-23.
- Havrylychuk, O., & Verdier, M. (2018). *The Financial Intermediation Role of the P2P Lending Platforms*. Comparative Economic Study, 115-130.
- Hartanto, R., & Ramli, J. P. (2018). Hubungan Hukum Para Pihak dalam Peer to Peer Lending. *Jurnal Hukum Ius Quia Iustum*, 25(2), 320-338.
- Ichwan, I., & Kasri, R. (2019). Why Are Youth Intent on Investing Through Peer To Peer Lending? Evidence from Indonesia. *Journal of Islamic Monetary Economics and Finance*, 5(4), 741-762.
- Lin, M., Prabhala, N. R., & Viswanathan, S. (2013). Judging borrowers by the company they keep: Friendship networks and information asymmetry in online peer-to-peer lending. *Management Science*, 59(1), 17-35.
- Ningsih, Ayup Suran "Alternative Dispute Resolution as Soft Approach for Business Dispute in Indonesia," vol. 363 (Semarang: Atlantis Press, 2019), 26-33, <https://www.atlantis-press.com/proceedings/icils-19/125922696>.
- Ningsih, Ayup Suran. (2020) "License Revocation of Insurance Companies and Legal Protections of the Policyholders." *Jurnal Hukum Novelty* 11(1). 95-104.
- Ningsih, Ayup Suran, and Balqis Hedyati Maharani. "Penegakan Hukum Hak Cipta Terhadap Pembajakan Film Secara Daring." *Meta-Yuridis* 2.1 (2019).
- Saputra, Adi Setiadi. "Perlindungan Terhadap Pemberi Pinjaman Selaku Konsumen Dan Tanggung Jawab Penyelenggara Peer To Peer Lending Dalam Kegiatan Peer To Peer Lending Di Indonesia," *VeJ* 5, no. 1 (2019): 239.
- Wedhitami, Bayangsari. "Upaya perlindungan Ekspresi Budaya Tradisional dengan Pembentukan Peraturan Daerah." *LAW REFORM* 9.2 (2014): 32-

Fintech Lending, June 2020, <https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/fintech/Documents/Perkembangan%20Fintech%20Lending%20Periode%20Juni%202020.pdf>  
 Accessed on 14 September 2020 at 4:11 PM



48.

Wiwoho, J. (2014). Peran lembaga keuangan bank dan lembaga keuangan bukan bank dalam memberikan Distribusi keadilan bagi masyarakat. *Masalah-Masalah Hukum*, 43(1), 87-97.

#### Website

OJK, *Penyelenggara Fintech Terdaftar dan Berizin di OJK per 30 April 2020*, 2020, <https://ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Penyelenggara-Fintech-Terdaftar-dan-Berizin-di-OJK-per-30-April-2020.aspx> accessed on 15 August 2020 at 6:25 PM.

Otoritas Jasa Keuangan, *Kajian Perlindungan Konsumen Sektor Jasa Keuangan : Kredit Pemilikan Rumah ( KPR )*, Otoritas Jasa Keuangan (Jakarta: Otoritas Jasa Keuangan, 2017), <https://konsumen.ojk.go.id/MinisiteDPLK/images/upload/201807131448401.KPR.PDF>.

Nofie Iman, Financial Technology and Financial Institutions, presented at the Gathering of the Bank Syariah Mandiri Hotel Grand Aston Yogyakarta Linkage Partners, 22 November 2016, <http://nofieiman.com/wp-content/images/financial-technology-lembaga-keuangan.pdf>, p 1-31.

Bawono Yadika, *YLKI: Aduan Konsumen Terkait Fintech Mendominasi di Semester I 2019*, 19 Jul 2019, 15:15 WIB, Liputan6.com, <https://www.liputan6.com/bisnis/read/4016800/ykki-aduan-konsumen-terkait-fintech-mendominasi-di-semester-i-2019>. Accessed on 14 September 2020; 1:03 PM.

Agustinus Respati, *Per Juni 2019, ada 4.500 aduan pinjaman fintech yang masuk ke LBH Jakarta*, 29 Juli 2019 / 14:24 WIB, <https://keuangan.kontan.co.id/news/per-juni-2019-ada-4500-aduan-pinjaman-fintech-yang-masuk-ke-lbh-jakarta>, Accessed on 14 September 2020, 1:07 PM.

Deputi Komisioner Pengawas IKNB II Departemen Pengawasan IKNB 2A Direktorat Pengaturan, Perizinan, dan Pengawasan Fintech, *Perkembangan Fintech Lending*, June 2020, <https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/fintech/Documents/Perkembangan%20Fintech%20Lending%20Periode%20Juni%202020.pdf> Accessed on 14 September 2020 at 4:11 PM.

#### Regulations

Bank Indonesia (2017). Bank Indonesia Regulation Number 19/12 / PBI.2017. Regarding the Operation of Financial Technology.

POJK Number 77 / POJK.01 / 2016.

POJK Number 77 / POJK.01 / 2016 explanation