

# Fintech Regulations and Oversight of the Financial Services Authority in Indonesia

RR Dewi Anggraeni\*, Annissa Rezki

Universitas Pamulang, Banten, Indonesia

\*Corresponding author email: [rrdewianggraeni@unpam.ac.id](mailto:rrdewianggraeni@unpam.ac.id)

**ABSTRACT.** The company's growth can be seen from the country's economic growth. Many investors invest and provide access to technology for the smooth running and advancement of the company's system, including in the field of Fintech. Although many illegal fintechs have been blocked by the Financial Services Authority (OJK), this has not provided a deterrent effect on fintech companies in Indonesia. It is known from the news that even the biggest investors are foreigners. If taken from a positive side, the existence of online loans from fintech companies is indeed very helpful when we are in urgent conditions. But without being noticed, it turns out that fintech companies have illegally intercepted, retrieved, and disseminated their customers' personal data without remembering and seeing aspects of privacy and legal protection as consumers. This research uses qualitative research methods, with a normative juridical approach. The results showed that problems related to fintech are still a problem in every company. As was found in the case of an employee who was fired from the company because he received improper billing from the collector of the fintech company. In fact, many short messages (SMS) received by the family or acquaintances of fintech consumers contain harsh sentences and defame consumers.

**Keywords:** *Fintech; Credit; Online Loans.*

## 1. INTRODUCTION

Indonesia is known as a developing country. Viewed from the aspects of its natural resources wealth and consumptive people, of course Indonesia will be market which is targeted by foreign businessmen to make large-scale investment. Moreover, the rapid development of technology makes almost all activities can be done online.

Seeing the current development, of course Indonesia does not want to be left behind to involve itself in the development of technology [1]. However, any of these advance cannot be taken for granted without their legality and legal protection. One of the developments in online system that is currently the concern of the Indonesian government is the presence of start-ups such as Fintech.

Fintech is one of the innovations in the financial sector that refers to modern technology. Fintech, which is still a trending topic in discussion through news, printed media or online media, is related to online loans with very easy loan application but in fact makes the borrowers experience bad things and even have to endure shame and struggle through protection to the law office and the OJK.

Based on the above problems, the writers are interested in discussing and raising this issue so that this Fintech issue can be more disciplined. Then from the above problems, the main discussion will be regarding: how the standardization of online loans which is not in accordance with legal standards in Indonesia like; What roles of OJK in Non-Bank

Protection are; and discipline Fintech Regulatory Policies.

The word "credit" is derived from Roman "credere" which means "believe" [2]. These elements of credit of course arise because of the well-known consumptive nature of Indonesian society. In Islamic economics there are 5 principles to control consumptive nature, namely: the Principle of Justice, the Principle of Cleanliness, the Principle of Simplicity, the Principle of Generosity, and the Principle of Morality.

Fintech is the latest financial innovation model that uses online and digital systems and of course this is due to the increasingly advanced development of science and technology, even people who do not understand technology can easily access this online Fintech application.

## 2. RESEARCH METHOD

This legal study uses a descriptive qualitative approach. The data used in this study are primary data in the form of the Financial Services Authority (OJK) Regulations, Bank Indonesia regulations and case approaches. The analysis technique used in this study is content analysis. Content analysis is an analysis technique that is carried out by drawing conclusions by identifying the specific characteristics of a message objectively and systematically

This study also aims to provide information related to Fintech which is currently still being discussed by Indonesian society in general. This study also explains how the role of OJK and BI in providing protection

and making the Fintech movement more orderly and not detrimental to other parties in ways which are not justified in BI and OJK regulations. Furthermore, this study also uses secondary data obtained from literature research including literature on the principles in the standards of living wages in a company. The collected data, both primary and secondary, were then analyzed using qualitative descriptive methods.

### 3. RESULT AND DISCUSSION

Synonyms are words with the same meaning. Its limitation based on similar extra linguistics, words with same meaning, and words that substituted in same context. Synonyms are languages that have similar meaning or other forms [1].

#### 3.1 Online Loan Standards Are Not In Accordance With Legal Standards in Indonesia

The development of information technology, especially interconnection-networking (internet), has had a major influence on all aspects human life. Modern life today is very dependent on technological advances [3].

The rapid growth of Fintech companies is also due to the fact that Fintech offers a variety of financial services that really help people to run the economy more effectively and efficiently, especially financial sector [4].

Fintech stands for financial technology. Currently, there are many legal discussions as a result of the Fintech funding case which provides loans in a fast way and which are certainly not in accordance with the applicable legal regulations in Indonesia.

Online loans from Fintech companies are much found in advertisements on social media. Even there are so many offers given via SMS (short messages) to the public. If it is discussed further, how do Fintech companies know the telephone numbers they use to give the offers? Can they buy consumer data or do they deliberately scramble phone numbers? Even now, the clarity of this matter is not certain.

In the official website of Bank Indonesia, it is stated that Financial technology / Fintech is the result of a combination of financial services and technology which ultimately changes the business model from conventional to moderate, which initially requires face-to-face payments and brings a certain amount of cash, now remote transactions can be done by making payments just in seconds [5].

Fintech appears in line with the the changes in people's lifestyles which are currently dominated by the use of information technology as the demands of a fast-paced life. By FinTech, problems in transactions and payments, such as not having time to find goods to a shopping centers, to a bank / ATM, to transfer money, and reluctance to visit a place due to

unpleasant services can be minimized. In other words, FinTech helps transactions and payment systems to be more efficient and economical but still effective.

Until March 2018, there are as many as 40 companies that provide information technology-based lending and borrowing services (fintech) that have been officially registered. This is also caused by errors in utilizing customer data because of not paying attention to the Articles that are directly related to the conduct of the Fintech business, namely Article 1 number 17 and Article 18 which regulates electronic contracts. An electronic contract is an agreement between the parties that is made through an electronic system.

OJK's regulation and supervision of the Fintech business is also regulated in POJK No. 13 /POJK.02/2018 concerning Digital Financial Innovation in the Financial Services Sector, which aims to implement Digital Financial Innovation (IKD) in a responsible manner. The IKD regulation is carried out with the aim of supporting responsible IKD development, supporting effective IKD monitoring, and encouraging synergy in digital financial services ecosystem as regulated in article 2 sections (1) and (2) regarding the objectives of the IKD [7].

Continuing the discussion on the standardization of online loans, there are still many cases of violations committed by fintech providers as regulated in POJK No. 13 / POJK.02 / 2018 concerning Digital Financial Innovation in the Financial Services Sector which explains about obtaining approval from users, conveying limits on the use of data and information to users, submitting any changes in using data and information to users related to a change in data utilization purposes and information, and the confidentiality, security and integrity of media and methods used in obtaining data and information are guaranteed [8].

It should also be noticed that the legal relationship between the parties in the Fintech business arises because of an agreement, namely an electronic agreement. The legal relationship in the Fintech business is binding for the parties when an electronic agreement is signed.

OJK also said that these fintech users have the potential to experience abuse, fraud, and force majeure from Fintech activities intentionally or unintentionally.

#### 3.2 The Roles of OJK and BI in Protection of Non-Bank Fund Providers

Non-bank financial institutions or the Non-Bank Financial Industry (IKBB) in implementing development policies and programs are also able to provide additional and alternative financial services. Compared to banks, non-bank institutions do not have the same way of raising funds as banks do.

Non-bank financial institutions are one of the financing sources for the national development program. However, it should be noted that the fintech companies engaged in financing are not included in the non-bank company category. This fintech company is an independent institution or an institution outside the bank.

If we trace the digital footprint that can still be accessed until now, there have been many cases of fintech that have been hunted by OJK, and the OJK has been trying very hard to shut down the access of every illegal fintech company. However, this effort did not make the fintech companies give up. By the time, the online loan from the fintech company is increasing and it only changes the application name.

There are also many collection cases committed by fintech companies to customers in a fraudulent and disorderly way. The OJK has also received many reports from the public as well as complaints to the police which have become the concerns of legal activists to protect public data as consumers and to get better service, and cheaper prices.

Bank Indonesia has announced through its official website at [www.bi.go.id](http://www.bi.go.id) regarding the issue of fintech and it means that Bank Indonesia is of course paying attention and taking a role in protecting financial institutions and helping the public to get rights through consumer protection institutions with regulations made by BI.

Because fintech has changed the payment system in society and has helped start-up companies to reduce their initial high capital and operating costs, BI has introduced a fintech payment regime, as follows.

- In terms of providing a market for businessmen, Bank Indonesia ensures protection for consumers, particularly regarding the guarantee of the confidentiality of consumer data and information through cyber security networks.
- In terms of savings, loans and equity participation, Bank Indonesia requires every businessman to comply with macro prudential regulations, deepening financial markets, payment systems to support operations and cyber security to safeguard consumer data and information.
- In terms of investment and risk management, Bank Indonesia also requires businessmen to comply with macro prudential regulations, deepening financial markets, payment systems to support operations and cyber security to safeguard consumer data and information.
- In terms of payment, settlement and clearing, Bank Indonesia ensures consumer protection, particularly regarding the assurance of the

confidentiality of consumer data and information through cyber security networks.

Furthermore, BI also took the initiative as a facilitator to provide area for payment traffic and intelligent business analysts through cooperation with international authorities and agencies. Bank Indonesia becomes an analyst for business actors related to FinTech to provide views and directions on how to create a safe and orderly payment system and then assessments will act to monitor and evaluate as well as in coordination and communication.

OJK also mentioned that this Fintech has advantages and disadvantages and the advantages of this Fintech are:

- Fintech is capable to serve people who have not been reached by banks due to strict banking regulations.
- Fintech can be an alternative funding.

While the disadvantages of fintech are:

- Compared to banks, fintech is a company that does not have a license to move funds and it is less well-established in running its business with large capital.
- There are some fintech companies that do not have physical offices, and lack experience in terms of procedures related to security systems and product integrity.

### 3.3 Disciplined Fintech Regulatory Policies

In its systematic literature review, it is stated that Fintech is not only the application of IT in the financial sector. Some literature argues that Fintech can also be defined as startups, services, technologies, companies, digitalization, industry, new generation, chance, and products. [9] In other words, it is necessary for the Fintech industry, banks, regulatory authorities such as the Financial Services Authority (OJK), KOMINFO, and public to synergize in an orderly manner to support the growth of the digital economy.

P2P Lending is currently being selected as a new method of obtaining capital, including being able to make large profits for small businesses. P2P Lending provides easy access to loans. Meanwhile crowdfunding is an easy promotional tool (campaign) to help businesses and to meet needs.

Lee dan Shin mengemukakan ada lima elemen dasar dari ekosistem fintech diantaranya [11]:

Lee and Shin suggest that there are five basic elements of the fintech ecosystem, as follows:

startup fintech (providing services for payments and transfers, financial management, loans and financing, securities trading, insurance, etc.)

- technology developers (providing services in the fields of BigData analytics and artificial

intelligence, blockchain and cryptocurrency, cloud computing, social networking, etc.)

- governmental organization (financial regulators and legislative bodies)
- Clients (individuals and legal entities)
- traditional financial institutions (traditional banks, insurance companies, brokerage companies and venture capitalists)

Fintech companies must face issues that are more complex and important which are requiring greater regulation than other sectors. Startups not only have to navigate these rules but also have to comply with them while creating a product or service that engenders a high level of trust from their customers.

In Indonesia, there are several regulators that regulate the growth of the Fintech sector. Bank Indonesia regulates the implementation of Financial Technology to encourage innovation in the financial sector by applying the principles of consumer protection as well as risk management and prudence in order to maintain monetary stability, financial system stability, and an efficient, smooth, safe and reliable payment system. Besides, the Financial Services Authority (OJK) is an independent institution, which has the function, task and authority to regulate, supervise, examine and investigate related information technology-based lending and borrowing services [12].

Currently, obtaining permits and legality is a little bit complicated, but it is hoped that the fintech party will be able to launch codes of ethics references in the fintech lending industry, both in product transparency and offering methods as well as a must to include all costs arising from debt. Of course, this is expected to be able to empower consumers to accept debt responsibly and minimize the risk of fraud and unethical practices.

Bank Indonesia telah membagi fintech menjadi empat (4) layanan yang disediakan:

*Bank Indonesia has divided fintech into four (4) provided services [13]:*

- 1) Peer to peer (p2p) lending dan crowdfunding
- 2) Payment, clearing dan settlement
- 3) Manajemen resiko dan investasi/ Risk management and investment
- 4) Market aggregator

Berikut ini adalah regulasi yang dikeluarkan oleh Otoritas Jasa Keuangan, diantaranya [14]:

*The following are some regulations issued by the OJK:*

- 1) Peraturan OJK nomor 13/POJK.02/2018 tentang inovasi keuangan digital di sektor jasa keuangan  
*OJK Regulation number 13 / POJK.02 / 2018 concerning digital financial innovation in the*

*financial services sector*

- 2) *OJK Regulation number 35 / POJK.05 / 2018 concerning the operation of financing company business*
- 3) *OJK Regulation number 37 / POJK.04 / 2018 concerning crowdfunding services through information technology-based stock offerings (equity crowdfunding)*

### **3.4 The basic legal policies for implementing FinTech in the payment system in Indonesia are:**

- Peraturan Bank Indonesia No. 18/40/PBI/2016 tentang Penyelenggaraan Pemrosesan Transaksi Pembayaran Bank Indonesia Regulation No. 18/40 / PBI / 2016 concerning the Implementation of Payment Transaction Processing This regulation also discusses the development of service activities, payment systems, the development of product and payment system service activities; and / or, cooperation with other parties must first obtain approval from Bank Indonesia.
- Surat Edaran Bank Indonesia No. 18/22/DKSP perihal Penyelenggaraan Layanan Keuangan Digital Bank Indonesia Circular Letter No. 18/22 / DKSP regarding the Implementation of Digital Financial Services In Bank Indonesia Circular Letter, one of the most important things to protect is regarding Data Confidentiality. It is stated that in the framework of Electronic Money registration as referred to in letter C, letter D and letter E, LKD Administrators and LKD Agents are required to maintain the confidentiality of data submitted by prospective Holders. Furthermore, in order to maintain the confidentiality of data as referred to in number 1, the registration form must contain a statement that the submission of identity is only used for registration purposes by the LKD Operator and the prospective Holder knows and agrees that the submission of identity to the LKD Operator can be known by the LKD Agent. Basically, data protection can relate specifically to privacy as stated by Allan Westin, who for the first time defined privacy as the right of an individual, group or institution to determine whether or not information about them will be communicated to other parties. Thus, the definition put forward by Westin was referred to as information privacy because it involves personal information [15].
- Bank Indonesia Regulation No. 18/17 / PBI / 2016 concerning Electronic Money , It is stated

in article 2: The submission of plans for LKD implementation that has been made prior to the enactment of this Bank Indonesia Regulation which is subject to Bank Indonesia Regulation Number 11/12 / PBI / 2009 concerning Electronic Money (State Gazette of the Republic of Indonesia of 2009 Number 65, Supplement to the State Gazette of the Republic of Indonesia Number 5001 ) as amended by Bank Indonesia Regulation Number 16/8 / PBI / 2014 concerning Amendments to Bank Indonesia Regulation Number 11/12 / PBI / 2009 concerning Electronic Money (State Gazette of the Republic of Indonesia of 2014 Number 69, Supplement to the State Gazette Republic of Indonesia Number 5524) until approval is given by Bank Indonesia. In section 2 of article 2 it is also explained that the further provisions of this Bank Indonesia Regulation are specified in a Bank Indonesia Circular Letter, and this Bank Indonesia Regulation shall come into force on the date of promulgation. Law is able to provide solutions to the possible use and utilization of science and technology for the greatest benefit and the continuity of human life [16]. Legal protection is to provide protection to human rights that have been harmed by others and this protection is given to the community so that they can enjoy all the rights provided by law [17]. It can be said that the startup movement in Indonesia continues to experience rapid development. And other additional information is that the types of start-ups are divided into two, namely e-commerce and financial technology (fintech).

#### 4. CONCLUSION

Fintech does provide convenience and assistance in urgent condition. However, it is necessary to pay more attention whether the fintech is official or not. If the fintech has not been supervised by OJK, it is better if you use fintech that has been officially verified by OJK and BI.

Fintech is a combination of innovation due to technological advances and investor interest in providing initial capital. Of course this cannot be separated from excessive consumptive attitudes. For Fintech, it is hoped that in the future it can make more business efforts in accordance with the principles that have been implemented by the government through the OJK and BI policies.

In the future, it is hoped that there will be cooperation between fintech organizers to socialize the use of fintech as an official and orderly financial

service. This is also to reduce people's views regarding fintech services, which are not all orderly.

Socialization can also be done by advertising on television or establishing official booths in public places so that all people will also know about it and will also help indirectly providing free advertising services.

Furthermore, it is also necessary to establish a fintech supervisory agency for data security because legal protection for consumer data security is still weak and to impose penalties for violations of financing agreements.

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