

Peer to Peer Lending Policy Patterns for MSMEs During the Covid-19 Pandemic

Debora¹, Ningrum Sirait², Tan Kamello³ Mahmud Siregar⁴

¹ Phd Student in Law Universitas Sumatera Utara, Indonesia

² Supervisor, Universitas Sumatera Utara, Indonesia, Indonesia

³ Supervisor, Universitas Sumatera Utara, Indonesia, Indonesia

⁴ Supervisor, Universitas Sumatera Utara, Indonesia, Indonesia

Email: deboratambun1983@gmail.com

ABSTRACT

When human movement is restricted due to the covid-19 pandemic, many businesses are thinking about how to survive and recover. This condition is an opportunity for the digital finance industry, including fintech, which offers a simpler method method, especially in the loan process. Digital financing such as fintech peer to peer lending (P2PL) has turned into online moneylenders, due to the absence of legal protection for debtors, especially MSMEs in the current difficult times. P2PL requires government support such as that obtained by banks, for example credit relaxation. This research applied with juridical normative methodology. It uses secondary data which consists primary legal material, specifically the OJK regulations on Covid-19 prevention and related literature, analyzed descriptively analytically. The research indicates that OJK issued POJK Number 58/POJK.05/2020 This policy was issued as an effort to optimize the performance of non-bank financial services institutions, maintain financial system stability and support economic growth during the Covid-19 pandemic. Additional subjects for microfinance institutions and information technology-based lending and borrowing service providers (fintech lending). Second, the type of restructuring added in the POJK. Third, the validity period of the POJK is until April 17, 2022. In response to the POJK, fintech companies review loans and provide relief from not making payments up to a maximum of 3 months, as well as reducing the number of installments or extending the installment period for a maximum of 24 months for the industry. affected by COVID-19.

Keywords: Covid-19 Pandemic, Fintech Peer to Peer Lending, MSMEs, Restructuring

I. INTRODUCTION

Globalization encourages the movements in the financial sector, especially those that utilize technology media that gave birth to Financial Technology (Fintech). Fintech was originated in the European countries, and then it was expanded to the United States, Singapore, Hong Kong, and several global countries. [1] Globalization has awakened the spirit of the old debate when laws are grafted from one place to another [2]

Fintech with a peer-to-peer lending (P2PL) system is the prima donna in Indonesia due to its convenience, namely the loan system without collateral. P2PL is a platform that brings together lenders and borrowers via the Internet. The presence of P2PL Fintech can overcome financial problems as an alternative opportunity, especially for unbankable institutions such as micro, small, and medium enterprises (MSMEs), to apply for loans in an easy, effective, and modern way. The increase in the number of Internet users in Indonesia, reaching

76.8% of the total population of 276.3 million, [3] has become a reference for the Government to bring innovation in financial services.

However, the Covid-19 pandemic has weighed on the performance of the financial services industry and ravaged the national economy and public welfare. In order to reduce the spread of Covid-19, various policies have been set by the government [4] including Large-Scale Social Restrictions (LSSR), Transitional LSSR, Emergency Community Activities Restrictions Enforcement (CARE), and CARE Level 4. These policies have an impact on decreasing people's income. The decreased income experienced by various business sectors, including in the micro, small, and medium enterprise (MSME) sector, certainly has an impact on the decline in the national economy because the number of MSME actors is 64.2 million or 99.99% of the number of business actors in Indonesia [5]

In 1997, Indonesia experienced an economic crisis, and MSMEs became the savior of the national economy.

MSME exports increased by 350% due to the high US dollar exchange rate at that time. Unlike in the 1997 economic crisis, the world economy during the Covid-19 pandemic is sluggish, so MSME becomes a sector that is vulnerable to crisis.

Tabel 1. Data of MSMEs Development [6]

| Year | Transaction (IDR) | GDP (%) | Number of MSMEs (million) | Labor (%) |
|------|----------------------|------------|------------------------------------|--------------|
| 2018 | 8.573 trillion | 57,80 | 60 | 91 |
| 2019 | 8.400 trillion | 60,30 | 63 | 96 |
| 2020 | 4.235 trillion | 37,30 | 34 | 73 |

Based on the data displayed in Table 1, the number of MSMEs in Indonesia has decreased by 50% since the pandemic hit Indonesia, which automatically impacts the increase in the number of laid-off workers. MSMEs in the tourism and handicrafts sectors have experienced a drastic reduction during the pandemic situation [7].

Access to finance is the biggest problem faced by MSMEs, especially business loans and investment loans. The emergence of P2PL becomes an alternative opportunity for MSMEs to obtain their business capital P2PL digital financing can turn into moneylenders due to the absence of legal protection for debtors, especially MSMEs, during the Covid-19 pandemic.

Government involvement is vital to facilitate the survival of MSMEs in order to build the national economy. Based on the survey conducted by the United Overseas Bank, Singapore won the highest position in Southeast Asia (72%) in terms of the satisfaction of MSMEs with the government's response to recovering the economy affected by the Covid-19 pandemic [8] In Indonesia, Fintech users are dominated by millennial generations who are accustomed to online shopping both through social media and e-commerce platforms whose payment systems use electronic payment instruments [9]

The government support, realized in formulating MSME-oriented policy, will reduce the unemployment rate. Therefore, the government's role in legislation, socialization, supervision, and law enforcement is expected to minimize losses and other disturbances in the MSME sector. All of which will have an impact on the condition of the Indonesian economy.

This paper aims at finding out the legal framework for P2PL financing, the service mechanism in the P2PL platform, and the pattern of P2PL financing policies for MSMEs during the Covid-19 pandemic, where MSMEs are the driving force of the national economy. This study

examines material law, which contains normative legal rules [10]. The analysis is conducted by examining various relevant laws, regulations, and documents that can assist in identifying the problems and the extent to which Indonesian law regulates the problems discussed in this paper.

1.1 Legal Framework of P2PL Services

Based on the Indonesian Fintech Association (AFTECH) report, the development of fintech in Indonesia in 2020 shows that more and more fintech start-up companies have licenses. The number of AFTECH members at the end of 2019 increased by 54%, from 275 members to 362 members in 2020 [11]

Currently, the legal umbrella for the implementation of P2PL Fintech services is Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services [12]. This regulation contains general rules such as capital management, procedures for registration and licensing from the Financial Services Authority (FSA), and the obligation to make regular reports. The P2PL provider is an Indonesian legal entity that provides, manages, and operates the service. The legal entity form of the P2PL service provider can be in the form of a limited liability company or cooperative. These requirements provide legal certainty for the parties involved in profit-seeking business activities [13]. As the institution that oversees the implementation of P2PL, FSA has recorded that the number of registered and licensed P2PL platforms at the end of August 2021 was 116 platforms.

The lack of regulations related to P2PL services has caused various problems for both service users and the national interest. One of the problems is the increase in the number of illegal P2PL providers. Until October 2020, the practice of 206 illegal P2PL providers had been terminated, and 5,421 complaints had been submitted to FSA until March 2021 [14]

It is crucial for the government, as the regulator, to make regulations that control fintech to avoid any possible disruptive economy [15], due to the absence of regulations that control many related sectors in the 4.0 era, such as the regulations in defining the high-interest rates, multiple borrowers in various P2PL services, and arbitrary collections. The government needs to encourage, facilitate, and supervise fintech start-ups in innovating. Innovation has two sides like a coin: the advantages and the disadvantages. Therefore, a legal concept that is not too rigid is needed, neither killing innovation nor providing limitless freedom.

1.2 P2PL Service Mechanism

The P2PL system is a pattern of interaction in fintech services that brings together lenders and borrowers whose transactions are carried out online. In the P2PL system, the agreement is an important instrument that frames the legal relationships and secures the transaction [16]. P2PL is different from the lending and borrowing service regulated in Article 1754 of the Civil Procedure

Code. In the P2PL system, there are three parties: the operator or the company, the lender, and the borrower.

Article 18 of FSA Regulation Number 77/POJK.01/2016 states that there are two forms of contracts for the implementation of Information Technology-Based Lending and Borrowing Services: (i) the contract between the provider and the lender; and (ii) the contract between the lender and the borrower. Meanwhile, the contract between the provider and the borrower is not mentioned in the FSA Regulation.



Figure 1. P2PL Service Mechanism [17]

Based on the chart in Figure 1, prospective borrowers submit a loan application on the website provided by the P2PL platform. The loan applications that meet the requirements will be displayed on the P2PL platform for 2-4 weeks or until funded. The P2PL provider provides information that has been completed with the credit scoring from prospective borrowers as the consideration for the lender in providing loans. The platform only brings together the lenders and the borrower, but the final analysis and risk analysis of granting the loan rest with the lender. [18]

1.3 P2PL Policy Patterns for MSMEs During the Covid-19 Pandemic

P2PL services are economic activities that have benefits for the wider community. Article 33 of the 1945 Constitution philosophically gives the state the authority to regulate economic activities that are important for the welfare of the people in Indonesia. The government regulation on P2PL services has an impact on improving the welfare of Indonesian people by providing easily accessible financial services. [19]

Regulations on business activities of P2PL services are urgently needed so that protecting the users, organizing the activities, and protecting the national interests can be regulated and supervised. The regulation and supervision of Fintech activities in Indonesia are carried out by two independent institutions: Bank Indonesia and the Financial Services Authority [20] Government involvement is important to facilitate Indonesian business actors to stay afloat to build the national economy.

In addition to a conducive climate and adequate infrastructure, government support, in the form of MSME-oriented policy, will also reduce the

unemployment rate and increase the national economic growth. The P2PL service system is needed by MSMEs considering that around 50 million MSMEs are still unbankable with a potential loan request of IDR 2,500 trillion. Despite the convenience offered in P2PL financing, there are some risks: the risk of default or Non-Performing Loans (NPL). The policy for overcoming NPL in the P2PL financing depends on each provider because no rule regulates policies to overcome the NPL risk.

MSMEs are the most affected parties by the CARE policy because 99% of MSME activities are very closely related to community activities. Besides, the inability of MSME actors to adapt to technology, such as online businesses, has worsened the existence of MSMEs. Singapore has managed to recover its economy during the Covid-19 pandemic due to the ability of small enterprises to dominate in the digital infrastructure sector

Since the beginning of the pandemic, the government has been working hard to think of the proper steps to maintain the community's welfare, including the MSME actors.

The government has assessed the economic impact and the decline in people's income in each region. Losses resulting from the Covid-19 pandemic are felt by all levels of society, which are divided into individual, corporate, sectorial, and national losses. Meanwhile, P2PL services still survive and remain superior in the non-bank financial industry. Thus, investments with the P2PL platform, especially in Indonesia, remain safe and potential

Before the Covid-19 pandemic hit Indonesia, P2PL providers did not have the authority to provide loan restructuring. However, at the insistence of various parties, through the FSA Regulation Number 58/POJK.05/2020 concerning Amendments to FSA Regulation Number 14/POJK.05/2020 concerning Countercyclical Policy on the Impact of the 2019 Coronavirus Disease Spread for Non-Bank Financial Services Institutions, FSA finally granted loan restructuring permits to P2PL fintech actors affected by the pandemic. The principle and mechanism for restructuring are the same as for banks and other financial institutions, i.e., the maximum loan restructuring is IDR 2 billion per borrower. Unlike its implementation for banks, the P2PL restructuring must be submitted by the borrower and get approval from the lender [21]

The FSA Regulation Number 58/POJK.05/2020 becomes the legal umbrella for the P2PL platforms in implementing the credit restructuring policies affected by the Covid-19 pandemic until April 2022. Following up on the FSA Regulation Number 58/POJK.05/2020, the P2PL platforms allow MSME to apply for loan restructuring and feasibility analysis on each P2PL provider. However, the loan restructuring approval is determined by the lender

Table 2. P2PL Loan Distribution in Indonesia [22]

| Year | Month | Total Credit (IDR) |
|------|-----------|----------------------|
| 2020 | July | 116.970.933.056.942 |
| | August | 121.871.105.728.785 |
| | September | 128.698.493.167.175 |
| | October | 137.656.286.533.943 |
| | November | 146.250.790.137.904 |
| | December | 155.902.554.218.280. |
| 2021 | January | 159.569.068.173.739 |
| | February | 169.516.225.411.327 |
| | March | 181.671.309.831.316 |
| | April | 194.096.800.000.000 |
| | May | 207.066.550.000.000 |
| | June | 221.566.740.000.000 |
| | July | 236.472.230.000.000 |

The data displayed in Table 2 show that, as of March 2021, the credit distribution through the P2PL services has a remarkable increase, 28.7% higher than in March 2020. The high number of P2PL services users is a consideration for the government to change the provisions of credit restructuring in non-bank financial service institutions through the FSA Regulation Number 58 of 2020 [23].

Table 3. P2PL Platform Restructuring Pattern

| No | Name of Platform | Restructuring Pattern |
|----|------------------|---|
| 1 | Amartha [24] | <p>Rescheduling payment of principal and interest installments using the Grace Period and Tenor Extension methods:</p> <ol style="list-style-type: none"> For partners affected by the closure of security forces and village officials from March 24 to April 2020, their loan tenor is extended for one month. For partners who have been recorded for having been affected by Covid-19 from 6 April 2020 onwards and are partners with "smooth" status, their loan tenor is extended for three months, |

| | | |
|---|----------------|--|
| | | applicable from 24 March 2020 |
| 2 | KoinWorks [25] | <p>Payment Schedule adjustment into three types:</p> <ol style="list-style-type: none"> Payment holiday for industries experiencing the closure of sales channels both online and offline. Grace period for industries that still have some sales Balloon Payment for industries affected by Covid-19 and projects that have been delayed |
| 3 | Modalku [26] | Providing relief on a case-by-case basis adjusted to the limit number and loan tenor according to the type of loan and MSME business profile |
| 4 | Akselaran [27] | Tenor extension from 1 to 3 months |
| 5 | Kredito [28] | <p>Decrease in late fees from 6% to 3%;</p> <p>Decrease in late interest from 4% to 3% during the period 15 May – 14 June 2020</p> |

The Indonesian Joint Funding Fintech Association (AFPI) noted that 87 platforms had received requests for loan restructuring from borrowers. The number of loans that have been successfully facilitated and approved by the lenders is 173,351 accounts with a total value of IDR 537.9 billion [29] Loan restructuring by extending the duration of the loan tenor aims to ease the burden of monthly installments by extending the loan period and reducing the nominal installments per month, which eventually minimizes the risk of non-performing.

4. CONCLUSION

The legal umbrella for P2PL services is mentioned in the FSA Regulation Number 77/POJK.01/2016, which contains general rules such as capital system, procedures for registration, and licensing from the FSA, as well as the obligation to make regular reports. The absence of more complete regulations, such as in the banking industry and other financial institutions, has created legal problems for P2PL services users.

In the P2PL service system, the agreement is an important instrument that frames the legal relationship and secures the transaction. There are two forms of implementation contracts in the P2PL services: (i) the contract between the provider and the lender, and (ii) the contract between the lender and the borrower. The platform is only a party that brings together the lender

and the borrower, so the final analysis and the risk analysis of granting the loan become the lender's responsibility.

The FSA Regulation Number 58/POJK.05/2020 becomes the legal umbrella for the P2PL platforms in implementing the credit restructuring policy for those affected by the Covid-19 pandemic until April 2022. P2PL providers provide both consumptive and productive financing services. For productive financing, the MSME group is the target.

REFERENCES

- [1] S. Z. K. R. & R. S. P. (. K. S. S. P. 1. 1. V. P. ANITA, "LEGAL PROTECTION OF LENDERS IN THE IMPLEMENTATION" OF FINANCIAL TECHNOLOGY BASED ON PEER TO PEER LENDING," *KNE SOCIAL SCIENCES*, pp. 1305-1316, 2016.
- [2] W. Menski, "Perbandingan Hukum dalam Konteks Global, Sistem Eropa, Asia dan Afrika," Bandung, Nusa Media, 2016, p. 47.
- [3] [Online]. Available: <https://databoks.katadata.co.id/datapublish/2021/07/12/penetrasi-internet-indonesia-urutan-ke-15-di-asia-pada-2021>. [Accessed 25 September 2021].
- [4] W. (. K. E. N. A. P. C.-1. B. J. o. B. a. E. 2. 8. Hadiwardoyo, "Kerugian Ekonomi Nasional Akibat Pandemi Covid-19," *Journal of Business and Entrepreneurship*, vol. 2, pp. 83-92, 2020.
- [5] [Online]. Available: <https://www.medcom.id/foto/grafis/5b2mEY6N-umkm-bangkit-ekonomi-indonesia-kian-naik>. [Accessed 28 September 2021].
- [6] [Online]. Available: <https://lokadata.id/artikel/usaha-kecil-menengah-kolaps-data-pemerintah-terbatas>. [Accessed 20 September 2021].
- [7] [Online]. Available: <https://lokadata.id/artikel/usaha-kecil-menengah-kolaps-data-pemerintah-terbatas>. [Accessed 29 September 2021].
- [8] [Online]. Available: <https://www.aa.com.tr/id/regional/singapura-raih-posisi-teratas-kepuasan-umkm-atas-upaya-pemulihan-ekonomi-pemerintah/1951179>. [Accessed 30 September 2021].
- [9] U. Yunus, "A Comparison Peer to Peer Lending Platforms in Singapore and Indonesia," *Journal of Physics*, p. 1, 2018.
- [10] B. J. Nasution, "Legal Research Methods," Bandung, Mandar Maju, 2008, p. 86.
- [11] [Online]. Available: https://www.fintech.id/storage/files/shares/New%20letter/Fintech%20Corner%20_%20Januari%202021.pdf. [Accessed 29 September 2021].
- [12] A. L. S. & F. Iswari, "Upaya Perlindungan Hukum Terhadap Konsumen Yang Melakukan Pinjaman Secara Online," *Pagaruyuang Law Journal*, vol. 5, no. 1, p. 77, 2021.
- [13] R. H. & J. P. Ramli, "Hubungan Hukum Para Pihak Dalam Peer to Peer Lending," *JH Ius Quia Iustum*, vol. 25, no. 2, pp. 320-338, 2018.
- [14] [Online]. Available: <https://finansial.bisnis.com/read/20210413/563/1380482/pengaduan-pinjol-ilegal-kian-marak-perilaku-debt-collector-jadi-keluhan-utama>. [Accessed 2 September 2021].
- [15] [Online]. Available: <https://feb.uad.ac.id/revolusi-industri-4-0-menjadi-booming/>. [Accessed 3 September 2021].
- [16] M. F. Mokodompit, "Konseptual Tentang Kebebasan Berkontrak dan Perlindungan Bagi Para Pihak Dalam Suatu Perjanjian Kredit," *Lex Privatum*, vol. VII, pp. 58-65, 2019.
- [17] [Online]. Available: <https://www.etalasebisnis.com/investasi/5012/a-pa-itu-investasi-p2p-lending-simak-pengertian-dan-contohnya.html>. [Accessed 24 September 2021].
- [18] Y. Yorisca, "Tantangan Global Saat Ini: Menghadapi Peers to Peers Lending Dengan Know Your Customer Principles Dalam Praktek Perbankan," *Legislasi Indonesia*, vol. 18, no. 2, pp. 259-271, 2021.
- [19] [Online]. Available: <https://www.uui.ac.id/masa-depan-peer-to-peer-lending-di-indonesia/>. [Accessed 23 September 2021].
- [20] N. U. U. & F. A. Musyarri, "Reformulasi Pengaturan Mengenai Financial Technology

- Dalam Hukum Positif Di Indonesia," *Arena Hukum*, vol. 13, no. 3, pp. 480-499, 2020.
- [21] [Online]. Available: <https://keuangan.kontan.co.id/news/ini-batas-maksimal-restrukturisasi-pinjaman-p2p-lending-yang-terdampak-covid-19>. [Accessed 13 September 2021].
- [22] [Online]. Available: <https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/fintech/default.aspx>. [Accessed 25 September 2021].
- [23] [Online]. Available: <https://www.cnnindonesia.com/ekonomi/20210504203127-78-638574/utang-masyarakat-lewat-pinjol-capai-rp19-triliun>. [Accessed 5 September 2021].
- [24] [Online]. Available: <https://duwitmu.com/pinjaman-online/restrukturisasi-pinjaman-online-fintech-p2p/>. [Accessed 29 September 2021].
- [25] [Online]. Available: <https://duwitmu.com/pinjaman-online/restrukturisasi-pinjaman-online-fintech-p2p/>. [Accessed 29 September 2021].
- [26] [Online]. Available: <https://www.ekrut.com/media/startup-fintech-p2p-lending-di-tengah-pandemi>. [Accessed 29 September 2021].
- [27] [Online]. Available: <https://www.cnnindonesia.com/ekonomi/20200506124708-78-500632/corona-pinjol-mulai-beri-keringanan-cicilan-pada-nasabah>. [Accessed 29 September 2021].
- [28] [Online]. Available: <https://blog.kredivo.com/keringanan-biaya-bunga-keterlambatan-kredivo/>. [Accessed 29 September 2021].
- [29] [Online]. Available: <https://keuangan.kontan.co.id/news/ini-batas-maksimal-restrukturisasi-pinjaman-p2p-lending-yang-terdampak-covid-19>. [Accessed 25 September 2021].
- [30] [Online]. Available: <https://www.medcom.id/foto/grafis/5b2mEY6N-umkm-bangkit-ekonomi-indonesia-kian-naik>. [Accessed 28 September 2021].
- [31] [Online]. [Accessed 2021].
- [32] [Online]. Available: <https://www.medcom.id/foto/grafis/5b2mEY6N-umkm-bangkit-ekonomi-indonesia-kian-naik>. [Accessed 28 September 2021].
- [33] [Online]. Available: <https://www.medcom.id/foto/grafis/5b2mEY6N-umkm-bangkit-ekonomi-indonesia-kian-naik>. [Accessed 28 September 2021].