



The Existence of Financial Services Authority in Protecting Personal Data Users of Peer-to-Peer Lending Financial Technology

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Abstract. Users of peer-to-peer lending services can easily apply for loans without a down payment and with full disclosure of their personal information. These types of conveniences in the technologically oriented financial services sector are growing and support Financial Services Authority regulation. The ease of borrowing and borrowing in the fintech peer-to-peer lending sector is a result of legal issues with personal data. Borrowers' late payments may force fintech peer-to-peer lending companies to grant access to their data. The issue in this study is OJK's attempts to stop the release of personal information about users of fintech peer-to-peer lending services and the legal actions that these services may take in the event of a personal information breach. A normative juridical approach was used to qualitatively analyze the research. A statutory and conceptual approach to a literature review was used to gather the research data. The study's findings suggest that in order to secure the personal information of users of fintech peer-to-peer lending services and improve the OJK's regulatory authority, rules are required that can close legal gaps in the legislation.

Keywords: Peer-to-peer lending · Financial Services Authority · Personal Data

1 Introduction

The Sustainable Development Goals, also known as SDGs, are a global initiative with the long-term goal of maximizing the potential and resources of every nation. It's important to consider other nations, such as the United Nations, as you're a member of the global community (UN). According to Robert Jackson, comprehending state society does not require the application of social science models but rather a focus on familiarizing oneself with the past and attempting to as closely as possible master the experiences of practitioners in the past and present. M. Jusuf Kalla, who was Indonesia's vice president at the time and spoke at the beginning of the SDGs Annual Conference in Jakarta, emphasized the significance of this initiative in terms of its worldwide impact. He claims that globalization has been happening for a very long time. To ensure that everyone is equally responsible for fostering global prosperity, social cohesion, and favorable conditions for families.

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Nawa Cita is already on the national agenda and in the interest of the Indonesian government. For this reason, it is essential to align the Nawa Cita with the SDGs, particularly in regards to the economy. In particular, the seventh Nawa Cita, which includes achieving economic independence by aligning key domestic economic sectors with one of the SDGs goals, namely decent work and economic growth, needs to be done. In this regard, Indonesia's transaction and financial system's expansion is also cause for concern. The security and convenience of the Indonesian people must be taken into consideration as various technology-based payment and financing systems emerge. It is desired that none of the initiatives aimed at achieving the SDGs damage the position of the Indonesian populace from a legal, social, or cultural standpoint.

The industrial revolution's era's technological advancements Where networks use the internet and cybernetics technology, version 4.0 makes full use of digital and information technology. With the advent of commercial sectors like e-commerce and technology-based financial services, or better known as Financial Technology (fintech), which are rapidly evolving, everything in the industrial era 4.0 must be guided by technological advancements in order to evolve swiftly and dynamically.

In Indonesia, they are already mushrooming and will keep expanding.

Fintech is crucial to Indonesian economic growth, according to Muliawan D. Hadad, a former chairman of the board of commissioners of the financial services authority (OJK). It can help meet domestic needs, encourage the equitable distribution of social welfare, encourage the distribution of national financing that is not yet evenly distributed, increase national financial inclusion, and encourage the country's ability to export.

Fintech peer-to-peer lending is a sector of the financial services business based on technology that allows borrowers and lenders to transact online. People who need loans and those who wish to give loans can meet in a peer-to-peer marketplace. Information technology-based borrowing-lending services, which are based on Article 1 Number 3 of the Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Borrowing-Lending Services, offer financial services to connect lenders and loan recipients in order to conduct lending and borrowing agreements in rupiah currency directly through an electronic system using the internet network. The key benefit, which will result in a legal relationship in the agreement, is implementing technology-based lending and borrowing services using agreement documents in electronic records online for the parties' needs.

Users of this peer-to-peer lending platform can apply for loans relatively easily by just filling out the necessary fields on the loan application website and uploading their ID cards, images of their faces, and other personal information. To mimic borrowing and borrowing in banking, the process of borrowing and borrowing takes place without the necessity for the parties involved to personally know one another. These kinds of conveniences in the technology-based financial services sector, which is expanding, support Financial Services Authority regulation. People are drawn to make loans through fintech peer-to-peer lending due to the convenience of borrowing and borrowing online, starting with the quick delivery of funds without the need to meet in person to the requirement for collateral. Behind these conveniences, though, it creates brand-new concerns, such as legal problems. The issue of personal data is one of the legal issues

that crop up. Borrowers' late payments may force fintech peer-to-peer lending companies to grant access to their data.

There are frequently incidents involving the personal information of users of fintech peer-to-peer lending services, whether they come from fintech that has registered with the OJK or fintech that has not. Everyone has the right and the value of their own personal information. The legal protection provided for personal data must be organized with clarity and specificity. A wide definition of consumer protection is an action that ensures customers have legal protection. One of the contributing elements to the losses suffered by customers is the poor degree of consumer awareness and education. As a result, consumers must be instructed and guided as this is a requirement of their rights under Article 4 of Law No. 8 of 1999 on Consumer Protection.

The Ministry of Communications and Information Technology has now released Regulation of the Minister of Communication and Information Technology Number 20 of 2016 on the Protection of Personal Data in Electronic Systems to fill a comprehensive regulatory gap regarding the protection of personal data. In particular, Article 21 states that displaying, disclosing, transmitting, disseminating, and granting access to personal data in an electronic system is prohibited.

The rule nevertheless falls within the category of a religious law because it merely imposes administrative penalties, which are less severe, have a weaker deterrent effect on operators of electronic systems, and offer inadequate consumer protection. Since the OJK is the regulator in charge of controlling and regulating the financial services industry and has a responsibility to safeguard the interests of consumers, in this case, users of fintech peer-to-peer lending services, the regulation and supervision of peer-to-peer lending must be tightened.

The purpose of this study was to identify and evaluate potential legal safeguards for users of fintech peer-to-peer lending services in the event that their personal information was compromised. It is anticipated that the government will take these findings into account when passing the Personal Data Protection Law. Activities related to fintech can be regulated by the Financial Services Authority. Greater consumer protection and tighter peer-to-peer lending regulations in the financial services industry, particularly for fintech peer-to-peer lending.

- 1) What is the role of OJK in providing legal protection for the leakage of personal data of users of fintech peer-to-peer lending services? These are the issues that are the focus of discussion in this study.
- 2) What legislation is necessary to safeguard the private information of users of fintech peer-to-peer lending services?

2 Legal Materials and Methods

Legal normative research is the type of research used to address the formulation of the issue. Legal research that uses library resources or secondary data is known as normative juridical research. Normative legal studies look at a statutory rule or regulation that is integrated into the infrastructure of an approved event. The normative juridical research methodology relates to the legal standards found in the law. The author utilizes

a statutory approach based on his research on the Financial Services Authority's role in the legal protection of personal data of users of peer-to-peer lending Fintech services. By evaluating all laws and rules pertaining to the legal protection of users' personal data for fintech peer-to-peer lending businesses, a statutory approach is taken.

The Civil Code, Law Number 21 of 2011 on the Financial Services Authority, Law Number 11 of 2008 as amended by Law Number 19 of 2016 on Information and Electronic Transactions, Law Number 8 of 1999 on Consumer Protection, Law No. 39/1999 on Human Rights, and Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions are the sources of primary legal materials used in this study. 3) Tertiary Legal Material Resources, such as legal dictionaries and the internet, on terms used relating personal data privacy and fintech peer-to-peer lending. Other secondary sources include interviews. This form of research is qualitative, and the Financial Services Authority, the Jakarta Legal Aid Institute, and the Indonesian Consumers Foundation were the appropriate sources for the direct questions and answers used in the restricted interviews that made up the data gathering process. Additionally, descriptive analysis of the data was performed in order to explore problem-solving by thoroughly and methodically describing the theory, data, legal materials, and literature study.

3 Result and Discussion

3.1 The Role of OJK in Providing Legal Protection for the Leakage of Personal Data of Users of Peer-to-Peer Lending Financial Technology

Privacy invasion and the protection of personal data are issues in Indonesia. It is based on the historical experiences of Asian people, who historically lived in communal cultures that did not value privacy. The concept of privacy as a human right may have originated in Indonesia or the West. In general, there are two ways to protect personal information: by securing the physical information—both visible and invisible information—and by other means. The second type of data protection is the presence of laws that prohibit the misuse of data for particular objectives, the use of data by unauthorized parties, and the destruction of the data itself.

Personal data protection refers directly to how the law safeguards the collection, registration, storage, use, and dissemination of personal data. Individuals have the freedom to choose whether or not to share or exchange their data, which is implied by data protection. The gathering and sharing of personal information is against one's privacy. Due to the fact that the regulations governing personal data protection in Indonesia are scattered among a number of different laws and regulations, they are currently vague and inadequate. Consumer interests protection and economic benefits for Indonesia are two of the key goals of data privacy protection laws.

The Republic of Indonesia's 1945 Constitution, which states that "Everyone has the right to protection for personal, family, honor, dignity, and property protection under authority, and has the right to a sense of security and protection from the threat of fear to do or not do something which is a human right," contains provisions regarding the guarantee of personal data protection.

The implementation of the electronic system has given rise to provisions relating to the protection of personal data that are consistent with Law Number 11 of 2008 as revised by Law Number 19 of 2016 on Electronic Information and Transactions. According to the guidelines in Article 26 Paragraph 1 of the Electronic Information and Transaction Law, consent from the data owner is required before any transfer of an individual's data can take place.

Government Regulation Number 71 of 2019 on the Implementation sets forth the regulations for protecting personal data relating to the use of electronic systems, including communication and information technology.

Regulation of the Minister of Communication and Information Technology Number 20 of 2016 on Protection of Personal Data in Electronic Systems. of Electronic Systems and Transactions. The requirement for operators of electronic systems for public services to locate data centers within Indonesian territory is regulated by Government Regulation Number 82 of 2012 on the Implementation of Electronic Transaction Systems and the Regulation of the Minister of Communication and Information Technology Number 20 of 2016 on Protection of Personal Data in Electronic Systems, it is stressed.

In Indonesian territory, a data center is a site where electronic systems and associated parts are put in order to place, store, and process data. The Minister of Communication and Informatics opens a complaint room to the Minister of Communication and Information for a deliberation process or alternative dispute resolution, or if the two mechanisms are unsuccessful, a civil lawsuit mechanism can be used in court. If there is a disagreement regarding the management of personal data or there is a failure in the protection of the confidentiality of personal data.

Legal protection, particularly in the consumer sector, is a derivative of consumer protection. Consequently, consumer protection has a legal component. Consumer protection extends to ABSTRACT rights as well as tangible goods. The protection offered by the legislation regarding consumer rights is the same as consumer protection. Consumer protection law, strictly speaking, refers to all legislative rules, both statutory and extra statutory regulations, and court rulings whose main purpose is to safeguard consumers' interests.

Given the accelerating pace of science and technology, consumer protection is becoming increasingly felt to be of the utmost importance both literally and formally. Given the intricacy of the issues surrounding consumer protection, efforts to ensure adequate protection for the interests of consumers are a crucial concern for which a solution must be found immediately. The goal of the justice principle, one of the guiding concepts of consumer protection, is to maximize the participation of the entire community while giving consumers and corporate actors the chance to obtain their rights and fulfill their obligations in a reasonable manner. By regulating and upholding consumer protection legislation, this idea calls for business actors and consumers to act responsibly in securing rights and fulfilling their obligations. Customers, also known as users of fintech peer-to-peer lending services or loan recipients, have the right to have their demands granted lawfully and to fulfill their responsibilities in a reasonable manner.

Next, let's talk about the idea of consumer security and safety, which is to give customers assurances of security and safety when they use, use, and utilize the products or services that they consume or use. In this situation, consumers of fintech peer-to-peer

lending services must get security guarantees from those services, particularly security in handling personally identifiable information maintained by fintech peer-to-peer lending providers.

Users of fintech peer-to-peer lending services are considered customers under Article 4 of Law Number 8 of 1999 on Consumer Protection, which stipulates that they have the right to advocacy, protection, and dispute settlement initiatives. Proper protection for consumers. Users of fintech peer-to-peer lending services have a right to the adequate security of their data in the event of data leakage. Regarding the rights of consumers or users of peer-to-peer lending fintech services with regard to the leaking of their data, there are still numerous unmet obligations under the idea of consumer protection, which is comparable to the protection offered by law on consumer rights.

The financial services authority regulation number 77/POJK.01/2016 on information technology-based borrowing-lending services, which is governed by Article 33, calls for the implementation of initiatives to increase financial inclusion and literacy. This kind of assistance manifests itself through socialization and education. Registered organizers are required to socialize 12 times in 12 different cities and provinces, with a split of 6 times on the island of Java and 6 times elsewhere. The organizers are regularly licensed three times a year, with one of those times occurring on Java Island and the other two occurring outside of Java Island.

Consumer protection applies the principles of transparency, fair treatment, dependability, confidentiality, and security of consumer data or information, as well as the handling of consumer complaints and dispute resolution simply, quickly, and at a reasonable cost, according to Article 2 of the Financial Services Authority Regulation Number 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector. According to consumer protection theory, users of peer-to-peer lending fintech services have a right to legal protection for data leakage if they uphold their consumer rights as outlined in Financial Services Authority Regulation Number 1/POJK. 07/2013 on Consumer Protection in the Financial Services Sector.

When we talk about legal protection, every citizen must have such protection from their nation. Similar to this, customers of fintech peer-to-peer lending services need legal protection from the state through a state regulation. The ease that fintech peer-to-peer lending businesses offer leads to legal issues including the leakage of private user data or, in this case, borrower data. Delays in the payments the borrower has the option to grant the supplier access to their data.

Regarding the security of personal data, Law Number 11 of 2008 on Information and Electronic Transactions, as revised by Law Number 19 of 2016, provides one type of legal protection for users of fintech peer-to-peer lending services. The Information and Electronic Transaction Law mandates that the consent of the individual whose data is being used must be obtained before using any information obtained through electronic media. If there is no agreement regarding a person's data, they may then initiate a lawsuit for the losses caused under this Law. Upon a person's request based on a court order, each operator of an electronic system is required to delete irrelevant electronic information and/or documents under their control. Additionally, any operator of an electronic system must offer a method for getting rid of outdated electronic data and/or papers. Article 26 has detailed rules about this. Then, each business actor who uses an electronic system

must follow the method securely and reliably and be accountable for the electronic system's smooth operation. The government encourages information technology and electronic transactions in accordance with Article 40 of Law Number 11 of 2008 on Electronic Information and Transactions, as revised by Law Number 19 of 2016.

Additionally, Article 14 of Government Regulation Number 71 of 2019 on Electronic System and Transaction Operations on Electronic System and Transaction Operations states that every electronic system operator is required to implement the principle of personal data protection in the processing of personal data. This legal protection relates to the personal data of fintech peer to peer lending service users or borrowers. Imagine there is a breach in the security or confidentiality of the sensitive personal data it handles. The operator of the electronic system is therefore required to give written notice to the owner of the personal data. In cases when processing of personal data is carried out while preserving the rights of the private data owner, the acquisition of personal data must be constrained, specified, legal, and fair, with the knowledge and consent of the individual data owner. Protecting the security of personal data from loss, abuse, unauthorized access, disclosure, alteration, or destruction is how personal information is processed. Such processing is carried out by disclosing the reason for collection, the steps involved in processing, and any violations of personal data protection.

The protection of personal data in electronic systems is governed by Minister of Communication and Information Technology Regulation Number 20 of 2016 on Personal Data Protection in Electronic Systems, where it is related to the legal protection offered to users of peer-to-peer lending fintech services for the leakage of their data. According to this ministerial order, protecting personal data in an electronic system involves safeguards against its collection, use, analysis, storage, appearance, disclosure, transfer, distribution, and destruction.

According to Article 2 Paragraph 2 of the Regulation of the Minister of Communication and Information Number 20 of 2016 on Personal Data Protection in Electronic Systems, good personal data protection must be based on the following principles: respect for personal data as privacy; personal data is confidential by approval; relevance to the purpose of obtaining, collecting, processing, analyzing, storing, displaying, The display, announcement, sending, disseminating, and/or opening of access to personal data in electronic systems is only permitted with the consent of the owner of the personal data and only after verification of accuracy and suitability for the purposes for which the personal data was collected and collected, according to Article 21 of the Regulation of the Minister of Communication and Information Technology Number 20 of 2016 on Protection of Personal Data in Electronic Systems. Furthermore, only when it has met the requirements for storage in an electronic system or at the request of the owner of the personal data may personal data be destroyed. The documents containing personal data must be completely or partially removed during the planned destruction.

The rapid growth of fintech peer-to-peer lending platforms forces OJK to establish legislation that will regulate how these activities are carried out. Information Technology-Based Lending and Borrowing Services Regulation Number 77/POJK.01/2016 was created by OJK for the Financial Services Authority. The POJK makes no specific provisions for the protection of borrower data. The operator is required to maintain the

confidentiality, integrity, and availability of personal data, transaction data, and financial data that they manage from the time the data is obtained until the information is destroyed, according to Article 26 of the Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Lending and Borrowing Services. The operator must also make sure that the acquisition, use, utilization, and disclosure of personal data is done in a way that protects the data's confidentiality and integrity.

Regarding the legal protection theory, there are 2 (two) types of legal protection: preventative legal protection, often known as prevention, and repressive legal protection, both of which are used to settle a conflict. Due to the rising number of fintech peer-to-peer lending businesses, Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Lending and Borrowing Services was urgent. In the fintech peer-to-peer lending sector, new legal issues have developed over time, with the leakage of personal data being one of them. By issuing a warrant to registered or licensed fintech peer-to-peer lending providers from OJK, which specifies that the operator is only allowed to access the camera, microphone, and location or better known as SMILE on the user's cellphone, OJK offers preventive legal protection for users of fintech peer-to-peer lending services related to the leakage of personal data.

The OJK also has the authority to impose administrative sanctions against organizers in the form of written warnings, fines, or the requirement to pay a specific amount of money. This repressive legal protection is specifically for registered and licensed fintech peer to peer lending providers from the OJK who violate obligations and prohibits the leakage of user's data. In accordance with Article 47 of the Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Borrowing-Lending Services, certain restrictions, limitations on business activities, and license revocation are prohibited.

3.2 Appropriate Regulations to Protect Personal Data of Fintech Peers from Peering Lending Service Users

The Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Borrowing-Lending Services is one of the regulations made by OJK, the organization that oversees the peer-to-peer lending fintech sector. The code was created since peer-to-peer lending fintech activities are not governed by any laws or regulations. OJK was established in accordance with Article 4 of Law Number 21 of 2011 on the Financial Services Authority in order to make sure that all actions in the financial services industry are lawful, equitable, and open. An economic system that protects the interests of consumers and society while growing steadily and sustainably can be achieved through responsible behavior. OJK organizes a comprehensive regulatory and oversight framework for all activities in the financial services industry. Fintech peer-to-peer lending in this instance is a part of the Non-Bank Financial Industry. Additionally, OJK is able to protect consumer and public losses thanks to Article 28.

Fintech peer-to-peer lending makes borrowing simple, but it also introduces a new legal issue: user data leaking. The borrower's failure to make timely payments ends the provider's free access to the borrower's information. OJK is in charge of regulating integrated activities in the financial services industry and defending the rights of customers.

OJK regulates fintech peer-to-peer lending. The OJK's role in preventing the leakage of personal data relating to users of fintech peer-to-peer lending services or borrowers is to issue a directive to the fintech peer-to-peer lending operator registered or licensed by the OJK that the operator is only permitted to access the borrower's data, which is restricted to the camera, microphone, and location or more commonly known as snacks from the customer's device. In spite of these limitations, the organizers continue to violate them.

OJK advises the construction of public service commercials and informs the public about fintech peer-to-peer lending and what to look out for before borrowing from the fintech peer-to-peer lending service industry in light of the rise of unlawful fintech peer-to-peer lending. Additionally, all providers must be registered as members of the organization OJK in accordance with Article 48 of Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Lending and Borrowing Services. OJK designates the Joint Funding Fintech Association in this instance (AFPI).

Additionally, OJK released Circular Letter Number 18/SEOJK.02/2017 of the Financial Services Authority on Governance and Risk Management of Information Technology in Information Technology-Based Lending and Borrowing Services, which explains the management of data and information so that the operator is prohibited from disseminating personal data and information to other parties, users. If the user provides written authorization or it is required by the relevant laws and regulations, this ban is waived.

Consumers who feel wronged by the organizers' conduct or users of fintech peer-to-peer lending services can complain to the OJK. In this instance, OJK offers assistance with consumer concerns in the financial services industry. The Financial Services Authority Regulation Number 18/POJK.07/2018 on Consumer Complaint Services in the Financial Services Sector contains the relevant regulations. By offering consumer protection, this complaint service seeks to settle problems. Monetary services Businesses are not allowed to charge consumers any fees for registering complaints.

Assume that customers are upset with the organizer's conduct because of the disclosure of their personal information. In that situation, OJK will immediately invite AFPI to a live demonstration of the relevant peer-to-peer lending fintech organizer's work in front of OJK and AFPI. If there has been problem, OJK shall direct the organizer to erase all personal user data controlled by the organizer that has been shared. The organizers can then resume their activities in the fintech peer-to-peer lending sector with a record indicating they have been warned. The operator is required to use a data center and disaster recovery center, both of which must be situated in Indonesia, in accordance with Article 25 of Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Lending and Borrowing Services. OJK takes these steps to safeguard the information of users of fintech peer-to-peer lending services in the continuation of their operations, reduce system disruptions and failures, and transfer control of IT systems.

4 Conclusion and Suggestions

By issuing a warrant to registered or licensed fintech peer-to-peer lending providers, OJK fulfills its responsibility to provide legal protection against the leakage of personal data of

users of those services. Only the customer's device's camera, microphone, and location are permitted access to borrower data by peer-to-peer lending fintech providers under the OJK ruling (abbreviated CEMILAN). If the organizer continues to break the rule, OJK will immediately contact the relevant peer-to-peer lending fintech organizer, inviting AFPI to a live demo in front of OJK and AFPI, and requiring that the organizer remove all personal user data that it owns. A legislation that fully empowers the OJK to prevent and address the leaking of personal data of users of fintech peer-to-peer lending services is the appropriate regulation to protect the personal data of users of these services. Law No. 19 of 2016 on Information and Electronic Transactions, Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions, and Regulation of the Minister of Communication and Information Technology No. 20 of 2016 on Protection of Personal Data in Electronic Systems are the current regulations. These rules serve as the legal foundation for OJK to offer users of fintech peer-to-peer lending services preemptive legal protection in relation to personal data leakage.

Additionally, OJK has the power to impose administrative consequences on organizers in the form of written warnings and fines, including the requirement to pay a specific sum of money, limitations on commercial activities, and license revocation. According to Article 47 of Financial Services Authority Regulation Number 77/POJK.01/2016 on Information Technology-Based Lending and Borrowing Services, this is the case. Recommend that the government, via the House of Representatives, immediately update and create a regulation relating to the protection of personal data by empowering OJK to act as a party with the authority to impose sanctions on the disclosure of personal data of users of fintech peer-to-peer lending services. In order for the OJK to fully perform its duties based on the unique regulations that have been created, ceasing to rely on the pre-existing laws but without yet clearly limiting the OJK's authority in preventing and upholding the legislation against consumer data leakage.

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