Law Enforcement Against Parties Who Spread Personal Data of Consumers Using Financial Technology (Fintech) in Review of Article 26 of Law No. 19 of 2016 Concerning Amendments to Law No. 11 of 2008 Concerning Information and Electronic Transactions

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Abstract. According to the conditions of a valid agreement, the legal connection between organizers and debt collectors is one that is based on each party's agreement, which gives rise to their individual duties and obligations. The online loan recipient and the Fintech P2P Lending organizer have a two-party agreement in the first instance. As such, the recipient must be aware of the notification from the P2P Lending organizer that a third party will be granted power of attorney in the event of an online loan default. With the online lender P2P Lending, a debt collector's legal status is that of a third party in a cooperative relationship, each of which has its own set of responsibilities. According to the AFPI code of conduct, debt collectors are in charge of collecting loans from consumers who have fallen behind on their payments. This includes authority to employ third parties for fintech P2P lending implementation and collection. Online lenders may be prosecuted under If they release personal information in violation of the law, they may be subject to The ITE Law's Article 48 and Article 32 juncto (jo). Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), as amended by Law Number 19 of 1916 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (Law 19/2016), specifically Article 29 of the ITE jo Law, provides for prosecution of threats made through electronic media. Section 19/2016, Section 45B. Article 29 of the ITE Law, PDP Minister's Regulation No. 20 of 2016, and Law Article 45B 19/2016 all include provisions about the use of electronic systems and transactions mandated by Article 13 Paragraph (3) of PP No.82/2012.

KeyWords : Debt collectors, Relationship of law, Commit violations.

1 Introduction

Facts about an individual that are so private that the person prefers to keep them to themselves and/or prohibit others from sharing them with other parties or abusing them are considered personal data. Specifically, personal data refers to information that is directly associated with an individual and helps identify their unique traits [1]. It is stated that personal data is information about a live individual who is identifiable through data, information, or both that the data controller has or will have. This is a

E. Lisdyono et al. (eds.), *Proceedings of the 2nd International Conference Changing of Business Law (ICOCLB 2024)*, Advances in Social Science, Education and Humanities Research 902,
https://doi.org/10.2991/978-2-38476-356-6_16

reference to the Data Protection Act of the United Kingdom 1988 (The Data Protection Act of 1984 was replaced with the Data Protection Act of 1998. But personal data also includes details regarding an individual's attributes, like name, age, gender, education, and so on.

All human endeavors are undergoing significant transformation as a result of globalization, particularly in the area of technology. Technology has advanced positively over the years, particularly in areas of economics like financial technology, or Fintech as it is commonly known. These days, the internet plays a major role in the development of Fintech. As it grows, it encourages the emergence of many start-up companies in the financial sector that offer online loans founded on financial technology, or what's known as "fintech peer to peer lending," or P2P lending. This bears a lot of similarities to a digital middleman that links lenders and borrowers of capital [2].

With this idea, anyone can invest in lending money or giving opportunities to those in need without having to go through middlemen or pay financial institutions for their services. This justification suggests that Fintech P2P Lending, a more contemporary approach to obtaining capital in the form of business loans, should be able to assist the community in finding a fast way to borrow money.

Fintech, which combines technology platforms and creative business models to provide financial products and services, originated in Silicon Valley, a region in southern California that is part of the San Francisco Bay Area. From there, it spread to Singapore, Hong Kong, New York, and many foreign locations [3]. Innovative financial services are founded on trust and technology in Asian nations such as Singapore. In Singapore, peer-to-peer lending has become popular and is appreciated for its ability to link borrowers and recipients of loans directly. Because of its cash-intensive economy and high percentage of borrowing and lending done outside of the country, Singapore is a good place for the emergence of alternative credit systems, particularly online lending platforms that give the lower middle class access to capital [4].

In the meantime, a few Indonesian startups have already made about US$56 million. Peer-to-peer lending occurs in the fintech funding sector, wherein third-party lenders lend money in exchange for a profit. Peer-to-peer lending services offer a response to the issue of certain people's lack of access to banking financial services because of geographic limitations. P2P lending functions similarly to a bank, but it does so via the internet and cutting-edge technology. Lending and debt are typically arranged through agreements wherein the party with money will lend it to the party with less money, according to the Civil Code's "freedom of contract" regulations. These advancements support the claim that Fintech companies operate in an extremely efficient manner because they don't need a large number of employees to conduct their operations. Because fintech can lower operational expenses and deliver financing more quickly, it is perceived as being more efficient [5].

As a non-ministerial government institution created by the Indonesian government, The Financial Services Authority oversees fintech P2P lending in the country (OJK). According to Article 6 of Law Number 21 of 2011 establishing the Financial Services Authority, the primary responsibility of the OJK is to oversee and regulate financial services activities in the banking, capital markets, insurance, pension fund, financing, and other financial services institutions sectors. Moreover, Article 8 of the Regulation outlines the registration process for organizers wishing to manage technology-based money lending and borrowing services. POJK P2P Lending. According to Article 44 of the POJK P2P Lending, online loan service providers who now possess an OJK license are also required to electronically submit monthly reports and periodic annual reports to OJK. This suggests that everyone participating in peer-to-peer financing through fintech have been integrated and registered with OJK is subject to regulation and supervision by OJK, a State Institution, within its jurisdiction. OJK only provides oversight to party organizers who are duly registered.

It is true that there are always drawbacks to anything good, and P2P lending services are no exception. From a consumer protection standpoint, the existence of this technology-based online loan has resulted in numerous issues, including issues that consumers face due to the disclosure of personal information classified as private, which is carried out by debt collectors acting as third parties. This has even led to the loss of consumer lives. Given the previously given context, the problem formulation for This research is what it is:

a. What is the Legal Position of Debt collectors in the implementation of financial technology or often called Fintech?
b. How is the legal protection of consumers for the actions of Debt Collector as a third party who disseminates personal data of fintech users?

2. Method

In examining the solutions to the issues raised, the author will draw on a number of doctrines pertaining to The Debt's Legal Status Collectors in the Implementation of Fintech in an effort to ensure that the author's responses are coherent, avoid sidestepping the issues raised, and can broaden readers' understanding, particularly with regard to Law enforcement's efforts against Debt Collectors as third parties sharing sensitive user data and the Legal Position of Debt Collectors in the Fintech Implementation.

3. Result and Discussion

3.1. Legal Position of Debt collectors in the implementation of financial technology or often called Fintech

The interpretation of criminal law must consider the viewpoint that functions as its foundation. Theoretically, there are two general principles of criminal law: ius poenale and ius puniend. Ius poenale, or understanding objective criminal law. According to Mezger, this Law enforcement is a body of rules that apply to specific acts that satisfy specific requirements, with the goal of punishing those who violate them. Scholars have offered the following definitions or perspectives to paint a more comprehensive picture:[6].

1. In the words of Prof. Sudarto, SH, punishment is the intentional infliction of pain on individuals who commit certain types of crimes. It is clear from the definitions above that punishment consists of the following components or traits:
a. A person or body in a position of power (the authorities) purposefully inflicts a penalty;
b. the punishment is given to someone who has committed a crime; and
c. the punishment is inflicted on someone who has committed a criminal violation in accordance with the law.
2. Simons defined objective criminal law as: All governmental or other public authorities' acts of obligation (gebod) and prohibition (verbod), to which offenders face special suffering, i.e., punishment, as well as regulations that specify the circumstances under which penalties will be imposed;
3. According to Moljatno, criminal law is a body of regulations that control three aspects of criminal behavior: criminal acts, criminal culpability, and verbal procedures used by law enforcement to prosecute offenders. This element demonstrates the connection between formal and material criminal law, i.e., Without the implementation of formal criminal law or criminal procedural law, violations of material criminal law would have no consequences. On the other hand, formal criminal law cannot function without violations of material criminal law norms (criminal offenses).
4. Suggestion from Subotokumo that law enforcement is a necessary component in establishing or reestablishing the equilibrium of order in society.
5. Soerjono Soekanto contends that the elements that affect law enforcement are neutral in nature, and their substance determines whether they have a positive or negative effect. The following are the relevant factors.
a. A legal factor is the actual legislation;
b. law enforcement factors are those who make and carry out the law;
c. facilities or services that support law enforcement;
d. community factors are the circumstances in which the law is applied;
e. cultural factors are those that result from human labor, creation, and relationship preferences.

Debt collection procedures used in the execution of online loans are frequently problematic, particularly for customers. One example is the callous and incompetent method in which telephone collections are handled. In the banking industry, debt collectors have a fairly common legal position and are typically employed when there is credit that is difficult to collect. As a result, the bank works with debt collectors to collect or settle bad credit, as outlined in PBI 11/11/2009 [7]. Third parties acting as debt collectors and banks have a cooperative relationship; the debt collector's role in this situation is to make sure the customer keeps his word to repay the debt. Debt collectors are required by the bank to fulfill certain obligations in order to collect debts from customers who are deemed to have defaulted on their payments. In terms of debt collection, debt collectors serve as the intermediary between the client and the bank.

The word "debt collector" originates in English, while in Indonesian, "debt" refers to debt, and "collector" implies examiner, collector, collector, etc. Hence, a group of those who market their services in order to recover the debts owed by clients or companies are known as debt collectors. Third parties that facilitate credit collection between creditors and debtors are known as debt collectors. In Bank Indonesia Circular Letter No. 7/60/DASP of 2005 Chapter IV numbers 1 and 2, it is stated that in the event that the Issuer and/or Financial Acquirer collaborates with third parties outside of the Issuer and/or Financial Acquirer in the course of organizing APMK activities—for example, through cooperation in marketing, billing, and/or system operations—the Issuer and/or Financial Acquirer must make sure that the mechanisms, procedures, and quality of the activities carried out by third parties adhere to the same standards as if the activities were carried out by the Issuer and/or Financial Acquirer itself.

Such collection is only possible if the credit bill in issue falls into the category of questionable or poor collectibility according to the standards of collectibility that the Indonesian credit industry uses. The phrases "debt collector" and "collateral collector" are interchangeable. In order for any individual or group of individuals who get orders from third parties to collect debts to be referred to as debt collectors or debt collectors.

Guidelines for the offering The Indonesian Funding Fintech Association (AFPI) has issued a list of fintech P2P Lending services. The rules contain provisions pertaining to the use of third parties, or debt collectors, in debt collection. The relationship between these parties and P2P Lending online loan providers is that of a third party acting as a liaison in collecting on defaulted loans by customers acting as loan recipients. However, in this particular scenario, the third party must be a member or part of AFPI in accordance with the guidelines.

The organizer and the third party debt collector have a legal relationship that takes the form of an agreement that establishes their respective obligations to be fulfilled. This relationship develops when both parties negotiate and agree upon a standard contract, and the third party debt collector will only work if the organizer grants them power of attorney. According to the provisions of a valid agreement, the legal connection between organizers and debt collectors is one that is based on an agreement from each side that results in their respective obligations and duties. The online loan recipient and the Fintech P2P Lending organizer have a two-party agreement in the first instance. As such, the recipient must be aware of the notification from the P2P Lending organizer that a third party will be granted power of attorney in the event that the online loan defaults.

According to the AFPI guidelines for organizers running online lending and borrowing businesses, every business actor operating as an online loan organizer is undoubtedly familiar with the principle of good faith. This is because everyone operating a business must adhere to this principle, and in this case, it applies to conducting offering activity facilities as a platform (container in online lending) or marketplace. This is because business actors are required to consider the interests of related parties, including lenders and loan recipients involved, without undermining the dignity of users.

When employing debt collector services to pursue repayment of delinquent loans, the organizer is required to follow certain guidelines, including the good faith concept:

a. The online loan organizer is required to notify both the lender and the borrower of the procedures for settling and collecting delinquent debts;

b. The borrowers themselves should be informed of the steps that have been taken in settlement when they become money borrowers and fail to make payments on their loans:
1. The organizer sends the client a warning letter;
2. Restructuring loans or enhancing credit activities for borrowers who struggle to make their payments.
3. If there is a default, the coordinator corresponds remotely (through desk collection) with the consumers who are the loan fund recipients; correspondence takes place via phone, email, or other means of communication;
4. The organizer is required to provide notice prior to any visits or communications made by debt collectors;
5. A loan that is canceled.

c. All internal debt collector personnel must obtain certification for P2P debt collectors as third-party debt collectors, and AFPI must select and provide collection agency certification under stringent guidelines;
d. If a loan is past due and has been unpaid for more than ninety days, it is not permissible to collect debts directly from clients who do not pay their loans to the organizer directly;
e. As an online loan organizer, Fintech Peer-to-Peer Lending must fully inform risk borrowers of the consequences of not fulfilling their obligations until they are fulfilled.
f. When carrying out settlement and collection procedures to each party, the organizers of online loans fintech P2P Lending must take into account the interests of consumers as lenders and consumers receiving loan money.

In order to preserve consumer privacy, personal data belonging to consumers must be handled in accordance with the fair information practices principle, which is a standard practice applied by both the public and commercial sectors. The following are the Fair Information Principles:

1. The following principles should be followed: a. collection limitation principle: personal information should only be collected for the original purpose;
2. disclosure: people should be informed of the reason(s) behind information collection and dissemination;
3. secondary usage: people have the right to object to others collecting their personal information without their prior consent;
4. record correction: people should be able to correct their information;
5. Security: To prevent third parties from abusing the information they control, government organizations that gather and manage personal data must make sure it is secure.

3.2 Legal Protection of Consumers for the Act of Debt Collector as a Third Party Who Disseminates Personal Data of Financial Technology Users or often called Fintech

When using the goods or services available in the market, consumers—who can be natural beings, corporations, or other entities—are seen as the end users of such goods or services [8]. customers who participate in P2P Lending's fintech online loans, namely customers who contribute to the growth of the fintech company by lending money and customers who use money obtained through Financial organizations that provide financial services, The goal of using the P2P Lending platform services reveals the differences between the two parties.

The consumer protection law governing Indonesia merely states that those conducting business as individuals or companies within Indonesian borders are known as business actors. This means that when it comes to lending based on information technology, which in this case is Fintech P2P Lending's platform, the business actor must be either a cooperative or limited liability company. Because business agreements are reciprocal in nature, business actors require other individuals in order to carry out their actions and come to an agreement. A mutually agreed upon act between two or more individuals who each have their own goals in binding themselves to the agreement is called an agreement.

Legislation intended to safeguard personal information that is gathered, processed, and stored with the intention of being a part of a filing system is sometimes known as "data protection." The purpose of personal data protection is to provide individuals with legal certainty regarding the use of their data. Any information that could be used to directly or indirectly identify a person's data subject is considered consumer personal data. Because of this, maintaining customer confidence in P2P lending-based Fintech services depends heavily on protecting personal data. To protect clients, service providers need to follow data protection guidelines and their relationship to consumer privacy. These principles include the principles of openness, accountability, collection, restriction, data quality, security measures, and individual participation [9].

When online loans are implemented, consumers acting as loan recipients carry out transactions in line with the terms of the agreement with P2P Lending, the online loan business actors. This creates mutual obligations between them, agreements, and consequences that each party must equally fulfill.

Online lenders that violate the ITE Law's Article 32 juncto (jo) or Article 48 may be held liable for the sharing of private information. As revised by Law Number 19 of 1916 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (Law 19/2016), Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), threat actors through electronic media may face criminal charges.

Law 19/2016's Article 45B covers provisions pertaining to cyberbullying that involves violent or threatening threats and causes material, psychological, or physical harm. The state guarantees and protects citizens' right to privacy with regard to the transmission of personal data. Disseminating a citizen's identity or personal information is against the guarantee of their right to privacy. Law 19/2016's Article 26 paragraphs (1) and (2) include requirements for the protection of personal data through electronic means, specifically:

"A maximum penalty of nine (9) years in jail and/or a maximum fine of Rp3,000,000,000.00 (three billion rupiah) awaits anyone who satisfies the requirements listed in Article 32 paragraph (2)."

Online lenders may be prosecuted if they transmit personal information in violation of the law, under The ITE Law's Article 32 juncto (jo) Article 48. Regarding Electronic Transactions and Information, Law Number 11 of 2008, those who make threats via electronic media may face criminal charges.

Everyone is entitled to security, freedom from the fear of being afraid to, and protection of their person, family, honor, dignity, and property that they control act in line with their human rights.

If one looks more closely, one finds that personal data regulations are the only laws that now apply in Indonesia and do not particularly address family life or personal protection issues. Law No. 11/2008 Concerning Electronic Transaction Information (ITE Law), which has been revised by Law No. 19/2016 About Amendments to Law No. 11 of 2008 About Electronic Information and Transactions, addresses the protection of personal data. Only one of the three regulations offers a broad overview of personal data protection without offering specific advice or a comprehensive compilation of specific provisions for that reason.

A Technical Regulation to prevent the unauthorized sharing of customer personal data, the Ministry of Communication and Information Technology Number 20 of 2016 (Ministerial PDP) released a directive on Personal Data Protection. The use of electronic systems and transactions is required by this regulation, which is based on Article 13 Paragraph (3) of PP No. 82/2012. Online loan clients still have rights and obligations that need to be shielded from these dishonorable actions as loan recipients who are endangered and hurt by the act of sharing privacy and personal data. Customers must be aware of their rights in order to act and follow the proper legal procedures [10]. Regarding the actual consumer rights, such as the right to express an opinion about the products or services that were being used at the time of the incident, disgruntled customers should be given protection when consumer protection disputes are being resolved because, as is the case with all legal rights, they are entitled to advocacy, including legal protection. A party that receives money from P2P Lending online loans and is the target of defamation by P2P Lending organizers is entitled to reasonable legal protection against threats, intimidation, and the sharing of personal information since the borrower is harmed by the activities committed.

His act of sharing consumer personal data is subject to administrative sanctions from the OJK in addition to criminal penalties in the event that there is a violation the responsibilities and the restrictions outlined in this OJK regulation are not adhered to. These administrative penalties may be in the form of directives or written cautions for business actors to pay a certain amount.

sum of money, placed restrictions on company operations, and even cancelled commercial activity licenses [11]. One method by which OJK carries out the supervisory duties mentioned in The OJK Law's Article 6 states that administrative punishments may be applied. According to Article 9 of the OJK Law, OJK is able to decide what administrative sanctions are appropriate for parties who break financial services industry laws and regulations. Further regulating administrative punishments related to the implementation of P2P Lending, Article 47 of POJK P2P Lending states that OJK is permitted to issue written sanctions in the form of:

a. Written cautions;

b. fines;
c. limitations on commercial operations; and
d. authorization revocation

4. Conclusion

According to the conditions of a valid agreement, the legal connection between organizers and debt collectors is one that is based on each party's agreement, which gives rise to their individual duties and obligations. The online loan recipient and the Fintech P2P Lending organizer have a two-party agreement in the first instance. As such, the recipient must be aware of the notification from the P2P Lending organizer that a third party will be granted power of attorney in the event of an online loan default. With the online lender P2P Lending, a debt collector's legal status is that of a third party in a cooperative relationship, each of which has its own set of responsibilities. According to the AFPI code of conduct, debt collectors are in charge of collecting loans from consumers who have fallen behind on their payments. This includes authority to employ third parties for fintech P2P lending implementation and collection.

Online lenders may be If they release personal information against the law, they will be penalized under Article 32 juncto (jo) Article 48 of the ITE Law. Threats made through electronic media can be prosecuted under Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), as amended by Law Number 19 of 1916 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (Law 19/2016), specifically Article 29 of the ITE jo Law. Section 45B of Article 19/2016. Article 13 Paragraph (3) of PP No.82/2012 mandates the establishment of electronic systems and transactions, which is covered in Article 29 of the ITE Law, Article 45B of Law 19/2016, and PDP Minister's Regulation No. 20 of 2016.

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