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# Legal Protection of Online Loan Recipients Based on Financial Services Authority

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**Abstract**---This study aims to determine the form of legal protection, dispute resolution, and provide legal understanding. The normative research method using a qualitative approach describes legislation and a case approach, and Law Number 21 of 2011 concerning the Financial Services Authority, Law Number 19 of 2016 ITE, and OJK Number 77/POJK.01/2016 concerning Borrowing Services. Data collection techniques through (1). Interview, (2). Surveys (3). Documentation study. Conclusion (1). Many customers are victims as users of unlicensed services. (2). Efforts to protect customers against the implementation of OJK services (3). Cooperating with the Indonesian Joint Funding Fintech Association (4). Determination of the upper limit on loan interest and code of conduct for the loan collection process, (5). OJK cooperates with the Ministry of Communication and Information.

**Keywords**---consumer, financial services authority, financial technology, legal protection, online loans.

## Introduction

Financial Technology as the utilization of the development of information technology to improve services in the financial industry (Ahmad, 2018). Financial Technology is a public service that has not been touched by banking services so that it makes it easy for every level of society to get practical and fast financial services. Financial Technology is the implementation of the use of technology in improving banking and financial services carried out by startup companies by utilizing software technology (Au & Kauffman, 2008; Zahra, 1996).

The rapid development of Financial Technology has a positive impact along with problems that arise, especially from Financial Technology-based money lending services or Fintech Peer To Peer Lending (Airin, 2018). Because of the easy requirements for applying for a loan, many people are interested in online loans.

As a requirement, it is only a photo ID and filling in the personal data form so that everyone can easily get loan funds quickly, but from the convenience of customers it can have an impact on high loan interest (Biondi, 2016). Because there are no rules regarding the interest limit set for online loan services, as well as actions on loan collection with acts of intimidation and terror experienced by customers by collecting loans by companies providing Financial Technology, because there is a widespread public spotlight that is reaping serious problems that must be addressed immediately (Syam et al., 2021; Zolotar et al., 2021).

Intimidating billing is a prohibited act. The provisions contained in the code of ethics and behavior require all companies providing Financial Technology to have good faith in billing customers (Sari, 2018). Behavior requires Financial Technology companies to have procedures for billing to customers, if a loan fails to pay off the loan, the provider is required to convey to the customer the steps to be taken if the loan is delayed.

The collection steps include the provision of warning letters, loan scheduling requirements, correspondence via telephone, email, or other forms of conversation. Financial Technology must use parties not included in the blacklist. (Faith, Nofie, 2016). Financial Technology companies are also prohibited from using intimidating, physical and mental violence that offends SARA and demeans the dignity, dignity and self-esteem of online loan recipients, both to customers as loan recipients or their families.

Based on POJK Number 77/2016, Financial Technology companies can be subject to sanctions if they commit violations that have been determined, namely written warnings, monetary fines, restrictions on business activities, revocation of business licenses (Ratna & Juliani, 2018). The Indonesian Fintech Association will build a digital data center, including a list of problem borrowers. The data can be used jointly by companies by evaluating the quality of credit products and the types of customers that will be part of several certification programs

## **Method**

As one way to solve a problem from the problems encountered by using reflective thinking, with procedures that are in accordance with the research objectives. (Yusuf, 2014):

- Research Approach The approach used in normative research refers to legal norms that refer to laws and regulations and court decisions as well as norms that exist in society.
- This type of research uses empirical normative law, which is carried out by researching secondary data materials that are legal in nature
- Research data needed to answer and solve research problems. Then the data is used to solve all the problems that exist in the research

## **Data collection technique**

- Field survey to find out the phenomena that occur in the field
- In-depth interviews with key volunteers to obtain valid and accurate data

- Study documentation, in the form of notes, archives, photographs, videos and so on

## **Results and Discussion**

### **Legal protection for customers in online loan services**

Legal protection provides protection for human rights that have been harmed by others and this protection is given to the community so that they enjoy all the rights granted by law, while according to [Philippon, \(2016\)](#). Human rights owned by legal subjects based on the legal provisions of arbitrariness. The elements of legal protection are:

- There is protection from the government for citizens
- There is a guarantee of legal certainty, for every citizen of the community for fair recognition, guarantees, and legal certainty as well as equal treatment before the law
- There are sanctions for those who violate them, which are balanced with clear regulations and supervision of the running of the business.
- There is consumer protection for business operations and implementing the provisions and OJK Regulation Number 77/POJK.07/2016 concerning online lending and borrowing services

Despite the issuance of regulations governing online money lending activities through their activities, there are still many problems that arise which have led to many complaints in the community ([Yuking, 2018](#)). Responding to the problem, the OJK as the regulator conducted an investigation in uncovering the existing problems, with investigations it was found that many of the customers who were victims were users of illegal online loan applications and were not registered with OJK business permits. Applications for loans need to find out in advance about the business license from the Financial Technology provider ([Chen et al., 2009](#); [Barkatullah, 2018](#)).

The cause of the many victims of illegal Financial Technology, because customers are tempted when they get offers or advertisements on internet media that offer online loans, customers try to apply for online loans, but do not pay attention to the terms and conditions of online loans and the risks they accept ([Isnaeni, 2018](#)). Some customers make loans again but on different applications, and make customers fall into debt and fail to pay because they don't just try one loan application, even customers apply for loans many times online loans with different applications ([Gonzalez & Loureiro, 2014](#); [Abid et al., 2014](#)).

In making online agreements ([Zulfirman, 2017](#)). Financial Technology is included in the category of personal data, as data owners or customers in the implementation of online loan agreements. In article 2 Paragraph (1) Ministerial Regulation Number 20 of 2016 concerning the Protection of personal data in electronic systems, the protection of personal data in electronic systems includes protection when:

- Acquisition and collection
- Processing and analysis

- Storage
- Appearance, announcement, delivery, dissemination, and opening of access, and destruction

The use of customer data by Financial Technology providers, including disclosure to third parties, can only be made based on the consent of the customer concerned. Exceptions to customer approval in terms of disclosure on the implementation of laws and regulations (Hernoko, 2010). Violations of the provisions regarding data confidentiality by Financial Technology providers are subject to administrative sanctions as stipulated in Article 47 of POJK Number 77 of 2016, given written warnings, fines, restrictions on business activities, and revocation of licenses (Kustina et al., 2019). In addition, based on Article 26 Paragraph (2) of Law Number 19 of 2016 concerning information and electronic transactions

Efforts to maintain data confidentiality and security are in accordance with the basic principles of protection of Financial Technology users as stipulated in Article 29 of POJK 77/2016 to prevent misuse of customer personal data. OJK has investigated and restricted access to each Financial Technology provider, with all fees a maximum of 100% of the loan value. If you make a loan of IDR 1,000,000, the maximum amount that can be returned is IDR 2,000,000. With the amount of interest that has been agreed by both parties. If the member of the Indonesian Joint Funding Fintech Association (AFPI), is 0.8% per day with a limit of 0.8%, which consists of interest, interbank transfer fees, verification fees and other fines (Mokoagouw, 2018; Pratiwi, 2016).

### **Market conduct in accordance with the provisions of article 48**

All Financial Technology operators must be registered as members of the association appointed by the OJK. The OJK has appointed the Indonesian Joint Funding Fintech Association (AFPI). With the Indonesian Joint Funding Fintech Association (Prayogo, 2016). Which has a Code of Conduct and has made several arrangements that have not been regulated by the OJK, with a maximum interest limit and collection procedure. OJK has made a program to regularly meet with AFPI to discuss urgent matters, the presence of AFPI as OJK's strategic partner, to be considered for all Financial Technology providers in carrying out their functions and supervision of Financial Technology providers in accordance with OJK's appointment with Number S-5/D.05 IKNB/2019

Direct inspection mechanisms are carried out routinely or periodically. Mapping of potential risks from existing Financial Technology business processes, with findings from intelligence operations carried out by the OJK Market Conduct Directorate (Napitupulu et al., 2017). Then there are several aspects of consumer protection in the implementation of Financial Technology that must be a concern for the government (Oyserman, 2009; Tallon et al., 2000).

### **Completeness of information transparency products services**

Protection of online borrowing service users, in terms of information technology-based money lending described in the user, namely:

- Transparency
- Fair treatment
- Reliability
- Confidentiality and security of personal data
- User dispute resolution is simple, fast and affordable

In this Article, the perpetrators of Financial Technology service providers must provide complete and up-to-date and transparent information regarding the service products offered to consumers. Because it is very crucial in decision making and to build the trust of consumers (Kasmir, 2014). Lack of information and clarity about Financial Technology service products, can lead to misunderstandings for consumers about the features of service products offered to customers such as product terms and conditions, cost benefits and risks.

If there are changes in costs, terms and conditions, clarity of information from product advertising to be marketed, it must use simple and easy-to-understand language in the advertising media used, such as company websites, brochures, online mass media advertisements, and so on. Financial Technology operators must inform the terms and conditions of products and services in a clear agreement in simple language, considering that customers are still low on finances (Napitupulu et al., 2017). This has been stated in POJK Number 77 of 2016 Article 3. There are changes to the fees charged as terms and conditions related to products marketed by Financial Technology providers, they should inform consumers through various communication channels so that consumers are well informed.

For the public as consumers, it is obligatory to provide service information that is easily accessible to request clear information from Financial Technology service providers (Putri, 2018). So that consumers become aware of the product and create consumer awareness of the costs and risks that will arise from using service products

### **Handling of consumer complaints and dispute resolution**

Problems and consumer complaints as a certainty that will be faced by Financial Technology providers. So that the handling of complaints and dispute resolution are things that must be provided (Budyanti, 2019). Service providers must have a complaint and dispute resolution mechanism. Implementation in increasing consumer confidence. Actors who already have an effective complaint handling and dispute resolution mechanism will have the opportunity to add to their service products. Complaints received can be eliminated causes and spur improvement efforts in the development of service products. In Financial Technology service providers, namely:

- Provide an easily accessible contact line for receiving customer complaints such as telephone, e-mail, messaging, and other media
- Have units or functions and standards for handling consumer complaints. Procedures must regulate consumer protection in POJK related to information to consumers

- Inform consumers if there is an alternative mechanism in dispute resolution that can be used if the resolution of complaints and disputes internally does not result in an agreement.

### **Fraud prevention and service system reliability**

Prevention of fraud by Financial Technology providers, which is an important thing that must be considered along with the development of service product offerings. Fraud attempts by Financial Technology providers, such as abuse of service sites, hacking of security systems, and marketing of deceptive service products (Sidablok, 2014). With many Financial Technology services that use network media and applications in promoting and marketing their service products, the potential for fraud to occur will increase.

Financial Technology Operators are required to ensure a reliable system. Operators are required to have a certified secure application and security system, in order to avoid hacking by irresponsible parties. Service providers are required to carry out periodic and continuous system checks and improvements. (Priyonggojati, 2017). Because technology is a form of threat that will continue to grow. The security system and application of Financial Technology services, always make improvements that are certified for their level of reliability.

### **Protection of personal data**

Protection of personal data is important and must be considered by Financial Technology providers. Because the misuse of personal data against customers can have an impact on identity theft, misuse of consumer secrets, product offerings to consumers whose data has been taken, so that it has an impact on greater risks and losses such as customer distrust of Financial Technology services (Sihombing, 2010). Security and maintenance of consumer data must be carried out properly because data is digital so it is relatively easy for data to be stolen. It is necessary to pay attention to personal data because it can be misused by irresponsible parties. Efforts to protect personal data that can be done are as follows:

- Financial Technology Operators are required to encrypt data on data relating to consumers
- Financial Technology Operators are required to maintain the security of consumer data
- Financial Technology Operators are required to perform data access management
- Customers have the right to request explanations from Financial Technology actors regarding the use of data information

### **Customer legal settlement efforts when experiencing online loan problems**

In the implementation of online loans, there is a legal relationship between the parties which includes the lender as the provider, and the loan recipient as the customer. The legal relationship is the relationship to the law in placing rights on one party and placing obligations on the other party. Where the legal relationship

in the implementation of Financial Technology is born from an agreement (Santi et al., 2017). Conventionally, an agreement can occur through direct or indirect actions from both parties, each of which plays a role, acting for and on behalf of himself or as acting for and on behalf of the company he represents. Where the first party to make an offer is accepted by the recipient

Basically, the recipient of the online loan is obliged to pay according to the agreement. If the customer is late in paying and it is due, a fine can be imposed in accordance with the agreement, if the customer does not have the intention to pay, the creditor has the right to sue the customer on the basis of breach of contract (Hariyani, 2017). Legal steps and the right solution for overdue loan problems based on an agreed agreement, the customer must be responsible, by trying to settle the debt. If the customer cannot repay the loan according to the agreed time, the customer can contact the Financial Technology provider on the application, to discuss the settlement of the arrears. Customers can also try to convince the organizers to take administrative measures first by completing loans to third parties or to debt collectors. In addition to these efforts, customers are expected not to shy away from obligations and not try to eliminate traces

So that this is a weakness in efforts to resolve Financial Technology disputes as part of the non-financial service business actor category. This category has not yet determined a consumer dispute resolution mechanism if the complaint and problem cannot be resolved by the Financial Technology provider itself. Dispute resolution which is categorized as a settlement mechanism can be carried out internally in the Internal Dispute Resolution mechanism, Alternative Dispute Resolution Institutions and limited facilitation from the OJK (Zainuddin, 2010). In an effort to ensure legal certainty through the OJK together with registered Financial Technology associations and providers, and is currently drafting a standard mechanism for implementing the Internal Dispute Resolution and Alternative Dispute Resolution. So that consumers who use Financial Technology services get clarity and legal certainty in handling complaints and disputes. Can be considered in the implementation of complaint handling and dispute resolution in the implementation of Financial Technology is the Online Dispute Resolution which is a dispute resolution system that utilizes information technology facilities.

### **Customer efforts victims of illegal operators**

If at the time of online loan collection, customers experience acts of intimidation in the form of terror, threats, and misuse of personal data, as well as violence or other unlawful acts, then the customer as a victim of online loan recipients on Financial Technology, which is legal, can take legal action by filing a complaint. through the Indonesian Joint Funding Fintech Association, which is an official association appointed by the OJK for legal Financial Technology providers. (Adrian Sutedi, 2014). Complaints can be made in several ways, namely: By going through the complaint page and filling out the available reporting form, it can also be via email by sending documents and evidence of the complaint and can contact the Indonesian Joint Funding Fintech Association, which is the official association appointed by OJK against legal Financial Technology operator.

Reports submitted to the Indonesian Joint Funding Fintech Association, which is the official association appointed by the OJK for legal Financial Technology providers, which will be processed by following up on the organizers and if it is proven that violations are found, the Indonesian Joint Funding Fintech Association. (Gazali & Usman, 2012) which is the official association in appointed by the OJK to legal Financial Technology organizers will hold the organizers accountable by facilitating the meeting of customers with the organizers, and in accordance with the code of conduct. Violating the applicable provisions, the Financial Technology provider may be expelled from the Association and at the same time its business license will be automatically revoked from the OJK.

As for the efforts that can be taken if the customer is a victim of an illegal Financial Technology provider that is not licensed by the OJK, the customer can report to the OJK, by contacting the OJK contact or via email so that OJK can block access to the illegal Financial Technology through the Investment Alert Task Force, which in collaboration with the Ministry of Communication and Information (Hartanto & Ramli 2018). If a customer becomes a victim of an illegal Financial Technology provider, they must report it to the police for criminal acts. In addition, you can also request legal assistance through associations or legal aid institutions. Customers to make online loans only to legal Financial Technology that has obtained permission from the OJK. In order to monitor Financial Technology providers. Customers who feel aggrieved must report to the police if a criminal act is found.

OJK cannot do anything if the customer does not feel harmed by an illegal Financial Technology provider company. Because OJK has never made any commitment to the illegal Financial Technology. It is very difficult to eradicate illegal Financial Technology (Tampubolon, 2019). Especially those from abroad. Because the Financial Technology works virtually and changing names is very easy. So that the illegal Financial Technology has been blocked but is operating again under a different name.

### **Preventive efforts and actions to avoid online loans**

Understand the efforts and steps for legal settlement in the implementation of Financial Technology (Venalia & Januarita, 2019). Customers also need to understand the efforts and preventive measures to avoid the following problems:

- Make sure the customer borrows from a Financial Technology company that has been registered with the Financial Services Authority (OJK). Customers also need to ensure and pay close attention to the legality of the Financial Technology provider, before applying for an online loan by finding out the legality of the provider by accessing the OJK publication website and searching the OJK Licensed Financial Technology Company page (Watts, 2006; Aldhouse, 2014).
- Customers borrow according to their needs and abilities and must be aware of their financial capabilities when applying for an online loan. Customers also need to consider their needs, it is recommended that they borrow according to their needs and calculate their ability to repay. It should be noted that the loan amount does not exceed 30-40% of your monthly



income. Because to avoid difficulties in paying obligations and bills each month.

- The customer must understand the information, obligations and terms and conditions contained in the contract. Prior to the loan agreement, the customer should ensure that he has carefully read and understood all the information contained in the Financial Technology provider contract. Information that must be considered include: (a). The amount of the loan interest rate charged (b). Fees to be paid and due installment payments (c). Terms and conditions (d). Data security (e). Customer service contact (f). Other information that may need to be understood.
- Given the obligation to pay installments, which must be aware and understand in making online loans, there are obligations that need to be known that must be fulfilled. The most important obligation is the obligation to pay installments on time. As contained in the contract agreement in applying for a loan to Financial Technology. Customers must understand how much the installments are and when to pay them. If the agreed deadline is passed, the customer must understand how much the fine must be paid. To Financial Technology, especially for customers who are in need of capital emergency funds. But keep in mind that borrowing is not only liquid quickly, but obligations that must be fulfilled.

With the above preventive measures (Zulfikar, M. T. Ilham., 2018). It is hoped that customers will act as wise borrowers, so that the lending process runs smoothly and customers get optimal benefits and avoid problems and disputes in the implementation of Financial Technology.

## **Conclusion**

Based on the results and discussion above, the researcher can draw several conclusions, namely, as follows:

- Legal protection efforts against online Financial Technology loan customers. There are regulations and provisions governing the implementation of services, as a Financial Technology business actor, it is obligatory to pay attention to the provisions of OJK Regulation Number 77/POJK.07/2016. About Online Loan Services. Includes: Institutional, licensing, online lending limits, governance, information technology, organizers, activity limits; risk management, reporting, and consumer protection. in accordance with Article 29 of POJK 77/2016. The Operator is required to apply the basic principles of User protection, namely: (a). Transparency (b). Fair treatment (c). Reliability, (d). Confidentiality (e). data security
- User dispute resolution is simple, fast, and affordable. Obligation to pay attention to the provisions of other laws and regulations such as the Law on Consumer Protection, Consumer Protection and consumer complaint services. If a violation is found in accordance with Article 47 of POJK 77/2016, the Operator violates the provisions of the Financial Services Authority regulations, will be subject to the following sanctions: (a). Written warning (b). Fines are obligations to pay a certain amount of money (c). Restrictions on business activities; (d). License revocation.

- Legal remedies and dispute resolution can be taken, if customers experience problems with online loan services, licensed providers, customers can report to APFI, which is an official association appointed by OJK. However, if the customer is a victim, then report to the OJK, so that the customer can be blocked and must also report to the police regarding the crime experienced by the customer and ask for legal assistance from legal institutions.
- In order for customers to avoid debt traps and other problems with online loan services, customers need to pay attention to preventive measures, and ensure that they use loan services from providers who are legal and registered with the OJK. Customers must understand information on terms and conditions, in making online loans according to their needs and abilities, as well as carrying out the obligation to pay loans and not avoiding collection.

### **Suggestion**

The complexity of the problems in the implementation of Financial Technology online loans, because online loan services are still new in the community, and there are no rules governing the implementation of activities and the lack of understanding in using services wisely. So can give suggestions, namely as follows:

- Encouraging the establishment of a consumer dispute resolution mechanism for Financial Technology activities as an online loan provider that ensures that loans are carried out in a legal manner
- Make a regulation that the operator as a lender must be able to operate because it has an operating license
- Implement interest rate ceilings along with mechanisms related to the collection process and submit it to the association
- Give strict and explicit sanctions to both licensed and unlicensed organizers
- Encouraging to immediately issue the Personal Data Protection Act, considering and growing online loans

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