

## Legal Protection for Financial Technology Users Against Fraud and Illegal Acts

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Article	Abstract
<p><b>How to cite:</b> Muhammad Labib &amp; Rumawi, 'Legal Protection for Financial Technology Users Against Fraud and Illegal Acts' (2023) Vol. 4 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p><b>DOI:</b> 10.35719/rch.v4i3.296</p> <p><b>Article History:</b> Submitted: 15/10/2023 Reviewed: 20/10/2023 Revised: 10/12/2023 Accepted: 29/12/2023</p> <p><b>ISSN:</b> 2723-0406 (printed) <b>E-ISSN:</b> 2775-5304 (online)</p>	<p>Nowadays, online loan provider companies are increasing rapidly. Ironically, this has negative impacts such as crimes committed by online loan providers. So many users are harmed. This research is normative research, namely research that uses applicable laws and regulations and the approach used is a statutory approach. The results of this research are that in providing legal protection to users of online loan services, the Financial Services Authority (OJK) issued regulations, namely POJK No. 77/POJK.01/2016 concerning technology and information-based lending and borrowing services. And also POJK No.13 /POJK.02/2008 concerning digital financial innovation in the financial services sector. Legal protection can be carried out after a dispute occurs between a user and other users. This regulation is the first regulation issued by the OJK to directly protect fintech issues. The financial services authority has a very important role, namely having the authority to supervise information technology-based companies. OJK itself was formed to impact sustainable and stable economic growth. It is hoped that the OJK was formed to support the interests of the financial services sector as a whole so that it can compete in the economic sector.</p> <p><b>Keywords:</b> <i>Legal Protection, Online Loans, Financial Services Authority.</i></p> <p><b>Abstrak</b> Dewasa ini, perusahaan penyedia pinjaman online semakin pesat. Ironisnya, hal tersebut membawa dampak negatif seperti kejahatan yang dilakukan oleh penyedia pinjaman online. Sehingga banyak sekali para pengguna yang dirugikan. Penelitian ini merupakan penelitian normatif yaitu penelitian yang menggunakan peraturan perundang-undangan yang berlaku dan pendekatan yang digunakan yaitu pendekatan undang-undang. Adapun hasil penelitian ini yaitu dalam pemberian perlindungan hukum terhadap pengguna jasa layanan pinjaman online, Otoritas Jasa Keuangan (OJK) menerbitkan peraturan yaitu POJK No. 77/POJK.01/2016 tentang layanan pinjam meminjam berbasis teknologi dan informasi. Dan juga POJK No.13 /POJK.02/2008 tentang inovasi keuangan digital disektor jasa keuangan. Perlindungan hukum bisa dilakukan setelah adanya sengketa yang terjadi antara pengguna dengan pengguna lainnya. Peraturan tersebut merupakan peraturan yang pertama kali dikeluarkan oleh OJK dalam melindungi permasalahan fintech secara langsung. Otoritas jasa keuangan memiliki peran yang sangat penting yaitu memiliki wewenang dalam melakukan pengawasan terhadap perusahaan berbasis teknologi informasi. OJK sendiri dibentuk untuk memberikan dampak tumbuhnya perekonomian yang berkelanjutan dan stabil. OJK dibentuk diharapkan dapat mendukung kepentingan disektor jasa keuangan secara menyeluruh sehingga dapat bersaing dibidang perekonomian.</p> <p><b>Kata Kunci:</b> <i>Perlindungan Hukum, Pinjaman Online, Otoritas Jasa Keuangan.</i></p>

## Introduction

The development of technology and information is currently increasingly of interest to public, therefore, technology and information bring very significant changes to human life. Various conveniences and advantages are obtained in carrying out activities with this information technology. With today's sophisticated technology, it provides many conveniences, especially in helping human work in various fields. With today's sophisticated technology, many things provide convenience, especially in helping human work in various fields. Among them is convenience in the financial sector through online loans. The rise of the practice of online loans (pinjol) or peer to peer lending, both legal and illegal, is due to the difficult economic conditions resulting from the Covid-19 pandemic and also the consumerist behavior of digital society and weak regulations, both from the monitoring system to law enforcement against fraudulent companies. With the lure of easy conditions, many people are tempted by these online loans.<sup>1</sup> In the use of communication networks and information technology there is something called *Cyber Law*, which is a legal aspect in the internet world and the term comes from *Cyberspace Law*. The scope of which covers every aspect related to individuals or legal subjects who use and utilize internet technology starting when they go online and enter cyberspace.

The development of technology today has led to the emergence of financial services with information technology which is usually referred to as *Financial technology* or what is often called *fintech*, where the existence of fintech, makes transactions faster in making payments without having to meet face to face. Current technological advances can increase development in all sectors of life in society. The way online loans work is that the organizer only acts as an intermediary who brings together lenders and loan recipients. In its existence, currently many online loans are registered with the OJK. Although there are also many online loans that operate without supervision and permission from the Financial Services Authority (OJK). This is what is known as illegal online lending.<sup>2</sup> Lending and borrowing activities can be carried out directly, either by written or verbal agreement, this activity has been commonplace in society since ancient times. With the rapid development of technology, direct lending and borrowing is in great demand.<sup>3</sup> This is characterized by the use of technology and information as a medium for transactions when carrying out lending and borrowing activities. With the existence of the internet, the Indonesian and world economies have entered a new phase which is more popular with the term *digital economy*.<sup>4</sup>

The development of the digital economy requires society to continue to develop in terms of innovation in providing lending and borrowing services, which is characterized by the existence of technology and information-based lending and borrowing services that contribute to development and the economy in Indonesia. Information technology has changed society and created new types and business opportunities as well as created new

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<sup>1</sup> Jeremy Zefanya Yaka Arvante, "Dampak Permasalahan Pinjaman Online dan Perlindungan Hukum Bagi Konsumen Pinjaman Online", *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, Vol 2, No 1 (2022): 76.

<sup>2</sup> Ananda Maghfira Ajeng Mentari, "Analisis Faktor-Faktor Keputusan Pemberian Kredit Pinjaman Online (Studi Kasus Pt. Cicil Solusi Mitra Teknologi)," *Jurnal Ilmiah Mahasiswa FEB 9*, No. 2 (2021): 87.

<sup>3</sup> Hendro Nugroho, "Perlindungan Hukum Bagi Para Pihak Dalam Transaksi Pinjaman Online," *Jurnal Ilmu Hukum dan Humaniora*, Vol. 7, No. 2, (2020): 329.

<sup>4</sup> Richardus Eko Indrajid, *E Commerce, Kiat dan Strategi Bisnis di Dunia Maya*, (Jakarta: Elex Media Komputindo, 2011), 33.

types of jobs and careers in human work. Therefore, the term electronic contract or *E contract*.<sup>5</sup> The existence of a contract is very necessary considering that Indonesia is a legal country, so all activities or things carried out must be recorded so that it can be used as a guide when a dispute occurs in the future. When borrowing and borrowing money, there must be an agreement made by both parties, either in writing or orally, so that there are no misunderstandings in the future. The presence of this online loan service is certainly part of making it easier for people to get access to borrow a certain amount of money without any collateral. Information technology or application-based loan services are a type of financial technology (Fintech) in the category of financial services/other financial services.<sup>6</sup> The presence of online loans is a form of *Financial teknologi (Fintech)* is the impact of the development and progress of information technology. With fintech, transactions become faster and easier to make payments without having to meet face to face. Currently, there are many online loan services, both from online loan applications and via social media.

The presence of online loans itself is one form *Financial teknologi (Fintech)* is the impact of the development and progress of information technology. With fintech, transactions become faster and easier to make payments without having to meet face to face. Currently, there are many online loan services, both from online loan applications and via social media. The loan system in the online loan application is carried out by a system *peer to the peer leading* namely the implementation of loan agreements that bring together lenders and loan recipients via the internet network<sup>7</sup>. The fintech regulatory process is of course based on digital technological developments which will affect every sector, one of which is the economic sector as an example of the development of Financial Technology (Fintech). The existence of the digital economy today is certainly influenced by world developments as we have now entered the Industrial Revolution Era 4.0 which means that there is a change in systems from manual to electronic and processes where all activities are carried out by computerization and digitalization. This will certainly greatly influence almost all aspects. human life, including the legal system, so that legal regulations regarding digitalization, especially in the digital economy, must be able to provide legal certainty and protection.<sup>8</sup>

The rapid growth of technology and information-based loan providers is still not balanced with adequate education in the community, which can lead to risks that arise with the large number of online loans and there are still many companies that provide unregistered and illegal online loans that have the potential for leaks. personal data of users of online loan services that can be misused by online loan service companies or other parties.<sup>9</sup>

Online loans themselves are regulated in financial services authority regulation Number 77/POJK.01/2016 concerning information technology-based money lending services. In article 1 point 3, it is stated that information technology-based lending and borrowing services are the provision of financial services to bring together lenders and loan recipients in

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<sup>5</sup> Sutan Remy Sjadeini, *Hukum Siber Sistem Pengamanan E Commerce*, (Jakarta: Mandiri Club, 2012), 1.

<sup>6</sup> Windy Sonya Novita and Moch Najib Imanullah, "Aspek Hukum Peer to Peer Lending (Identifikasi Permasalahan Hukum Dan Mekanisme Penyelesaian)," *Jurnal Privat Law*, 8.1 (2020): 151.

<sup>7</sup> Agus Priyonggojati, "Perlindungan Hukum Terhadap Penerima Pinjaman Dalam Penyelenggara Financial Technology Berbasis Peer To Peer Leading," *Jurnal USM Law Rivew Vol. 2*, (2019): 168.

<sup>8</sup> Iin Indriani, Nurhayati Nurhayati, and Sri Utaminingsih, "Analisis Dampak Dan Resiko Hukum Terhadap Praktik Pinjaman Online Di Masa Pandemi," *Rechtsregel: Jurnal Ilmu Hukum*, 4.1 (2021): 95–96.

<sup>9</sup> Grece Linda Sihombing and Bismar Nasution, "Perlindungan Konsumen Dalam Pengawasan Perusahaan Berbasis Financial Teknologi", *Jurnal Kebijakan Publik*, Vol. 12, No. 2, (2021): 73.

order to enter into lending and borrowing agreements in rupiah currency directly through an electronic system using the internet.<sup>10</sup>

From a legal perspective, there are no written regulations governing services or operational activities *fintech*. This. But, that doesn't mean it *fintech* This operates illegally, the OJK (Financial Services Authority) itself strongly supports this financial-based technology. Because it is *fintech* In this way, people can meet their financial needs very easily and practically<sup>11</sup>. The economy in Indonesia is also getting better after this *fintech*. OJK (Financial Services Authority) also supervises the running of the business so that no consumer feels disadvantaged *fintech* continue to provide services in accordance with existing regulations.

Current technological developments are also changing the social interaction system, namely business, economic, social and cultural interactions. Current advances in technology provide many conveniences, especially in helping human work in various fields, resulting in crimes being committed through electronic transactions, one example of which is online loan fraud which often occurs nowadays, there are many frauds and leaks of personal data and also many illegal online loans. Which are not registered with the financial services authority (OJK). As stated in article 7 POJK 77/2016, it is stated that organizers are required to submit registration and licensing to the OJK<sup>12</sup>.

Along with the development *fintech* which continues to grow to this day, of course must also be balanced with the presence of clear regulations and supervision over the running of the business. Based on Article 5 of Law Number 21 of 2011 concerning the Financial Services Authority (OJK), it states that "OJK functions to organize an integrated regulatory and supervisory system for all activities in the financial services sector". Article 6 more clearly states that OJK carries out regulatory and supervisory duties over: (a) financial services activities in the banking sector; (b) financial services activities in the Capital Markets sector, and (c) financial services activities in the Insurance, Pension Funds, Financing Institutions and Other Financial Services Institutions sectors. The currently increasing peer to peer lending platform will certainly have an impact on people's behavior in carrying out digital-based activities, including online lending activities in Indonesia.<sup>13</sup>

Regulation and supervision are very important for sustainability *fintech* in Indonesia. This is related to the legality of the business being run because of the development in implementation *fintech* has potential risks, namely those related to consumer protection, financial system stability, payment systems and economic stability. The aim of regulation and supervision by the OJK is to minimize these risks and support sustainable and stable economic growth. To respond to problems *fintech* Currently, the OJK has formed a Digital Economic and Financial Innovation Development Task Force to monitor perpetrators *fintech* and at the end of 2016, to be precise on December 29 2016, the OJK issued regulations regarding *fintech* namely

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<sup>10</sup> Financial Services Authority Regulation Number 77/POJK.01/2016 article 1 number 3 concerning Information Technology-Based Money Lending and Borrowing Services.

<sup>11</sup> Moh. Nadlir, "OJK Ingatkan Manfaat Fintech Bagai Dua Sisi Mata Pisau", <https://ekonomi.kompas.com/read/2017/07/13/134900726/ojk-ingatkan-manfaat-fintech-bagai-dua-sisi-mata-pisau>, 13 Juli 2017, accessed on September 22, 2022.

<sup>12</sup> Article 7 POJK 77/2016

<sup>13</sup> Saida Dita Hanifawati, "Urgensi Penegakan Hukum Pidana Pada Penerima Pinjaman Kegiatan Peer To Peer Lending Fintech Ilegal Dan Perlindungan Data Pribadi," *Jurnal Penegakan Hukum Dan Keadilan*, Vol 2. 2 (2021): 72.

OJK, Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending and Borrowing Services (LPMUBTI). The POJK contains regulations regarding the provision, management and operation of Information Technology-Based Money Lending and Borrowing Services. People who have low incomes make online loans the right choice because they provide access to fast loans with easy conditions, but these online loans are very vulnerable to predatory lending practices, especially illegal online loans that have not been registered and have OJK permission.<sup>14</sup> The authority of the Financial and Development Supervisory Agency in Determining State Financial Losses in Corruption Crimes is due to the large number of lawsuits filed against the BPKP regarding the legal basis for the BPKP's authority in calculating state financial losses. In addition, several state financial law experts presented by defendants or legal advisors in corruption trials often state that the BPKP no longer has the authority to calculate state losses.<sup>15</sup>

The lack of legal protection for users of online loan services is interesting for the author to research, because people who are still unfamiliar with the law feel worried about facing these legal problems. Legal protection for users of online loan services is a very serious aspect to be handled by the authorities. Therefore, the author is interested in researching because online loans with fraud often occur and users of online loan services must receive legal protection.

## **Research Method**

Research methods are also used to discuss the problems that will be discussed in this research, there needs to be a method used to complete this research. The type of research used by researchers is normative research, namely research that examines and analyzes in accordance with applicable laws and regulations (*legal research*), apart from that, it also explains something that may be difficult to predict the development that will occur in the future. Normative legal research itself is a process of finding legal rules, legal principles and legal doctrine that answer legal issues or cases that are currently developing and being faced and provide solutions to these problems.<sup>16</sup>

The research approach used in this research is a statutory approach. The legislative approach is an approach that examines all laws and regulations contained in the discussion of this writing. The primary source of legal material in this research is applicable laws and regulations and the secondary source of legal material used in this research includes other material that is closely related to the problems and cases for which this research is being written, in the form of a collection of news or journals from various media. print, mass media and the internet which support the primary legal material sources for this research.

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<sup>14</sup> Ni Nyoman Ari Diah Nurmantari and Nyoman A Martana, "Perlindungan Hukum Terhadap Data Pribadi Peminjam Dalam Layanan Aplikasi Pinjaman Online," *Kertha Wicara: Journal Ilmu Hukum* Vol 8 (2019): 14.

<sup>15</sup> Mohammad Diky Andika Irawan, "Kewenangan Badan Pengawas Keuangan dan Pembangun (BPKP) dalam Menentukan Kerugian Keuangan Negara pada Kasus Tipikor," *Rechtenstudent Journal Fakultas Syariah UIN KHAS Jember*, Vol. 2 No. 3,(2021) 279.

<sup>16</sup> Peter Muhammad Marzuki, *Penelitian Hukum*, (Jakarta: Prenada Media, 2010), 93



## Results and Discussion

### Legal Protection for Online Loan Service Users for Fraud and Illegal Actions

In legal protection there is such a thing as a form of legal protection itself. The forms of protection in the legal field are divided into two, namely preventive legal protection and repressive legal protection. Protection aimed at internal consumers the business world which is viewed both materially and formally increasingly important, considering the increasingly rapid movement technology as a driving force for producer productivity of goods or services that will be produced in achieving the purpose of a business.<sup>17</sup>

The form of protection provided by OJK is if there are and are discovered actions that violates and results in loss then the OJK will ask to stop its business activities. Apart from that, it will carry out legal defense of community interests as a consumer in the form of filing a lawsuit in court against the parties who caused the loss. FSA will also give a warning in the form of a warning to the members organizers of business activities that are considered deviant can fix it immediately, then OJK will provide information related to activities that could be detrimental to consumers or the general public.<sup>18</sup>

1. Preventive legal protection is protection provided by the government with the aim of preventing violations before they occur. This is contained in statutory regulations with the aim of preventing violations and providing signs or limitations in carrying out an obligation. This legal protection has its own provisions and characteristics in its application.
2. Repressive legal protection is final protection in the form of sanctions such as fines, imprisonment and additional penalties given if a dispute has occurred or a violation has been committed. In this repressive legal protection, legal subjects do not have the opportunity to raise objections because they are handled directly by administrative courts and general courts. Apart from that, this is final protection which contains sanctions in the form of prison sentences, fines and other additional penalties. This repressive protection is provided to resolve a violation or dispute that has already occurred.

Of course, legal protection must have something called legal certainty. This legal certainty contains two meanings. First, the existence of general rules makes individuals know what actions they can or cannot do. Second, in the form of legal security for individuals from government arbitrariness because with these general regulations, each individual can know what the State can impose or do on individuals. The existence of legal certainty is a hope for justice seekers against arbitrary actions from law enforcement officials who are sometimes always arrogant in carrying out their duties as law enforcers. The existence of legal certainty itself makes people aware of the clarity of their rights and obligations according to the law. Without legal certainty, people will not know what to do, they will not know whether their actions are right or wrong and whether they are prohibited by law or not.

In the legal field of online money lending and borrowing agreements, legal certainty is very necessary in order to fulfill the rights of the parties involved in the agreement. This is

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<sup>17</sup> Desak Ayu Lila Astuti, A.A Ngurah Wirasila, "Perlindungan Hukum Terhadap Konsumen Transaksi e-commerce dalam Hal Terjadinya Kerugian," *Kertha Semaya Journal*, Fakultas Hukum Universitas Udayana, Vol 03 No 6. (2019): 6.

<sup>18</sup> I Wayan Bagus Pramana, "Peran Otoritas jasa Keuangan dalam Mengawasi Lembaga Keuangan Non Bank Berbasis Financial Technology Jenis Peer to Peer Lending," *Jurnal Kertha Semaya*, Vol. 6, No. 3, (2018): 4.

realized by issuing legal rules so that legal certainty can be guaranteed. The financial services authority (OJK) has established its rules regarding technology and information-based money lending and borrowing services in Financial Services Authority regulation Number 77/POJK.01/2016 concerning Technology and Information-Based Money Lending and Borrowing Services and Bank Indonesia regulation Number 19/12/PBI /2017 2017 Concerning the implementation of Financial Technology. The aim of establishing these regulations is of course to bring order and provide protection for every party, especially online loan borrowers who are always victims.<sup>19</sup> According to article 3 paragraph (1) letter e of Bank Indonesia regulation Number 19/12/PBI/2017 of 2017 concerning the Implementation of Financial Technology, application-based money lending services or information technology is one type of Financial Technology implementation (*Fintech*) other financial / financial services categories. The regulations also regulate permits. Companies that provide online lending and borrowing services must apply for permission first. Application-based or information technology money lending services are one type of financial technology implementation (*Fintechy*) other financial/financial services categories. Rules regarding loan organizers or what is often called *peer to peer lending* including regarding capital, ownership of the organizer or provider of based loans *online*, the legal entity they form and the capital that must be paid in. Organizers in carrying out their business are required to submit registration and licensing to the OJK.

Based on data from LBH Jakarta up to 2018, there were at least 195 loan victims with cases including the following: 13 1) The victim was asked to dance naked on the train tracks so that the loan would be paid off; 2) The victim was threatened with death because he had not been able to pay off his loan; 3) The victim was fired by the superior, because the loan party collected a debt from the superior; 4) The victim was forced to resign from the office, because he was embarrassed that the lender had charged his co-workers; 5) The victim was divorced, because the lender charged the in-laws; 6) The victim made an attempt to sell the kidney because he was involved in very large loan interest; and, 7) The victim attempted suicide by drinking kerosene because he was incurring huge loan interest.<sup>20</sup>

In practice, online loan provider companies are required to submit registration and licensing to the OJK.<sup>21</sup> After being registered with the OJK, online loan companies are required to submit a permit application within a maximum period of 1 (one) year from the date they are registered with the OJK.<sup>22</sup> In the OJK regulations there are several clauses that enable online loan companies to be continuously supervised by the OJK, namely:

1. Online loan companies are required to provide an audit track record of all their activities in the Information Technology Based Money Lending and Borrowing Service Electronic System for the purposes of law enforcement, dispute resolution, verification, testing and other checks.<sup>23</sup>
2. Pinjol companies are required to submit monthly and annual reports containing financial performance, performance and user complaints.<sup>24</sup>

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<sup>19</sup> Supardi, *Dasar Hukum Layanan Pinjaman Meminjam Uang Berbasis Teknologi*.

<sup>20</sup> Rayyan Sugangga and Erwin Hari Sentoso, "Perlindungan Hukum Terhadap Pengguna Pinjaman Online (Pinjol) Ilegal," *Justice Journal of Law*, Vol 01. No 1 (2020): 56.

<sup>21</sup> *Ibid*, Article 7

<sup>22</sup> *Ibid*, Article 10

<sup>23</sup> Article 27 Number 77/POJK.01/2016 -Concerning Information Technology Based Money Lending and Borrowing Services.

<sup>24</sup> *Ibid*, Article 45.

Regarding the existence of illegal online loans, the OJK together with the Ministry of Trade, Ministry of Communications and Information Technology, Ministry of Cooperatives and Small and Medium Enterprises, Prosecutor's Office, Indonesian Police and the Investment Coordinating Agency agreed to strengthen cooperation in the investment alert task force to prevent and handle the rise of offers. and illegal investment practices, including handling illegal online loans. In this regard, there needs to be an effort from the government to overcome this online lending problem. In this case, Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending and Borrowing Services, Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions and the Law Number 8 of 1999

Regarding Consumer Protection (Consumer Protection Law), it turns out that it does not fully provide legal protection to users of online loan services.<sup>25</sup> The investment alert task force has the function of preventing and handling unlawful acts in the field of collecting public funds and investment management. In general, prevention activities are carried out by means of education and outreach as well as monitoring the potential for unlawful actions. In general, handling activities are carried out by inventorying, analyzing, stopping/inhibiting unlawful actions in the field of collecting public funds and managing investments, examining suspected violations, tracing sites that have the potential to cause harm and preparing recommendations for follow-up actions.<sup>26</sup>

### **The Role of the Financial Services Authority in Users of Online Loan Services**

In the financial sector, many people think that Financial Technology is an online loan service. In this case, this opinion cannot be blamed considering that online loans are a form of financial technology.<sup>27</sup> The Financial Services Authority has the authority to formulate legal policies by issuing POJK Number 77 of 2016 concerning information technology-based money lending and borrowing services. This regulation is the first regulation issued by the Financial Services Authority to protect problems *fintech* directly. The legal regulations issued in the provisions of the Financial Services Authority Number 77/POJK.01/2016 relate to sanctions. In this provision, sanctions for violations that occur in fintech transactions in article 47 (1) states that for violations of the obligations and prohibitions in this POJK, the OJK's authority only imposes administrative sanctions on fintech operators in the form of written warnings, fines with the obligation to pay a certain amount of money. certain restrictions and revocation of permits.

Article 5 POJK 77/POJK.01/2016 regulates business activities carried out by organizers, namely organizers provide, manage and operate information technology-based money lending and borrowing services from lenders to loan recipients, organizers can collaborate with providers of financial services based on information technology in accordance with statutory provisions. Financial Services Authority Regulation Number 77/POJK.01/2016 Regarding information technology-based money lending and borrowing services, this only

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<sup>25</sup> Raden Ani Eko Wahyuni dan Bambang Eko Turisno, "Praktik Finansial Teknologi Ilegal dalam Bentuk Pinjaman Online Ditinjau Dari Etika Bisnis," *Jurnal Pembangunan Hukum Indonesia* 1, No. 3 (2019): 79.

<sup>26</sup> Rayyan Sugangga. Erwin Hari Santoso, "Perlindungan Hukum Terhadap Pengguna Pinjaman Online (Pinjol) Ilegal", *Pakuan Justice of Law*, Vol. 01, No. 01, June (2020): 53.

<sup>27</sup> *Ibid*, 61.



regulates one type of fintech business, namely fintech which provides information technology-based money lending and borrowing services.<sup>28</sup>

OJK Regulation No. 1/POJK.07/2013 concerning consumer protection in the financial services sector regulates that financial service providers must see whether their capabilities match their needs as users of financial services and products. This provision especially applies to implementing companies *fintech* must pay attention to all consumer protection as regulated in article 2, namely the principles of transparency, fair treatment, reliability, confidentiality and security of consumer information data and handling complaints and resolving consumer disputes in a simple, fast and affordable manner.

The financial services authority has a very important role, the OJK has the authority to supervise information technology-based companies. In article 5 of Law Number 21 of 2011 concerning the Financial Services Authority which regulates the OJK, it functions as the organizer of an integrated regulatory and supervisory system for all activities in the financial services sector. The public considers that the existence of the OJK in the midst of the business that is being carried out will provide legal protection and provide a sense of security for the public or the investments or transactions that are being carried out through financial service institutions, especially electronically. The financial services authority is also an independent institution, meaning it is free from interference from other parties. OJK has duties and authority in the form of regulation, supervision, inspection and investigation as intended in the OJK law itself.<sup>29</sup>

The OJK Law was formed with the aim of impacting sustainable and stable economic growth. Therefore, activities in the financial sector are needed that are carried out fairly and transparently and are able to create a financial system that grows stably and develops, capable of protecting the interests of society and consumers.<sup>30</sup>

OJK itself is an industry supervisory institution for financial services, whose duties are listed in article 8 letter (i) of Law Number 21 of 2011 concerning the Financial Services Authority, namely implementing regulations regarding procedures for imposing sanctions in accordance with the provisions of statutory regulations. invitation in the financial services sector. Based on article 9 letter (g) and letter (h) of Law Number 21 of 2011 concerning the Financial Services Authority, it can grant and revoke business permits, individual permits, effective registration statements, registered certificates, approval to carry out business activities, ratification, determination or approval for dissolution and other decisions as intended in the laws and regulations in the financial services sector.

With the establishment of the Financial Services Authority, it is hoped that this institution can support the interests of the financial services sector as a whole, so as to increase competitiveness in the economic sector. Apart from that, the Financial Services Authority must be able to safeguard national interests, including human resources, management, courts and ownership in the financial services sector, while still considering the positive aspects of globalization. The Financial Services Authority was formed and based on the principles of

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<sup>28</sup> Kornelius Benuf and Rinitami Njatrijani, "Pengaturan dan Pengawasan Bisnis Financial Technology di Indonesia, Faculty Of Law, Diponegoro University", *Jurnal Hukum Bisnis dan Investasi*. Volume 11 Number (2): 57.

<sup>29</sup> Paisley, *Dasar-dasar Perbankan*, (Jakarta: Raja Grafindo Persada, 2004), 262.

<sup>30</sup> Financial Services Authority, *Peraturan Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi*. Dewan Komisiner Otoritas Jasa Keuangan, (Jakarta: 2016), 98.

good governance, which include independence, accountability, responsibility and transparency.<sup>31</sup>

The Financial Services Authority functions to organize an integrated regulatory and supervisory system for all activities in the financial services sector. In article 6 of Law Number 21 of 2011, the main task of the Financial Services Authority is to regulate and supervise,

- a. Financial services activities in the banking sector
- b. Financial services activities in the capital markets sector
- c. Financial services activities in the insurance sector, pension funds, financial institutions and other financial service institutions.<sup>32</sup>

OJK has the authority to carry out investigations, this authority belongs to Bank Indonesia. OJK can act more firmly if it finds violations/misappropriations from the results of its inspections. One of the authorities of the Financial Services Authority, if seen based on article 29 of the Financial Services Authority law, is that the OJK has the authority to provide consumer complaint services, so in connection with the OJK's authority, further acceptance of consumer complaints has been regulated in article 39 paragraph (3) of the Authority's regulations. Financial Services Number 1/POJK.07/2013 concerning protection of financial services consumers. Regulation of the characteristics of receiving consumer complaints is regulated based on article 40 paragraphs (1) and (2) of the Financial Services Authority regulation Number 1/POJK.07/2013 concerning consumer protection, including that the Financial Services Authority can receive complaints and provide complaint resolution facilities for consumers who have indications of disputes. between financial services business actors and consumers as well as indications of violations of the provisions of laws and regulations in the financial services sector.<sup>33</sup> Rner et.al (2015) stated that financial technology or what is usually called Fintech refers to the use of technology to distribute financial solutions. Fintech is technology that can facilitate technological needs that can facilitate today's financial needs.<sup>34</sup>

Implementation of supervision by the Financial Services Authority towards *Financial Technology* as a financial services institution, implementation *Fintech* of course it will be supervised by the OJK as an authority that has the authority to supervise microprudentials in Indonesia. Supervision and regulations carried out by financial services authorities are very important and necessary in providing online loan services. This is because *Fintech* is a new innovation in the financial services sector so efforts need to be made to provide consumer protection and minimize all risks. Regarding fintech crimes, if viewed from the perspective of jinayah law (Islamic criminal law), this jinayah law is not only included in hudud, qishas and diyat, but is also very relevant to existing developments in the community, social and economic environment at the time. Nowadays, this also includes fintech crimes.<sup>35</sup>

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<sup>31</sup> Kalsum Fais, "Perlindungan Hukum Bagi Pengguna Layanan Pinjaman Meminjam Uang Berbasis Teknologi Informasi", *Jurnal Hukum*, Vol. 13, No. Januari 1, (2021): 78.

<sup>32</sup> Subhan Zein, "Tinjauan Yuridis Pengawasan OJK Terhadap Aplikasi Pinjaman Dana Berbasis Elektronik di Indonesia," *Jurnal Bisnis dan Akuntansi Unsurnya* Vol. 4, No. 2, (2019): 122.

<sup>33</sup> Financial Services Authority, *Booklet Perbankan*, (Jakarta: 2014), 4.

<sup>34</sup> Ari Rahmad Hakim Bf, "Pengaturan Bisnis Pinjaman Secara Online Atau Fintech Menurut Hukum Positif Indonesia," *Ganec Swara: Jurnal Universitas Mahassaraswati Mataram* 14, No. 1 (2020): 95.

<sup>35</sup> Rina Arum Prastyanti, "Perlindungan Hukum Bagi Pengguna Layanan Fintech Lending Syariah di Indonesia," *Jurnal Ilmiah Ekonomi Islam* Vol4 No 9 (2017): 108.

OJK as the regulator and supervisor in the financial services sector has established a legal umbrella regarding the existence of companies *Fintech*. In the company's rules *fintech* as an organizer is prohibited from providing information about customers to third parties, except with the customer's consent.<sup>36</sup> In article 31 paragraph (1) POJK Number 1/POJK.07/2013 concerning Consumer Protection in the financial services sector, it is stated that financial services business actors are prohibited from providing data and/or information regarding their consumers to third parties in any way.<sup>37</sup>

A similar thing is also regulated in article 39 POJK no. 77/POJK.01/2016 Concerning Information Technology Based Money Lending and Borrowing Services. This makes consumer data confidentiality the most important aspect of consumer protection in the financial services sector.<sup>38</sup> However, the facts in society say otherwise. Personal data from consumers is widely distributed by service provider companies *fintech* without the consent of the consumer due to the payment of the loan debt being late or not being paid by the consumer. OJK as a regulator and supervisor in the financial services sector must of course be able to protect the interests of consumers who are harmed.

## Conclusion

In providing legal protection to users of online loan services, OJK issued regulations, namely POJK No. 77/POJK.01/2016 Concerning technology and information-based lending and borrowing services. And also, POJK No.13 /POJK.02/2008 concerning digital financial innovation in the financial services sector. The existence of these two regulations can be used as a basis for supervision and regulations regarding fintech. Legal protection can be carried out after a dispute occurs between a user and other users. OJK also collaborates with the investment alert task force to prevent and deal with the rise of illegal offers and investments, including illegal online loans. The investment alert task force itself has the function of preventing and handling actions that violate the law in the field of collecting public funds and managing investments.

The financial services authority has a very important role, namely having the authority to supervise information technology-based companies. As stated in article 5 of law number 21 of 2011 concerning the financial services authority, it is stipulated that the OJK functions as the organizer of an integrated regulatory and supervisory system for all activities in the financial services sector. The law on the OJK itself was formed to impact sustainable and stable economic growth. It is hoped that the OJK was formed to support the interests of the financial services sector as a whole so that it can compete in the economic sector.

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<sup>37</sup> Financial Services Authority Regulation Number 1/POJK.07/2013 Article 31 Concerning Consumer Protection in the Financial Services Sector.

<sup>38</sup> Sri Lestari Poernomo, "Standar Kontrak Dalam Perspektif Hukum Perlindungan Konsumen," *Jurnal Penelitian Hukum De Jure* 19, No. 1 (2019): 109.

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