

Consumer Protection in the Fintech Peer-to-Peer Lending Ecosystem in Indonesia Based on the Principles of Justice and Legal Certainty

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Abstract

This study aims to analyze the regulation of consumer protection within the fintech peer-to-peer lending ecosystem in Indonesia based on the principles of justice and legal certainty. The results of the analysis indicate that: First, the regulation of fintech peer-to-peer lending services in Indonesia is governed by Law Number 8 of 1999 concerning Consumer Protection and the Financial Services Authority Regulation Number 10/POJK.05/2022 on Technology-Based Collective Funding Services. These regulations provide a legal framework that guarantees consumer rights, including the right to security, comfort, and safety in transactions, as well as the obligation of providers to maintain data confidentiality, provide complaint mechanisms, and conduct business activities transparently and responsibly. However, the existing regulations are still general and partially implicit, which in practice poses challenges regarding the certainty of providers' responsibility for consumer losses, particularly in terms of direct compensation. Second, consumer protection in the implementation of fintech peer-to-peer lending must be based on the principles of justice, balance, and legal certainty. These principles require equality of rights and obligations between providers and consumers, transparency of information, accountability, and effective dispute resolution mechanisms. Although supervisory mechanisms and administrative sanctions by the Financial Services Authority (OJK) have been established, legal certainty for consumers regarding compensation for losses still requires more explicit and specific regulations to avoid ambiguities. Clearer regulations would provide consumers with more effective legal protection, while encouraging providers to improve service quality and transaction security, thereby creating a fair, transparent, and trustworthy fintech ecosystem in Indonesia. Furthermore, existing regulations do not yet strengthen the obligation of providers to create written agreements electronically for all parties involved in transactions, leaving the rights and obligations of each party unclear and potentially resulting in the loss of provider accountability. Strengthening electronic written agreements aims to ensure comprehensive consumer protection and prevent potential disputes in the future.

Keywords: Consumer Protection, Fintech Peer-to-Peer Lending, Legal Certainty



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INTRODUCTION

The development of financial technology (fintech) in Indonesia over the past decade has brought about a significant transformation in the pattern of financial services, including the emergence of the peer-to-peer (P2P) lending model, which provides easier access to financing for the public [1]. The growth of P2P lending fintech companies as providers of technology-based financial services has prompted the Financial Services Authority (Otoritas Jasa Keuangan, OJK), as the regulator and supervisor of the financial services sector, to establish Financial Services Authority Regulation (POJK) Number 77/POJK.01/2016 concerning Technology-Based Lending Services. P2P lending fintech that violates existing regulations can be subjected to sanctions. The imposition of sanctions serves as a deterrent against fintech-related offenses that disrupt the public. Most importantly, legal regulations must be precise and clear to prevent fintech actors from exploiting loopholes. [2]. However, in practice, the majority of P2P lending fintech companies often engage in debt collection practices that involve intimidation and violate the privacy rights of customers as consumers. The existence of legal

protection principles based on the values of Pancasila serves as the philosophical foundation for the enactment of Law Number 8 of 1999 on Consumer Protection (UUPK) as a juridical instrument to realize the protection of consumer rights in Indonesia. This law emphasizes that the financial system plays an important role in supporting the national economy and requires strong legal protection to ensure justice, security, and legal certainty for all economic actors, including financial institutions and the public as consumers.

Court Decision Number 486/Pdt/2025/PT DKI demonstrates the lack of legal protection for consumers of online loans, as the Jakarta High Court upheld the previous decision stating that PT Shopee International Indonesia was not responsible for the losses suffered by ShopeePay Later users. This reflects the unclear allocation of responsibility between the platform operator and the financing institution in the online lending system. Similarly, Case Number 432/Pdt.G/2022/PN South Jakarta shows that consumers are in a weak position because Shopee is only considered a platform provider, while the responsibility for the loans lies with the partner financing institution, resulting in the consumer's lawsuit being rejected. Both cases highlight the legal ambiguity regarding the limits of responsibility between the marketplace and the financing service provider, indicating that legal protection for online loan consumers is still not optimal. These findings indicate that, from a juridical perspective, the courts have not found sufficient legal grounds to determine that Shopee violated consumer rights; however, from a substantive legal perspective, the cases still raise issues of legal uncertainty concerning the division of responsibility between marketplace operators and digital financing service providers. The Financial Services Authority (OJK), through Regulation Number 77/POJK.01/2016 and other related regulations, has established provisions regarding the implementation of technology-based financial services (fintech). Nevertheless, many online loan providers continue to operate in ways that may harm consumers. Therefore, there is a need for legal protection for consumers using online loan services provided by P2P lending fintech. The theories applied in this study are the Legal Protection Theory and the Legal Certainty Theory. The type of research used in this study is Normative Legal Research. The approach employed in writing this academic research, according to Bahder Johan Nasution, consists of: the statutory approach, the comparative approach, the conceptual approach, and the case law approach [3].

General Overview of Consumer Protection and Fintech Peer-To-Peer Lending Services

Consumer Protection

According to Article 1 point 2 of Law No. 8 of 1999 concerning Consumer Protection (UUPK), a consumer is defined as any person who uses goods and/or services available in society, whether for personal purposes, family, others, or other living beings, and not intended for trade. In addition to the UUPK, the definition of a consumer can also be found in Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, which defines a consumer as anyone who uses or consumes goods and/or services, either for their own benefit or for the benefit of others. Consumer protection law in Indonesia is based on legal foundations established by the government. With a clear legal basis, protection of consumer rights can be carried out with confidence. On March 30, 1999, the House of Representatives (DPR) approved the Draft Law (RUU) on Consumer Protection to be enacted by the government after a 20-year effort, which was officially enacted on April 20, 1999.

Fintech Peer-to-Peer Lending

Fintech is a combination of finance and technology. Technology naturally influences the financial industry, with advancements transforming how financial services operate. What is remarkable about the current Fintech revolution is, first, the speed at which new technologies

are tested and introduced to finance is faster than ever before. More importantly, this Fintech revolution is unique because many changes originate outside the traditional financial industry, driven by startups and large technology companies that aim to disrupt legacy firms, introduce new products and technologies, and create significant new competition. Fintech activities range from mobile payments, money transfers, peer-to-peer lending, and crowdfunding, extending to new areas such as blockchain, cryptocurrency, and robo-investing. Peer-to-peer lending is the process of lending money between two individuals who are not directly related, facilitated through an online platform without the involvement of traditional financial intermediaries such as banks. This business model connects lenders and borrowers via a platform and is considered more advantageous compared to traditional financial platforms. The implementation of Fintech in Indonesia is regulated by two main authorities: Bank Indonesia (BI) and the Financial Services Authority (OJK). The OJK's regulation and supervision of Fintech are also outlined in POJK No. 13/POJK.02/2018 concerning Digital Financial Innovation in the Financial Services Sector. According to Article 3 of the POJK, Fintech business activities are classified into several types, including transaction settlement, capital raising, investment management, insurance, market support, other digital financial support services, and other financial service activities.

Regulation Of Fintech Peer-To-Peer Lending Services And Consumer Protection In Indonesia

Regulation of Fintech Peer-to-Peer Lending Services in Indonesia

Consumer rights, as regulated in Law No. 8 of 1999 concerning Consumer Protection, indicate that consumers have a position that must be protected in all transactions involving goods and/or services. These provisions ensure that consumers are not merely users of products but also legal subjects with the right to protection against potential losses arising from the use of goods or services. With such regulation, business actors are required to conduct their activities honestly, transparently, and with due consideration for the safety and security of consumers. The rights of business actors, as regulated in Article 6 of Law No. 8 of 1999 concerning Consumer Protection, are essentially intended to provide legal certainty and protection for businesses in carrying out their activities. Business actors have the right to receive payment in accordance with agreements made with consumers regarding the conditions and value of goods and/or services traded. Additionally, businesses are entitled to legal protection against consumers acting in bad faith, such as intentionally providing false information, committing fraud, or failing to fulfill payment obligations as agreed. These regulations aim to ensure that the relationship between businesses and consumers operates fairly and in balance.

Article 5 of the Financial Services Authority Regulation (POJK) No. 10/POJK.05/2022 concerning Information Technology-Based Crowdfunding explains the business activities of fintech service providers, including peer-to-peer lending. Articles 16 and 17 of the same regulation clarify that lenders may come from domestic or foreign sources, including Indonesian citizens, foreign nationals, legal entities, or business entities from Indonesia or abroad, as well as international institutions. Furthermore, platform providers have the role of offering recommendations regarding interest rates in transactions between lenders and borrowers, considering fairness and national economic conditions. If the borrower receives funding from abroad, such activities must comply with applicable laws and regulations in Indonesia, ensuring that technology-based financial services operate within a clear and supervised legal framework. According to the author, the rights, obligations, and positions of fintech peer-to-peer lending service providers have been fairly clearly regulated in various Indonesian laws and regulations, both in Law No. 8 of 1999 concerning Consumer Protection

and POJK No. 10/POJK.05/2022 concerning Information Technology-Based Crowdfunding. These regulations establish that platform providers are not merely technology system providers but also have a duty to conduct their business transparently, responsibly, and in accordance with consumer protection principles. Therefore, in every technology-based financial service, providers bear legal responsibility to ensure consumer rights are fulfilled, provide clear information, and offer mechanisms for dispute resolution or compensation in case of consumer loss.

Fintech Peer-to-Peer Lending Services Can Provide Consumer Protection in Indonesia

Article 1 paragraph (1) of Law No. 8 of 1999 states that consumer protection is any effort to ensure legal certainty in providing protection for consumers. Article 1 paragraph (2) further defines consumers as all users of goods and/or services available in society, whether for personal, family, or other living beings' needs, and not for trade. The responsibility of business actors, as stated in Article 19 paragraph (1) of Law No. 8 of 1999, specifies that business actors are accountable for compensating damage, contamination, and/or consumer loss caused by consuming or using goods and/or services produced or traded. However, the Consumer Protection Law also provides limitations on business liability under Article 27, stating that business actors may be exempted from compensation if the consumer's loss arises due to specific factors, such as goods not intended for circulation, defects appearing after circulation, or losses resulting from consumer negligence. Furthermore, businesses may be exempted if the statute of limitations has passed, which is four years from the date of purchase or as agreed upon. These provisions indicate that consumer protection law not only protects consumers but also ensures balance by granting legal protection to business actors in conducting their activities. Environmental consumer protection is not regulated in the UUPK, as it is governed by Law No. 32 of 2009 on Environmental Protection and Management, replacing Law No. 23 of 1997. This law sets out obligations for all individuals to maintain environmental sustainability and prevent or address pollution and environmental damage.

Although Law No. 8 of 1999 provides general consumer protection, the development of financial technology requires more specific regulations and effective oversight by the relevant authorities to ensure fintech service providers operate transparently, fairly, and responsibly. Thus, consumer protection in fintech services depends not only on existing regulations but also on the commitment of service providers and strengthened government supervision to prevent misuse that could harm the public. Based on Articles 19 and 20 of POJK No. 10/POJK.05/2022 concerning Information Technology-Based Crowdfunding, it is understood that the provision of fintech peer-to-peer lending services must be based on clear agreements documented electronically and binding on all parties. The regulation stipulates that agreements between the platform provider and the lender, as well as between the lender and the borrower, must include essential elements such as the identity of the parties, rights and obligations, loan amount, interest rate, term, fees, penalties, and dispute resolution mechanisms. Providers are also required to offer access to information regarding fund usage and loan positions while maintaining the confidentiality of each party's identity. This demonstrates that transparent and structured agreements serve as a form of legal protection for all parties in fintech lending services, preventing potential disputes in the future.

In practice, not all fintech peer-to-peer lending providers comply with these agreement provisions as required by regulations. Many online lending services prioritize ease and speed of fund disbursement over legal clarity in agreements. In some cases, consumers or borrowers only need to provide an identity card (KTP) without a written electronic agreement detailing the parties' rights and obligations. This leaves consumers vulnerable, as they lack a strong legal

basis for protection in the event of disputes or harmful practices. Therefore, implementing electronic agreement requirements, as regulated by authorities, is crucial to ensuring legal certainty and consumer protection in fintech services.

Consumer Protection In Accordance With The Principles Of Fairness And Legal Certainty In The Implementation Of Fintech Peer-To-Peer Lending In Indonesia

Consumer Protection in Fintech Peer-to-Peer Lending in Accordance with the Principle of Fairness

Article 2 of the Republic of Indonesia Law No. 8 of 1999 concerning Consumer Protection states that “Consumer protection is based on benefits, fairness, balance, consumer security and safety, and legal certainty.” This article emphasizes that the law guarantees legal certainty for every consumer. The provisions of Article 2 and the objectives of consumer protection under Law No. 8 of 1999 indicate that consumer protection is not only focused on granting formal rights but also on establishing a legal system that ensures balance between the interests of consumers and business actors. The principles of benefit, fairness, balance, security, safety, and legal certainty underscore that every legal relationship between consumers and business actors must be based on responsibility and transparency. Based on Article 45 of the Financial Services Authority Regulation (POJK) No. 10/POJK.05/2022 concerning Information Technology-Based Crowdfunding, every licensed fintech lending provider is required to submit periodic reports to the Financial Services Authority (OJK) as a form of accountability and supervision over their business activities. These reports are submitted electronically on a monthly basis and must include the financial performance of the provider, performance reports on technology-based lending services, electronic documents in database format containing service data structures, and reports on user complaints along with follow-up actions. These provisions demonstrate that OJK plays a crucial role in overseeing fintech lending operations to ensure services are conducted transparently, accountably, and with attention to protecting user interests. Article 43 of POJK No. 10/POJK.05/2022 stipulates limits and prohibitions that must be followed by fintech lending providers in conducting their business. These prohibitions, such as not acting as a lender or borrower themselves, not providing guarantees for other parties’ obligations, not issuing debt securities, and refraining from publishing misleading or fictitious information, aim to maintain platform integrity and objectivity. Providers are also prohibited from offering services without user consent or charging fees for filing complaints, ensuring consumer rights are protected and potential conflicts of interest between providers and users are minimized.

Article 3 of Law No. 8 of 1999 affirms that consumers have the right to comfort, security, and safety in using goods or services; the right to choose and obtain goods or services according to promised value, condition, and guarantees; the right to accurate, clear, and honest information; and the right to express opinions and complaints regarding goods or services used. Consumers also have the right to advocacy, protection, dispute resolution, education, fair treatment, and compensation or replacement if goods or services do not comply with agreements, as well as other rights regulated by applicable laws. Focusing on subsections (e) and (h) of Article 3, consumers are explicitly entitled to advocacy, protection, and proper dispute resolution in cases of issues with goods and/or services. Consumers also have the right to compensation or replacement if received goods or services fail to meet agreed terms. These provisions ensure consumers are guaranteed protection and a fair dispute resolution mechanism while establishing the responsibility of business actors for losses resulting from breaches of agreements or applicable regulations.

According to Article 36 of POJK No. 10/POJK.05/2022, fintech peer-to-peer lending providers have clear responsibilities in preparing and implementing standardized agreements with service users. Furthermore, Article 43 emphasizes that providers cannot evade their responsibilities. POJK No. 10/POJK.05/2022 fundamentally regulates the operations of fintech peer-to-peer lending, including providers' obligations to protect service users. However, upon closer examination, it does not explicitly detail consumer rights as thoroughly as the Consumer Protection Law. POJK focuses more on operational mechanisms, provider obligations, and general principles of user protection. This implies that consumer rights in fintech peer-to-peer lending remain implicit and are not fully elaborated, potentially causing ambiguity for consumers regarding their explicit rights when using these services. This highlights the need for synergy between OJK regulations and the Consumer Protection Law to ensure more comprehensive legal certainty for fintech service users. Integrated regulation helps consumers understand their rights, including data security, clear information, and dispute resolution, while ensuring providers fulfill their obligations transparently and accountably. Harmonization between POJK and UUPK is therefore key to creating a safe, fair, and trustworthy fintech ecosystem for all stakeholders.

Legal Certainty of Consumer Protection in the Implementation of Fintech Peer-to-Peer Lending in Indonesia

Article 18 of Law No. 8 of 1999 explains the legal responsibility of business actors, including fintech peer-to-peer lending providers. This article stipulates that business actors are legally accountable for providing compensation to consumers for any damage, contamination, or losses arising from the use of traded goods and/or services. Although business responsibility is regulated under Law No. 8 of 1999 and other financial sector regulations, many cases still occur where fintech providers fail to compensate consumers who suffer losses. This often happens when losses are caused by system errors, data misuse, or harmful service practices, yet providers do not provide adequate remedies or avoid accountability. This demonstrates that the implementation of consumer protection in technology-based financial services faces challenges, particularly in ensuring provider compliance with legal obligations. Articles 29 and 30 of Law No. 8 of 1999 emphasize the government's role in fostering and supervising consumer protection. The government must ensure the fulfillment of rights and obligations for both consumers and business actors through various initiatives, such as creating a healthy business climate, supporting the development of consumer protection organizations, and improving human resource quality and research in consumer protection.

Article 45 provides mechanisms for consumer dispute resolution, guaranteeing legal certainty for aggrieved parties. Consumers may sue business actors through consumer dispute resolution institutions or general courts. Dispute resolution can occur in or out of court based on parties' agreement. Out-of-court resolution does not negate potential criminal liability if violations are found. If out-of-court resolution fails, disputes may proceed in court. This demonstrates that the law provides multiple dispute resolution options to protect consumer rights fairly and effectively. These provisions assure fintech peer-to-peer lending users legal certainty in protecting their rights in case of losses. Consumers can seek remedies through authorized dispute resolution institutions or courts, ensuring justice and compensation either through amicable settlement or formal legal processes. Thus, these rules affirm that fintech providers cannot evade responsibility, as any harm to users can be held accountable through dispute resolution or courts in accordance with applicable laws. Article 47 of POJK No. 10/POJK.05/2022 grants OJK the authority to impose administrative sanctions on fintech providers violating obligations or prohibitions in the regulation. Sanctions may include written

warnings, fines, restrictions on business activities, or revocation of licenses. Sanctions can be applied progressively or directly, depending on the severity of the violation, and fines may be imposed alone or in combination with other administrative sanctions. This demonstrates OJK's key role in supervision and law enforcement to ensure provider compliance and consumer protection. According to the author, although Law No. 8 of 1999 and POJK No. 10/POJK.05/2022 regulate dispute resolution and administrative sanctions for fintech providers, these rules do not fully provide strong legal certainty for consumers, especially in cases involving financial losses due to provider errors or negligence. Current regulations emphasize dispute resolution mechanisms and administrative sanctions but do not explicitly mandate direct compensation to affected users.

This does not align with Radbruch's legal certainty theory, which states that the core value of law is legal certainty (Rechtssicherheit) related to the creation and implementation of positive law. According to Radbruch, having legislation is better than none, as it creates legal certainty. However, legal certainty is only effective if regulations provide clear, firm rules that prevent interpretations harmful to those protected by the law, particularly consumers. Therefore, more explicit and specific regulations are needed regarding the accountability of fintech peer-to-peer lending providers, especially concerning their obligation to compensate consumers who incur losses. These regulations should clearly outline provider accountability mechanisms, including compensation equal to the actual losses suffered. With more detailed and firm regulations, consumer protection for fintech users can be guaranteed more clearly, fairly, and effectively, providing legal certainty for consumers in exercising their rights in the event of losses from using these services.

CONCLUSION

Based on the discussion presented, the author concludes the research questions in this thesis as follows:

1. The regulation of fintech peer-to-peer lending services in Indonesia has been established through Law No. 8 of 1999 concerning Consumer Protection and the Financial Services Authority Regulation (POJK) No. 10/POJK.05/2022 concerning Information Technology-Based Crowdfunding. These two regulations provide a legal framework that guarantees consumer rights, including the right to security, comfort, and safety in transactions, as well as the obligation of service providers to maintain data confidentiality, provide complaint mechanisms, and conduct business activities transparently and responsibly. However, existing regulations are still general and partly implicit, so in practice, challenges remain regarding the legal certainty of providers' responsibility for consumer losses, especially in terms of direct compensation.
2. Consumer protection in the implementation of fintech peer-to-peer lending must be based on the principles of fairness, balance, and legal certainty. These principles demand equal rights and obligations between providers and consumers, transparency of information, accountability, and effective dispute resolution mechanisms. Although OJK has established monitoring mechanisms and administrative sanctions, legal certainty for consumers regarding compensation for losses still requires more specific and clear regulations to prevent ambiguity in the norms. Clearer regulations will provide consumers with more effective legal protection, while encouraging providers to improve service quality and transaction security, creating a fair, transparent, and trustworthy fintech ecosystem in Indonesia. Furthermore, current regulations do not yet strengthen the obligation of providers to create written electronic agreements for all parties involved in transactions, leaving rights and obligations unclear and potentially leading to a lack of accountability.

Strengthening written agreements aims to ensure comprehensive consumer protection and prevent potential disputes in the future.

Recommendations

Based on the conclusions, the author offers the following recommendations:

1. It is recommended that the government and the Financial Services Authority (OJK) draft additional regulations that are more specific regarding the obligation of fintech peer-to-peer lending providers to provide direct compensation to consumers, especially those who experience financial loss. Such regulations should include clear procedural mechanisms, timeframes, and forms of compensation to ensure legal certainty and reduce the risk of injustice for affected consumers.
2. It is suggested that OJK strengthen oversight mechanisms over fintech providers through routine audits, more comprehensive periodic reports, and operational risk monitoring systems. In addition, consumer education on their rights within fintech peer-to-peer lending services should be enhanced, enabling consumers to make more informed decisions and understand complaint procedures and dispute resolution mechanisms in the event of financial loss.

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