Legal Protection in the Application of Fintech in the Digital Age for MSMEs Modernization

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Abstract. The era of digitalization, also known as Industrial Revolution 4.0, has brought about a growth in innovation that has made everything that people need feel more efficient, current, and modern. Because of the benefits and conveniences that come with going digital, nations are fighting to establish the digital age as the norm. The research methodology employed in this study involved the authors reading law books, examining books about cases that have already been decided and are relevant to the research, and visiting websites that included links to the author's problem in order to gather data. accurately and concretely. Along with using an empirical approach, the author also looks at the object under study and conducts interviews with people who have some connection to the research topic. Financial technology-related MSME activities are governed by OJK Regulation Number 77 of 2016 (POJK), concerning Information Technology-Based Money-Lending Services. According to Chapter I, Article 1, Paragraph 3 of OJK Regulations Number 77 of 2016 (POJK), information technology-based lending and borrowing services are defined as the provision of financial services to link lenders and borrowers in the context of directly entering into loan agreements in the rupiah currency through an electronic system using the internet network.

Keywords: Legal Protection, MSMEs, Fintech

1 Introduction

The Industrial Revolution is guiding the world toward coexisting with technology. 4.O. All aspects of life, including the legal, medical, and economic domains, have been profoundly impacted by contemporary technology. The Internet of Things (IoT), robots, automation, and even the reliability of manufacturing equipment are all undergoing changes right now as a result of the convergence of technology in many different industries. Thus, the industrial revolution effectively causes the online world to

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join with all production industries, resulting in a digital industrial revolution (Liana, 2019). The growth of innovations during the Fourth Industrial Revolution, or the period of digitization, made everything that a person needed feel more effective and contemporary. Each nation is competing to establish the digitalization period as a trend due to the advantages and conveniences it offers.

The 4.0 Industrial Revolution's digitalization period is not a yardstick for determining if a country has an advanced civilization. Instead, a period of time during which a nation or a country has reached this degree of development. The State of Indonesia has seen significant changes in a number of sectors as a result of innovation under the influence of the digitalization era, particularly in the transportation, private, and public sectors. The growing number of central and local government organizations that have developed novel methods of delivering public services to the population serves as proof of this. The use of online transportation options has become commonplace in Indonesia's major cities, giving customers the freedom to select the mode of transportation that best suits their needs.

Numerous changes in people's lives have taken place as a result of the repercussions and advantages brought about by the advent of the digitalization era in numerous aspects. Hadah, who was quoting from Rahma's journal, claimed that the development of financial technology, often known as Fintech, has made transactions for customers simpler and more effective. Financial technology is a new business model that can be an effective innovation in every application rather than a service offered by banking institutions or other institutions (Rahma, 2018). Financial technology, according to Bank Indonesia, is the outcome of the fusion of technology and financial services to produce a novel and reasonably profitable business model. Consequently, it is possible to swiftly and virtually complete the payment process for a transaction (Suseno, 2021).

Financial technology (Fintech) is defined as the application of technology in the financial system that results in a new product, service, technology, and/or business model that has the potential to affect the stability of the currency and the financial system as well as the efficiency, dependability, security, and smoothness of the payment and procurement systems (Bank Indonesia Regulation Number 19/12/PBI/2017, hereinafter referred to as PBI). Furthermore, Bank Indonesia maintains compliance with current regulations, including those pertaining to prudent risk management and consumer protection, while managing financial technology as a novel application and financial industry innovation.

Consequently, this has resulted in a significant growth in the process of purchasing and selling, encompassing MSMEs (Micro, Small, and Medium-sized Enterprises). The digital era presents a great opportunity for MSME actors to expand their businesses and learn how to create new opportunities. As per the Micro, Small, and Medium Enterprises Law Number 20 of 2008, also known as the UMKM Law, productive businesses owned by individuals or individual business entities that fulfill the necessary criteria are classified as Micro Enterprises. A small business is an economically successful enterprise that operates independently and is run by people or organizations that are not branches or subsidiaries of enterprises that are owned or controlled.

While Medium Businesses, which are run by individuals or companies that are not subsidiaries or branches of those companies, are successful economic enterprises that operate independently, Small Businesses and Large Businesses own, control, or are directly or indirectly a part of. The most significant main sector as a measure of the success in bringing prosperity to the majority of developing countries is Micro, Small and Medium Enterprises, herein abbreviated as UMKM. MSMEs were one of the industries in Indonesia that remained active during the economic crisis despite not being protected by government regulations or the banking industry. The growth of MSMEs has emerged as a significant option that can lessen the economic strain felt in a nation or region and contribute to the creation of jobs and higher incomes for citizens. The implementation of MSMEs in Indonesia, however, is only perceived as a business that is unable to grow into an effective business opportunity and has positive economic viability (Thee Kian Wie), according to a journal statement from Arliman (2017).

By coping with the economic crisis, MSMEs in Indonesia have demonstrated their capacity for self-sufficiency and shown that they are capable of outpacing the competitiveness of other economic actors. So that the government and authorized institutions won't have to worry about the growth of small enterprises owned by the general public or abuse MSMEs with rules that ultimately serve only a few parties' interests (Arliman, 2017). In order to stay up with the changes in the digitalized economy, MSME actors must be able to use the internet and comprehend a variety of industrial sectors, including the food and beverage industry, fashion, automotive, handicrafts, and others. However, there are still a lot of MSME actors in Indonesia who haven't been able to keep up with the current globalization era. If MSME actors can't adapt, then they'll get left behind by MSME actors who can adapt to the current digitalization era, which becomes a problem.

MSMEs can adjust to the circumstances of the current digitalization era by using financial technology. This is partly attributable to an increase in consumer behavior and the modernization period, which makes all digital purchasing and selling operations simpler on both the purchasing and payment fronts. The availability of this financial technology can significantly boost the economy for MSMEs. There are restrictions governing this technology, of course, in order to properly develop the purchasing and selling process from both producers and consumers. As a nation built on the rule of law, the Republic of Indonesia bases all policies that promote economic development on the law. Because economics and law are mutually reinforcing, legal development cannot be separated from economic development. Its purpose includes guidelines for human conduct, dispute resolution tools, and socioeconomic engineering tools (Suhardi, 2002).

Financial technology-related MSME activities are governed by OJK Regulation Number 77 of 2016 (POJK), concerning Information Technology-Based Money Lending Services. Chapter I, Article 1, Paragraph 3 defines information technology-based lending and borrowing services as the availability of financial services to link lenders and borrowers in the context of directly entering into loan agreements in the rupiah currency through an electronic system using the internet network. This regulation explains why Indonesian financial technology is currently unregulated in all are-as. The constitution of POJK states in Article 1 Paragraph 3 that it is the exclusive authority over online lending and borrowing in rupiah.

Meanwhile, the requirements for revenue from MSMEs themselves have been set by Law Number 20 of 2008, which regulates Micro, Small, and Medium Enterprises (henceforth referred to as the MSME Law). Due to the legal position still not being in line with advancements, the money generated by MSME actors utilizing financial technology is characterized as not being in compliance with the established laws. Based on the background conditions of the problem, this research was made to examine the problems that occur due to the influence of the digitalization era for MSME actors who use financial technology with the title: Legal Protection in the Application of Fintech in the Digital Age for MSMEs Modernization.

2 Methods

In order to ensure that the data was gathered precisely and concretely for this study, the authors used research to read legal books, study books about the case that was available in the literature that had something to do with this research, and use websites that had something to do with the topic the author took on (Nasution, 2008). Furthermore, by examining the subject of the study, the author employs an empirical approach (Saebani, 2008).

3 Results and Discussion

In daily life, technological advancements are perceptible and challenging to stop. In a manner, all social activities—including those in the financial services industry—are always connected to technology. Previously, only banks could lend and borrow money, but now anyone can do so easily thanks to online applications and what is known as financial technology (fintech) (Saebani, 2008). The phrase "financial technology" is the source of the word "fintech." Fintech is defined by the National Digital Research Center (NDRC) as an innovation in the finance industry. Of course, this financial innovation makes use of modern technology. The emergence of fintech could lead to a safer and more effective way to conduct financial transactions. Fintech, which usually refers to the use of the newest software, internet, communication, and computing technologies by start-up companies to improve banking and financial services, is the use of technology (Faith, 2016).

In-surance (risk management), cross-process (big data analysis, predictive modeling), payments (digital wallets, P2P payments), investments (equity crowdfund-ing, peer-to-peer lending), financing (crowdfunding, microloans, credit facilities), and infrastructure (security) are the essential elements of fintech, according to Nugroho & Rachmaniyah (2019). The application of technology within the financial system to create new products is known as financial technology, According to Bank Indonesia Regulation No. 19/12/PBI/2017 concerning the Implementation of Financial Technology, services, technologies, and/or business models may have an effect on the stability of the currency, the stability of the financial system, and/or the effectiveness, smoothness, security, and dependability of the payment system. Hsueh and Kuo categorize financial technology, or fintech, into three distinct categories. These categories are as follows:

- *A payment system via a third party is known as a third-party payment system. For instance, payment platforms that offer services like bank transfers and payments, and mobile payment systems.*
- *P2P (peer to peer) Through the internet, lenders and those in need of money can connect through the lending platform. In order to effectively address their respective needs, creditors and debtors can use the services this platform offers..*
- *Crowdfunding is an idea for a program that is made available to the general public online. If people are interested in the idea, they can contribute money, and investors will get paid as per the terms of the agreement. All initiatives that ensure legal certainty in order to safeguard consumers.*

Legal protection is meant by the phrase "consumer protection." Consequently, legal considerations are part of consumer protection. The protected property is not simply tangible; its rights are also abstract in nature. In other words, legal safeguards for consumer rights are equivalent with consumer protectionLegal protection must take into account all of the phases, including the protection afforded by a law and all community-passed laws, which are essentially agreements among the community to regulate behavior toward the government, which is believed to represent the community's interests. Legal protection is offered for the people as a preventative and oppressive government measure.

Repressive legal protection seeks to prevent disputes from occurring, including resolving them in the courts, while preventive legal protection targets disputes and instructs government actions to be cautious when making decisions based on discretion. One way the legal system accomplishes its three primary objectives—justice, benefits, and legal certainty—is through the provision of legal protection. Legal protection is a type of defense offered to people under the law in accordance with the rule of law. It can be preventive or repressive.

Sri Mulyani Indrawati, Indonesia's Minister of Finance, reaffirmed the commitment of the Indonesian government to continue taking actions to "ride the waves" of rapid technological development in relation to the growing role of fintech in assisting the strengthening of a sustainable national digital economy. As stated during the IMF-WB annual meeting in Bali in 2018, which resulted in the "Bali Fintech Agenda" and reached consensus on 12 components that would become policies for the development of the digital economy, in particular:

1. Reinforcing Fintech Dedications
2. Making New Technologies Possible to Enhance the Provision of Financial Services
3. Making New Technologies Possible to Enhance the Provision of Financial Services
4. Motivating Fintech to Advance Financial Market Development and Financial Inclusion

5. Tracking the Advancement of a More In-depth Knowledge of the Developing Financial System
6. Modifying the Monitoring Procedures and Regulatory Framework to Promote the Financial System's Orderly Development and Stability
7. Preserving the Integrity of the Financial System
8. Creating a Legal Landscape by Modernizing the Legal Framework
9. Maintaining the Home Financial and Monetary System's Stability
10. Data and Financial Infrastructure to Keep Fintech Benefits Sustainable
11. Promoting Information Exchange and International Cooperation
12. Strengthen International Monetary and Financial System Collective Oversight.

Many individuals believed that internet loans were a simple and quick way to borrow money at the beginning of efforts to update the legal system in order to establish a legal environment. But as it turns out, this ease comes with dangers and penalties that customers would experience if they break their agreements. The growth of the fintech sector is also accompanied with a bad reputation in society, particularly with regard to billing. Online loans, also known as FintechP2P lending, are a topic that is receiving more attention from the general population. The media has started to report on a number of instances of infractions committed by Fintech organizations. Fintech companies have also committed numerous other kinds of infractions.

A number of public complaints received by various Legal Aid Institutions (LBH) since the beginning of the year have led to the allegation of numerous violations, including intimidating billing (which is prohibited by Article 368 of the Criminal Code and Article 29 in conjunction with Article 45 of the ITE Law) and the dissemination of personal data (which is prohibited by Article 32 in conjunction with Article 48 of the ITE Law). Not to mention, this fintech problem has claimed the lives of customers who, driven by depression brought on by the collection of these loans, chose to end their own lives. Sadly, there hasn't been much of a legal resolution to this problem, so instances like this keep happening. Concerns regarding the online loan organizers sharing their personal information without authorization or knowledge have been raised by a number of users of the online loan application service. The study's conclusions show that Articles 32 and 48 of Law Number 11 of 2008 concerning Information and Electronic Transactions jointly regulate the legal protection of personal data and the penalties for violations.

According to Article 47, paragraph 1, administrative sanctions for data breaches include written warnings, fines, payments of a specific sum of money, restrictions on business operations, and permit revocation. These fines only apply to fintech lending companies that have registered with the Financial Services Authority (OJK). Nevertheless, the actions taken to combat illegal fintech are limited to turning off the application. Because of the nature of the law, the Financial Services Authority (OJK) is unable to impose criminal sanctions. For this reason, laws and regulations are necessary, especially those pertaining to fintech lending. The Financial Services Authority (OJK) has created a plan that will be implemented in 2022 with the goal of reviving the national economy and offering consumers legal protection in 2021.

1. Being aware of the potential risk of developing Covid-19 and the impact of the cliff effect risk from policy normalization;

2. Promoting the acceleration of the transition to a green economy and the reduction of climate change risk;
3. Promoting the quickening of the shift to a digital economy;
4. Increasing the efficiency of consumer protection and financial inclusion initiatives;
5. Fostering the development of the sharia financial services industry in order to promote national economic growth;
6. 6. Persisting in the effort to replace the conventional supervisory business process with integrated information technology-based supervision of the financial services industry;
7. Quicken the Reform of Non-Bank Financial Industry Supervision (IKNB);
8. Establishing a responsible, successful, and productive organization.

According to Wimboh, OJK will continue to put emphasis on implementing sustainable finance initiatives by issuing provisions to reduce the risks associated with climate change for the financial services sector through integrated programs and promote the growth of financing sources that support efforts to address climate change and move toward a low-carbon economy. In order to prevent the stability of the financial system from being compromised, OJK will also keep accelerating the transformation of the digital economy in the financial services sector by increasing internal and external capacity, speeding up the implementation of Supervisory Technology and Regulatory Technology, and conducting studies on the presence of Big-Tech companies in the financial sector. The effectiveness of the financial inclusion program for MSMEs and those who are not yet bankable, as well as consumer protection, must be increased. The government's financial inclusion program will be supported by the OJK program.

The implementation of OJK's consumer protection function will also strike a balance between the needs of customers and those of the financial services industry. Many government initiatives have been made to protect fintech users, and in this case, the OJK is continuing to closely monitor the growth of the fintech phenomenon. By closely monitoring this economic evolution, the OJK will be able to support the development of the financial services sector in the future and continue to uphold consumer protection. To assure the dependability, effectiveness, and security of online transactions while protecting consumers is a problem for OJK. These objectives include developing the Fintech Innovation Hub into a development hub and making it a national one-stop shop for fintech-related matters in order to establish connections and collaborate with institutions and organizations that support the digital financial ecosystem.

CA can guarantee that an electronic transaction that has been digitally signed has been secured and is legitimate in accordance with Indonesian law as the issuer of a certificate for a financial service actor's digital signature. Financial technology-related MSME activities are governed by OJK Regulation Number 77 of 2016 (POJK), concerning Information Technology-Based Money Lending Services. Chapter I, Article 1, Paragraph 3 defines information technology-based lending and borrowing services as the availability of financial services to link lenders and borrowers in the context of directly entering into loan agreements in the rupiah currency through an electronic system using the internet network.

4 Conclusion

In order to prevent the stability of the financial system from being compromised, OJK will continue to speed up the transformation of the digital economy in the financial services sector by increasing internal and external capacity, speeding up the implementation of Supervisory Technology and Regulatory Technology, and conducting studies on the presence of Big-Tech companies in the financial sector. It's crucial to improve the financial inclusion program's effectiveness for those who aren't yet bankable, MSME actors, and consumer protection.

The government's financial inclusion program will be supported by the OJK program. The implementation of OJK's consumer protection function will also strike a balance between the needs of customers and those of the financial services industry. In order to maintain effective client or consumer protection without making any party feel disadvantageous. The Minister of Finance Regulation (PMK) contains rules created by the government, in this case the Minister of Finance, regarding financial services and other topics.

Recommendations

After performing the investigation, the researcher discovered a number of flaws that should be fixed in order to genuinely achieve justice, legal protection, and legal certainty. The researcher therefore recommends the following to the parties: It is advised that the Financial Services Authority (OJK) further investigate the protection funds that have been implemented in the implementation of crowdlending services, to see if the practice is compliant with applicable regulations. This is in response to Financial Services Authority Circular (POJK) 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services. In order to deploy crowdlending service systems, it is also required to investigate the arrangements for reporting duties on fintech debtor data in the Financial Information Service System (SLIK) facility. Third, the Financial Services Authority (OJK) is more concerned with the existence of rules requiring the publication of the ratio of non-performing loans for each credit product and the Financial Services Authority's duty to audit the ratios that have been published in the implementation of the crowdlending service system; Fourth, the Financial Services Authority (OJK).should step in when credit agreements are made, where the credit agreement must be known and approved by the Financial Services Authority (OJK).

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