

OJK'S ROLE and IMPLEMENTATION IN ERADICATING ILLEGAL FinTec PRACTICES

Abstract

Service Authority Finance (OJK) is an independent institution that holds the highest authority so that it gets the transfer of regulatory and supervisory functions to all financial institutions and financial businesses in Indonesia. This makes the fintech system oversight within the OJK where financial technology (fintech) is an innovation that is revolutionizing financial services. Through the use of technology, business models become more modern. Fintech is a fast-moving and dynamic industry. In 2019, on the OJK official website, there were 25 fintech industries registered and licensed by the OJK. Several aspects urge the proliferation of illegal fintech in the form of P2P lending in Indonesia, which after that can be categorized into 2 aspects: normative aspects and non-normative aspects. OJK does not have special authority to take action against illegal fintech P2P lending. Due to these limitations, after that, an Investment Alert Task Force (SWI) was formed which was located at the base of OJK supervision. SWI was built to avoid and overcome alleged unlawful actions in the field of fundraising and investment management, including fundraising and investment management that was attempted through the fintech platform.

Keywords: OJK, Illegal FinTec

PRELIMINARY

Background

In the era of world technology and information which is very advanced from year to year, where humans can do things easily, this has resulted in a lot of developments in various fields such as one of the financial fields where a company that opens a financial business must be regulated by OJK where OJK is an independent institution (Alifia Salvasani, 2020) (Fitri Rusdianasari, 2018) One of the financial businesses is in the form of Fintech (Finance Technology) where this Fintech is present by offering all kinds of financial conveniences, both transactional and non-transactional. In Indonesia, there are a lot of various companies that use Fintech systems, such as one example, namely E-money, where companies are now using fintech as a transaction. This makes people believe in technological developments in finance. But not all companies have good fintech systems and have clear laws under OJK supervision, there are also illegal companies or businesses using this fintech, where there are many illegal businesses or companies that are outside the OJK regulations or supervision.

Based on the background described above, the following problems can be identified;

- What is Fintech?
- What is the role of OJK in Fintech supervision?
- How does a problem occur in fintech?

- Why are there so many cases of financial fintech?
- What are the implementations in eradicating illegal Fintech Practices?
- What is meant by OJK?
- How to solve the case of Illegal fintech?
- Why are there so many illegal Fintech cases?
- Why does OJK have the right to Fintech?

In this study, limitations are needed, which is intended so that this research has a unidirectional meaning or content.

- The object of research used is financial companies and start-ups
- This paper discusses the problem of illegal fintech,
- This paper will focus on OJK against Illegal fintech
- This paper will also focus on implementation in combating illegal finance practices
- This research will look at illegal fintech cases

LITERATURE REVIEW

Financial Services Authority

The Financial Services Authority is a government financial institution that has the power to regulate and supervise bank and non-bank financial institutions (Alifia Salvasani, 2020). Therefore, matters relating to fintech are regulated by the Financial Services Authority (POJK) Number 77/POJK.01/2016. The enactment of this regulation aims to protect the parties in it, namely consumers and financial institutions. In this regulation, the OJK regulates peer-to-peer lending (P2P lending), namely the lending business from user to user. P2P lending is the type of fintech that is most in demand by people in Indonesia. P2P lending provides an online loan platform and can be used for capital in opening a business (Fitri Rusdianasari, 2018) Tri Hendro and Conny Tjandra in (Ahmad, 2018) "For consumer and community protection, OJK has the authority to take steps to prevent consumer and community losses, which include Provide information and education to the public on the characteristics of the financial services sector, services, and products. Requesting financial service institutions to stop their activities if these activities have the potential to harm the community. Other actions deemed necessary and by the provisions of laws and regulations in the financial services sector

Article 28 paragraph 1 is a preventive guideline for legal protection of the community with financial prizes educating and publishing characteristics, products, and information to the public providing services in the financial services sector by providing information and educating the public to learn about the characteristics and products of the financial services industry. OJK's steps to educate the public on the mandate of Article 28 are by providing education to several areas with focus group discussions on illegal fintech, through the OJK Education and Protection minisite,

education is also provided to the wider community, but the role of the community is not being easily trapped in illegal fintech is very important. non-speculative investments, reasonable profits in line with the profits of the company's business activities, and smarter in channeling funds to institutional companies that have a supervisory agency's Service Authority permit (Financial Services Authority 2014:4).

According to the provisions of Article 28 paragraphs 2 and 3 of the law related to the Financial Services Authority, on 21 of 2011, OJK has the right to ask financial services institutions to stop activities if any of these activities can harm the community and take other actions deemed necessary and following industry laws and regulations. financial services. The existence of this article is a step taken by OJK to provide legal protection during the repression phase, namely requiring financial service institutions to stop their activities if these activities can harm the community and may be necessary for operations, the use of this article is further complained by the public and becomes consumers because they are harmed by the existence of illegal fintech activities that cause companies to conduct illegal fintech business licenses can be revoked, and sanctions can be imposed on the following companies:

Based on the provisions of Article 29 of Law Number 21 of 2011 concerning the Financial Services Authority, OJK provides services for consumer complaints which include:

Prepare adequate equipment for service complaints of consumers who are harmed by actors in the Financial Services Institutions;

Create a complaint mechanism for Consumers who are harmed by actors in Financial Services Institutions; and

Facilitate the settlement of consumer complaints that have been harmed by actors in Financial Services Institutions following the laws and regulations in the financial services sector.

According to the provisions of this clause, if the company is a person who is involved in illegal investment activities and harms the public, the Financial Services Authority is obliged to provide public complaints services for illegal investment activities due to the preparation of equipment being harmed, establish a complaint mechanism and provide facilities for resolving complaints from the public who have been harmed by the company doing this. illegal investment activities.

Finance Technology (FinTech)

Financial technology (fintech) is an innovation that is revolutionizing financial services through the use of popular technology. P2P lending is often referred to as a technology-based loan service. P2P lending is the integration of financial services provided to sign loan agreements between lenders and loan recipients. Borrowing money plays a regulatory role, which is to act as a depository institution, provide an account to save currency to the platform, then deposit it to the platform. (Omarini, 2018).

Previous research

THE ROLE OF FINANCIAL SERVICES AUTHORITIES IN COMMANDING ILLEGAL INVESTMENT IN INDONESIA (Ahmad, 2018) Results and Discussion: The Financial Services Authority According to Articles 28, 29, and 30 of Law no. 21 in 2011, through the community, providing customer complaint facilities and investing in violation of the law by revoking business licenses or compensation and/or filing a lawsuit in court. In addition, in terms of preventing investment, the Illegal Financial Services Authority issued related regulations against illegal investment prevention measures such as Financial Services Administration Regulation number 1 / POJK.07 / 2013 concerning Consumer Protection in the Financial Services Sector. The Financial Services Authority also reminded the working group to invest. Responsibility to monitor investments especially those that are not clear such as Illegal Investments.

THE ROLE OF FINANCIAL SERVICES AUTHORITIES IN SUPERVISING
NON-BANK FINANCIAL INSTITUTIONS BASED ON FINANCIAL

TECHNOLOGY TYPES OF PEER TO PEER LENDING (Ramana, IWB, Atmadja, IBPS, & Utama, 2014) Results and Discussion: Currently in Indonesia, two agencies have the authority to supervise, supervise, and develop financial technology, including the Indonesian Financial Services and Banking Authority (OJK). The government has regulated the implementation of fintech in Indonesia in several official regulations, Bank Indonesia itself adopted PBI No. 19/12 / PBI / 2017 concerning the Application of Financial Technology. The launch of the payment system operator's financial technology activities for Bank Indonesia. Operators can be exempted from the registration obligation above, having obtained permission from Bank Indonesia and used for financial technology providers authorized by other institutions. Government regulations are expected to target fintech providers and users to be able to carry out various financial activities more easily and safely in terms of processing personal data and information.

P Handling Illegal Peer-To-Peer Lending Financial Technology THROUGH THE FINANCIAL SERVICES AUTHORITIES (study at OJK Central Jakarta) (Alifia Salvasani, 2020) Results and Discussion: The growth of illegal fintech peer-to-peer lending in Indonesia is caused by various reasons, then for these factors fall into two categories:

Normative factors:

- 1) There are no regulations regarding P2P loan interest rates
- 2) Reduction in the maximum number of illegal P2P lending enforcement
- 3) Without criminal provisions, P2P lending is not allowed without a permit, because this regulation is limited to OJK Regulations (POJK) or equivalent

Non-normative factors:

- 1) Illegal P2P loans that are hard to control
- 2) Public knowledge or literacy is at least related to P2P lending
- 3) High public demand for illegal P2P lending
- 4) Simplify the application or website production process

DISCUSSION

At the end of 2016, OJK has issued POJK No. 77. This regulation is the basic application of P2P Lending business activities or online lending and borrowing, which is one type of fintech, it is stated in the regulation that overrides the supervision carried out by OJK on the implementation of these business activities. The implementation of Fintech P2P Lending in the POJK above is grouped as other financial service institutions that are included in the realm of supervision of the Non-Bank Financial Industry (IKNB) zone.

Like other financial service institutions, the implementation of fintech P2P Lending will certainly be monitored by OJK as the authority that has the authority to carry out supervision of macroprudential in Indonesia. A universal comparison of the supervision of fintech carried out by Bank Indonesia and the OJK is that BI deals with fintech that enters the type of payment system, including companies that provide payment gateway, remittance, e-wallet, switching services, and others. On the other hand, OJK is tackling fintech, including those engaged in P2P lending/financing, insurance, and so on. Types of supporting business activities or enabling fintech.

Based on the results of research on the implementation of supervision by the OJK at this time, Muhammad Mufid, Head of the Supervisory Section of the OJK 3 Financing Institutions, reported that currently the supervision carried out by the OJK on P2P Lending or online lending and borrowing activities is currently only in the preoperational business session. The main focus of OJK after the promulgation of POJK No. 77/ POJK. 01/2016 is a registration and licensing application for industries engaged in lending and borrowing services or P2P Lending as part of the

supervision of the business preoperational session. Another alibi behind the lack of full supervision is the absence of a ministry under the OJK that specifically deals with fintech such as BI.

Fintech Office under Bank Indonesia. Currently, OJK is designing its organizational structure in the context of development (incubators and accelerators) and fintech supervision (internal studies). This matter is intended to find the right formulation related to the implementation of regulation and supervision of fintech in Indonesia so that it is in line with the development goals to be achieved in the economic field. In this regard, the Indonesian Fintech Association (APTECH) continues to urge the creation of a fintech ministry at the OJK so that it can resolve fintech issues, especially P2P lending, of course as a follow-up and commitment of regulators after the issuance of POJK 77/POJK. 01/2016.

Any violators who violate existing legal regulations can be subject to sanctions so that legal certainty can be realized for the parties. The existing law must be adapted to the principles of justice that apply to the citizens. In enforcing the law, the elements that must be observed are legal certainty (Rechtssicherheit), expediency (Zweckmassigkeit), and justice (Gerechtigkeit).

The making of laws and regulations is regulated in Article 5 of Law No. 12 of 2011, covering: clarity of purpose; appropriate institution or official of manufacture; compatibility between types, hierarchies, and payload modules; can be implemented; usability and usability; clarity of formulation; and openness. In making these laws and regulations, good principles must be used so that they can be adapted to the needs of the community. If in the implementation of business activities, the Peer Peer Landing operator is proven to have committed a violation, the organizer can be imposed with or without a written warning of administrative sanctions as regulated in OJK Regulations. Number. 77/ POJK. 01/2016 Article 47 paragraph (2) LPMUBTI. 22 In the implementation of OJK supervision using the Regulatory Sandbox mechanism, there are several requirements, namely:

The Financial Services Authority determines the organizers to be tested

Organizers fulfill very few:

Registered as a digital financial innovation at the Financial Services Authority or sourced from the message of the application submitted.

This is a new business model.

Has a business scale with a wide market coverage.

Registered with the organizing association

Illegal fintech

Financial technology (fintech) is an innovation in financial services that changes business models to become more modern using technology. Fintech is an industry that moves very fast and dynamically. Fintech is divided into several types, based on the form or type of innovation, one of which is a peer to peer lending (P2P lending). In Indonesia, P2P lending is one type of fintech that is very much in demand by citizens. P2P lending is commonly known as a technology-based

lending and borrowing service. P2P lending is the provision of financial services to bring together lenders and loan recipients to carry out lending and borrowing agreements via the internet. (Fitri Rusdianasari, 2018)(Ahmad, 2018) (Omarini, 2018)

Several aspects urge the proliferation of illegal fintech in the form of P2P lending in Indonesia, which after that can be categorized into 2 aspects:

Normative Aspect

- There are no provisions regarding the amount of P2P lending interest rates. Currently, the provisions for determining the interest rate for P2P lending are only adjusted to the profile and scale of the business. These provisions are regulated indirectly through the Indonesian Joint Funding Fintech Association (AFPI). (Fitri Rusdianasari, 2018)
- Lack of maximum law enforcement for illegal P2P lending. Until now, the OJK has only imposed sanctions for registered and licensed fintech P2P lending. On the other hand, due to a large number of illegal fintech applications, OJK can only carry out efforts to close and block applications through SWI which is then followed up by the Ministry of Communication and Information.
- There are no conditions for illegal P2P lending
- Sanctions for illegal P2P lending fintech

Non-Normative Aspect

- Supervision of illegal P2P lending that is difficult to do Linked supervision of illegal P2P lending is difficult to try because its development is very fast while SWI takes a long time to find out illegal P2P lending applications. (Alifia Salvasani, 2020)(Ahmad, 2018)
- Knowledge or literacy of citizens who are slightly adrift of P2P lending Residents are still original in choosing online loan websites and do not know the consequences if they carry out online loans in illegal P2P lending, for example, high-interest rates on loans that will burden residents.
- There is a large demand for illegal P2P lending from the public. Many residents prefer to carry out online loans through illegal P2P lending platforms because of the ease in loan procedures when compared to legal P2P lending or banking.
- Ease in the process of making applications or websites There are technological advances coupled with the process of making applications or websites that are easy to allow everyone to make illegal P2P lending.

Currently, the OJK is still carrying out efforts to take action against illegal P2P lending in Indonesia. This effort was attempted by OJK as a method to minimize the development of illegal

P2P lending in Indonesia. The following is the role of OJK in carrying out efforts to crack down on illegal P2P lending:

Include registered and licensed P2P lending records on the OJK official website. This is done with the aim that citizens recognize and use legitimate fintech according to information on the OJK official website.

Socializing citizens about the identity of illegal P2P lending must be avoided. Some websites that are under the supervision of the OJK (www.duwitmu.com) are constantly updated regarding cases and identities of illegal P2P lending.

Informing citizens of overwriting information and data on illegal P2P lending in Indonesia. The OJK always provides the latest information regarding illegal P2P lending through formal explanations which can then be read on websites such as CNN, Kompas, Detik, and so on.

Implement the closure of illegal P2P lending. The closure of the illegal P2P lending fintech was attempted by SWI by stopping the license to operate the illegal P2P lending fintech industry in Indonesia.

Regular blocking of illegal P2P lending applications and websites. The blocking of the application and the web is attempted through an application or submission by SWI to the Ministry of Communication and Information.

Carrying out selective checks for the P2P lending industry that proposes to open a new SWI account, requesting that the banking sector inhibit the growth of illegal P2P lending fintech since early registration of new accounts.

Implement special provisions for the P2P lending industry linked to the fintech payment system. Compatible with POJK No. 77/ POJK. 01/2016, P2P lending fintech operators must open a virtual account at a bank domiciled in Indonesia and already has a business license as a bank.

Delivering data reports to the Criminal Investigation Unit of the Police related to cybercrime. SWI wants to submit a data report to the Criminal Investigation Unit of the National Police if the illegal P2P lending actors carry out billing accompanied by terror, intimidation, or defamation.

Despite the many efforts that have been tried by OJK, these efforts are still considered not optimal. This can be seen from the many reports related to cases caused by illegal P2P lending. It can be seen that the number of illegal P2P lending fintech reports received by OJK has recently increased in number. Several reports received by OJK regarding illegal fintech P2P lending include:

- High loan interest
- Illegal fintech applications that change names and loan interest continue to grow
- Billing is tried with methods of threats to defamation
- Billing is attempted to the emergency contact listed by the borrower
- Do not write off the loan while the borrower has paid it

- Dissemination of individual borrower information by the fintech industry is illegal
- The use of borrower ID information by the fintech application industry is illegal to apply for loans in other applications (Results of an interview with Andrei Romario as a staff in the Deputy Director of the OJK Investigation Policy Department on February 3, 2020).

However, due to limitations from the OJK regarding the prosecution of illegal P2P lending, the case has not been handled optimally. In this case, the OJK has no authority related to acts of defamation or even violence in collections attempted by illegal P2P lending. This is because illegal P2P lending fintech is not the domain of OJK's authority. If there is a violation that is attempted by a registered and licensed P2P lending fintech, SWI can take action against the fintech. After that, the OJK emphasized that if some reports or complaints were related to acts of violence and harassment committed when billing or entering the realm of cybercrime, the matter must be followed up based on the Indonesian National Police.

The limited authority possessed by OJK regarding illegal fintech P2P lending is motivated by the alibi that so far the fintech industry has only been regulated in POJK No. 77/POJK. 01/2016. Meanwhile, this provision is considered unclear, because it does not contain a detailed description of the role of fintech in the eyes of the law.

In this case, there are provisions applied by OJK through POJK No. 77/POJK. 01/2016 is considered not enough, especially in taking action against illegal P2P lending which often charges high-interest rates and carries out unethical collections to borrowers. So far, the OJK has only been able to cover cases related to illegal fintech P2P lending in collaboration with several parties.

Implementation in banning the practice of Illegal Finance

Online loan business or (P2P Lending) is one form of growth in the business world. Business growth that is growing rapidly is a challenge for business actors to always maintain the continuity of their business activities (Fauzan, & Nuryana, 2014). In business activities should be tried honestly and uphold the principle of honesty. Honesty is a principle of business ethics. Nowadays honesty is a guarantee and basis for business activities (Pambudi, 2018).

Dialogue about ethics certainly cannot be separated from people's thoughts about attitudes. Attitudes can be judged as good or bad, especially with humans, it is largely determined by the values that are believed and grow in their environment (Prihatini, 2011).

Many interests require comprehensive descriptions and conventions in viewing legal and business ethics aspects when it comes to online loan fintech business applications (Wijiharjono, 2012). In online loan business activities or (P2P Lending) this is also the case considering there is a convention at the beginning of online lending activities so that it is mandatory to prioritize the principle of honesty as in the perspective of business ethics.

Business actors as part of the citizens cannot separate themselves from the norms and values that apply in their society. It is not only mandatory to explore the norms and values that apply in the

business class. The distrust and helplessness received by some business actors will also affect the total distrust of the Indonesian people. In terms of business ethics, this means because it is the embodiment of moral values. Some business actors realize that if they want to be successful in business activities, they must heed ethical principles. Enforcement of business ethics is increasingly meaningful to enforce a conducive atmosphere of healthy competition.

Currently, many of the practices of business competitors are far from ethical values, so that they are contrary to moral standards. Business actors have dared to understand certain commodity markets by no longer heeding business manners. This condition continues to be crucial as a result of the Government's behavior that provides opportunities for some industries to understand industrial zones from upstream to downstream. The targets of illegal fintech are people who have little financial knowledge, are desperate for money, and have a consumptive lifestyle.

Various modes are tried to ensnare potential customers so that those who without careful calculations are trapped and suffer the effects (Kompas, 2019) A good business attitude should not seek profit solely from its business activities, but a good business is obliged to behave by the norms Morally, attitudes can be judged as good when they meet ethical standards from the basic requirements of citizens who guide their behavior and role.

For this reason, ethical principles are very meaningful for businesses with the hope that in doing business they will obtain harmony, security in business, confidence by citizens in each of their products, and significant progress or growth from industrial organizations with the existence of guidelines for the basic principles of business ethics

illegal fintech cases, sample case :

Online loan applications (fintech) are again in an uproar. But unfortunately, some online loan applications are still illegal or not registered with the Financial Services Authority (OJK). Users are expected to be on guard if they want to use fintech applications.

Many victims have been scammed by fintech. One of them is a woman with the pseudonym YI, an employee from the community of Jebres, Solo, Central Java. She uses the IN CASH online loan application to help her finances. However, YI felt slandered and disadvantaged because they had not been able to pay bills from IN CASH online loans. The following is a chronology of events and efforts to be free from illegal fintech, starting with borrowing 1 million YI when I first borrowed from IN CASH for Rp. 1 million to pay for a child's school. But the loan found a discount of Rp320. 000. So, YI only found Rp680. 000 and due in just a week. Bad dreams are also intertwined. After the due date, YI has not been able to repay the loan. Since then, YI has continued to find terror and threats. 3 days after that, YI found a team invitation whose members contained all the contacts on their cellphones. The team also contains people who are predicted to come from the fintech industry. They humiliated YI by posting a poster with a picture of him and the words "I hereby report that I am willing to be rotated for Rp. 1.054. The photo poster after that went viral on several social media. I admitted that he did not recognize that the online loan was illegal. At first, he often received online loan SMS. The offer is then followed up by opening the informed link.

"Initially I was able to SMS. There was an offer to borrow online, there was included a link that could be contacted. I opened it and just explored the instructions. The only conditions were to use a picture and an ID card," he said.

IN CASH Not Registered with OJK

The Financial Services Authority (OJK) confirmed that the online lending industry (fintech) IN CASH, which was predicted to carry out slander against customers, was illegal. According to applicable regulations, any registered fintech is not allowed to access telephone contacts to customers.

"Along with the viral news that customers in Solo were harassed by debt collectors from one of the fintech industries, this is clearly not justified by the OJK," Head of the OJK Solo Non-Bank Financial Industry Supervision (IKNB) Tito Adji Siswanto.

Tito also confirmed that the status of the fintech industry in question (IN CASH) was illegal. By the regulations set by the OJK, he said, every formal fintech industry or those registered with the OJK can only access the customer's camera, position, and microphone. Make other accesses not allowed.

"If there is a fintech that can access a customer's phonebook, that is clearly not justified. And it is usually determined that it is illegal," he said.

Methods To Not Be Fooled by Illegal Fintech Applications

Several methods can be tried before thinking about borrowing funds in an online loan application. Moreover, in 2018 the OJK eradicated 182 illegal fintech.

The Director of Assetku, Andrisyah Tauladan, explained that there are 2 simple steps that residents can try before using fintech lending services, which is to justify the legal aspect.

"When you want to borrow, ask if you have registered with the OJK yet," he said.

The next step that needs to be tried is to confirm whether the fintech has been registered with the Ministry of Communication and Information (Kominfo).

"Because there are people who have been registered with the Kominfo but have not registered with the OJK. That is more convenient. He is still in the process at the OJK," he said.

"It's a long process at OJK, but it has been processed at OJK. It doesn't mean it's illegal. Why? He has bought a domain whose name is [dot] co[dot] id,"

Conclusion

The Financial Services Authority (OJK) is an independent institution that holds the highest authority so that it gets the transfer of regulatory and supervisory functions to all financial institutions and financial businesses in Indonesia. This makes the fintech system oversight within the OJK where financial technology (fintech) is an innovation that is revolutionizing financial

services. Through the use of technology, business models become more modern. Fintech is a fast-moving and dynamic industry.

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Suggestion

In making this paper, there may still be some errors, both in terms of content and method of writing, for that we as writers apologize if the reader is not satisfied with the results we present, and we also hope that criticism and suggestions can add insight in improving the writing of the paper. we.

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