

Consumer Protection for Online Loan Agreements Application Based: The Role of the Financial Services Authority

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ABSTRACT

Due to the extremely quick technical advancements, the rise of the digital economy will undoubtedly generate a new environment for industrial activity whose effects are already being felt by society. The community is highly appreciative of this technical progress in addition to the various adjustments. Loans are the primary source of revenue for financial institutions. People frequently discuss borrowing, particularly financial borrowing. The economy depends heavily on financial institutions. Financial institutions now have a more important role as a result. Bank financial institutions, non-bank financial institutions, and financing institutions are the three types of financial institutions. The Financial Services Authority (OJK) is a continuation of the government's involvement in the financial services sector in the area of financial technology (fintech). In addition to the Financial Services Authority Regulation No. 77/POJK.01/2016, which has not given customers legal clarity, Indonesia's personal data protection law is still not being applied properly. This rule is still open to misuse because of the Financial Services Authority's broad latitude in how it treats internet lenders.

Keyword: Financial Services Authority, Consumer Protection, Online Loans

ABSTRAK

Karena kemajuan teknologi yang sangat cepat, kebangkitan ekonomi digital niscaya akan menciptakan lingkungan baru bagi aktivitas industri yang dampaknya sudah dirasakan oleh masyarakat. Masyarakat sangat mengapresiasi kemajuan teknis ini selain berbagai penyesuaian. Pinjaman adalah sumber pendapatan utama bagi lembaga keuangan. Orang sering membahas pinjaman, terutama pinjaman keuangan. Perekonomian sangat bergantung pada lembaga keuangan. Akibatnya, lembaga keuangan sekarang memiliki peran yang lebih penting. Lembaga keuangan bank, lembaga keuangan bukan bank, dan lembaga pembiayaan adalah tiga jenis lembaga keuangan. Otoritas Jasa Keuangan (OJK) merupakan kelanjutan dari keterlibatan pemerintah di sektor jasa keuangan di bidang financial technology (fintech). Selain Peraturan Otoritas Jasa Keuangan Nomor 77/POJK.01/2016 yang belum memberikan kejelasan hukum kepada nasabah, undang-undang perlindungan data pribadi Indonesia masih belum diterapkan dengan baik. Aturan ini masih terbuka untuk disalahgunakan karena luasnya kewenangan Otoritas Jasa Keuangan dalam memperlakukan pemberi pinjaman online.

Kata Kunci: Otoritas Jasa Keuangan, Perlindungan Konsumen, Pinjaman Online

A. Pendahuluan

Based on world population, Indonesia is the fourth largest country, as a developing country that is now building its infrastructure to support its readiness for the industrial revolution 4.0. The development of the digital economy will certainly present a new environment in industrial operations which is already being felt by society due to the rapid growth of technology.

With these many changes, society supports this technological progress. The main source of income of financial institutions is loans. People often discuss loans, especially financial loans. Lending and borrowing, according to Article 1754 of the Civil Code, "is an agreement in which one party offers another party a certain amount of goods that have been used up, then the party returns the same amount of the same type and condition.

According to Article 1754 of the Civil Code, the subject of lending arrangements is in the form of products that can be consumed (consumable). Money is one of the objects of a debt agreement. Money can be categorized as an object of agreement because it is a resource that is depleted over time due to consumption. Money has a purpose as a means of exchange which will eventually run out because it is used to fulfill needs such as shopping. The borrower is required by the agreement to return the same amount of borrowed items with the same conditions. If money is borrowed, it is returned at the same exchange rate, before it can be used for purchases or purchases..¹

Financial institutions play an important role in the economy. As a result, financial institutions now play a larger role. Three categories of financial institutions are banking institutions, non-bank financial institutions, and financing institutions.²

Yeager and Seitz emphasized that the four functions of financial institutions are transmutable assets, financial transactions, income reallocation, and liquidity. When it came to addressing the financial needs of larger communities, banks, were first used as a communal option. It is common knowledge that the purpose of banking is to collect and distribute public money, and this function gives rise to civil legal relations between banks and their customers..³

¹ Ivana Elvia Ningrum, 'Skripsi, Perlindungan Konsumen Atas Kerugian Dalam Penyelenggaraan Peer to Peer Lending (Tunaiku) Yang Batal Terdaftar Di Otoritas Jasa Keuangan, Yogyakarta: Universitas Islam Indonesia, 2019, Hlm. 3', 2019.

² Abdul Kadir Muhammad dan Rilda Murniati, *Lembaga Keuangan Dan Pembiayaan* (Bandung: PT. Citra Aditya Bakti, 2004). hal. 17

³ Djoni S. Gazali dan Rachmadi Usman, *Hukum Perbankan* (Jakarta: Sinar Grafika, 2010). hal. 36.

However, in practice, banks no longer make it easy for people to borrow money. You need collateral to borrow money from a bank, and bank loan requirements can be a hurdle to meet. These kinds of obstacles have given rise to non-bank financial institutions. Fintech, or financial technology, is an innovation that will answer this trend. Technology now plays an important role in people's lives thanks to the contemporary era's advances in information technology. The use of technology is not limited to interaction activities. Additionally, consumers are becoming increasingly dependent on technology, leading to an explosion in the use of online financial services.

The fact that Indonesian people use smartphones and the internet more and more every year is proof of the extraordinary rapid development of technology in this country. The Indonesian Internet Service Providers Association (APJII) has conducted a survey, there were 171.17 million internet users in Indonesia as of 2019 or 64.8% of Indonesia's 264 million internet users. All areas of business are being digitized, starting from trade, which is known as e-commerce, and the financial sector, which is known as financial technology (Fintech).⁴

Financial Technology is translated as financial technology in Indonesian. Financial technology can be understood as a word used to describe innovation in the financial industry or financial services. The development of financial technology in Indonesia is increasingly promising. In the financial industry, many people use technology, especially for online transactions. There are many applications for lending and borrowing money (online loans) which are increasingly popular in cyberspace by offering the convenience of quickly carrying out transactions, without collateral, which aims to provide convenience to the community, especially small communities. Because applying for financing to a bank is considered to have its own difficulties, in this Financial Technology, it is not only enough to transfer money, but also to borrow money. The Financial Services Authority (OJK) stated that up to January 2019, funds for financial technology (Fintech) had been disbursed up to IDR 25.92 trillion. From financing in December 2018 of IDR 22.67 trillion, this amount increased by 14.36%. This indicates that there were 5.7 trillion fintech loans in circulation as of January 2019. A total of 99 registered fintech business actors have received approval from the OJK to be the source of these loans.

The emergence of fintech coincides with a change in society's perspective, which is now dominated by information technology users who want a fast-paced life. Fintech is believed to be able to reduce

⁴ Yudha Pratomo, 'APJII: Jumlah Pengguna Internet Di Indonesia Tembus 171 Juta Jiwa', 2019 <<https://tekno.kompas.com/read/2019/05/16/03260037/apjii-jumlah-pengguna-internet-di-indonesia-tembus-171-juta-jiwa>> [accessed 18 December 2022].

payment problems from all kinds of transactions, such as not having time to look at goods at the mall, going to the bank or transferring funds from an ATM, and being reluctant to visit various places due to unsatisfactory service. This means that fintech allows buying and selling transactions with cheaper, more effective and efficient payment methods.

Of course, people need money as a legally acceptable form of payment to satisfy all their demands. Each person's level of individual demands determines how different their needs are. Theoretically, there are three categories of community needs: primary, secondary, and tertiary. Of course, there needs to be a balance between these needs and enough money to meet them. The option to borrow money is available to those who, like many others, are unable to meet these needs.

Before technological advances, lending and borrowing was done directly both by individuals and by those who had access to legal entities such as banks or cooperatives. Currently, the "peer to peer lending" system, also known as lending and borrowing money, can be done online. With this approach, applying for a loan does not require a face-to-face meeting, it can be done completely online, and the prerequisites are also quite easy, you only need to download an online loan application, fill out a form, and upload a photo of your identity (KTP, Family Card, ATM, etc.). Of course, this makes it easier for those who want to borrow money.

Based on Law Number 8 of 1999 concerning Consumer Protection Article 1 paragraph (2), money borrowers can be said to be consumers. "Consumers are every individual who uses goods and/or services offered by society, for the benefit of themselves, their families, other people or other living creatures, and not as objects to be sold. The money borrower is a consumer because he uses the commodity for his own or his family's benefit. According to Law Number 19 of 2016 concerning Electronic Information and Transactions Article 1 paragraph (2), which states that electronic transactions are legal acts carried out using computers, computer networks or other electronic media, borrowing money can be considered an electronic transaction because is online. To complete transaction activities as intended in Article 4 of Law Number 8 of 1999 concerning Consumer Protection, consumers have rights that must be upheld; Meanwhile, Article 5 states that consumers also have obligations.

In the financial services sector, especially peer-to-peer lending, the government has formed an autonomous body called the Financial Services Authority (OJK). Financial Services Authority Regulation no. 1/P.OJK.07/2013 concerning Financial Services Consumer Protection and Financial Services Authority Regulation no. 77/POJK.01/2016 concerning Information Technology Based

Money Lending and Borrowing Services, is a provision from the OJK which regulates consumer protection policies.

Because consumer rights are often violated when involved in consumer activities, in this situation, the government is obliged to carry out supervision. Based on the law, consumer protection institutions are under government control and supervised by the technical minister or authorized minister, so the government can carry out supervision through other relevant ministers or technical ministries.

The emergence of various financial applications, including: online wallets, online loans, online goods loans, online shares, and several other technological financial products, shows how rapidly technological progress is. The government formed an independent state institution to supervise the financial sector after having responsibility for regulating these financial applications. This is done in accordance with Article 33 paragraph (4) of the 1945 Constitution which states that the national economy is based on economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental awareness, independence, and by maintaining national economic unity and balanced progress. The Financial Services Authority, which was formed based on Law Number 21 of 2011 concerning the Financial Services Authority, is an autonomous state institution responsible for financial supervision in Indonesia. Apart from the benefits of technological advances, the Financial Services Authority exists to provide protection for the public from illegal financial services. In other words, the Financial Services Authority is a separate state organization to carry out government tasks whose duties and functions are part of a group of tasks carried out through government agencies which include the establishment, enforcement of law and order and other regulatory functions.⁵

Financial Services Authority Regulation Number 77 of 2016 concerning Information Technology-Based Lending and Borrowing Services states in Article 19 paragraph (1), fintech lending businesses in Indonesia must maintain the confidentiality, integrity and availability of personal data, transaction data and managed data from the time the data is obtained. until the data is destroyed. Online lenders must be held responsible for misuse of this data. According to Article 26 paragraph (1) of the ITE Law, it has been explicitly explained that the use of any personal data information must be approved by the owner. However, there is no mention of any type of protection in this article, only limitations are mentioned.

OJK Regulation Number 77/POJK.01/2016 still has weaknesses. Due to the broad flexibility that the Financial Services Authority provides to online lenders, the regulations remain vulnerable to abuse.

⁵ Rahman Mulyawan, *Birokrasi Dan Pelayanan Publik* (Bandung: Unpad Press, 2016). hal. 32

On the other hand, OJK's supervision and protection system for credit customers is still inadequate. The Electronic Transactions Law, which does not yet provide legal clarity and legal certainty, also needs to be considered.

B. Rumusan Masalah

In this paper, the problem formulated as the object of study is:

1. What is the form of regulatory protection for consumers regarding consumer personal data in online-based loan applications?
2. What is the role of the OJK in protecting consumer personal data in online loan applications?

C. Metode Penelitian

This research approach uses normative research techniques. Legal studies that examine secondary sources of information are known as normative legal research.⁶ Doctrinal legal research is another name for normative legal research. Marzuki defines normative legal research as the process of identifying legal rules, legal doctrine, and legal principles to overcome relevant legal difficulties. In this kind of legal study, law is often understood as what is stated in statutory regulations or as rules or norms that function as standards of acceptable human behavior..⁷

D. Pembahasan

1. Tugas dan Wewenang Otoritas Jasa Keuangan

The Financial Services Authority, also known as OJK, is a separate state institution that operates without government intervention. OJK is tasked with regulating the banking industry as well as financial institutions, other financial service institutions, pension funds, capital markets and insurance. This is what is stated in Law Number 21 of 2011 concerning OJK (OJK Law). The purpose of Law no. 23 of 1999 and its amendments to Law no. 3 of 2004 concerning Bank Indonesia is the formation of the Regulatory Authority in the Financial Sector (BI) of banking institutions.⁸ Based on Article 34 paragraphs (1) and (2), an independent supervisory body in the financial services sector is appointed by law to supervise banks.

The concept of establishing an OJK has historically been thought about for a long time, especially when the government drafted the Law on BI during the BJ administration. Habibie.

⁶ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: PT. Raja Grafindo Persada, 2003). hal. 13.

⁷ Amiruddin dan H. Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT. Raja Grafindo Persada, 2006). hal. 118.

⁸ Wiwin Sri Rahyani, 'Independensi Otoritas Jasa Keuangan Dalam Persepektif Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan', 9.3 (2009), hal. 45-46.

Helmut Schlesinger is a former Governor of the Central Bank in Germany, who served as a consultant when the BI Bill was drafted. He adopted the model of the German Central Bank which does not carry out banking supervision, having the concept of separating the central task of bank supervision. After the OJK Law was promulgated and approved, the OJK took over the supervisory role, which was previously held by the Capital Markets-Financial Institutions Supervisory Agency (Bapepam-LK) and Bank Indonesia (BI) in the financial services industry with the aim of making supervision integrated.

The establishment of the Financial Services Authority is based on the principles of governance which include accountability, independence, responsibility and openness. If viewed institutionally, the OJK functions as a separate entity, free from intervention from other parties or state institutions, with exceptions in situations specifically regulated by the OJK Law. Based on the OJK Law, Articles 8 and 9 state that the implementation of the financial services authority's regulatory and supervisory responsibilities is based on several authorities. According to Article 9 letter c, the Financial Services Authority has the authority to protect consumers from Financial Services Institutions, actors and/or supporters of financial services in the financial sector.

According to the provisions of Article 9 letter c, the following articles further regulate the authority of the Financial Services Authority in carrying out consumer protection:

- a. Article 28 states that, to protect consumers and the public, the Financial Services Authority has the authority to prevent losses to the public and consumers, including:
 1. inform and educate the public about the characteristics of financial services industry products and services;
 2. recommend to financial services institutions to stop their operational activities if their activities are indicated to be detrimental to society; And
 3. take other steps deemed necessary based on laws and regulations in the financial services sector.
- b. Article 29 states that the Financial Services Authority provides services for consumer complaints, which include:
 1. prepare adequate facilities for complaints from consumers who have been harmed by actors in the financial services sector;
 2. creating a method for responding to complaints from consumers who have been harmed by actors in the financial services sector; And

3. provide facilities for consumers to resolve complaints that have been submitted
- c. According to Article 30 paragraph (1), it states that the Financial Services Authority has legal defense authority which includes:
1. Take certain actions or order the Financial Services Institution regarding complaints from customers who have been harmed by the Financial Services Institution;
 2. file a lawsuit for:
 - a. return the property of the injured party from the person in charge, whether the property is in his control or in the hands of a legitimate third party; and/or
 - b. collect compensation from the party responsible for losses suffered by consumers and/or financial service institutions as a result of acts against the law and regulations in the financial services industry.⁹

In accordance with Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, the aim of protecting consumers in the financial services sector is the creation of a reliable system for consumer protection, increasing consumer empowerment, and increasing organizers' awareness of the importance consumer protection to increase public trust in financial services.¹⁰

Based on Article 29 of the OJK Law, one of the authorities of the Financial Services Authority is to provide consumer complaint services. Therefore, in accordance with Financial Services Authority Regulation no. 1/POJK.07/2013, the authority of the Financial Services Authority to receive consumer complaints has been further regulated in Article 39 paragraph (3), including; The Financial Services Authority receives complaints from consumers and facilitates resolving consumer complaints that have the potential for disputes between consumers and Financial Services Business Actors, as well as those that have the potential to violate statutory provisions in the financial services sector.

2. Consumer

The word "consumer" comes from the word "consumer" or "consumer" (Dutch). Depending on the situation, the definition of consumer or consumer varies. Anyone who utilizes a

⁹ Mirza Nasution, “Independensi Otoritas Jasa Keuangan”, Seminar Tentang Sosialisasi Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan’, 2012, hal. 6.

¹⁰ Annisa Arifka Sari, ‘Peran Otoritas Jasa Keuangan Dalam Mengawasi Jasa Keuangan Di Indonesia’, *SUPREMASI Jurnal Hukum*, 1.1 (2018), hal. 26.

product is a consumer, by definition (as opposed to a producer). Which consumer group a user falls into is ultimately determined by their reasons for using the product or service..¹¹

In determining the need to provide explicit protection, the OJK Law considers consumers. Financial systems now provide more sophisticated cross-institution and cross-platform collaboration. On the one hand, service providers pursue various commercial goals in an effort to increase their profits, but on the other hand, they have a moral obligation to uphold the quality of their products and services. Consumers should of course not be seen simply as "objects" of the business other than receiving the services provided; rather, they should be protected for the transactions they undertake and the outcomes of those interactions. The need for a regulatory institution in the financial services industry is demonstrated by the many cross-sectoral problems that arise in the financial services and banking sectors, including moral hazard activities and the lack of adequate protection for financial services customers. Consequently, the sector's organizational structure for regulation and supervision must be changed..¹²

According to statutory regulations, in accordance with the OJK Law which regulates the financial services industry, parties who deposit funds or use services offered by financial services institutions, such as bank customers, stock market investors, insurance policy holders and pension fund participants, are considered consumers. . A consumer is defined as a person who uses, benefits from, or becomes a user of a product or service for a particular reason..¹³

he Consumer Protection Law defines consumers as every individual who uses products and/services offered by society for personal, family or other people's and other living creatures' benefit, which is not for trade. Every individual with a position as a user of products and services is a topic called a consumer. The use of the word "person" does raise the question of whether it refers to humans born naturally or to legal organizations (rechts person). According to Article 1 paragraph (3), the definition of "business actor" specifically differentiates these two definitions by including the words: "individual person or business entity". Of course, it makes sense to expand consumer awareness beyond individual customers. However, consumers should consider commercial entities which have a broader definition than just legal corporations (legal entities).

¹¹ AZ Nasution, *Hukum Perlindungan Konsumen Suatu Pengantar* (Jakarta: Diadit Media, 2011). hal. 3.

¹² 'Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan'.

¹³ 'Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen', 1999.

Meanwhile, "User" is the final customer as intended in Article 1 paragraph (2) UUPK. In this case, the definition of "user" can be accepted to indicate that the products and/services used are not always a consequence of the sale and purchase transaction, and is used in drafting these provisions. In other words, customers do not need to sacrifice money to receive products and/or services.¹⁴

AZ Nasution emphasized that what is meant by individual is an individual, not a legal entity. Therefore, only people or humans use, exploit, and/or use goods and/or services for themselves, their families, other people, or other living creatures with the intention of not exchanging them. He emphasized consumer limitations as: A consumer is anyone who purchases a product or service for a specific use;

- a. A consumer is anyone who purchases a product or service for a specific use;
- b. the final consumer is someone who buys something and uses it for themselves, their family, or their home, not to trade it for something else (non-commercial).¹⁵

In the Consumer Protection Law, consumer rights are :¹⁶

- a. obtain comfort, safety and security when using products/services;
- b. freedom to choose products and/or services according to their choice, to obtain products and/or services in accordance with the terms and conditions of the agreement, exchange rates and guarantees;
- c. obtain accurate, honest, transparent information regarding product and/or service requirements and warranties;
- d. the right to express complaints and complaints regarding the products and/or services utilized;
- e. the right to adequately advocate for consumer protection;
- f. the right to convey advice and information to consumers;
- g. the right to receive services that are fair, honest and without discrimination;
- h. the right to compensation, refund, or both if the product or service obtained does not meet the terms of the contract or is not up to standard;
- i. other rights regulated by statutory provisions.

¹⁴ Celine Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen* (Jakarta: Sinar Grafika). hal. 28.

¹⁵ Abdul Atsar dan Rani Apriani, *Buku Ajar Hukum Perlindungan Konsumen* (Yogyakarta: Deepublish, 2019). hal. 39-40.

¹⁶ Abdul Halim Barkatullah, *Hak-Hak Konsumen*, Digital (Bandung: Nusa Media, 2020). hal. 33-35.

Consumer obligations include:

- a. For security and safety purposes, read or comply with the information and usage guidelines before using any product or service;
- b. in carrying out business with the aim of purchasing products in good faith;
- c. pay using the agreed currency exchange rate, and
- d. strive to resolve consumer protection legal issues correctly.

3. Personal Data

Personal information is information about an individual's characteristics, including, age, education, name, occupation, address, gender, and position in the family¹⁷ Everyone has confidential personal information. Personal data is a person's privacy that needs to be protected in various aspects of life. In other words, "personal data" is confidential and personal information that contains codes, letters, identities, symbols or numbers that indicate a person's personal identity..¹⁸

Facts, conversations and views about a particular person that are personal, sensitive or confidential may be considered personal data. The subject of the information can choose to keep it or place restrictions on others from obtaining, using and disclosing it to other parties.

4. Control of Consumer Protection in Indonesia

The government has enacted Law no. 8 of 1999 concerning Consumer Protection as the basis for consumer protection regulations in Indonesia. With this legal basis, it appears that there are efforts to protect consumer rights and the obligations of business actors. UU no. 8 of 1999 concerning Consumer Protection was issued on April 20 1999 which is popularly known as UUPK, which came into effect exactly one year later, on April 20 2000.

Consumer rights and the responsibilities of business actors are in line because the obligations of business actors mentioned are essentially fulfilling consumer rights in the UUPK. In other words, the obligation to treat or serve consumers fairly, honestly and without discrimination is a consumer right in the form of the right to receive such treatment or service.¹⁹

¹⁷ Lisa Nur Azizah Dararida Fandra Mahira, Emilda Yofita, 'Consumer Protection System (CPS): Sistem Perlindungan Data Pribadi Konsumen Melalui Collaboration Concept', 10.1 (2022), hal. 290.

¹⁸ Lia Sautunnida, 'Urgensi Undang-Undang Perlindungan Data Pribadi Di Indonesia: Studi Perbandingan Hukum Inggris Dan Malaysia', *Kanun Jurnal Ilmu Hukum*, 20.2 (2018), hal. 372.

¹⁹ Arif Safari dkk, *Unboxing Perlindungan Konsumen Di Indonesia* (Kota Bogor: IPB Press, 2021). hal. 38.

The Consumer Protection Law strengthens law enforcement in protecting consumers by containing the requirements of consumer protection law in the form of other legal umbrellas related to consumers. There are several other legal instruments, apart from Law no. 8 of 1999 concerning Consumer Protection, which is used as a reference source for consumer protection law, including:

- a. PP No. 57 of 2001, dated 21 July 2001 concerning the National Consumer Protection Agency;
- b. PP No. 58 of 2001, dated 21 July 2001 concerning the Development and Supervision of Consumer Protection;
- c. PP No. 59 of 2001, dated 21 July 2001 concerning the National Consumer Protection Institute.²⁰

5. Forms of Legal Protection for Consumers for Personal Data on Online Loan Applications

Collection, storage, dissemination and analysis of data in today's conditions is very possible because of the development of information technology. The concept of personal data protection, everyone has the freedom to choose whether or not to participate in a community and disclose or trade personal data. Data protection legislation sets out requirements for the use of an individual's personal data as well as safeguards for the security of that data.²¹

Therefore, in accordance with this assertion, it can be concluded that protecting personal data is a right (right to privacy) that every person has and must be upheld by the state. Everyone has the right to hide or keep certain information confidential..²²

Based on Law no. 11 of 2008 concerning Information and Electronic Transactions and its amendments to Law no. 19 of 2016, Article 26 paragraph (1) states that any information used via electronic media that is related to a person's personal data must be done with the consent of the person concerned, unless otherwise determined by statutory regulations. According to paragraph (2), every person whose rights have been violated in accordance with paragraph (1) may submit a claim for compensation for losses suffered as a result of this law.

Financial Services Authority Regulation no. 77/POJK.01/2016 concerning Information Technology-Based Money Lending and Borrowing Services, which regulates the security of personal data in online loan services. These provisions regulate how to use technology-based loan services while protecting borrowers' personal data. Organizers are obliged to "maintain the

²⁰ Agus Suwandono, *Hukum Perlindungan Konsumen* (Depok: Prenadamedia Group, 2018). hal. 52

²¹ Sinta Dewi, 'Konsep Perlindungan Hukum Atas Privasi Dan Data Pribadi Dikaitkan Dengan Penggunaan Cloud Computing Di Indonesia', *Yustisia Jurnal Hukum*, 5.1 (2016), hal. 25.

²² I Dewa Gede Adi Wiranjaya and I Gede Putra Ariana, 'Perlindungan Hukum Terhadap Pelanggaran Privasi Konsumen Dalam Bertransaksi Online', *Journal Ilmu Hukum*, 6.1 (2017), hal. 3.

confidentiality, integrity and availability of personal data, transaction data and financial data that they handle from the time the data is collected until the data is destroyed," according to Article 26 letter a of this POJK. This implies that lenders have an obligation to maintain the privacy of borrowers' personal information from the time the loan arrangement is made until it is completed. To protect borrowers' personal information, these requirements must be met..

In the case of providing permission, the borrower's personal information will be legally protected when utilizing the online loan application features. Protection of the confidentiality of borrowers' personal information from being revealed or so that online loan providers keep this information confidential is also known as legal protection. If his personal information is disclosed without his consent, he has the right to take legal action.

6. OJK's role in protecting consumer personal data in online loan applications.

According to Article 4 letter c of Law no. 21 of 2011 concerning the Financial Services Authority, has the responsibility to protect the interests of customers and the wider community. In this regard, the Financial Services Authority has issued the PK Law which, apart from having the aim of protecting consumer rights, also seeks to increase consumer empowerment, increase consumer empowerment among financial service providers, and public trust in financial service industry providers continues to increase. Walker, E.R. emphasized in his book *From Economic Theory to Policy* that economic rationalization implies that consumers strive to maximize their happiness because in general they try to achieve it.²³

Regulations related to this protection include (POJK) Number 6 of 2018 of 2022 concerning Consumer and Community Protection in the Financial Services Sector, POJK Number 61 of 2020 concerning Alternative Dispute Resolution Institutions in the Financial Services Sector, and POJK Number 18 of 2018 2022 concerning Complaint Services Consumers and Society in the Financial Services Sector by the Financial Services Authority. Clause that modernizes POJK no. 1 of 2013 regulates, among other things, how financial service providers implement consumer protection in designing products, services and dispute resolution. In addition, this POJK encourages the protection of consumer data and information by clarifying basic responsibilities for disclosure and disclosure of information about products and services.

The following changes have been made in POJK Number 6/POJK.07/2022 to increase consumer and public protection:

²³ Suhrawardi K. Lubis, *Hukum Ekonomi Islam* (Jakarta: Sinar Grafika, 2000).

- a. regulatory strategies to regulate the distribution of products and/or services in increasing public and customer protection from product and/or service schemes through managing and resolving complaints;
- b. strengthen the principles of consumer and community protection, including PUJK's obligation to provide "adequate education" to improve the skills of the community and consumers in choosing goods and services in the financial services industry;
- c. determining the character, mechanisms and exceptions in conveying an overview of information on goods and services will help strengthen the implementation of the principles of information openness and transparency;
- d. improve consumer data and information protection, consumer support, and/or assistance for elderly, disabled, and/or consumers;
- e. responsibility to provide customers with sufficient time to read and interpret contracts before they sign or provide time off after they do so for complex or long-term products or services;
- f. the obligation to record audio or video communications made by individuals on behalf of the products or services offered;
- g. affirmation of OJK's ability to protect consumers, including monitoring market behavior as a means of implementing Articles 28 to 30 of the OJK Law;
- h. obliged to establish a consumer and community protection function or unit;
- i. PUJK is obliged to provide its own evaluation report to OJK regarding compliance with the PK Law.

he Financial Services Authority carries out the provision of legal defense in a manner adapted to the problems and conditions of financial services institutions. The Financial Services Authority does not protect consumers if there is a problem of misuse of consumer personal information in online loan applications that have not been verified by the OJK. OJK has given permits to 102 business actors as fintech peer-to-peer lending or fintech lending as of April 22 2022.²⁴

Security of individual data is one of the obligations that is upheld by online loan applications that have been granted business permits by the Financial Services Authority. Financial

²⁴ Otoritas Jasa Keuangan, 'Perusahaan Fintech Lending Berizin Dan Terdaftar Di OJK Per 22 April 2022', April, 2022, hal 1-2 <<https://www.ojk.go.id/id/kanal/iknb/financial-technology/Pages/Penyelenggara-Fintech-Lending-Berizin-di-OJK-per-22-April-2022.aspx>>.

Services Authority Regulation Number 10/POJK.05/2022 Article 47, contains the following provisions for the use of personal data:

- a. to collect and utilize personal data, the Operator must obtain consent from the data subject;
- b. provisions of laws and regulations may regulate exceptions to permits as intended in paragraph (1); Personal Data Owners can contact the organizer and request access and a copy of their Personal Data;
- c. the owner of personal data is free to complete, revise errors or inaccuracies, and then delete personal data that has been submitted to the organizer;
- d. a formal application is required to exercise the right in paragraph (4).

However, if a violation has occurred, the public can report it to the authorities, namely the Indonesian National Police. If data leakage or misuse of personal data is carried out by an online loan application that violates the law, then this is no longer within the authority of the Financial Services Authority. Ability Financial Services underscores that it does not have the authority to prosecute or police individuals who improperly use their personal information in fraudulent online loan applications. According to the Financial Services Authority, it has the power to monitor and enforce online loan applications that have been registered/verified with the institution. The Republic of Indonesia Police will carry out enforcement against illegal online loan applications because they are included in the area of criminal law.

E. Conclusion.

The definition of personal data in the Minister of Communication and Informatics Regulation No. 20 of 2016 concerning Protection of Personal Data in Electronic Systems which states that certain personal data is stored, maintained and stored properly and its confidentiality is protected. Meanwhile, personal data specifically states that any real and true information related to that data can be known directly or indirectly to every individual, the use of which must be subject to statutory regulations.

In accordance with Law no. 8 of 1999 concerning Consumer Protection and Financial Services authorities, that the State guarantees and has provided protection for online loan consumers, and the OJK has also prevented consumer losses and complaints about services.

Protecting the confidentiality of personal data is a government obligation that has been mandated by statutory provisions as a form of protecting people's rights. And we also need to realize

that the protection of personal data is not only the responsibility of the government, but individuals must also be aware of the ownership of the data subject

In this research the author suggests the following:

- a. The state must be quicker, more responsive and active in protecting the rights of its citizens regarding the confidentiality of personal data.
- b. The government provides education regarding the positive and negative impacts of application-based online loans.
- c. The government must prepare special devices or agencies to ward off phishing targets.
- d. As a data owner subject, you must be aware and more careful about personal data uploaded via electronic media.

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