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**ANALYSIS OF LEGAL PROTECTION FOR RECIPIENTS OF FINTECH FUNDS BASED ON FINANCIAL SERVICES AUTHORITY REGULATION NUMBER 10/POJK.05/2022**

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**ABSTRACT**

Technological acceptance of funds is increasingly widespread. Financial Technology does not receive legal protection even though the Financial Services Authority Regulation Number 10/POJK.05/2022 has been issued, but this legal protection is still considered by many recipients of funds as not legally protected. The results of this research discuss the procedures for receiving funds by financial technology consumers and the legal protection provided to recipients of financial technology funds. This study divides the legal protection into two parts, namely preventive legal protection and repressive legal protection, and is analyzed according to the legal regulations that apply to recipients of funds. This research uses the normative legal research method which is carried out by analyzing the current regulations. The purpose of this research is to find out whether the Financial Services Authority Regulation Number 10/POJK.05/2022 has provided adequate legal protection for service recipients and recipients of funds in digital financial transactions.

Keywords: Legal Protection, Fintech, Digital financial

**INTRODUCTION**

The development of digital technology in the modern era is currently experiencing great changes in carrying out activities, one of which is in the world of financial transactions. Fintech is the use of technology in a digital technology funding system that has encouraged the development of digital financial services which can be used as alternative financing for Indonesian citizens. Fintech has changed the way people make transactions and access financial services, providing greater convenience, speed and efficiency than traditional methods. (5, 2020)

Legal fintech is not in accordance with the implementation of its functions and duties, so the government issued a new regulation POJK.10/No.05/2022 to provide facilities for providing legal protection to recipients. Most people are interested in taking advantage of recipients of these funds for the existence of settlement procedures by intimidating them. receiving and disseminating customer information that does not comply with the law with many of these problems such as the government's efforts to instill a sense of security as protection for customers receiving fintech funds.

Since 2010, such companies have become the top choice in the market. The majority of financial technology companies are small and medium-sized companies, which may not have much equity, but have a clear understanding of how to develop new services in the financial markets or improve existing services. The number of financial technology startups continues to grow, and according to various estimates, has now reached more than ten thousand companies. (Muchlis, 2018)

Funding carried out through fintech is known as information technology-based joint funding services or "LPBBTI". This service is designed to bring together funders and recipients of funds in conventional or sharia funding directly through an electronic system connected to the internet. (Lawmonline, 2022)

Capital owners receive returns in the form of interest per month, while financing borrowers can develop their businesses. In addition to profitable P2P loans, services are also available with a consumptive system that is often used for needs.

Peer to peer lending distinguishes between productive and consumptive P2P lending, which is one

of the easiest ways to know the special characteristics to make it easier to differentiate them. A productive P2P lending business focuses on providing loans to MSMEs that can receive loans from financial institutions.

A growing problem is the alleged leak of public information in Indonesia which could affect the fintech industry. Apart from that, the fintech industry is also vulnerable to cybercrime attacks, and the industry realizes that nothing is perfect in terms of security. But the most important thing for fintech companies is to maintain public trust and the industry in general must continue to develop and work dynamically.(cnbcindonesia, 2022)

Since March 2019, Financial Technology Indonesia has provided public information services and reports related to fintech on the AFPI website. According to the association, in 2020, around 46% of complaints received were related to receiving funds through financial technology. The category of complaints related to restructuring is the second largest with a percentage of 22.52%, followed by the category of complaints related to questions and public statements at 17.74%. Complaints related to personal data breaches account for around 7.7% of total complaints, while complaints regarding interest rates account for around 5.23%.

The Financial Services Authority (OJK) noted that in 2020 there was a significant increase in the development of Fintech, especially in Peer-to-Peer (P2P) lending services. The total value of P2P lending loans reached IDR 74.41 trillion, which is an increase of 26.47 percent compared to the same period in the previous year. Although not as high as the previous year, payment growth was also quite high compared to other financial services industries. The number of user or borrower accounts also increased from 43.5 million in the previous year to around 45 million accounts in 2020, according to OJK data.(Pn-singaraja.go.id, 2021)

In October 2022, funding sources from fintech reached 46%, an increase from the previous month which only reached 44%. Cooperation between the government and OJK is considered positive and needs to be improved. According to regulations, banks are required to channel a minimum of 20% of their capital as financing for MSMEs in 2022, and 25% in 2023. It is believed that the possibility of collaboration between banks and fintech can accelerate the digitalization of MSMEs.

This company uses information technology to create financial products as its core business. Up to 35% equity opportunities from bank collaborations can be channeled to fintech, which includes aggregators, payments and peer-to-peer (P2P) lending. "POJK 22/2022 regulates capital participation has important objectives, starting from increasing flexibility, efficiency and competitiveness of national banking, while the P2SK Law, it is believed that the impact of its presence can encourage inclusion, literacy and innovation, as well as strengthening the quantity and quality of human resources in the developing financial sector .(finance.detik.com, 2023)

According to the Indonesian Joint Funding Fintech Association, MSME players often need loan assistance of IDR 1.6 trillion to run their business. Banks are often very selective in providing loans, however, so they can only provide around IDR 600 trillion of that amount. Meanwhile, the existence of P2P lending can help cover the remaining loan needs of IDR 1 trillion. Although there are banks that focus on providing loans to MSMEs, they are more interested in large companies that have a wider business reach. Therefore, P2P lending is the main choice for MSMEs who need capital. This does not mean that P2P lending can replace the role of banks. P2P lending and banks will continue to operate independently and complement each other.(modalrakyat.id, 2021)

Risks that need to be considered as a borrower or lender such as interest risk are high interest rates from the borrower, service fees of 3-5% must be paid, short repayment periods. One of the handling efforts is the availability of appropriate legal instruments. The relevant legal instrument is the existence of laws and regulations relating to the issue of recipients of funds in financial technology.

In practice, there are at least two potential risks that may arise in the fintech business related to receiving funds, including the risk of consumer data security and the risk of errors in transactions.(OJK, 2017)The losses caused by these two risks can be detrimental to all parties involved in the fintech

business. This situation is increasingly worsened by the increase in cyber crimes such as data theft, intrusion and other cyber crimes which result in public distrust of online financial transactions. (Chrismastianto, 2017)

In this case, legal protection becomes the mediator that can protect victims who receive funds using digital fintech financial technology. In the theory of legal protection put forward according to Philipus M. Hadjon:

*"Legal protection is the protection of dignity and dignity, as well as recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness"*

## RESEARCH METHODS

In this research, using a normative legal approach, a normative approach is used to test Financial Services Authority Regulation 10/No.05/2022. This type of descriptive legal research is used by the author with the aim of analyzing legal regulations which act as a protection mechanism for recipients of funds and in the implementation of fund distribution in fintech-based financial technology experienced by the public. In this research, the author used primary and secondary data sources. Data was collected from various sources, both primary and secondary legal materials, with data collection techniques through literature study, Financial Services Authority Regulation 10/No.05/2022. In this research, qualitative analysis methods were applied to analyze all the data that had been collected. This data is used as a reference to obtain a deeper and more comprehensive understanding in solving problems and drawing conclusions.

## RESULTS AND DISCUSSION

### a) Implementation of fintech-based distribution flow for recipients of funds in digital financial technology

The country of Indonesia is experiencing progress in digital technology, especially in the financial sector. One of these advances is in providing and receiving funds through fintech. People in Indonesia welcome the presence of this technology in the world of digital finance to facilitate digital financial transactions by utilizing technology. Technological progress continues day by day. The presence of technology has become an inseparable part of our lives, helping us make various things easier and faster. This change also has an impact on people's lifestyles, including in the financial sector. Anyone can transfer money without needing to go to a bank and even borrow money through online platforms known as fintech peer-to-peer (P2P) lending.

Investments in P2P lending offer the potential for high returns, but it is important to consider your personal risk profile and tolerance and learn how to manage them. Therefore, the first step in the process of investing in P2P lending is to properly understand the risks involved. It is important not to invest funds without understanding the level and type of risk involved. The following is an overview of how the P2P lending process works:

1. Member Registration: Users (lenders and borrowers) register via the online platform using a computer or smartphone.
2. Loan Application: Borrowers apply for loans through P2P lending platforms.
3. Analysis and Selection: P2P lending platforms analyze and select borrowers who are worthy of applying for a loan, including determining the risk level of the borrower.
4. Placement on Marketplace: Selected borrowers will be displayed on the online P2P lending marketplace along with detailed information about the borrower's profile and risks.
5. Investor Analysis and Selection: P2P lending investors carry out analysis and selection of borrowers registered in the P2P lending marketplace provided by the platform.
6. Loan Funding: P2P lending investors provide loan funds to selected borrowers through the P2P lending platform.

7. Loan Repayment: The borrower returns the loan according to the payment schedule that has been set to the P2P lending platform.
8. Receiving Return Funds: P2P lending investors receive loan return funds from borrowers through the platform. (sikapiuangmu.ojk.go.id, 2023)

#### **b) Legal protection in receiving financial digital technology funds**

Legal protection has the meaning of an effort to safeguard and protect legal entities in various legal situations, both in prevention and enforcement, both in the form of written and unwritten law. More specifically, legal protection has an important role in maintaining justice, order and legal certainty.

Even though the use of information technology in fintech peer-to-peer lending provides various benefits for society, it is necessary to be aware of the possibility of misuse of fintech peer-to-peer lending as a means to commit financial crimes.

Providing funds through financial technology has experienced a significant increase. The Financial Services Authority, as the institution responsible for handling complaints regarding the receipt of funds that violate applicable legal regulations, has issued Financial Services Authority Regulation Number 10/POJK.05/2022 as legal protection for recipients of funds who do not fulfill their rights. their rights.

In the world of business, consumer protection, both material and formal, is becoming increasingly important as a driver of producer productivity along with increasingly rapid technological advances for goods or services produced to achieve company goals.(Kristiyanti, 2011)

The protection offered by the OJK is that if an act of abuse occurs and it is known to cause losses, the OJK will require them to stop trading. Apart from that, OJK defends the interests of the public as consumers by filing a lawsuit against the perpetrators of the damage. OJK also issues warnings in the form of warnings to company administrators whose irregularities are checked, so that they are immediately corrected, then OJK sends information about activities that could harm consumers or the general public.

#### **Analysis of legal protection for the Republic of Indonesia financial services authority regulation number 10 /POJK.05/2022 concerning information technology-based joint funding services**

Financial Services Authority Regulation number 10/POJK.05/2022 concerning Technology-Based Funding Services as a means of legal protection for people receiving funds through financial technology which is deemed capable of providing legal protection and which articles constitute that legal protection. Legal protection here is divided into 2, namely:

##### **1. Preventive Legal Protection**

"Article 4 explains that the organizer who receives the funds must deposit capital in this case so that the business founder who receives the funds starts his business. The capital can be used as a business activity if the founder has deposited the initial business capital."

"Article 7 explains that the PSP is obliged to be responsible for losses in the sense that here the PSP has the duty and function of protecting funds for services that utilize financial technology in the affairs of recipients of funds. The PSP carries out its functions and duties in accordance with those regulated in the 2022 Financial Services Authority Regulations ."

"Article 8 explains that LPBBTI organizers must first obtain a business permit from the Financial Services Authority as the center for digital financial services. If LPBBTI as the organizer has obtained permission from the OJK, it can be said to receive legal protection and be recognized by the Financial Services Authority."

"Article 32 explains that the funding agreement between the two parties is set out in an electronic document. This agreement between the two parties is guaranteed by the Financial Services Authority due to the existence of written evidence made by utilizing technology that has developed in financial technology."

"Article 35 explains the implementation of effective risk management to LPBBTI as a responsibility for recipients of funds. LPBBTI guarantees that if risks occur, recipients of funds are responsible for

losses in the process of managing funds receipts through digital financial technology."

"Article 100 explains that consumer protection for fund recipients has principles that are contained and applied in practice as a financial service provider body to bring fund providers together with fund recipients in carrying out conventional funding or based on sharia principles directly through an electronic system using the internet."

## 2. Representative Legal Protection

"Article 20 explains that the administrative sanctions imposed by the LPBBTI contain 3 types of sanctions which are applied with a time period for each from their implementation in accordance with what the LPBBTI organizers have violated in other articles 16 paragraph (1) and paragraph (2), Article 17 paragraph (1), Article 18 paragraph (1) letter a, paragraph (3), paragraph (4), paragraph (6), and paragraph (10), Article 19 paragraph (3), paragraph (4), and/ or paragraph (5)."

## CONCLUSION

Based on the results of research analyzing legal protection for recipients of fintech funds based on Financial Services Authority Regulation number 10/POJK.05/2022, researchers concluded that distribution to recipients of financial technology funds is a need for the Indonesian people to utilize financial technology and legal protection. which is given to recipients of funds in fintech services based on regulations issued by the Financial Services Authority (OJK), namely regulation number 10/POJK.05/2022.

That the Financial Services Authority (OJK) based on Financial Technology has the function and duty to serve the public in carrying out financial transaction activities by implementing technology that has developed rapidly in Indonesia. Fintech has a feature of receiving funding through applicable stages.

Researchers explain that in carrying out the fintech-based funding process, legal protection is implemented to provide safe services for fintech consumers. In this legal protection product, the Financial Services Authority Regulation number 10/POJK.05/2022 was issued, several articles which provide legal protection for recipients of funds. To test regulation number 10/POJK.05/2022, researchers used the legal protection theory put forward by Plipus M.Hadjon is divided into two parts, namely preventive legal protection and repressive legal protection, then the articles in Regulation number 10/POJK.05/2022 are grouped and then analyzed according to the two parts of legal protection put forward by the figure Plipus M.Hadjon.

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