
THE ROLE AND FUNCTION OF THE FINANCIAL SERVICES AUTHORITY IN THE SUPERVISION AND PROTECTION OF CONSUMERS AGAINST ILLEGAL ONLINE LOANS

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ABSTRACT

This journal with the title "The Role and Functions of the Financial Services Authority in Consumer Supervision and Protection of Illegal Online Loans" was prepared using a normative juridical approach with data collection techniques with the help of various materials available in the library. This journal aims to convey information related to the functions, powers and duties of the Financial Services Authority according to Law no. 21 of 2011, online lending practices in Indonesia, and the supervision of the Financial Services Authority against consumers of illegal online loans in Indonesia. In addition, the purpose of compiling this journal is as educational material for the public if they are going to make online loans, they should be done in a legal way through the Financial Services Authority. If you make an online loan illegally, it will cause material losses for the borrower himself and will not get any protection from the Financial Services Authority.

Keywords: Online Loans; Illegal; Consumer Protection

INTRODUCTION

In the national economy, advances in technology are increased in order to achieve a prosperous people so that a better economy can be realized. Advances in communication technology encourage humans to be able to keep up with all new developments. Today's advances in communication technology have opened people's eyes to new worlds, new relationships, new markets and limitless global business networks in addition to making it easier to socialize and communicate. People may be encouraged to use technology to help their economy. One of them is the growth of Financial Technology or in other words FinTech which is the result of a combination of technology and financial services so that it ends up shifting the business model from traditional to modern from an early age.

Technological advances are also useful in many fields, including the presence of Technology-Based Financial Institutions (Fintech). The convenience available encourages various parties to provide information and develop capital funds or money lending services using the internet or what is often heard as Financial Technology (Fintech). With these conveniences, some irresponsible parties use the opportunity to harm society. The existence of these various problems requires an institution whose job is to handle these problems. Hereby, based on Law no. 3 of 2004 regarding changes to Law no. 23 of 1999 regarding BI, the government must establish a state institution tasked with regulating the financial services industry. The following institutions are required to be independent and accountable for business activities carried out by non-bank financial institutions or banks. The Financial Services Authority, which was later named OJK, was created on the basis of Law no. 21 of 2011, the aim of which is to implement a comprehensive supervisory and regulatory system for all operations in the financial services system, including those involving banking and capital markets, as well as non-financial services, including financial

institutions, capital markets, pension funds and other institutions.

Organizers are required to apply for registration and permits to the OJK, in accordance with the Financial Services Authority (PJOK) Regulations article 7 Number 77/PJOK.01/2016 regarding OJK Information Technology-Based Money Lending and Borrowing Services. The following shows that the OJK regulatory and supervisory framework applies to all financial services provided by financial institutions. However, in practice, there are still businesses that continue to exist even though they have not been registered or have the necessary permits. At the start of January 2023 there were 102 illegal loans registered with the OJK. From 2018 to February 2023 there have been around 4,567 loans that have been stopped and not registered.

The legal resolution of this loan or financial technology problem is still relatively minimal because cases like this are still prone to occur. Therefore, the first problem formulation that can be taken How the Functions, Authorities and Duties of the OJK are based on Law no. 21 of 2011, secondly How Online Lending Practices are in Indonesia and finally How the Financial Services Authority Supervises Consumers of Illegal Online Loans in Indonesia.

RESEARCH METHODS

The disconnect between *das sollen* and *das sein*—more precisely, between accepted theory and actual events that occur in the field—is the impetus for conducting research. A normative juridical approach, based on norms, rules and legal theory is used in research to consider the problem being investigated while adhering to legal elements. Utilize information and data collection methods and various library sources, including reference books, comparable findings from previous research, notes, articles, and various magazines related to the problem at hand. Research is also carried out to address problems based on a thorough and critical evaluation of the library resources in question. The following library materials are intended as a starting point for new thinking or other inspiration.

RESULTS AND DISCUSSION

What are the Functions, Duties and Authorities of the Financial Services Authority According to Law Number 21 of 2011

OJK is a separate entity that coordinates a comprehensive regulatory and supervisory framework for all operations in the non-financial services and financial services sectors. Control over the financial services industry, which includes capital markets and banking. Non-financial services industry, which includes insurance, pension funds, and other lending institutions. OJK operates independently from outside intervention in carrying out its functions. As a result, organizations have broad duties and powers, including supervision, regulation, investigation, and inspection.

OJK has the aim of running business in the financial and non-financial services sectors in a transparent, orderly and fair manner while still protecting customers and organizers. Then, OJK also has several objectives, including: Carrying out all financial services and non-financial services sectors in an orderly, transparent, responsible and fair manner; create a financial system that can develop steadily and consistently, guarantee the security of financial operations in various financial institutions that have been approved by the OJK and protect customers, organizers and the wider community.

In order to carry out its obligations and activities, OJK is given various authorities. Granting the first Financial Services Establishment Permit. Business entities can be created immediately through indirect financial services. OJK must first give permission to the institution. This is an effort to maintain public security and financial services. Making Rules and Decisions Relating to Financial Services Management, second. An issue or policy involving financial services institutions can be decided by the OJK. Next, Monitor the Financial Services Management Process. Financial institutions must then be willing to supervise their operational actions after obtaining OJK permission. The following institutions will continue to monitor

how the OJK exercises its powers. so that financial service providers can carry out financial operational activities in accordance with OJK policies, guidelines and regulations. in order to develop trustworthy and trustworthy financial service providers. Imposing sanctions for violators in the financial sector is next. Imposing Sanctions for Violators in the Financial Sector is next. OJK has the right to issue warnings and monitor the situation if violations are discovered in the financial services sector through OJK supervision procedures. Because OJK has the authority to punish those who violate the law in the financial industry. Therefore, OJK can act as a deterrent and provide a deterrent effect so that the following things will not happen again.

The functions of the OJK are explained below. First, ensuring that financial transactions are safe. People trust and feel safe in financial institutions when financial services are provided reliably and without incident. Second, Fighting Fraud. Fraud on the part of recognized financial institutions is widespread throughout society. So, OJK's goal is to stop fraud. All registered financial institutions must always be under the supervision of the OJK to prevent losses to the public and continue to carry out their obligations and activities in accordance with OJK laws. Third, increasing community financial inclusion. OJK also plays an important role in achieving fair access to financial services. Thus, one of OJK's goals is to expand financial inclusion in society. OJK has made several efforts to achieve the following, including the Financial Inclusion Month campaign and collaborating with many merchants to provide digital payment systems and others. Fourth, creating a mutually beneficial financial ecosystem. Creating a financially sustainable ecosystem is another task of the OJK. There are stakeholders involved in achieving a healthy economy and finances. OJK, among others, is expected to be able to carry out various profitable financial transactions from financial services, the community, to the government through its various responsibilities, duties and authorities.

How Online Loans Practice in Indonesia

P2P lending or often known as online loan services is increasingly popular in Indonesia. One of the advantages of these financial services compared to banking is how easy it is to borrow money. Loans can be disbursed instantly within a few days without having to bother visiting the bank. Anyone can use an online loan just by showing personal documents such as family card, KTP, pay slip and NPWP.

The presence of fintech businesses offering digital-based products opens up new opportunities for the public to submit loan applications. In contrast to conventional loan services offered by banks or P2P loan cooperatives, this can be applied for easily and quickly.

It seems that illegal online P2P lending will grow quickly because of opportunities from the community market itself. Being settled at the bank is considered too time consuming, therefore many are switching to the loan industry (pinjol) or (P2P Lending), where the procedure is simpler and faster.

Due to the low level of financial awareness in Indonesian culture, the establishment of online loans is controversial. This undoubtedly poses the danger of trapping loan borrowers in excessive amounts of debt that prevents them from meeting their repayment obligations. The media often reports on the dangers that people may face if they are unable to pay loan installments. In Indonesia, cases of borrowing without permission still occur frequently. Some time ago, social media was busy discussing the story of a teacher in Semarang Regency, Central Java, who was found to be in debt from illegal loans amounting to hundreds of millions of rupiah.

Providing personal information when applying for a loan makes it easier for clients to pursue unpaid debts. Until they are ready to be fired from their jobs, debt collectors threaten them with everything from going to court to going to jail. In addition, a number of other internet users have called attention to loan companies that can access data from consumers' phones.

In fact, many people think that refraining from applying for a loan is better. This is because, even though the loan application may not be approved, consumer information has been collected. Pinjol is also considered very detrimental to customers. For example, applying for a loan only costs IDR 1 million to IDR 2 million, but the lender can obtain all client information with a potential value of IDR 100 million or more. Then, there are those who claim that many people who participate in peer-to-peer lending (P2P) become

victims of suicide and stress. A motorbike taxi driver who worked online committed suicide due to the stress of receiving a bill from a debt collector, Pinjol Fintech.

Some people responded to this news by arguing that fintech loans that inspire suicide should be closed immediately. Tension due to debt collector collection pressure is the cause. The fact that many people are approached by fintechs as an emergency contact for their customers is another fact regarding lending. In reality, the individual designated as an emergency contact was unaware. Finally, these emergency contacts will get a reputation as “bother” due to constant contact by fintech debt collectors, which will be very inconvenient.

OJK has again released the latest peer-to-peer (P2P) lending statistics or registered or regulated loans in an effort to reduce the number of victims of illegal loans. There were 125 loans registered with the OJK as of 10 June 2021, 6 fewer than previously reported at the end of May 2021.

Due to various factors, including the inability to continue business operations and their failure to meet POJK licensing standards, OJK said six fintech players had to surrender their registered brands.

How the Financial Services Authority Supervises Consumers of Illegal Online Loans in Indonesia.

The regulations regarding loans actually already exist in OJK Regulation no. 77/POJK.01/2016 regarding Information Technology-Based Money Lending and Borrowing Services is a regulation that requires loan implementers to register and apply for permits to the OJK. Then, even though the loan is made online, there must still be a complete agreement between the Administrator, Lender and Borrower written in an Electronic Document. The agreement must also contain the following information: date, agreement number, provisions regarding rights and obligations, identity of the parties, interest rate, loan amount, duration, commission amount, procedures for resolving disputes, details of relevant costs, provisions regarding fines, and procedures. resolution when the Operator cannot carry out its operational activities. In accordance with the OJK, providers are also required to provide information to lenders regarding the use of funds, including the reasons why borrowers use them, the amount of money given, the loan period and the interest rate.

OJK Regulation no. 77/POJK.01/2016 Regarding Information Technology-Based Money Lending and Borrowing Services and OJK Regulation no. 13/POJK.02/2018 Regarding Digital Financial Innovation in the Financial Services Sector, only two regulations related to fintech have been issued by the OJK. By collecting and monitoring data, OJK has taken many steps to eradicate illegal or unlawful fintech P2P lending. First, cooperate with the Investigation Alert Task Force to summon illegal fintech operators, then issue an order to stop operations. Later, OJK recommended in writing to Kominfo to remove and prohibit the use of fintech P2P lending businesses that violate the law.

From a regulatory perspective, OJK must receive assistance to act firmly regarding fintech which is prohibited in Indonesia. The OJK must be given equal capabilities under this regulation to deal with illegal fintech and not just report the entire situation to the police.

Even though the Pinjol application can access consumers' personal data, this does not mean it can access consumers' personal data freely, the Pinjol application can only access data on consumers' smartphones on a limited basis, which includes: Camera, Location and Microphone. Apart from these three things, online loan applications must not access any form of consumer personal data, if this is violated there are sanctions against the online loan application, as explained in Article 47 POJK No. 77 of 2016.

1. OJK has the authority to impose administrative sanctions on Operators in the form of violations of requirements and prohibitions in OJK regulations, including:
 - a. fines, or obligation to pay debts;
 - b. written warning;
 - c. revoke permission.
 - d. restrictions on business operations;
2. The implementation of administrative sanctions in the form of a written warning as meant in paragraph (1) letter a may or may not precede the imposition of administrative sanctions as meant in paragraph

(1) letters b to d.

3. Administrative sanctions in the form of fines as meant in paragraph (1) letter b can be imposed alone or simultaneously with the administrative sanctions in paragraph (1) letters c and d. So if a data leak or misuse of personal data is carried out by an illegal online loan application, it is not within the authority of the OJK, but if it already happens, the public can report it to the relevant agency, namely the Indonesian Police or the Investment Alert Task Force.

OJK stated that misappropriation of personal data on the Pinjol Application is not under the authority of the OJK in terms of enforcement or supervision. OJK stated that its authority is to supervise and enforce the Pinjol application registered with the OJK. Regarding the pinjol application, it is the domain of the Republic of Indonesia Police in its enforcement because it is already within the domain of Criminal Law. Or it can also be reported to the Investment Alert Task Force. So if misuse of personal data is carried out by a loan that is not registered with the OJK or can be called illegal, then this area is not under the authority of the Financial Services Authority. And until now no consumer has reported misuse of their personal data by illegal loan applications

CONCLUSION AND SUGGESTION

Conclusion

The form of protection of consumer personal data in online loan applications is regulated in POJK No. 77 of 2016, but the regulations do not yet have strict sanctions if there is misuse of consumer personal data, the sanctions applied are only limited to administrative sanctions for online loan applications in the form of temporary suspension or revocation of business permits, regarding the form of protection for consumers is currently unclear because the law does not yet regulate specifically regarding the protection of personal data, this is what makes it vulnerable to misuse of personal data in online loans.

OJK's role as an independent state institution in protecting consumer personal data on online loan applications, is limited only to consumers who borrow from the loan application which is officially registered with the OJK, the protection provided is in the form of taking action against the online financial/loan service, filing a lawsuit, and providing compensation for victims who experience material losses. However, if you borrow from a loan application that is not officially registered or is illegal, the consumer will not receive protection from the Financial Services Authority.

Suggestion

There should be a form of protection for consumers' personal data, even though until now there are no clear and firm regulations regarding personal data, the Financial Services Authority can exercise discretion towards consumers who experience misuse of personal data.

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