



POLICY BRIEF (JULY, 2020)

FINANCIAL TECHNOLOGY BASED ON THE REGULATION OF FINANCIAL SERVICES AUTHORITY NUMBER 77 /POJK.01/2016 REGARDING LOAN SERVICE TO BORROW MONEY BASED ON INFORMATION TECHNOLOGY

1. Background

Technological development is inevitable and unstoppable, financial sector is one of the sectors that got affected by its development, marked by the emergence of financial technology (fintech). Fintech is defined by the National Digital Research Centre (NDRC, an early-stage investor in tech companies) as an innovation in financial service. Furthermore, according to Financial Stability Board (FSB, an international institution that monitors and makes recommendations about the global financial system), Fintech is a financial innovation based on technology that can produce business models, applications, processes, or new products that affect the financial market, institutions, and financial service providers.

2. Peer to Peer Lending in Indonesia

One of the processes/systems/methods that exist by the emergence of fintech is the Fintech Peer to Peer Lending (Fintech P2P Lending) which defined by Article 1 Regulation of Financial Services Authority Number 77/POJK.01/2016 Regarding Loan Service to Borrow Money Based on Information Technology (POJK 77/2016) as an implementation of financial service to bring together lenders and borrowers to directly conduct loan agreement in Indonesian Rupiah currency through an electronic system with internet network.

Fintech P2P Lending is run by an organizer which is an Indonesian legal entity (limited company or cooperative) that provides, manages, and operates Fintech P2P Lending Service. An organizer in the form of a limited company can be established with local investment and/or foreign investment, however, foreigner only has the rights to invest as much as 85% out of the total investment. An organizer either in a form of a limited company or cooperative must have a paid-up capital in the minimum of Rp.1.000.000.000,00 (one billion rupiahs) when proposing for registration and in the

minimum of Rp.2.500.000.000,00 (two billion and five hundred million rupiahs) when proposing for an operating license. Both proposals for registration and operating license must be delivered to the Financial Services Authority and other financial institutions.

Fintech P2P Lending is accommodated by an organization that got appointed by the Financial Services Authority named Indonesian Joint Funding Fintech Association (AFPI, Asosiasi Fintech Pendanaan Bersama Indonesia). The organizer must be a member of AFPI to conduct Fintech P2P Lending. AFPI can apply sanctions for their member if their member is proved to violate the basic rules of Fintech P2P Lending. The sanctions range from a warning to revocation from the membership. If the organizer is revoked, then they can be categorized as an illegal organizer because it's not in accordance with POJK 77/2016.

The organizer acts as a broker for the lenders and the borrowers. Domestic individuals/legal entities, foreign individuals/legal entities, and international institutions can be the lenders in Fintech P2P Lending, otherwise, only domestic individuals/legal entities that domiciled in Indonesia can be the borrowers. However, the borrower cannot borrow for more than Rp.2.000.000.000,00 (two billion rupiahs). Subsequently, the agreements in Fintech P2P Lending are involving the organizer with the lender, and the lender with the borrower. The agreements are in the form of an electronic document signed by the parties with an electronic signature. Afterward, in order to do repayment of the loan, the borrower makes payment through an escrow account, then the organizer will forward the payment to the lender's virtual account.

The organizer responsible for other party's data and money, they obligated to maintain data confidentially, provide audit track records, and have a security system. Hence, the organizer must have a human resource that has technological expertise and/or background, also they have to apply principles for the importance of the lenders and the borrowers, such as transparency, fairness, data confidentiality, etc. furthermore, the organizer has to apply anti-money-laundering program, prevent funds for terrorism in the financial sector, also conduct monthly and annual report concerning with the organizer's performance.

Fintech P2P Lending is severely helpful for people who need a large amount of money in a short time by connects people who want to invest with people who need money for their respective purposes. It uses online system to connect parties without even need to know each other. Afterward, the advantages of using Fintech P2P Lending are:

- a. The agreement document in the form of an electronic document;
- b. The availability of attorneys to ease the online transactions;
- c. Online risks mitigation;
- d. Online delivery of the collections;
- e. The availability of the loan status information; and
- f. The availability of escrow account and virtual account for the online transactions.

3. Issues Surrounding Peer to Peer Lending

Financial Service Authority issued POJK 77/2016 to regulate the Fintech P2P Lending system, also to obligate the organizer to prioritize information transparency towards the lenders and the borrowers in order to do risks mitigation and determine the interest. However, the practice of illegal Fintech P2P Lending happens more from time to time. They aren't registered and don't have an operating license, thus they aren't under the surveillance of the Financial Service Authority. It means their users can suffer losses from their transactions in an illegal Fintech P2P Lending, such as high interest and fines, also a short repayment period.

The Vigilant Investment Task Force (SWI, Satuan Tugas Waspada Investasi) together with the Ministry of Communication and Informatics, Google Indonesia, and Cybercrime Directorate of Indonesian Police act decisively toward the illegal fintech organizers. However, the people also have to be careful regarding the terms and conditions determined by the illegal fintech organizers before agreed to either be the lenders or the borrowers. Regardless of the existence of POJK 77/2016 and the performance of the Financial Service Authority and other financial institutions, the people still have to be careful and clever to prevent themselves from losses.

4. Conclusions

Fintech P2P Lending is expected to fulfill the needs to get money quickly, easily, and efficiently for the borrower's respective purposes. Furthermore, Fintech P2P Lending is also expected to be the solution for business man and women on a scale of micro, small, and medium business (UMKM, Usaha Mikro, Kecil, dan Menengah) to obtain funds. However, there are challenges happen in the practice such as some Fintech P2P Lending are not under the surveillance of the Financial Service Authority. The non-existent of surveillance cause high interest and fines and short repayment period. If the regulation, the institutions, and the people operate in harmony, then any system, particularly this system will achieve the expected output.

Author: Abiyu Ihsan Samudro