NOVIRIANTI & PARTNERS

POLICY BRIEF (JULY, 2020)

RISK MITIGATION FOR LENDERS IN PEER TO PEER LENDING SYSTEM

1. Background

Indonesia's financial inclusion index in 2019 based on the third *National Financial Literacy Survey* data by Financial Services Authority of Indonesia (OJK) has increased, from 67.8 percent in 2016 to 76.19 percent in 2019.[1] The increasing number of Indonesia's financial inclusion index shows an increasing of Indonesian people's access to financial products and services. One of the main reasons that influencing the increase is the presence of businesses in the digital technology-based financial sector, that we call it financial technology (fintech).

The presence of fintech in Indonesia is due to the rapid technological development, so there is an opportunity to establish an online-based company to facilitate various processes in the financial sector. Therefore, fintech is growing rapidly in Indonesia as evidenced by fintech user data which was originally at 7% in 2006-2007 to 78% in 2017.[2] Fintech consists of various types of financial services, one of which is loan and loan services based on information technology, peer to peer lending.

2. Issues in Financial Technology Sector: Peer to Peer Lending

Peer to peer lending is a platform that unites between borrowers who need funds and lenders by online. Unlike banks in providing loans that require many requirements, peer to peer lending is more flexible in providing loans to borrowers. Thus, peer to peer lending services can allocate loans to almost anyone and any amount of value effectively and transparently. This is an opportunity and alternative financing for Indonesia's Small and Medium Enterprises (SMEs), where financing needs for SMEs activities in Indonesia are still low because there are still many SMEs that have not been bankable at 49 million based on Financial Technology Association (AFTECH) data in Indonesia. Peer to peer lending can be an alternative for SMEs that are actually

[1] Otoritas Jasa Keuangan, "Siaran Pers Survei OJK 2019 Indeks Literasi Dan Inklusi Keuangan Meningkat," *Otoritas Jasa Keuangan,* ojk.go.id, 7 November 2019.
[2] Herycha Romanna Tampubolon, "Seluk-Beluk Peer To Peer Lending Sebagai Wujud Baru Keuangan di Indonesia," Jurnal Bina Mulia Hukum 3 No. 2 (March 2019): 189.

creditworthy to be bankable by providing loans with or without collateral. It also can be one of the solutions for equitable financing services, because Peer to Peer Lending is able to reach almost anyone, anywhere effectively and efficiently.

The mechanism of peer to peer lending is through a platform, where a Borrower that has been audited and screened by peer to peer lending service provider, can obtain funding from many registered Lenders. Through peer to peer lending, the Lender can obtain benefits such as obtaining interest on loans provided and an easy and fast process only by using cellphones and/or computers. However, like an investment in general, peer to peer lending as an alternative of the latest financial products, still has its own risks for lenders in investing their funds in peer to peer lending. There are several risks that Lenders will face for the money that they lend to Borrowers, such as: [3]

a. The risk of investment waiting time begins
   This risk can happen because the Lender provide loan funds from the first day, but the loan target is filled only after 30 days which results in time for idle money;

b. The risks of unable to attract investment in the middle of the waiting time to fill the loan target
   This risk can occur because before the loan period ends, the Lender unable to attract the loan that has given to the Borrower;

c. The risk of late payment
   Sometimes, Borrowers experience delays in the payment of loan interest or principal payments to the Lender, but usually each platform will impose sanctions on Borrowers who experience late payments;

d. The risk of default
   This risk is a risk where the Borrower cannot repay the loan.

Based on the various risks above, Government efforts and support are needed, in the form of legal instruments to accommodate and regulate legal protection for lenders. At this moment, the regulations about peer to peer lending are Regulation of Financial Services Authority (POJK) Number 77 /POJK.01/2016 about Loan Service To Borrow Money Based on Information Technology and Financial Services Authority Circular Letter (SEOJK) Number 18/SEJOK.01/2017 about Governance and Information Technology Risk Management in Loan Service To Borrow Money Based on Information Technology. However, these regulations still unable to reach the interests of legal protection for lenders in the case of default. The regulation doesn't regulate further about legal protection for lenders in the event of default. Other than that, the regulation about Consumer Protection in the Financial Services Sector as regulated in the Financial Services Authority Regulation Number 1/POJK.07/2013 also still unable to reach the peer to peer lending industry because there is no regulation that states peer to peer lending is included in regulations of consumer protection-financial services sector. Therefore, the role of regulators is needed in ensuring the legal protection of lenders in peer to peer lending to create a healthy business ecosystem.

3. <u>Conclusions and Recommendations</u>

[3] Heryucha Romanna Tampubolon, "Seluk-Beluk Peer To Peer Lending,": 195.

As stated above, Indonesia's fintech consumers has grown in three years, including peer to peer lending. However, there are several challenges arise from peer to peer such as: the risk of investment waiting time begins, the risk of unable to attract investment in the middle of the waiting time to fill the loan target, the risk of late payment, and the risk of default. In addition to that, legal protection on peer to peer lending's consumers has not been effective yet.

At this moment, in the context of risk mitigation, lenders in investing in peer to peer lending can take several preventive steps, such as: *first,* the Lenders can check whether the provider of the peer to peer lending service selects the Borrower with certain indicators to ensure that the loan offered is a quality loan. *Second,* the Lenders can also find out whether the loan is guaranteed with fixed assets or a current account backwards to avoid the risk of default. *Third,* Lenders can distribute funds to loans that have complete and quality financial information and data. Moreover, in an effort to protect lenders from a variety of risks including the risk of default, peer to peer lending service providers anticipate various measures such as providing protection insurance for funds owned by the Lender.[4]

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[4] Heryucha Romanna Tampubolon, "Seluk-Beluk Peer To Peer Lending,": 195.

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Journal

Heryucha Romanna Tampubolon, "Seluk-Beluk *Peer To Peer Lending* Sebagai Wujud Baru Keuangan di Indonesia," *Jurnal Bina Mulia Hukum* 3 No. 2 (March 2019).