

## **Legal Protection of Loan Recipients on the Peer to Peer Lending Platform in Indonesia**

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**Abstract:** One of the technological developments that is the subject of recent studies in Indonesia is Financial Technology (Fintech) in breakthrough financial institutions. Fintech as a new breakthrough can provide easy access for all levels of society, therefore basically fintech can be well received by people in Indonesia. This research is a normative juridical research with a statute approach. This research is a juridical-normative legal research. The technique of collecting legal materials in this research is literature study and documents or archives, namely by collecting legal materials related to the research needs to be studied, in addition to various books and other supporting legal materials. Which then analyzed using descriptive qualitative method. The formulation of the problem in writing this thesis is how the legal protection for loan recipients on the peer to peer lending platform in lending and borrowing transactions and how is the settlement when default occurs in lending and borrowing transactions on the peer to peer lending platform. The results of this study are a form of legal protection for users of lending and borrowing services, one of which can be provided by the Financial Services Authority (OJK). When there are or are discovered actions by lending and borrowing application organizers in fintech technology that violate and result in losses, the OJK will ask and be able to stop the business activity and dispute resolution. When a default occurs, it can be reached through Negotiation, Mediation and Adjudication.

**Keywords:** Legal Protection, Peer to peer landing, Fintech, Default.

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### **Background of the problem**

The development of digital technology has penetrated all aspects of life. Financial institutions have taken advantage of these technological developments. Financial technology or Financial Technology (Fintech) has become a breakthrough for financial institutions for business development. The existence of fintech has improved financial services through peer to peer lending (P2PL) or online loans. P2PL users have experienced high growth. China is one of the countries with the highest use of P2PL for financial services.<sup>1</sup>

P2PL is a lending and borrowing activity without any collateral using technology. The relationship between the operator and the borrower is done electronically, namely the internet. P2PL has been welcomed by the public, so that P2PL has grown rapidly. The factor that encourages P2PL to develop rapidly is not only because the use of the internet is also a relatively easy procedure. However, on the other hand, the interest rate charged is high.<sup>2</sup>The use of the internet, which has been very widespread in all aspects of life, has made P2PL grow very fertile. The P2PL model is actually relatively new, which started in 2005. The first P2PL was developed by the ZOPA company in the UK.<sup>3</sup>

P2P Lending has offered easy access for the public. Various variations of loans, with payment periods, and interest rates are offered by P2P lending operators.<sup>4</sup> Various facilities and variations in loans have become the main attraction of P2P lending for the public.

P2P lending services have the spirit to bridge the gap in financial access, especially to facilitate financing for MSME business development. This is in line with the financial inclusion program launched by the government, especially the Financial Services Authority (OJK). By offering lending and borrowing procedures

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<sup>1</sup>Robin Hui Huang, 'Online P2P Lending and Regulatory Responses in China: Opportunities and Challenges', *European Business Organization Law Review*, 19.1 (2018), 63–92 <<https://doi.org/10.1007/s40804-018-0100-z>>.

<sup>2</sup>Mingfeng Lin, 'Peer-to-Peer Lending : An Empirical Study Peer-to-Peer Lending : An Empirical Study', 2011.

<sup>3</sup>Ratna Hartanto and Juliyani Purnama Ramli, 'Hubungan Hukum Para Pihak Dalam Peer To Peer Lending', *Jurnal Hukum Ius Quia Iustum*, 25.2 (2018), 320–38 <<https://doi.org/10.20885/iustum.vol25.iss2.art6>>.

<sup>4</sup>Andrew Verstein, 'The Misregulation of Person-to-Person Lending', *University of California, Davis*, Vo.45, 445, 2011, hlm. 463

and processes that are easy and fast but still consider the level of risk carefully, P2P lending is widely used by those who do not have access to banking, such as creative industries, freelancers, part-time workers, farm laborers, fishermen and so on. As a result, this service is able to fill the high financing gap for individuals and MSMEs in Indonesia. In the development of financial technology, P2PL has become the community's choice in fulfilling their needs.

Low credit card penetration has stimulated and spurred the development of P2PL in Indonesia. The number of companies registered as Fintech organizers in Indonesia as of December 30, 2020 was 149, with 37 companies licensed.<sup>5</sup> The number of companies that are recorded has grown, compared to December 2019. Where the number of licensed companies is still 25 companies.<sup>6</sup> Based on the distribution of P2PL users, it is still dominated in Java. Currently, there are many market places that provide meetings between loan providers and borrowers.<sup>7</sup>

OJK as the authority has issued the Financial Services Authority Regulation Number 77 / POJK.01 / 2016 concerning Information Technology-Based Borrowing and Lending Services.<sup>8</sup> In Indonesia, fintech is known as Information Technology-Based Lending and Borrowing Services In Article 1 Number 3 POJK 77 / POJK.01 / 2016 states that Information Technology-Based Borrowing and Lending Services (fintech) are the provision of financial services to bring lenders together with loan recipients. in the context of entering into a lending and borrowing agreement in the rupiah currency directly through an electronic system using the internet network.

P2PL which has no collateral, so the problem arises when the borrower fails to pay.<sup>9,10</sup> The OJK regulation Number 77 / POJK.01 / 2016 does not regulate risk mitigation if the borrower fails to pay.<sup>11</sup> Risk mitigation is submitted to the organizer, with reference to the agreement between the lender and the P2PL platform.

On the one hand, the development of P2PL administrators and users has supported the development of the national economy, but on the other hand, new problems have also emerged. The risk in P2PL is also quite high. Be it the risk of the lender or the borrower.<sup>12</sup> The risk of borrower default that occurs in P2PL fintech will be borne by the P2PL organizer. This is because P2PL is a civil agreement. The financial authority (state) cannot be held responsible for these risks. The risk borne by the lender in P2PL is very high, because there is no guarantee, and also does not recognize the character of the borrower.

The level of public literacy that is still lacking in relation to P2PL fintech is often the cause of problems in P2PL. Phenomenon there is a P2PL collection fintech that charges violently, by accessing the contact number on the customer's cellphone, making calls to all numbers on the phone book, to making bills even though the contact has nothing to do with the customer. This is a result of people making loans through illegal P2P lending applications.<sup>13</sup> This indicates that there is asymmetric information.<sup>14</sup>

The number of borrowers who are trapped in P2PL fintech is suspected of being many P2PL organizers who have violated the law.<sup>15</sup> In an open information system, every fraud is digitally recorded in cyberspace and

<sup>5</sup>OJK, 'Perkembangan Fintech Lending Desember 2020', November, 2020, 1–11.

<sup>6</sup>FSA, 'The Development of Fintech Lending', 2019.

<sup>7</sup>Alexander Bachmann and others, 'Online Peer-to-Peer Lending – A Literature Review', *Journal of Internet Banking and Commerce*, 16.2 (2011).

<sup>8</sup>Otoritas Jasa Keuangan, 'Peraturan Otoritas Jasa Keuangan Nomor 77 / Pojk.01/2016 TENTANG LAYANAN PINJAM MEMINJAM UANG BERBASIS TEKNOLOGI INFORMASI', *Otoritas Jasa Keuangan*, 2016, 1–29.

<sup>9</sup>Riza Emekter and others, 'Evaluating Credit Risk and Loan Performance in Online Peer-to-Peer (P2P) Lending', *Applied Economics*, 47.1 (2015), 54–70 <<https://doi.org/10.1080/00036846.2014.962222>>.

<sup>10</sup>Yawei Yang, 'Analysis the Risk of Online P2P Lending under the Background of Sharing Finance in China', *Ichssr*, 2016, 211–14 <<https://doi.org/10.2991/ichssr-16.2016.44>>.

<sup>11</sup>Pasal 21 Peraturan Otoritas Jasa Keuangan Nomor 77 / POJK.01/ 2016 tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi

<sup>12</sup>Rongcai Hu and others, 'Can Investors on P2P Lending Platforms Identify Default Risk?', *International Journal of Electronic Commerce*, 23.1 (2019), 63–84 <<https://doi.org/10.1080/10864415.2018.1512279>>.

<sup>13</sup><https://mix.co.id/marcomm/news-trend/pentingnya-literasi-fintech-p2p-lending/> accessed 2 Februari 2021

<sup>14</sup>Lin, Mingfeng, 'Peer-to-Peer Lending : An Empirical Study Peer-to-Peer Lending : An Empirical Study', 2011

<sup>15</sup>Asep Syarifuddin Hidayat, Faris Satria Alam, and Muhammad Ishar Helmi, 'Consumer Protection on Peer to Peer Lending Financial Technology in Indonesia', *International Journal of Scientific and Technology Research*, 9.1 (2020), 4069–72.

can be known to the wider community on social media. Borrowers are consumers, so consumer protection is important.

The construction relationship in P2PL of the lender with the borrower makes an agreement electronically where they do not know each other. It is interesting to study related to risk mitigation and protection of actors. In legal construction, the relationship between lenders and borrowers in P2PL is interesting when it comes to risk and legal protection. Based on this background, the purpose of this study is to analyze how the legal protection for loan recipients on the P2PL platform in lending and borrowing transactions and how is the settlement in case of default in lending and borrowing transactions on the P2PL platform.

### **Method**

This research is a juridical-normative legal research. The technique of collecting legal materials in this study used literature and documents or archives, namely by collecting data related to the research needs to be studied, in addition to various books and other supporting legal materials. The analysis technique uses descriptive qualitative.

### **Discussion**

#### **1. Legal Protection for Loan Recipients on a peer to peer lending platform.**

##### **a. Legal Protection for Loan Recipients in the Implementation of Peer to Peer Lending-based Financial Technology.**

Loan recipients are consumers as regulated in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, which are categorized as recipients. The loan recipient based on Article 19 of Law Number 19 Year 2016 regarding the amendment of Law Number 11 Year 2008 concerning Electronic Information and Transactions is a legal subject and is said to receive information via electronic or electronic documents by the sender.

Problems in implementing Fintech based on P2PL in practice in the field still cause many problems among the community. P2PL Fintech practices that violate the regulations.<sup>16</sup> So that P2PL service users are entitled to legal protection in using this service. The government must be able to guarantee legal certainty in the implementation of P2P Lending practices in Indonesia.

Legal protection is an act or effort that aims to protect the community from arbitrary actions or actions carried out by the authorities and not in accordance with existing legal rules, to create order and order so as to enable humans to enjoy their dignity as humans.<sup>17</sup>

In article 18 of Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Transactions in the Electronic field. A lender is categorized as a sender as a legal subject that sends electronic information or electronic documents.

Legal protection for borrowers in fintech P2P lending can be done by applying the basic principles of legal protection for users of information technology-based lending and borrowing services. In 29 Financial Services Authority Regulation POJK Number 77 / POJK.01 / 2016 concerning Information Technology-Based Borrowing and Lending Services. The basic principle in the protection of a user of information technology-based lending and borrowing services is that the operator is obliged to carry out the basic principles of transparency, fair treatment, reliability, confidentiality and data security, as well as fast, simple and affordable user dispute resolution. Organizers are also required to provide current information that is accurate, honest, clear and not misleading. If there is acceptance, delay, or rejection of requests for lending and borrowing services, the organizer is obliged to convey this information to the loan recipient. Inadequate literacy has led to information asymmetry.<sup>18</sup>

The legal aid agency (LBH) in Jakarta asked the Financial Services Authority (OJK) to immediately take part in resolving legal problems that befell loan recipient customers in the implementation of information technology-based lending and borrowing. Based on temporary data received by LBH in Jakarta, these online loans have claimed 1,330 victims.<sup>19</sup>

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<sup>16</sup>Ibid.

<sup>17</sup>Setiono, Rule of Law (Supremasi Hukum), Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, 2004, Hlm. 3

<sup>18</sup>Carlos Serrano-Cinca, Begoña Gutiérrez-Nieto, and Luz López-Palacios, 'Determinants of Default in P2P Lending', *PLoS ONE*, 10.10 (2015), 1–22 <<https://doi.org/10.1371/journal.pone.0139427>>.

<sup>19</sup><http://m.cnnindonesia.com/ekonomi/20181209153903-78-3522422/lbhpidanakan-ojk-jikatak-selesaikan-masalah-pinjaman-online>, accessed tanggal 25 November 2020.

A regulation to protect the community has been issued and implemented, however, LBH Jakarta recorded 14 violations of law and human rights experienced by victims of online loan applications. These violations are as follows:<sup>20</sup>

- 1) Very high interest.
- 2) Billing that is not only made to the borrower or emergency contacts that are included by the borrower.
- 3) Threats of slander, fraud and sexual harassment.
- 4) Spread of personal data.
- 5) Disseminate photos and loan information to contacts on the borrower's device.
- 6) Taking almost all access to the borrower's device.
- 7) Unclear contact and location of the online loan application provider office.
- 8) Unclear admin fees.
- 9) The application changes name without notification to the borrower, while the interest continues to grow.
- 10) The borrower has paid the loan but the loan is not written off on the grounds that he does not enter the system.
- 11) The application cannot be opened and even disappears from the Appstore / Playstore when the loan repayment is due.
- 12) Billing is done by different people.
- 13) KTP data is used by online loan application operators to apply for loans for other applications.
- 14) Virtual account refunds are incorrect, so interest continues to grow and intimidating billing continues.

The government's efforts through the Investment Alert Task Force which is a combination of the Financial Services Authority (OJK) and the Criminal Investigation Unit of the National Police and the Ministry of Communication and Information have blocked 1,230 peer to peer lending technology companies that are not registered and licensed according to POJK No.77 / POJK.01 / 2016. –2019.

Protection for borrowers can also be carried out by referring to Law Number 8 of 1999 concerning Consumer Protection article 5. In addition, Borrowers can also file complaints to the OJK, file a lawsuit at the Consumer Dispute Resolution Agency (BPSK) or through court in civil or criminal. For example in the case of Rupiah Plus, the loan recipient can prove that the loan recipient has suffered material losses due to illegal acts committed by the lender.

#### **b. Legal Protection by the Financial Services Authority for Users of Lending and Borrowing Transactions.**

Legal protection can be interpreted as providing protection to individual interests protected by law stipulated in statutory regulations issued by authorized parties.<sup>21</sup> Protection aimed at consumers in the business world in the form of protection both materially and formally is seen as an important need, given the rapid movement of technology as a driving force for community productivity, especially producers of goods or services produced in achieving a goal of a business.<sup>22</sup>

Businesses or services that are engaged in finance have become a business that is very vulnerable to various actions which will later result in losses for consumers by irresponsible individuals by taking advantage of the existence or convenience of technology to commit inappropriate actions such as fraud. or misuse that results in losses for users of the service.<sup>23</sup>

Fintech service providers that have been registered with the Financial Services Authority (OJK) in carrying out their business activities have several restrictions, one of which is not being allowed to carry out business activities outside those stipulated in this OJK regulation, not allowed to act either as a lender or as a recipient of the loan. , then it is prohibited to provide information that is not in accordance with the applicable provisions, and there are many other restrictions. The purpose of these prohibitions is to create a legal protection for Fintech service users. Organizers who are found to have violated the stipulated prohibitions will be subject to administrative sanctions in the form of:

- 1) Written warning,
- 2) fines,

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<sup>20</sup><https://m.hukumonline.com/berita/baca/1t5c6acf0c858c/pasal-pasal-pidana-yang-bisa-jeratperusahaan-fintech-ilegal/>, accessed 25 November 2020.

<sup>21</sup>BambangSunggono, *MetodePenelitianHukum*, RajawaliPers, Jakarta, 2010, hlm. 86

<sup>22</sup>Celina Tri SiwiKristiyanti, *HukumPerlindunganKonsumen*, SinarGrafika, Jakarta, 2011, hlm.5

<sup>23</sup>EdySantoso, *Pengaruh Era GlobalisasiTerhadapHukumBisnis di Indonesia*, SinarGrafika, Jakarta, 2018, hlm.129.

- 3) limitation of the activities of a business, and
- 4) Revocation of business license.

Online business or electronic transactions, especially the fintech financial service business, are related to the existence of Law Number 8 of 1999 concerning Consumer Protection. People who are consumers in the activity of buying and selling products, goods or services online or making payments via the internet must be more careful and selective and must obtain some form of legal protection to avoid various threats of loss by business actors, fraud and other crimes. which often occurs in online businesses, especially in the field of transactions with digital media or the internet.

Currently, the role of the Financial Services Authority (OJK) in providing legal protection for consumers is being considered, one of which is by issuing the OJK regulation Number 77 / POJK.01 / 2016, namely regarding Information Technology-Based Borrowing and Lending Services, hereinafter referred to as POJK LPMUBTI and contained in the Letter Financial Services Authority Circular Number 2 / SEOJK.07 / 2014 concerning Services and Resolution of Consumer Complaints to Financial Service Business Actors. Article 1 number 3 POJK LPMUBTI states that what is meant by Information Technology-Based Lending and Borrowing Services is the provision of financial services which aims to bring together lenders and loan recipients in the context of entering into a loan and borrowing agreement in rupiah currency directly through an electronic system using the internet network. .

The form of protection provided by OJK is that if there are actions that violate and result in losses, OJK will ask to stop its business activities. In addition, OJK will provide legal defense for the interests of the public as consumers in the form of filing a lawsuit in court against the parties that caused the loss. OJK will also give a warning in the form of a warning to business operators who are deemed deviant so that they can immediately correct it, then OJK will provide information related to activities that can harm consumers or the general public. Supervision and also business regulation in the field of financial services in its implementation must pay attention to regulations related to this field, namely Law Number 21 of 2011 concerning the Financial Services Authority, Law Number 11 of 2008 concerning Electronic Information and Transactions in conjunction with Law Number 19 of 2016 concerning Electronic Information and Transactions, Law Number 8 of 1999 concerning Consumer Protection, and other related regulations therein.

The use of fintech itself consists of creditors and debtors, the requirements given must be rational to apply to consumers or customers. In terms of legal protection that needs to be regulated to assist the development and use of online businesses, especially financial services (fintech), the first is seen from the point of view of business actors, customers or consumers, the product being the object, and the transaction itself. The problems that are inhibiting factors for online business development are the validity of the agreement based on the Civil Code, online transaction dispute resolution, and the absence of an institution that can guarantee the existence of an online store or what is often called the Online Shop

The implementation of providing legal protection for consumers, organizers or business actors offering goods or services through digital or electronic systems is advised to provide all forms of complete information regarding the terms of the cooperation contract or the products to be offered.

This type of online business that is engaged in financial services or fintech is also regulated in Articles 65 and 66 of Law Number 7 of 2014 concerning Trade. This Law also provides legal protection for online business people, for online business operators who are found not to include correct and complete information related to the requirements or goods and services to be offered, they will be subject to sanctions in the form of revocation of this business license to avoid deficiencies. fraud that may occur or a crime called this cyber crime.

The Financial Services Authority (OJK) has an important meaning not only for the general public and for the government, but also for the development of the business world in Indonesia. The public considers that the existence of the OJK in the middle of a business or business that is being carried out will provide legal protection and provide a sense of security for the public regarding investments and transactions that are being carried out through financial service institutions, especially electronically.

The Financial Services Authority (OJK) is also an independent institution, free from interference from other parties. OJK has the duties and authorities in the form of regulation,<sup>24</sup> supervision, examination and investigation as meant in the OJK Law itself. The current existence of the OJK greatly supports the rapid growth of digital or technology-based service businesses known as "fintech" (financial technology).

This is a form of response given by OJK to developments in information and communication technology. This situation is coupled with the rapid development of start-up companies among the community, which is very difficult to contain so that the government participates in it by conducting supervision and

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<sup>24</sup>Kasmir, *Dasar-Dasar Perbankan*, Raja Grafindo Persada, Jakarta, 2014, hlm. 262.

regulation so that its existence and implementation can be useful for the community and also for business people in Indonesia.

The fintech business related to the form of payment was initially regulated and supervised by BI (Bank Indonesia), but after the enactment of Law No. 21 of 2011 concerning the Financial Services Authority, the duties and authorities of Bank Indonesia (BI) were then transferred to the OJK. Article 5 and article 6 of Law No. 21 of 2011 states that the function of the OJK is to implement an integrated regulatory and supervisory system for all activities in the financial services sector. One of the tasks of OJK regulation is to determine the implementing regulations of the OJK Law, laws and regulations in the financial services sector, policies regarding the implementation and duties of the OJK and other regulations.

Then in terms of supervisory duties, one of which OJK is tasked with determining operational policies for supervision, conducting supervision, inspection, investigation, consumer protection and / or financial service providers. OJK itself carries out the task of regulating and supervising all activities in the banking sector, financial services in the capital market sector, and activities in the other financial services sector, such as pawnshops, guarantee institutions, export financing institutions in Indonesia and other financial services.

Based on the provisions of Law No. 21 of 2011 shows that there is no regulation that can provide legal certainty for the public as users of Fintech financial services, both in regulating and supervising technology-based financial services (Fintech). In its task of providing protection for consumers or the public, OJK is given the authority to take preventive measures that lead to losses for consumers using financial services. OJK as an institution that has the authority to regulate and supervise financial institutions must be able to be guided by legal ideals, namely certainty, benefit, and legal justice so that the existence of technology-based financial services (fintech) is able to compete in the midst of the current booming technology-based business and able to help the progress of the conventional banking sector because many of the systems and tools used involve payments that have been issued by the bank first.

## **2. Settlement When Default Occurs in Lending and Borrowing Transactions on the peer to peer lending platform.**

Disputes in the implementation of P2P Lending-based Fintech can occur between debtors and creditors. If the dispute does occur, then there are certain mechanisms to be able to resolve the problem. The party who feels aggrieved can submit a complaint so that the dispute that occurs can be resolved immediately.

Civil suits can be brought to court. In addition to the settlement of civil suits, the parties can also resolve disputes through an alternative dispute resolution institution in accordance with the provisions of laws and regulations. Alternative dispute resolution is increasingly being used by parties to resolve disputes outside the court. Creditors are reluctant to use litigation because the reputation of courts in Indonesia is not conducive to online business development. Although the Supreme Court has encouraged the judicial process to be quick, simple and cheap, the fact is not. The judicial process is still relatively long, convoluted, costly, and decisions are difficult to execute.

The reluctance of the disputants to use litigation is also due to the win-lose court process, which can damage the borrower's relationship. Out of court dispute resolution through Alternative Dispute Resolution (APS) is more desirable because this method is considered more efficient and effective. Business people can use several APS models such as: Negotiation, Mediation, and Adjudication. In the early stages of a dispute, the parties are encouraged to enter into negotiations without involving a third party. If negotiations fail, the parties can invite a third party to help resolve the dispute. Third parties can have the status of legal experts, mediators and adjudicators.

Adjudication is currently starting to be applied in the financial services industry sector because this method is considered to be able to help small customers who do not have an equal position when dealing with financial service institutions. Although adjudication has not been regulated in Law Number 30 of 1999 concerning Arbitration and APS, this method has been regulated in OJK Regulation Number 1 / POJK.07 / 2014 concerning APS Institutions in the Financial Services Sector.

Adjudication is similar to arbitration, but the process is much simpler and faster. The applicant party is given the option right to approve or reject the result of the adjudication decision. If the applicant agrees, the adjudication decision can be enforced and is final and binding. The respondent party was not given the option right, so it must accept whatever the result of the adjudication decision. This kind of option is not found in the arbitration process.<sup>25</sup>

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<sup>25</sup>IswiHariyanidanCitaYustisiaSerfiyani, *PerlindunganHukumbagiNasabah Kecil dalam Proses Adjudikasi di IndustriJasaKeuangan*, JurnalLegislasi Indonesia, Vol.13, No.4, Desember 2016, DitjenPeraturanPerundang-undangan, KementerianHukumdan HAM. RI.

Based on the provisions of the OJK Regulation, if in the future an act of default occurs by the Loan Recipient and the default is proven due to an error or negligence from the Operator, then the Operator is obliged to provide compensation for the act. The Lender as the injured party is entitled to receive compensation from the Provider. However, if the complaint does not reach an agreement, the creditor can resolve the dispute outside or inside the court. As in Article 39 paragraph (1) POJK Number 1 / POJK.07 / 2013 of 2013 concerning Consumer Protection in the Financial Services Sector, dispute resolution outside the court can be done through alternative dispute resolution institutions or can submit requests to the Financial Services Authority (OJK) to facilitate settlement. complaints from consumers (users of Peer to Peer Lending based Fintech services) who are disadvantaged by financial service actors, namely Fintech service providers.

Fintech-related dispute resolution carried out by PUJK (Fintech 2.0) can be done through internal PUJK (Financial Service Actors) (Internal Dispute Resolution mechanism), Alternative Dispute Resolution Institutions (LAPS), and limited facilitation from OJK. However, for non-PUJK Fintech (Fintech startup), until now the consumer dispute resolution mechanism has not been determined if the complaint cannot be resolved by the Fintech actors themselves. So for that, OJK needs to immediately discuss this with Fintech P2P Lending actors who are currently registered and supervised by OJK. OJK needs to develop a standard implementation mechanism for internal dispute resolution (IDR) and alternative dispute resolution (ADR).

The goal is that consumers who use P2P Lending services have clarity on the handling of complaints and disputes. In addition, one of the things that can be considered for the implementation of complaint handling and dispute resolution at Fintech is the Online Dispute Resolution (ODR). ODR is a dispute resolution system that utilizes information technology facilities, for example, such as telephone, email, applications, web chat, and video conferencing. The ODR concept can be considered to be used by Fintech players (both Fintech 2.0 and Fintech startups), considering that all consumer data has been digitally recorded and understands the online mechanism.

With ODR, dispute resolution efforts will be relatively more practical and efficient to do. However, if the ODR is to be considered for implementation, then there are several things that must be done first, namely:<sup>26</sup>

- a. Preparing the legal basis for ODR implementation;
- b. LAPS institutional strengthening;
- c. Increase awareness and literacy to the community about ODR.

To respond to the current Fintech problems, OJK has formed a Digital Economy and Financial Innovation Development Task Force to supervise Fintech players and at the end of 2016 to be precise on December 29, 2016, OJK finally issued a regulation regarding Fintech, namely OJK Regulation Number 77 / POJK.01 / 2016 concerning Information Technology-Based Lending and Borrowing Services (LPMUBTI). The POJK contains regulations regarding the provision, management and operation of Information Technology-Based Lending and Borrowing Services.<sup>27</sup>

### **Conclusions**

1. A form of legal protection for users of lending and borrowing services on the peer to peer lending platform or commonly known in fintech technology, one of which can be provided by the Financial Services Authority (OJK), where if later actions are found or discovered by lending and borrowing application operators in fintech technology that will violate and result in losses, the OJK will request and be able to stop its business activities. In addition, OJK will provide legal defense for the interests of the public as consumers in the form of filing a lawsuit in court against the parties that caused the loss. OJK will also give a warning in the form of a warning to business operators who are deemed deviant so that they can immediately correct it, then OJK will provide information related to activities that can harm consumers or the general public.
2. The government and OJK should pay attention to the potential risks of the Fintech business in Indonesia regarding the protection arrangements for each party, namely between the debtor and creditor, and dispute resolution for each party so that the implementation of these regulations is actually implemented. In order to resolve peer to peer disputes, several things can be done, namely strengthening coordination with each interested party, implementing supervisory mechanisms, issuing clearer regulations relating to the construction of legal relations between the parties, and regulating the development of fintech in Indonesia through Negotiation, Mediation, and Adjudication in the event of a dispute between each party.

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<sup>26</sup>SarwinKikoNapitupuludkk, *KajianPerlindunganKonsumen Di SektorJasaKeuangan*, DepartemenPerlindunganKonsumen, OtoritasJasaKeuangan, Jakarta, 2017,hlm.73

<sup>27</sup>SarwinKikoNapitupuludkk, *KajianPerlindunganKonsumen Di SektorJasaKeuangan*, DepartemenPerlindunganKonsumen, OtoritasJasaKeuangan, Jakarta, 2017,hlm.73

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