

The Implications for Consumer Protection Against Online Loans in the Spotlight of Civil Law

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Abstract: Online lending has become an increasingly popular financial solution in Indonesia, providing easy access to funds for people who are not fully served by traditional financial institutions. Despite offering many conveniences, the rapid growth of online lending brings various risks, such as the rise of illegal online loans, high interest rates, and the potential misuse of users' personal data. This research aims to analyze consumer protection in online loan transactions, by reviewing existing regulations, such as Law No. 8/1999 on Consumer Protection, OJK Regulation No. 77/Pojk.01/2016, and the Electronic Information and Transaction Law (ITE Law). This research uses a normative legal research method with a statutory approach that prioritizes legal materials in the form of laws and regulations as the main reference. Data collection techniques are carried out through library research, analyzing relevant regulations and related literature. The results show that although these regulations already exist, the implementation of supervision and law enforcement is still weak, resulting in many violations harming consumers. Stricter supervision from OJK, strict sanctions against illegal fintech providers, and increased education to the public about their rights as consumers are needed. With more effective supervision and clearer regulations, it is hoped that the online lending industry can develop healthily and provide benefits without harming consumers.

Keywords: Electronic Transaction; Financial Services Authority; Online lending; Regulation

1. Introduction

Online lending services are growing rapidly, but this is not proportional to the level of adequate education to the public. As a result, many risks arise such as the existence of illegal loan companies, the potential leakage of users' personal data that can be misused by the organizers or other parties. Consumer protection is very important so that consumer rights can be legally guaranteed, as regulated in the Consumer Protection Law No. 8 of 1999, which ensures legal certainty in consumer rights. One of the problems that arise is how legal protection for consumers in online loan agreements.

The rapid development of online lending services is not matched by sufficient education to the public, which risks causing various problems, such as the large number of online loans that are not legally registered and leakage of personal data. The Financial Services Authority (OJK) has issued regulations regarding online lending services through OJK Regulation No. 77/Pojk.01/2016 which regulates loans based on information technology and brings together lenders and loan recipients in the form of agreements made through electronic systems using the internet.

Online loans have become popular in Indonesia due to the convenience they offer. Financial Technology (Fintech) is a form of technology-based financial services that utilizes the

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internet to provide various financial services, including loans. Fintech provides an alternative for people to gain access to finance without the need for physical institutions, utilizing applications to connect lenders and loan recipients with relatively easy and fast terms.

One of the advantages of online lending is that consumers do not need to meet with financial institutions in person, just through an application on a smartphone. However, this quick disbursement process may pose risks such as high interest rates, lack of transparency, and misuse of users. OJK regulations prescribe that principles such as transparency, fair treatment, and data confidentiality be applied in fintech operations.

While online lending makes access to funds easier, there are some things to consider such as the potential for very high interest rates and the leakage of personal data that can be misused. Therefore, protection for online loan consumers is very important and needs to be regulated with clear and detailed laws to protect consumer rights in loan agreements.

Online lending is increasingly in demand by the public due to the convenience it offers. However, in the absence of adequate regulation, online loan providers may operate without strict supervision, which may put consumers at risk. Therefore, specific regulations to govern online lending are necessary to ensure transparency, protection of personal data, and setting reasonable interest rates. The ease of accessing online loans can lead to an increased risk of uncontrollable debt for consumers who do not understand the consequences of such loans. Therefore, it is important for there to be regulations that not only provide easy access to credit but also educate consumers about their responsibilities in managing loans.

While online lending has expanded access to finance, many problems have arisen, including unethical billing and extremely high interest rates. Data that is easily shared can pose a threat to consumers. Therefore, more comprehensive regulation is needed so that online lending can operate more safely and fairly for consumers. There is a need for laws that specifically regulate online lending to provide better legal protection for consumers and ensure lending services are conducted in a transparent and fair manner. This regulation should also include data security and fair dispute resolution mechanisms.

With the number of borrowers continuing to increase, there is a need for regulations that can address the problems that arise in the online lending industry. Proper regulation can prevent illegal practices and provide clearer legal certainty for consumers and service providers. The law governing online lending should cover various aspects such as personal data protection, transparency obligations in interest and fees, and clear procedures in dispute resolution.

Today, online lending transactions are increasingly prevalent without adequate regulation, leading to many problems, such as data misuse and unfair interest rates. There should be a specific law regulating online lending to provide better legal protection. Ideally, it should regulate the rights and obligations of both parties in a loan transaction, provide clarity in electronic agreements, and establish an efficient dispute resolution mechanism.

The gap between the current reality and what should be the ideal suggests that specialized legislation regarding online lending is urgent. This regulation is needed to regulate the relationship between consumers and online loan service providers more clearly and provide better protection of consumer rights. The establishment of this law is expected to create legal certainty in online lending transactions in Indonesia.

Based on the description of the problems above, the problem can be formulated as the Substance of the Current Law Regulation on Online Loans in the Civil Law Perspective?

2. Method

This research uses a normative legal research method with a statutory approach, which prioritizes legal materials in the form of laws and regulations as the main reference. This research aims to analyze existing regulations, such as the Consumer Protection Law, OJK Regulations, and regulations related to electronic transactions, to see the extent to which these regulations have protected consumer rights and identified legal gaps that need to be improved or regulated by new laws. The types of legal materials used include primary legal materials (OJK regulations and ITE Law), secondary legal materials (law books, journals, and legal research results), and tertiary legal materials (legal dictionaries and KBBI). The technique of collecting legal materials is done through literature study, which includes reviewing archives or literature related to laws and regulations, books, journals, articles, and theses. The analysis was conducted using a legal hermeneutic approach to understand the meaning of legal texts contextually and deeply, in order to produce legal concepts relevant to the research problem.

3. Results and Discussion

Online loans, which were initially only known by a handful of people, have now become one of the increasingly popular financial solutions, especially among people who have not been fully served by traditional financial institutions. The role of information and communication technology in this era of globalization places it in a very strategic position because it presents a world without boundaries, distance, space, and time, which has an impact on increasing productivity and efficiency. Data from the Indonesian Internet Service Providers Association (APJII) shows that around 1.43% of the total Indonesian population has used online loans, with the majority of users earning between Rp1-5 million. The growth of online lending in Indonesia is strongly influenced by the development of fintech and digital infrastructure in Indonesia. Data from the Financial Services Authority (OJK) shows that the number of registered and licensed fintech lending providers continues to increase every year.

In recent years, online lending services in Indonesia have experienced significant growth. This is driven by the increasing need for quick and easy access to finance and the rapid development of financial technology. Online lending, which was initially only known by a handful of people, has now become one of the increasingly popular financial solutions, especially

among people who have not been fully served by traditional financial institutions. Today's fast-growing globalization has greatly influenced the lifestyle of many people.

In 2020, OJK recorded more than 100 online lending platforms actively operating in Indonesia. These services allow people to obtain loans without having to go through the complicated process that usually occurs in conventional financial institutions . Factors such as high internet penetration, especially in urban areas, and the increasing use of smartphones across Indonesia are driving the growth of this sector. In addition, the fast loan application process, flexibility, and minimal document requirements make online loans more attractive to many people, from formal workers to small business owners.

Ease of access is one of the main advantages of online loans. With just their ID card and smartphone, people can apply for a loan without having to leave the house. The digital verification process allows for disbursement of funds in a matter of minutes to a few days, depending on the platform used. Despite offering various conveniences, online loans also face challenges in terms of regulation and consumer protection.

Some unlicensed online lending platforms often charge exorbitant interest rates, trapping consumers in a cycle of debt. Therefore, ojk and the Indonesian government continue to strengthen regulations to ensure healthy operations and protect consumers from misuse of the service.

The rapid growth of information technology-based loan service providers (online loans) in Indonesia has not been matched by adequate education to the public. Online loan services offer easy access and quick disbursement of funds, as well as a relatively easier process compared to loans at conventional financial institutions. However, this convenience also poses various risks, such as the number of unregistered or illegal online loan companies, as well as the potential leakage of users' personal data that can be misused by the organizing company or other third parties. Without sufficient understanding of these potential dangers, many people are trapped in online lending practices that are detrimental, both financially and to their privacy. Therefore, legal protection for consumers in online lending transactions is very important to ensure that consumer rights are well protected.

Online lending as a form of contractual relationship is subject to the principles of civil law, as regulated in the Civil Code, in particular:

- a. Article 1320 of the Civil Code: the conditions for the validity of an agreement, namely the agreement of the parties, legal capacity, a specific object, and a lawful cause.
- b. Article 1338 of the Civil Code: the principle of freedom of contract, which gives parties the freedom to make agreements as long as they do not conflict with the law, public order, or decency.

However, in online lending practices:

- a. Agreements are often made in the form of standardized contracts or adhesion agreements, which reduce the borrower's freedom as clauses are made unilaterally by the service provider.
- b. Some contracts do not fulfill the principle of balance, which tends to harm consumers.

In terms of consumer protection, Law No. 8/1999 on Consumer Protection (UUPK) provides a strong legal basis. UUPK aims to protect consumers from various forms of business practices that harm them, including in the case of online loan transactions. Users of online loan services as consumers have rights as stipulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection. (hereinafter abbreviated as the Consumer Protection Law) stipulates that consumer rights are:

- a. The right to comfort, security, and safety in consuming goods and/or services;
- b. The right to choose goods and/or services and to obtain such goods and/or services in accordance with the exchange rate and the conditions and guarantees promised;
- c. The right to correct, clear, and honest information regarding the conditions and guarantees of goods and/or services;
- d. The right to have their opinions and complaints about the goods and/or services used heard;
- e. The right to appropriate advocacy, protection, and consumer protection dispute resolution efforts;
- f. The right to consumer education and guidance;
- g. The right to be treated or served correctly and honestly and non-discriminatorily;
- h. The right to compensation, loss and/or replacement, if the goods and/or services received are not in accordance with the agreement or not as they should be; 1. The rights stipulated in the provisions of other laws and regulations." According to pojk 77/pojk.01/2016 article 29 determines, that: "organizers are required to apply the basic principles of user protection, namely: transparency; fair treatment; reliability; confidentiality and data security; and user dispute resolution in a simple, fast, and affordable manner." With regard to this, business actors who violate the rights of online loan service users as consumers can be subject to sanctions. According to article 47 paragraph (1) pojk 77/pojk.01/2016 "for violations of obligations and prohibitions in this ojk regulation, ojk is authorized to impose administrative sanctions on organizers in the form of: written warnings; fines, namely the obligation to pay a certain amount of money; restrictions on business activities; and license revocation."

The link between GCPL and online lending is that consumers are entitled to clear information about the terms and conditions of the loan, including the interest charged and other fees. In addition, consumers are also entitled to protection from misuse of their personal data. Therefore, every online loan provider operating in Indonesia must comply with the provisions in GCPL to ensure that consumers' rights are not violated.

The form of protection can be divided into 2, namely:

- a. Preventive protection, namely legal protection that aims to prevent disputes, one of which is through socialization efforts by the ojk in collaboration with the ministry of communication and informatics in order to provide knowledge to the public about online loans from various aspects of legality, interest rates, offering methods and so on. In addition, it is also necessary to coordinate with the ministry of law and human rights in this case the state legal development agency (bphn) in order to assist in providing legal counseling regarding the impact of using illegal online loans, especially those related to human rights violations.
- b. Refressive protection is legal protection whose purpose is for disputes, if there are parties who feel aggrieved, they can file a complaint so that the dispute that occurs can be resolved immediately.

To provide protection to consumers, OJK Regulation No. 77/Pojk.01/2016 on information technology-based money lending and borrowing services is the legal basis that regulates and supervises fintech operations in Indonesia. This regulation requires online lending service providers to register with OJK and comply with existing regulations. One of the obligations stipulated in this regulation is that organizers must provide clear, accurate and not misleading information to users of online loan services. In addition, organizers must also maintain the confidentiality of users' personal data and use agreements that are easily understood by consumers. However, despite this regulation, there are still many fintech companies that operate without being registered with OJK and do not comply with existing regulations. This shows that there are still many gaps in supervision that need to be improved. One of the main weaknesses in this regulation is the absence of strict sanctions for fintech companies that do not register their companies with OJK. This lack of clarity in sanctions is one of the factors that has led to the continued development of illegal fintech companies that harm consumers.

In addition, Law No. 19/2016 on Electronic Information and Transactions (ITE Law) also plays an important role in providing protection to online lending consumers. The ITE Law regulates the management of personal data and electronic transactions conducted through online lending services. The ITE Law requires that any use of personal information must be based on the consent of the data owner, and provides the right for consumers to file a lawsuit if their rights are violated. In the case of misuse of users' personal data by online loan companies, ITE Law provides criminal sanctions for parties who intentionally and without rights distribute or transmit electronic information containing insults or defamation. ITE Law also provides protection for consumers who are threatened with criminal acts such as threats or intimidation carried out by illegal online loan companies.

However, despite regulations governing online lending, violations of consumer rights continue to occur. Some illegal fintech companies continue to apply high interest rates and

make collections that are not in accordance with the provisions, as well as use users' personal data for harmful purposes. This shows that although there are regulations governing online lending services, their implementation is still weak. Therefore, stricter supervision from OJK and stricter law enforcement against illegal fintech companies are needed. One of the steps that can be taken is to strengthen sanctions against online loan providers who do not register their companies with OJK and who violate consumer rights. The government also needs to increase efforts to educate the public about the dangers of illegal online lending and provide an understanding of consumer rights in online lending services.

Overall, while regulations on online lending are in place, consumer protection still faces major challenges in implementation and enforcement. Stricter supervision and more effective law enforcement will be crucial to ensure that consumer rights are well protected, as well as to create a healthy and responsible fintech business climate. The government, in this case OJK, has a very important role in ensuring that online lending services can run in accordance with the rules and provide maximum protection to consumers. With strong supervision and more effective regulations, it is hoped that the online lending industry can develop healthily and provide benefits to the community without harming consumers.

4. Conclusions

Based on the above discussion, it can be concluded that although online lending has provided easy access to finance, especially for people who are underserved by traditional financial institutions, the sector still faces major challenges related to consumer protection. Despite regulations such as the Consumer Protection Law, OJK Regulation No. 77/Pojk.01/2016, and the ITE Law, there are still many illegal practices that harm consumers, such as unregistered fintech companies, unreasonable interest rates, and misuse of personal data. To solve this problem, stricter supervision from OJK, strict sanctions against illegal fintech companies, and increased education to the public about the risks of online lending are needed. With more effective supervision, clearer regulations, and better protection, it is hoped that the online lending industry can develop healthily and provide benefits to the community without harming consumers.

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