Environmental Investment Protection in The Era of Industrial Revolution 4.0

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Abstract. This article aimed to examines the mechanism of consumer lending protection in peer to peer lending (P2P Lending) on lending and borrowing transactions. As December 2018, the Financial Services Authority announced that the total number of registered and licensed Fintech P2P Lending providers was 88 companies and there were 227 Fintech P2P Lending entities that were not registered and licensed by the Financial Services Authority. In Fintech P2P Lending, people can invest money as loan funds and receive major returns every year, therefore Fintech P2P Lending is a prospective business of lending and borrowing money online. Although Fintech P2P Lending can be a prospective business area, it is not uncommon for the borrower to default. Fintech providers do not guarantee in progress loans if they fail to return. Because the provider is not a party to the loan lending agreement made by the lender and the borrower. This article uses prescriptive, normative research.

1. Introduction
In 2017 there are at least more than 3,885,567,819 people in the world used internet technology. The penetration reached 51.7% of the total population in the world which is more than 7.5 billion people. Based on World Internet Usage and Population Statistics data, in June 30, 2017, Asia was the highest internet user, with the total of 1,938,075,631 users, with penetration reached 46.7%, including Indonesia with 1,132,700,000 internet users[1].

Table 1: Source: Internet World Stats, 2017

| World Regions            | Population | Population % of World | Internet Users 30 June 2017 | Penetration Rate (% Pop.) | Growth 2000-2017 | Internet Users % |
|--------------------------|------------|-----------------------|-----------------------------|--------------------------|------------------|-----------------|
| Africa                   | 1,246,504,865 | 16.6%                 | 388,376,491                 | 31.2%                    | 8,503.1%         | 10.0%           |
| Asia                     | 4,148,177,672 | 55.2%                 | 1,938,075,631               | 46.7%                    | 1,595.5%         | 49.7%           |
| Europe                   | 822,710,362  | 10.9%                 | 659,634,487                 | 80.2%                    | 527.6%           | 17.0%           |
| Latin America/Carribean  | 647,604,645  | 8.6%                  | 404,269,163                 | 62.4%                    | 2,137.4%         | 10.4%           |
| Middle East              | 250,327,574  | 3.3%                  | 146,972,123                 | 58.7%                    | 4,374.3%         | 3.8%            |
| North America            | 363,224,006  | 4.8%                  | 320,059,368                 | 88.1%                    | 196.1%           | 8.2%            |
| Oceania/Australia         | 40,479,846   | 0.5%                  | 28,180,356                  | 69.6%                    | 269.8%           | 0.7%            |

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According to data from the Indonesian Internet Service Association (APJII) in 2018, internet users in Indonesia reached 132.7 million users consisting of 52.5% male users and 47.5% female users with the highest 65% users in Java amounting 86.3 million users[2]. Not to mention active social media users, such as: Facebook, which has reached 47 million users and Twitter users which ranges from 19.7 million[3]. The high number of internet users in Indonesia, put Indonesia in the 8th world rank, and the 4th largest in internet usage. One of the uses of internet technology in Indonesia, even in the world, is Financial Technology (Fintech). Fintech was originally the technology usage to provide financial solutions. The original term of Fintech can also be traced in the early 1990s and refers to a "Financial Technology Services Consortium", which was a project initiated by Citigroup aimed at facilitating the steps of technological cooperation[4]. The rapid development of the Fintech sector is attractive to policymakers in the context of acting as an infrastructure financial institution[5].

Although the development of Fintech is still in its infancy, many believe that Fintech will determine and shape the future of the financial services industry and able to increase community participation which is currently lacking or has not been served by existing financial institutions[6]. The development of the Fintech Peer to Peer Lending (P2P Lending) business, as December 2018 has reached the point in which the Financial Services Authority announced that the total number of registered and licensed Fintech P2P Lending providers amounted to 88 companies and there were 227 Fintech P2P Lending entities that were not registered and licensed by the Financial Services Authority[7].

The parties in the Fintech service based on P2P Lending consist of information technology-based lending service providers, lenders and borrowers. Because of the high number of fintech services in Indonesia, policymakers have their own challenges to be able to protect all parties[8], which include borrowers, lenders, and providers in order to establish adequate relations between each party[9]. In this article, the author confines research on the scope of legal protection mechanisms for lenders and alternative dispute resolution which accommodate the rights of lenders. Information technology which used the internet has significantly changed relations between humans including the area of trade relations. Currently, P2PL fintech services increasingly provide loan services online through the internet. More P2PL fintech users open the opportunity for the dispute to occur in the online loan transaction traffic[10]. Research conducted by the Legal Aid Institute (LBH) Jakarta released 1,330 complaints from P2PL fintech loan victims as of November 2018. A total of 25 P2PL fintech companies from 89 providers registered on Financial Services Authority conducted violation toward consumers. The results of the study add to the number of consumer complaints which Indonesian Consumers Protection Foundation has received in more than 100 reports. The implementation of Peer to Peer Lending-based Fintech services as a place for activities, such as lending and borrowing money in general. The Lender is in position as the creditor and the Borrower is the debtor. Both have legal relations as lending-borrowing transaction in general[11]. In the mechanism of the Peer to Peer Lending-based Fintech service provider in the event of a default from the borrower, the collection of the bill will be carried out through the Third Party Billing Unit with efforts in accordance with the applicable legal procedures. The Lender can clearly file a claim with the borrower but the provider cannot guarantee the success of the Third Party or any legal efforts to collect the remaining loan which makes the Lender undergo full loss from the invested funds. This article will examine what legal protection which may be carried out by lenders (creditors) from the civil law perspective and Information and Electronic Transactions law. Based on the background presented in the introduction, this article examines the issues of what legal protection for consumers of fintech business to address the event of default in the loan agreement through P2PL fintech?

2. Methodology
This research is descriptive analytical in normative juridical. Data collection is conducted by literature review to find secondary data using primary, secondary, and tertiary legal materials and an observation by field research. In this stage a review of the literature on a number of laws and regulations in several countries is also relevant to the problems studied.

3. Results and Discussion

3.1. Debt Agreement in P2PL Fintech Services

Information technology or Financial Technology-based Peer to Peer Lending (fintech P2PL) is a method of lending money to individuals or businesses, applying for loans to lenders, which connects lenders with borrowers online without using services from conventional finance institutions (bank) as an intermediary. This P2PL fintech method is almost the same as the online store concept that provides a meeting space between buyers and sellers. In fintech, P2PL will arrange meeting for lender and borrower. P2PL fintech service providers are carried out by several parties to be able to run the P2PL fintech mechanism. Online borrowing methods are carried out by the parties associated with a legal relationship to regulate Fintech activities based on peer to peer lending. The legal relations of the parties are regulated through an agreement. Agreement is an action by which one person or more ties himself to one other person or more agrees to each other to conduct action. The agreement is generally carried out by making a deal made directly between the parties that will bind them, on the other hand the agreement in P2PL fintech is conducted electronically which makes the agreement is in the form of electronic agreement outlined in electronic documents by the parties\[12\]. Making electronic agreements in implementing P2PL fintech is conducted without necessarily meet in person. This provides convenience, especially for parties who will use Fintech based on peer to peer lending to access easily. Electronic agreements formed in P2PL fintech obtain binding legal force for the parties as stipulated in Article 18 paragraph 1 of Law Number 19 of 2016 concerning Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions which states that: "Electronic transactions as outlined in electronic contracts bind to the parties". The electronic agreement is same as in the agreement in general therefore it can be categorized to be valid as well as must also fulfill the legal requirements of the agreement as stipulated in Article 1320 of the Civil Code.

The legal relation between lenders and fintech P2PL providers is regulated in the electronic agreement. Electronic agreements lead to contractual relationships between parties, both for lenders, borrowers and P2PL fintech service providers. Based on Article 18 of the Financial Services Authority Regulation Number 77/POJK.01/2016 which regulates the agreement for the parties. First the regulation governs the agreement between the providers and the Lender. Second, regulate the agreement between the Lender and the borrower. The legal relations between the provider and the lender is an agreement to grant power, referred to special mandatory\[13\]. To grant mandatory as Article 1792 of the Civil Code stated that a mandate is an agreement, by which an individual assigns authority to another, who accepts it, to perform an act on behalf of such mandator. The definition of "assigns authority" is to do a legal action which has a legal effect. The party that has given the mandatory to carry out a legal action on behalf of the person who has given the power who is represented hereinafter referred to as the mandatory. All actions conducted by mandatory is under the responsibility of the mandator including the rights and obligations. Based on Article 1795 of the Civil Code, the Civil Code may be used as a legal basis in regards of recipient of power's power, in particular one or more matters, or general, being related to all matters of the mandator. Any actions may be carried out by the mandatory will be explained in the mandatory letter\[14\]. The action of P2PL fintech providers is determined by specific provisions, that is distribute the funds from the lender to the borrower. Therefore, the actions that can be carried out by the provider as the recipient of power are limited to the special power in terms of distributing funds from the lender to the borrower. The authorization is granted by agreement between mandator and the mandatory. The character of the power agreement is consensual, in which is only granted if the parties have been agreed. The conformity of the will can be expressed in writing, verbally, or by sign\[15\]. The electronic agreement between lenders and P2PL fintech providers does not conducted secretly because it was formed through electronic media which available on the Fintech service provider platform. The lender must also approve various terms and
conditions that have been determined by the P2PL fintech platform. Electronic agreements do not need
make the parties meet in person but may have the risk of one party not being serious in giving an
agreement [16]. While the agreement between the lender and the borrower is manifested in the loan
agreement. Finance Service Authority Regulation Number 77/POJK.01/2016 provides details related
to the contents of the agreement between the provider and the lender in electronic documents (which
constitute the power of attorney agreement) [17]

3.2. P2P Fintech Customer Consumer Protection

3.2.1 Termination of Power of Attorney Agreement

P2PL fintech providers, borrowers and lenders have a binding legal relation between electronic system
providers and users of electronic systems as stipulated in Article 18 of Law Number 19 of 2016
concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic
Transactions which stated: "Electronic transactions expressed in the Electronic Contract are binding
to the parties." The legal relations pattern between lenders/creditors and P2PL fintech providers is
authorization. The agreement to grant power as stated in Article 1792 of the Civil Code is mandate is
an agreement, by which an individual assigns authority to another, who accepts it, to perform an act on
behalf of such mandator [18]. Whereas the legal relations between the lender (creditor) and the
borrower (debtor) is a contractual legal relationship in which the lender is represented by the
mandatory in making contractual relations with the debtor. In the event of default on the borrower
(debtor) and the provider of the fintech P2PL application is unable to return the creditor’s money, the
provider cannot ignore the rights of the creditor because the relationship between the two parties is a
authorization agreement. Because the creditor is in disadvantage due to the default made by the
recipient of the power, the provider of the P2PL fintech application is liable for legal consequences as
the party who defaults [18] [19] [20]. The Financial Services Authority as the regulator must play an
active role in regulating the P2PL fintech industry specifically in regulating the legal relations between
the creditor and the provider of the P2PL fintech application. One of the responsibilities is to provide
legal protection to consumers, regarding online loan applications if it occurs and there are proven
violations committed by the P2PL fintech provider which allow the Financial Services Authority to
impose sanctions according to the Article 47 of Financial Services Authority Regulation Number
77/POJK.01/2016, starting from written warnings, suspension of business activities up to cancellation
or revocation of registration or business licenses.

3.2.2 Legal Protection for Information and Electronic Transaction

The aspect of protection for consumers of P2PL fintech is also regulated by Government Regulation
Number 82 of 2012 On Electronic Systems and Transactions. In which Article 49 stipulated that: 1) Any Business Entity offering products through the Electronic System must provide complete and
accurate information relating to the contract terms, manufacturers, and products offered; 2) Business
Entity is required to provide clear information on the contract offer or advertisement; 3) Business
Entity shall give a deadline to the consumer to return the goods delivered if not in accordance with the
agreement or there is a hidden defect; 4) Business Entity is required to submit information on the
goods have been shipped; 5) Business Entity can not make burden to consumers on the obligation to
pay the goods delivered without a contract basis. Civil disputes may occur in the P2PL fintech
business between the investor (the creditor) and the debtor, between the investor/creditor and the
fintech provider and between the debtor and the fintech provider. In general, civil disputes that occur
can be caused by default on the contract. If the borrower is considered default, then dispute resolution
can be carried out through litigation and non-litigation institutions. According to Law Number 19 of
2016 concerning Amendment to Law Number 11 of 2008 concerning Eleltronic Information and
Transactions, it is stated that everyone can file a claim against a party that organizes electronic
systems and/or uses information technology that causes losses. The public can file a claim in a
representative manner against the party that organizes electronic systems and/or uses information
technology which results in harming the community according to the provisions of the Law. In
addition to filing a claim (litigation), the parties in the P2PL fintech may also resolve disputes through
arbitration or other alternative dispute resolution institutions in accordance with law. If the agreement
has stated that dispute resolution is carried out through arbitration, then the district court is not authorized to adjudicate the dispute of the parties. Nevertheless, the court can still intervene in the arbitration process as stipulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

4. Conclusion

The limitations of legal protection provided by P2PL fintech providers to P2PL fintech lenders based on Financial Services Authority Regulation Number 77/POJK.01/2016 in returning the creditor's funds do not necessarily disregard the creditor's rights on the basis that efforts to collect funds to the debtor has failed. There are other legal action which may be carried out, as such within the framework of civil law is through the cancellation of the power of attorney along with compensation and legal information protection framework and electronic transactions which states that anyone can file a claim against the party that organizes electronic systems and/or uses information technology which lead to any loss. Creditors can also submit civil and criminal claims to the Financial Services Authority related to the alleged omission of protection and law enforcement efforts against consumers and P2PL fintech providers because according to the Financial Services Authority regulation which has responsibility or authority in terms of supervising and protecting consumers in the financial industry. Financial Services Authority shall also not only regulate online loan applications registered to Financial Services Authority, but also those that are not registered to Financial Services Authority. Financial Services Authority must require all applications to register to it and provide the sanctions if they do not fulfil. Related to the Financial Services Authority license revocation sanctions should be increasingly tightened because the revocation of legal P2PL fintech licenses is not necessarily effective in enforcing the law of consumer protection due to the P2PL fintech which the revoked can submit a new permit to Financial Services Authority for the establishment of P2PL fintech with a new name.

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