

Law and Technology (Study on The Use of Online Application Based on Electronic Information and Transaction Law)

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Abstract. Developments and advances in the world of technology that are supported by unlimited Internet access have succeeded in providing convenience in various aspects of life, one example of the convenience that is presented in the development of technology is the existence of the application of Online-based Funds Loans (Fintech) which can be downloaded by various parties / Debtors . The presence of this application does not all provide benefits to the debtor or to the people who need it because if there is a delay in debt repayment, the debtor gets psychological, verbal, and threat threats from the Debt collector. The presence of law during society as a set of rules governing peoples lives in all respects without exception, including the delivery of transactions in terms of finances between customers as Debtors and Lenders online. The method used in writing this article is an empirical normative approach that is analyzed qualitatively, legal protection is needed for people who feel aggrieved due to the terror interest that exceeds the maximum limit by making a report to the police and at the same time to the financial services authority to immediately curb loan applications online that can upset the public and also provide administrative sanctions in the form of written warnings, fines, obligations to pay a certain amount of money, restrictions on business activities, and revocation of licenses as listed in article 47 paragraph (1) of the Financial Services Authority Regulation. 77 / POJK.01 / 2016 concerning Information Technology-Based Money Lending and Borrowing Services

1. Introduction

As a result of the impact of the development of the current globalization of all community activities at this time is mostly done online.[1] The presence of Financial Technology (Fintech) provides convenience for the public in any matter, such as online shopping, online motorcycle taxis and also online loans.[2] At the Indonesian banking institutions at this time are busy promoting technology, especially financial technology or financial technology (FinTech).[3], [4] The definition presented by the National Digital Research Center (NDRC), financial technology is a term used to refer to innovation in the field of financial services, where the term comes from the words "financial" and "technology" (FinTech) which refers to financial innovation through modern technology. [5] Types of finance technology that are developing in the world today such as Robo advisor, Blockchain, Information and Feeder Site, and others.[6] All of the Fintech makes it easy for financial consumers to buy and use financial products and



services at this time, while finance technology companies registered with the Financial Services Authority until August 7, 2019, the total number of registered and licensed finance technology providers is 127 companies and an increase of 15 companies registered finance technology organizers namely, qazwa.id, bsalam, onehope, LadangModal, Dhanapala, Restock, Solution, lending here, AdaPundi, Tree +, Assetkita, Edufund, Finanku, Tunasaku, and Uatas.[7], [8]

Recently Fintech P2P Landing was in the spotlight where this online loan application became famous because access to loans to the community was enough with a residence card, photo, and account number and minutes of the funds would go directly into the account.[5] But this is very unfortunate by practitioners and also law academics where the presence of this application presents many problems, especially in terms of consumer protection and this has been regulated by Law No. 8 of 1999 concerning Consumer Protection. Based on the data obtained by the author, there has been a suicide due to being entangled in debt through an online loan application, as submitted by Jeanny Silvia S. Sirait, Lawyer of the Jakarta Legal Aid Institute (LBH Jakarta), said that until February 2019, it had received reports of complaints reaching three thousand more related to online loans. [5] The writing of this article aims to analyze more deeply related regulations governing the legal protection for consumers or users of this application.

2. Research Method

The writing of this article was carried out using normative juridical legal methods. Where in this study, examining the law negatively using the fast approach and the Law approach.[9] The data source used in this study is divided into two primary data and secondary data, primary data in this study are the results of observations and interviews with related parties who make loans online.[10] While the secondary data in this study are library materials and also papers that are still related to the writing of this article.[11]

3. Results and Discussion

Business activities will be very vulnerable if the actions of irresponsible people in utilizing technology to be used as a tool of crime or considered as a matter of fraud or misuse which results in the loss of society as users as well as losses for business actors.[12] the presence of online loans in the community actually provides benefits, especially for people who have urgent needs but lately legal issues are present when this online loan application provides very large interest rates and also provides threats to other parties that are deemed close through Whatsapp or text related installments that must be immediately paid.[13], [14]

The presence of law in the community is how the law can protect many communities or individuals, and especially legal protection that must be given to consumers.[1] Materially and formally legal protection for consumers in the business world today is considered increasingly important, and given the increasingly rapid development of industry and technology that is considered as a driver of productivity of producers of goods or services so that the objectives of a business can be implemented properly.[15] Some regulations made by the government related to consumer protection are the issuance of Law Number 8 of 1999 Concerning Consumer Protection and regulations governing electronic-based business activities are Act Number 11 of 2008 concerning Information and Electronic Transactions in conjunction with Law Number 19 of 2016 about Information and Electronic Transactions. In addition, Articles 65 and 66 of Law Number 7 of 2014 regulating Trade explain that this Law provides legal protection for online businesses, for online business operators found to not include true and complete information related to requirements or goods and services that will be offered will be subject to sanctions in the form of revocation of this business license to avoid possible frauds or crimes called cybercrime.

As an independent institution that houses financial activities and also as an organizer of fin-tech services, the financial services authority in conducting its business activities has made rules especially regarding the prohibition of not allowing business activities when providing information that is not in

accordance with applicable regulations.[16] The purpose of the regulation made from the financial services authority is one form of protection provided by the State regarding the use of fin-tech services, especially online loans and if it is proven or found that the ban, the owner of an online loan application may be given written warnings, fines, restrictions on the activities of a business. , and revocation of business license. [1]

Online or electronic business activities, especially online loan business, should be given more specific regulations, such as the need for rules regarding sanctions for online loan applications that have been proven to violate the law and the most important is the existence of a consumer complaint mechanism due to and dispute resolution when a conflict occurred. [9]

Before this online loan problem arose, the government in this case was the financial services authority making a rule by issuing the Financial Services Authority Regulation No. 77 / POJK.01 / 2016, which is about Information Technology Based Borrowing and Loan Services, hereinafter referred to as POJK and contained in the Letter Circular of the Financial Services Authority Number 2 / SEOJK.07 / 2014 concerning Services and Settlement of Consumer Complaints in Financial Services Business Actors. According to the authors of this regulation only emphasizes the obligation of registration for businesses that want to do business online does not make prejudices for business people applying for online loans in conducting their business activities, the article after the rule is published legal problems are more prevalent in the community.[17]

The form of legal protection that people need to know if they suffer losses due to this online loan application The Financial Services Authority provides legal assistance and also stops the online loan business activities. Besides, the Financial Services Authority will also give a warning in the form of a warning to the organizers of business activities deemed to be improper to be able to immediately fix it, then the Financial Services Authority provides information related to activities that can be detrimental to consumers or the general public. [1]

But based on the author's observations on Law No. 21 of 2011 concerning the Financial Services Authority, it appears that no regulation can provide legal certainty for the public as users of Fintech financial services, especially in online loans, both in regulating and also overseeing technology-based financial services (Fintech). In its task of protecting consumers or the public, OJK is given an authority to take preventative actions that result in losses from consumers who use financial services. The Financial Services Authority as an institution that has the authority to regulate and supervise financial institutions must be able to refer to the legal ideals, namely certainty, usefulness and legal justice, so that the existence of technology-based financial services (fin-tech) can compete amid the current technology-based business. This and can help the progress of the conventional banking sector because not a few systems and tools used involve payments that have been issued by banks in advance.Consumer protection in Law No. 21 of 2011 concerning the Financial Services Authority, covers more complex and complete consumer protection. With an increasingly broad scope, the range of duties, authority, and responsibility of consumer protection by the Financial Services Authority is also increasingly in the broad field of financial services. In Article 4 letter (c) of Law No. 21 of 2011 concerning the Financial Services Authority, the purpose of establishing a Financial Services Institution namely the Financial Services Authority was formed so that all activities within the financial services sector can protect the interests of consumers and the public.[18] To provide support for efforts to improve the quality of consumer services in the financial services sector, the Financial Services Authority has issued several provisions that serve as guidelines for financial service businesses, such as the Financial Services Authority Regulation Number: 1 / POJK.07 / 2013 concerning Consumer Service Sector Protection Finance, Financial Services Authority Regulation Number: 1 / POJK.07 / 2014 concerning Alternative Dispute Resolution Institutions in the Financial Services Sector and SEOJK Number: 2 / SEOJK.07 / 2014 concerning Services and Settlement of Consumer Complaints to Financial Service Business Actors.

According to Philip M Hadjon, in carrying out and providing legal protection, a place or container is needed in its implementation, which is often referred to as legal protection means, means of legal protection are divided into two types, the first being preventive legal protection, which starts from regulation, guidance, socialization, service complaints, and sanctions. While repressive legal protection can be pursued through litigation and non-litigation.

4. Conclusions

As a legal state, online lending rules are listed in the Financial Services Authority Regulation No. 77/POJK.01/2016, which is about Information Technology-Based Lending and Borrowing Services, hereinafter abbreviated as POJK LPMUBTI and contained in the Financial Services Authority Circular Letter Number 2 / SEOJK.07 / 2014 regarding Services and Settlement of Consumer Complaints in Financial Service Business Actors, business actors engaged in finance, especially online loans, to inform customers or the public anything to prevent defaults, and for the public to be more careful in applying for loans online so as not to occur. data theft and also unlawful acts that are detrimental to the parties.

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