

LEGAL ANALYSIS OF FINTECH: THE ROLE OF LAW IN FACING THE ERA OF TECHNOLOGICAL DISRUPTION

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Abstract : Fintech is a company that focuses on creating innovations in the field of financial services with the help of contemporary technology. Fintech helps the sales process become more common. The emergence of new business models such as Fintech, increasing cybersecurity risks, changing consumer behavior, and limited access to finance are the main challenges facing the banking industry today. The era of disruption is a state when innovation, technology, and social change significantly disrupt or transform businesses, industries, and the way people live. This research is expected to help solve the problems of how the current legal framework accepts diverse and new Fintech business models and how Fintech consumer education and literacy efforts can be improved to minimize risks and increase awareness of their rights. This research collected data and information from various secondary sources, including news reports and legal documents. Through qualitative analysis using normative methods, this article also highlights the importance of a clear and comprehensive legal role for new business models, strengthening cybersecurity regulations, supporting technological innovation and development, and increasing financial inclusion. Thus, the banking industry can utilize technology to improve services, expand outreach. To encourage the healthy growth of the Fintech industry and benefit society at large, the law must be flexible and responsive to technological developments and new business models in this sector. This legal analysis of fintech aims to provide a comprehensive understanding of the various legal issues that arise in this era of technological disruption.

Keywords : Legal Analysis, Fintech, Technology, Disruption, Bank

Abstrak : fintech merupakan Perusahaan yang berfokus dalam menciptakan inovasi di bidang jasa keuangan dengan bantuan teknologi kontemporer FinTech membantu proses penjualan tersebut menjadi lebih umum. Munculnya model bisnis baru seperti fintech, meningkatnya risiko keamanan siber, perubahan perilaku konsumen, dan keterbatasan akses keuangan adalah tantangan utama yang dihadapi industri perbankan saat ini. Era disrupsi merupakan keadaan ketika inovasi, teknologi, dan perubahan sosial secara signifikan mengganggu atau mengubah bisnis, industri, dan cara hidup manusia Penelitian ini diharapkan dapat membantu memecahkan permasalahan mengenai Bagaimana kerangka hukum saat ini menerima model bisnis fintech yang beragam dan baru serta Bagaimana upaya edukasi dan literasi konsumen fintech dapat ditingkatkan untuk meminimalisir risiko dan meningkatkan kesadaran akan hak-hak mereka. Penelitian ini mengumpulkan data dan informasi dari berbagai sumber sekunder, termasuk laporan berita dan dokumen hukum. Melalui analisis kualitatif dengan menggunakan metode normatif, artikel ini juga menyoroti pentingnya peran hukum yang jelas dan komprehensif untuk model bisnis baru, memperkuat regulasi keamanan siber, mendukung inovasi dan pengembangan teknologi, dan meningkatkan inklusi keuangan. Dengan demikian, industri perbankan dapat memanfaatkan teknologi untuk meningkatkan layanan, memperluas jangkauan, Untuk mendorong pertumbuhan industri fintech yang sehat dan bermanfaat bagi masyarakat secara luas, hukum harus fleksibel dan responsif terhadap perkembangan teknologi dan model bisnis baru di sektor ini. Analisis hukum fintech bertujuan untuk memberikan pemahaman yang komprehensif tentang berbagai masalah hukum yang muncul di era disrupsi teknologi ini.

Kata Kunci : Analisis Hukum, Fintech, Teknologi, Dirupsi, Bank

INTRODUCTION

The era of technological disruption is bringing about major changes in many industries, including banking. Artificial intelligence (AI), blockchain, and cloud computing are some of the new technologies that have revolutionized new business models and the way banks deliver services to their customers. Amidst these rapid developments, banking laws play a vital role in ensuring the stability and integrity of the financial system. They must be able to adapt to technological developments and handle the new challenges that arise. The era of disruption is a state in which innovation, technology, and social change significantly disrupt or transform businesses, industries, and the way people live. In economics and technology, the term is often used to describe the profound changes taking place in the way we work, communicate, shop and live our daily lives. (niswa 2023)

The rise of financial technology (fintech) has transformed the conventional financial industry, generating new business models and changing the way people manage their finances. Fintech offers a range of innovative services such as digital payments, peer-to-peer (P2P) lending, and crowdfunding, which are easier and more accessible to the public. However, amidst the rapid advancement of fintech, various legal issues arise that need to be scrutinized and addressed. Unclear regulations and laws can stifle innovation and harm consumers. On the other hand, laws must be flexible to keep up with technological advances and protect the public interest. The emergence of new business models such as fintech, increasing cybersecurity risks, changing consumer behavior, and limited access to finance are the main challenges facing the banking industry today. On the other hand, this era also opens up opportunities for innovation of more sophisticated, efficient, and personalized banking products and services, as well as expansion of service coverage, and improved customer experience. (rokhmatun hanifah 2021)

Banking law must adapt to technological developments by providing a clear and comprehensive legal framework for new business models, strengthening cybersecurity regulations, supporting technological innovation and development, and enhancing financial inclusion. By doing so, the banking industry can utilize technology to improve services, expand reach, and create a better future for customers and their families. How the banking industry adapts to changes, capitalizes on opportunities, and mitigates emerging risks will determine its future in the era of technological disruption. Banking law will play a critical role in ensuring the stability and integrity of the financial system and supporting innovation and growth. (ni ketut yunita wulan dari 2019)

Legal analysis of fintech is important to understand the various legal issues that arise in this era of technological disruption. By understanding the background of fintech and its various aspects, legal analysis can offer appropriate solutions to support innovation, protect consumers, and keep the financial system stable. To foster the healthy growth of the fintech industry and benefit society at large, the law must be flexible and responsive to technological developments and new business models in the sector. A fintech legal analysis aims to provide a comprehensive understanding of the various legal issues that arise in this era of technological disruption. By understanding the purpose of writing a fintech analysis, it is expected to produce appropriate solutions to encourage healthy growth of the fintech industry, protect consumers, maintain financial system stability, and promote financial inclusion.

METHOD

The research collected data and information from various secondary sources, including news reports and legal documents. Through qualitative analysis using normative methods, this article also highlights the important role of law regarding fintech business models in the era of technological disruption.

RESULT and DISSCUSION

1.1. How Does The Current Legal Framework Accept Diverse And New Fintech Business Models?

Fintech is a business that combines technology with financial services. "fintech" is a term used to describe advances in technology and digitization in the field of financial services. It accelerates various financial operations, such as fund transfers, payments, and lending. Zopa, the world's first Peer-to-Peer financing company, emerged in the UK in 2005 as a result of the development of the internet. Meanwhile, the development of fintech in Indonesia started in 2006. However, people did not immediately trust fintech in Indonesia. Then an organization called Asosiasi Fintech Indonesia (Aftech) was established in September 2015. The emergence of this association influenced the growth of fintech companies in the country (Hadi Purwanto, 2022). According to data from the Financial Services Authority (OJK), fintech companies in Indonesia are divided into several sectors: 1) financial planning, 2) crowdfunding, 3) lending, 4) aggregators, 5) payments, and 6) other fintech.

In the current development, the financial technology industry, also known as "Fintech", has various types, including payments at 42.22%, lending at 17.78%, aggregators at 12.59%, financial planning at 8.15%, crowdfunding at 8.15%, and other fintech at 11.11%. In Indonesia, there are at least four types of fintech: large fintechs, start-up fintechs, social fintechs, and "credit market" type fintechs. Some examples of startup fintechs are Doku, iPaymu, midtrans, kartuku, and dimo. Meanwhile, already sizable fintechs, such as Amarta, crowdo, investree, and koinWorks, and social fintechs, such as kitaBisa, gandengTangan, The type of fintech industry involved in the loan credit market includes Bareksa, Infovesta, Stockbit, IndoPremier, IndoGold, and Sports. (rusydiana 2018)

The following are the forms of fintech companies established in the country

1. Crowdfunding is a financial intermediation platform that operates over the internet and raises funds from the public for projects or business units. (Sitanggang n.d.)
2. Microfinance is a financial service provided to the lower middle class in the form of individual loans, group loans, micro leases, micro loans, or venture capital to improve their businesses so that they can help them deal with extraordinary emergencies. (Timotius Yohanes Mamuko 2022)
3. Digital payment is a cashless payment method that uses digital money. (Saut Pintubipar Saragih 2019)
4. E-aggregator is a service that transparently collects and analyzes financial data from various sources. (Nurdin Nurdin 2020)
5. P2P lending is an alternative source of financing for the community, especially for micro, small, and medium enterprises (MSMEs). The peer-to-peer lending fintech system is very accessible to both lenders and loan recipients when operating. (Aprita 2021)

6. An online loan is a type of loan that can be requested online through a mobile application without having to meet in person. This makes it easier and faster to apply for credit. (Agung Hidayat 2022)
7. Risk and investment management is to understand investment policies from a financial aspect based on risk management (ni ketut yunita wulan dari 2019)

Overall, the growth of fintech has an impact on the global legal system and Indonesia as the technology-based fintech industry can spread across jurisdictional boundaries. Therefore, the Financial Services Authority (OJK) and Bank Indonesia (BI) have issued related regulations to protect and regulate fintech activities and transactions in accordance with the rule of law, namely POJK No. 77/POJK.01/2016 on Information Technology-Based Money Lending Services. POJK No. 13 of 2018 concerning Digital Financial Innovation in the Financial Services Sector. POJK 37 of 2018 concerning Crowdfunding Services through Information technology-based Share Offerings. PBI Number 19 of 2017 concerning the implementation of Financial Technology. PBI Number 20 of 2018 concerning Electronic Money. (didik irawansah 2021)

In its own duties, the Financial Services Authority issued POJK Number 77 of 2016 which regulates information technology-based money lending and borrowing services. The regulation is the first regulation. Issued by the Financial Services Authority in protecting fintech issues directly. According to the Financial Services Authority Regulation No. 77/POJK.01/2016 on information technology-based money lending and borrowing services, fintech transaction services are a type of financial service that uses technology to enable related parties to conduct money lending and borrowing transactions. By following this regulation, the systems built no longer use conventional manual services. Instead, they use the ease of sufficient technology or the process of digitalization. The legal regulations set forth in the provisions of the Financial Services Authority Regulation No. 77/POJK.01/2016 are in terms of sanctions. In this provision, sanctions for violations that 33 Soekanto, S. (2012), occur in fintech transactions in article 47 paragraph (1), states that for violations of obligations and prohibitions in this POJK, OJK's authority only imposes administrative sanctions on fintech Organizers in the form of: (1) written warning; (2) fines, with the obligation to pay a certain amount of money; (3) restrictions; and, (4) license revocation.

In Article 47 paragraph 2 of the Information Technology-based Money Lending and Borrowing Regulation Number 77/POJK.01/2016, it is stated that "Administrative sanctions as referred to in paragraph (1) above, especially in letters b through d, administrative sanctions in the form of written warnings, as mentioned in article (1) letter a, may be imposed with or without precedence, in accordance with other provisions listed in article 47 paragraph (3) of OJK Regulation No. 77/POJK.01/2016 concerning information technology-based money lending and borrowing services". Article 1 paragraph 3 does not mention the amount of money that must be given to the offender. Articles 1 to 3 do not include administrative or criminal sanctions for individuals who commit violations, especially violations committed by unlicensed or illegal fintech industries. While licensed fintech industry players can only be subject to legal sanctions, fintech companies that commit violations can only have their licenses revoked.

As mentioned above, Bank Indonesia has issued BI Regulation No. 18/ 40/ PBI/2016 to support the growth of fintech companies in Indonesia. This regulation governs the organization of payment transaction processing. Legal protection for Indonesian consumers and fintech companies. Regulations such as the Electronic Information and Transaction Law (UU-ITE), Consumer Protection Law, Government

Regulation No. 22 of 2012 on the Implementation of Electronic Systems and Transactions, BI Regulation No. 16/1/PBI/2014 on Consumer Protection of Payment System Operators, and BI Regulation No. 18/ 40/PBI/2016 on the Implementation of Payment Transaction Processing of Fintech Business Actors provide legal protection for customers and fintech businesses.

Apart from these regulations, there is also Bank Indonesia Regulation No. 9 of 2017 on the Implementation of Financial Technology. This BI regulation only gives Bank Indonesia the authority to regulate the implementation of fintech, especially in terms of service provision. payment system, which includes prudential principles such as recognizing customers, registration principles, sandbox regulation, licensing organizers to monitor, and supervision of organizer cooperation between payment system service providers and financial technology providers. In addition, it regulates Bank Indonesia's cooperation and coordination with relevant authorities at home and abroad. Thus, juridically, the above explanation shows that Bank Indonesia has no direct authority to legally protect the activities of the fintech industry in Indonesia. There is no sufficient law to regulate the fintech industry that operates online and uses electronic transactions.

According to Law No. 8 of 1999 on Consumer Protection in general, people who purchase goods or services over the internet should get legal protection so that they are not harmed by companies. These provisions do not regulate consumers in the fintech industry, but only regulate general consumers, while fintech businesses must be protected from fraud and other crimes, especially in online businesses and electronic transactions.

While there are several policies made by the Financial Services Authority, such as OJK Regulation No. 1/POJK.07/ 2013 on Consumer Protection in the Financial Services Sector and Financial Services Authority Circular Letter No. 2/SEOJK.07/2014 on Services and Settlement of Consumer Complaints in Financial Services Business actors, relevant authorities, such as OJK, must pay close attention to legal aspects related to consumer protection. Law enforcement and consumer protection have not been optimized because the legal sanctions are still administrative and inadequate. There are several other legal regulations such as Bank Indonesia Circular Letter No. 18/22/DKSP regarding the Implementation of Digital Financial Services and Bank Indonesia Regulation No. 18/17/PBI/2016 regulating all matters related to Electronic Money.

In addition to these things, the impact of fintech on the financial system in banking has anticipated the fintech phenomenon, which means they have participated in innovating in providing financial services and evaluating their business models. This shows that the development of fintech systems is a strategy to overcome the fintech phenomenon that is expected to improve financial performance, even though this phenomenon is not directly related to banking; the fact is that fintech does not interfere with financial performance, but instead encourages the development of its own fintech system in banking. in accordance with OJK (2017), which states that the condition of banking performance in Indonesia continues. However, the results show that there is no improvement; on the contrary, financial performance is declining. The fintech phenomenon does not have a negative impact on the financial performance of banks; on the contrary, this phenomenon can encourage banks to adopt technological innovation. Management must pay for information technology if they want to improve financial performance. The above banks are responding to the fintech phenomenon and want to get involved, with their own reasons for cooperating with fintech. The conclusion is that the development of fintech is inevitable but needs to be addressed so that banking is not

threatened. Banks can continue to grow by doing vertical and horizontal integration. Purchasing fintech start-up services to open up new markets is an example of vertical integration, and horizontal innovation is an example of integration that maximizes existing products. To improve the financial performance of banks, integration should make banks cut costs to the minimum rate. (budi hartono 2021)

1.2. How Can Fintech Consumer Education and Literacy Efforts Be Improved To Minimize Risks and Increase Awareness of Their Rights?

To get the benefits of the enactment of fintech in addition to legal efforts that need to be enforced, there is also a need for fintech consumer education and literacy efforts to minimize risks and increase awareness of their rights. There are several good benefits in the community regarding the existence of fintech law, among others: (ni ketut yunita wulan dari 2019)

- a) Helping new startup companies grow and develop innovative products in the fintech industry. One example is Moneythor, a company that developed a new product that allows users to experience digital banking with more detailed and specific analytics.
- b) Improving Living Standards: Apart from generating huge revenue for startup companies, fintech can also improve people's living standards and purchasing power. For example, startup companies are innovating to make stores have low-cost payment systems with debit and credit cards. Startup companies must convince investors to reduce the poverty rate by 600 million people, because fintech plays an important role in this effort.
- c) Ease of Financial Services: Another benefit of fintech is the ease of financial services. Ten years ago, people had to go to a teller or an ATM to transfer money. In fact, both of these are very difficult because they take quite a long time. People also have to avoid queuing, which makes time even more wasted. However, with the existence of fintech, this can be minimized nowadays because people can easily send money with a smartphone that has internet.

The increasing popularity of fintech in Indonesia brings financial inclusion and innovative financial services. However, behind the convenience and benefits it offers, fintech also brings risks to users who do not understand it. Therefore, educating and understanding fintech consumers is crucial to mitigate risks and increase awareness of their rights.

Various strategic steps can be taken to improve the knowledge and awareness of fintech consumers. First, OJK, LPS, and AFTECH should actively participate in developing a complete and easy-to-understand education program. By using technology such as educational applications, social media, and online courses, it is easier to reach the wider community. Second, increased literacy and education at the grassroots level can be achieved through peer-to-peer training, cooperation with influencers, and socialization in the community. Third, improved fintech services, such as the provision of clear information, development of educational services, and adequate support, can lead to safe and responsible fintech. (dubi harto 2023)

Critical to creating a safe fintech ecosystem is the strict application of the law against illegal fintech players and the development of regulations that protect consumer rights. With good education and literacy, consumers can use fintech services wisely and safely, promote responsible and sustainable growth of the fintech industry, and realize inclusive and empowered financial inclusion. To achieve these goals, the government, regulators, fintech industry players, and the public must work together and cooperate.

With good education and literacy, fintech consumers will become smart and wise users, which will result in an innovative, safe, and beneficial fintech ecosystem for the whole society.

CONCLUSION

Financial technology, or fintech, has brought life to Indonesia's financial services industry. Fintech has many benefits and conveniences, but it also has risks for users who do not understand it. To reduce risks and increase awareness of fintech consumer rights, consumer education and literacy are essential. Many efforts need to be made, such as OJK, LPS, and AFTECH actively participating in the use of technology, involving the community, improving the quality of fintech services, law enforcement, and regulations that protect consumers. Consumers can utilize fintech services wisely and safely if they are educated enough. This will promote the responsible and sustainable development of the fintech industry and realize inclusive and empowered financial inclusion. This noble goal can be achieved only with the cooperation and collaboration of various parties, including the government, regulators, fintech industry players, and the public. Fintech consumers will become smart and wise users with good education and literacy. This will result in a fintech ecosystem that is innovative, safe, and beneficial for all levels of society.

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