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Consumer Protection in Fintech Lending: (Study of Decision Number 438/ Pid.Sus /2020/PN Jkt.Utr in the Perspective of POJK 18/2023 and the PDP Law)

Khalita Putri Azzahra¹, Satino²

¹ Faculty of Law, National Development University “Veteran” Jakarta, 2210611441@mahasiswa.upnvj.ac.id

² Faculty of Law, National Development University “Veteran” Jakarta, satino@upnvj.ac.id

Corresponding Author: 2210611441@mahasiswa.upnvj.ac.id¹

Abstract : The rapid growth of financial technology (fintech) in Indonesia has created new legal challenges, particularly regarding consumer protection and personal data misuse. This study examines the implementation of consumer protection in fintech lending through District Court Decision No. 438/Pid.Sus/2020/PN Jkt.Utr and evaluates the effectiveness and fairness of the legal framework under POJK No. 77/POJK.01/2016, POJK No. 18/POJK.07/2023, and the Personal Data Protection Law (Law No. 27 of 2022). Using a normative juridical method with statutory, conceptual, comparative, and case approaches, the research analyzes how these regulations ensure legal certainty and justice for consumers. The results show that although the new regulations strengthen legal protection and ethical obligations, their effectiveness still depends on law enforcement, inter-agency coordination, and public legal awareness.

Keywords: Consumer Protection, Fintech Lending, Legal Justice, POJK, Personal Data Protection Law

INTRODUCTION

The rapid development of financial technology (fintech) in Indonesia has significantly transformed the way people conduct financial transactions. Peer-to-peer (P2P) lending services represent an innovation that offers easier access to financing for the public, particularly for individuals who are underserved or excluded from conventional financial institutions (the unbanked) (Noor, 2025). While fintech's role in expanding financial inclusion is undeniable, this progress also raises new legal issues, particularly concerning the liability of service providers and the protection of consumers who are vulnerable to personal data abuse and intimidating debt collection practices. (Fauziah, 2025).

One of the most pressing issues in the fintech lending industry is the weak oversight of users' personal data usage. Many providers excessively exploit data access for debt collection purposes, sometimes resorting to threats or even the dissemination of personal information. This phenomenon reflects the suboptimal level of legal protection afforded to consumers, despite the fact that consumer

protection serves as a legal framework ensuring legal certainty for consumers so that the objectives of consumer protection in Indonesia can be effectively achieved (Wardhani, 2022).

In the context of civil law, the responsibility of fintech providers toward consumers arises from the principles of good faith and adherence to contractual agreements, which form the legal foundation of the relationship between the parties.(Wardhani, 2022). In the context of civil law, the liability of fintech providers toward consumers is grounded in the principles of good faith and adherence to contractual obligations, which constitute the legal foundation of the relationship between the parties.

This condition is clearly illustrated in the North Jakarta District Court Decision No. 438/Pid.Sus/2020/PN Jkt.Utr, in which a debt collector was found guilty of threatening and intimidating a debtor by unlawfully using personal data. This case highlights the weakness of the legal framework at that time, as the prevailing regulation POJK No. 77/POJK.01/2016—did not comprehensively address the protection of personal data or provide substantive sanctions for such violations. Consequently, law enforcement could only rely on general criminal provisions, such as those under the Electronic Information and Transactions (ITE) Law, which does not specifically govern the legal relationship between consumers and fintech providers.

In response to this legal vacuum, the Financial Services Authority (OJK) issued Regulation No. 18/POJK.07/2023 on Consumer Protection in the Financial Services Sector, alongside Law No. 27 of 2022 on Personal Data Protection. Both regulations reaffirm the principles of fairness and the balance of rights between businesses and consumers within the context of digital services. This approach is consistent with the concept of progressive law, which views law as an instrument to protect individuals and to pursue substantive justice rather than merely formal justice.(A. R. Sari, 2018). However, despite the introduction of these new legal instruments, a critical assessment is still necessary to evaluate their effectiveness in providing genuine protection for fintech lending consumers, particularly in relation to debt collection practices involving threats and the misuse of personal data.(Noor, 2025)

Therefore, this study is crucial to evaluate the effectiveness of the legal liability regulations governing fintech lending providers in ensuring consumer protection. It also analyzes the extent to which the new regulations—POJK No. 18/2023 and the Personal Data Protection (PDP) Law—address the shortcomings that existed under POJK No. 77/2016 (Otoritas Jasa Keuangan, 2023).

This research is expected to contribute academically to the strengthening of legal norms for consumer protection in the digital financial sector and to serve as a foundation for developing policies that are more responsive to the evolving landscape of financial technology..(A. R. Sari, 2018)

METHOD

This study employs a normative juridical method, which focuses on analyzing positive legal norms contained in legislation, legal doctrines, and court decisions relevant to the issue under examination. This method is applied to assess the effectiveness of regulations governing the legal liability of fintech lending providers in ensuring consumer protection. The research adopts several approaches, including a statutory approach to examine the provisions of POJK No. 77/POJK.01/2016, POJK No. 18/POJK.07/2023, and Law No. 27 of 2022 on Personal Data Protection (Republik Indonesia, 2022) A conceptual approach is employed to understand the principles of consumer protection from a business law perspective, a case approach is applied through the examination of the North Jakarta District Court Decision No. 438/Pid.Sus/2020/PN Jkt.Utr as an empirical illustration of the weaknesses in the prevailing legal norms at that time, and a comparative legal approach is used to assess the effectiveness and scope of regulations between POJK No. 77/2016 and POJK No. 18/2023 in providing more equitable legal protection for consumers.(Budhijanto, 2023).

The type of data used in this study is secondary data, which consists of primary legal materials (such as legislation, OJK regulations, and court decisions), secondary legal materials (including scholarly books, journals, previous research findings, and official publications from OJK and Kominfo), and tertiary legal materials (such as legal dictionaries and encyclopedias). The data were

collected through library research by examining various relevant legal sources to obtain a comprehensive understanding of the issue. The analysis was carried out qualitatively using a descriptive-analytical method, which involves describing, interpreting, and evaluating the alignment between applicable legal norms and their implementation in practice in order to answer the research questions and assess the effectiveness of legal protection for consumers in the fintech lending sector (Otoritas Jasa Keuangan, 2023).

The type of data used in this study is secondary data, which consists of primary legal materials (statutory regulations, OJK regulations, and court decisions), secondary legal materials (books, scientific journals, previous research findings, and official publications from OJK and Kominfo), and tertiary legal materials (legal dictionaries and encyclopedias). The data were collected through library research by examining various relevant legal sources to obtain a comprehensive understanding of the issue. The analysis was conducted qualitatively using a descriptive-analytical method, which involves describing, interpreting, and evaluating the conformity between applicable legal norms and their implementation in practice, in order to answer the research questions and assess the effectiveness of legal protection for consumers in the fintech lending sector. (A. K. Sari, 2025)

RESULTS AND DISCUSSION

Forms and Implementation of Legal Protection for Consumers in Fintech Practices Lending (Analysis of Decision Number 438/ Pid.Sus /2020/PN Jkt.Utr)

Legal protection for consumers in the fintech lending sector is a crucial component of a technology-based digital financial system. In practice, many consumers experience violations of their rights, including the misuse of personal data and intimidating debt collection practices. One case that illustrates this issue is the North Jakarta District Court Decision No. 438/Pid.Sus/2020/PN Jkt.Utr. In this case, an employee of a fintech company was found guilty of distributing personal data and threatening debtors who were in arrears, by disseminating the victim's photos and personal information to third parties through electronic messages. These actions were intended to pressure the victims into immediately repaying their debts. Such conduct not only violates the principles of business ethics but also infringes upon consumers' fundamental rights to privacy and security, as guaranteed by Indonesian laws and regulations.

The case demonstrates that, as of 2020, the legal norms governing fintech lending services were still limited to administrative provisions as stipulated in POJK No. 77/POJK.01/2016 concerning Information Technology-Based Lending Services. This regulation primarily addresses licensing, governance, and the responsibilities of providers in conducting business activities, but it does not yet ensure comprehensive legal protection for consumers. In terms of law enforcement, POJK No. 77/2016 does not possess criminal force and therefore cannot serve as a legal basis for judges to impose criminal sanctions on offenders. Consequently, law enforcement authorities could only prosecute perpetrators under the provisions of the Criminal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), rather than for violations of OJK regulations.

This situation demonstrates that the legal protection provided by the state to fintech consumers at that time was reactive rather than preventive. POJK No. 77/2016 functioned primarily as an administrative guideline that could only address violations through non-criminal sanctions, such as warnings, suspensions, or the revocation of a provider's business license (Fauziah, 2025). In the case in question, the protection mechanisms that should have been implemented by the OJK through supervision and reporting systems proved ineffective, resulting in consumer rights violations being addressed only after legal consequences arose in the form of criminal acts. This indicates that the legal protection framework at that time failed to provide a sense of security and legal certainty for the public as users of fintech lending services.

From the perspective of legal justice, this condition reflects a failure to uphold the principle of equality before the law for digital consumers. Although fintech lending has grown rapidly as an alternative source of financing, consumers remain vulnerable due to their lack of bargaining power against providers and debt collectors (Triansyah et al., 2022). From the perspective of legal justice,

this condition reflects a failure to uphold the principle of equality before the law for digital consumers. Although fintech lending has grown rapidly as an alternative source of financing, consumers remain vulnerable due to their lack of bargaining power against providers and debt collectors.

From the perspective of legal justice, this condition reflects the failure to realize the principle of equality before the law for digital consumers. Although fintech While lending has grown rapidly as a financing alternative, consumers remain in a weak position due to their lack of bargaining power with providers and debt collectors. (Triansyah et al., 2022) Existing regulations at the time also did not provide for consumer rights recovery in the event of personal data breaches. As a result, victims received limited protection through criminal proceedings against individual perpetrators, not guarantees of restitution for losses resulting from violations committed by the fintech system itself.

This fact reinforces the argument that POJK No. 77/2016 failed to deliver substantive justice for fintech lending consumers. The regulation remains normative and administrative in nature, lacking concrete protection mechanisms oriented toward the interests of victims. Effective legal protection should encompass three dimensions: preventive, curative, and repressive (A. K. Sari, 2025). However, in practice, only the repressive aspect, namely criminalization after a violation occurs, operates. The preventive aspect, which involves education and guidance for providers, and the curative aspect, which involves restoring consumer rights, have not been optimally implemented by regulators or business actors.

Furthermore, the weak implementation of legal protection is also attributed to the lack of synergy among supervisory institutions such as the Financial Services Authority (OJK), the Ministry of Communication and Information Technology (Kominfo), and law enforcement agencies. The absence of an integrated coordination system has resulted in the handling of personal data misuse cases being slow and inconsistent. The OJK, as the supervisory authority, tends to emphasize an administrative approach, while the police and prosecutors only take action once criminal elements are established. This pattern of coordination demonstrates that the fintech consumer protection framework still operates in a sectoral manner rather than through an integrated system.

Thus, the case in Decision Number 438/Pid.Sus/2020/PN Jkt.Utr clearly illustrates that legal protection for fintech lending consumers during the period of POJK No. 77/2016 was ineffective, both normatively and functionally. Although judges were able to impose criminal sanctions on individual perpetrators, there was no structural legal mechanism capable of safeguarding consumers from data misuse and digital threats. This situation underscores the urgent need for regulatory evaluation and reform through POJK No. 18/2023 and the 2022 Personal Data Protection Law to establish a more adaptive, robust, and consumer-oriented legal protection framework in the fintech sector.

Effectiveness and Comparability of Regulations in Providing Legal Protection and Justice for Fintech Consumers Lending

The development of fintech lending in Indonesia reflects the government's efforts to strengthen consumer protection, which had previously been weak under POJK No. 77/POJK.01/2016. Although this regulation marked the beginning of oversight for the technology-based financial industry, it failed to ensure fairness for consumers in terms of legal protection. The regulation primarily emphasizes administrative aspects such as licensing and governance—rather than substantive provisions safeguarding consumer rights.

The responsibilities of business actors in fintech lending should extend beyond administrative compliance; they must also embody prudence and legal awareness to prevent consumer harm. In the context of modern business law, mere formal compliance without a sense of social responsibility may create an imbalance between business interests and public protection (Fuady, 2014). Consequently, when violations occur, victims are protected only normatively rather than substantively. Ideally, the concept of consumer protection in the digital sector should be grounded in the principle of substantive

justice, wherein the law not only establishes formal equality but also ensures greater protection for structurally disadvantaged parties within economic relations.(Budhijanto, 2023)

Justice in the context of fintech lending is not only about the existence of regulations but also the effectiveness of their implementation in providing real protection for victims. (Noor, 2025; Pratama, 2023). During the period when POJK No. 77/2016 was in effect, numerous violations occurred, including intimidation and misuse of personal data, which failed to receive adequate legal resolution. The OJK was only authorized to impose administrative sanctions and did not possess a specific legal instrument to provide restitution or recovery of rights for consumers. (Noor, 2025). When consumers suffered immaterial losses as a result of the dissemination of their personal data or psychological pressure, the law was unable to fully restore their dignity and sense of justice.. (Atsar & Apriani, 2019). From the perspective of consumer protection law, this condition reflects a weakness in upholding the principles of fair treatment and restorative justice.

The transition to POJK No. 18/POJK.07/2023 (Pratama, 2023) marks a new direction in the legal protection framework—one that is more responsive and oriented toward substantive justice. This regulation explicitly stipulates the obligation of service providers to maintain the confidentiality of consumers' personal data, prohibits coercive or violent collection practices, and mandates the establishment of a fair consumer dispute resolution mechanism.. (Fauziah, 2025) Unlike POJK No. 77/2016, this new regulation functions not only as an administrative guideline but also as an ethical and moral standard for financial service providers. Therefore, POJK No. 18/2023 can be regarded as a progressive step toward fulfilling citizens' constitutional rights to self-protection and the safeguarding of their personal data..

However, the effectiveness of POJK No. 18/2023 in achieving legal justice cannot yet be fully assessed. The main challenge lies in the OJK's limited authority to enforce legal norms beyond the administrative domain. Many violations involving personal data misuse or unethical collection practices still require coordination with other institutions, such as Kominfo and law enforcement agencies, whose mandates and procedures are often not fully synchronized (Faried & Dewi, 2020).

Unregistered (illegal) fintech lending operators continue to operate and cause losses to the public without being subject to the OJK's sanctions mechanism. This condition demonstrates a gap between the law on the books and the law in action, thereby hindering the realization of substantive justice. (Wardhana & Tarina, 2021). Legal justice cannot be achieved if protection is granted only to consumers of licensed fintech companies, while victims of illegal lending are left without any form of redress.

The enactment of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) strengthens the foundation of justice for digital consumers. This regulation grants individuals broader rights to control their personal data and establishes legal responsibilities for data controllers. In the context of fintech, In lending, the Personal Data Protection Law provides a legal basis for victims to sue providers who fail to maintain data confidentiality. (R. T. N. Sari & Satino, 2024). By including administrative and criminal sanctions, the Personal Data Protection Law broadens the scope of justice from mere administrative compensation to a form of equitable accountability . This means that violations of personal data are not only viewed as contractual violations but also as violations of human rights that must be protected by the state.

However, despite the introduction of new regulations, legal justice in practice has not been fully realized due to weak synergy among law enforcement institutions. The Financial Services Authority (OJK), the Ministry of Communication and Information Technology (Kominfo), and law enforcement agencies still tend to operate in a sectoral manner, which often impedes case resolution because of overlapping jurisdictions. In many instances, personal data breaches by fintech operators are still treated merely as civil or administrative issues rather than as violations of consumers' constitutional rights. From a progressive legal standpoint, however, justice should be assessed not only by formal compliance with regulations but also by the law's capacity to deliver tangible protection for harmed parties. Within this framework, the law must

serve as an instrument of social transformation one that ensures equilibrium between legal certainty and substantive justice for communities affected by the digital economy (Rahardjo, 2009).

Furthermore, the implementation of these new regulations still demands continuous efforts to enhance legal awareness among business actors and improve public legal literacy. Legal justice will remain unattainable if consumers lack understanding of their rights while businesses neglect the principles of corporate social responsibility. Therefore, preventive strategies are essential such as public education initiatives, technology-based digital supervision, and transparent reporting of service providers' activities. Through these measures, justice can be realized not only within the courtroom but also within the broader socio-economic relationships between fintech operators and consumers.

Thus, the comparison between POJK No. 77/2016 and POJK No. 18/2023 not only illustrates the evolution of legal norms but also reflects Indonesia's journey toward a more just and humane legal system. POJK 18/2023, reinforced by the enactment of the 2022 Personal Data Protection Law, represents a paradigm shift—from a regulatory framework that merely governs administrative compliance to one that genuinely protects and restores consumers' rights. Justice for fintech lending consumers is not limited to the imposition of sanctions, but extends to ensuring that every individual enjoys equal rights to security, privacy, and legal certainty within the dynamic landscape of the digital financial ecosystem.

Thus, it can be concluded that misuse of personal data and threat-based billing remain a real threat to fintech consumer protection in Indonesia. OJK Regulation No. 18/2023 and Law no. 27/2022 concerning Personal Data Protection (PDP) has provided a more progressive legal framework to strengthen the accountability of providers and guarantee consumer privacy rights. (Otoritas Jasa Keuangan, 2024) However, the success of these regulations depends on consistent enforcement, inter-agency coordination, and increased public legal awareness. Without synergy between regulation, oversight, and public education, violations of digital consumer rights will continue to recur, and trust in the national fintech system will be difficult to fully restore.

CONCLUSION

Based on the research findings, it can be concluded that legal protection for consumers in fintech lending practices, as reflected in Decision Number 438/Pid.Sus/2020/PN Jkt.Utr, reveals the inadequacy of legal instruments during the enforcement of POJK No. 77/POJK.01/2016. This regulation primarily focused on administrative governance without providing substantive safeguards for consumer rights, particularly in cases involving the misuse of personal data and coercive debt collection practices. Such conditions created a significant gap between normative legal certainty and factual justice for consumers, who remain the most vulnerable parties in digital financial transactions (Hadjon, 2017)

Regulatory reforms through OJK Regulation No. 18/POJK.07/2023 and Law No. 27 of 2022 on Personal Data Protection represent progressive steps toward establishing a more equitable legal protection system. However, their effectiveness largely depends on consistent law enforcement, strong inter-agency coordination, and heightened legal awareness among business actors. Therefore, strengthening the supervisory mechanisms of the OJK and the Ministry of Communication and Information Technology (Kominfo), alongside enhancing public legal literacy, is essential to ensure that consumer protection within the fintech ecosystem is not merely normative, but genuinely reflects substantive and sustainable legal justice.

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