

THE POWER OF SHARIA FINANCIAL TECHNOLOGY REGULATION IN INDONESIA

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ABSTRACT

In today's digital era, all activities using digital systems provide convenience and speed in carrying out all the activities needed, one of which is conducting financial transactions. Financial technology provides digital financial transaction services with various convenient features to make the required financial transactions. The presence of fintech certainly changes people's behavior in financial transactions with the conveniences offered by fintech services. Islamic financial institutions also follow the development of digital services and meet the needs of the public in conducting sharia-based digital financial transactions. With this change in digital financial transaction patterns, it is necessary to have a regulation that regulates and supervises the running of sharia-based fintech business practices in Indonesia. This study aims to analyze the basics of sharia fintech business regulations in Indonesia and explain the impact of these regulations on the development of sharia fintech in Indonesia. The study used normative juridical methods. The results showed that in Indonesia, the legal basis for the running of sharia fintech was POJK No. 77/POJK.01/2016. OJK changed the regulation with the issuance of POJK No. 10/POJK.05/2022, which specifically regulates the running of sharia fintech in Indonesia. This can provide regulatory strength to the running of sharia fintech services.

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1. INTRODUCTION

The Industrial Revolution 4.0 has affected the development of technology, and information on the development of financial technology is growing. Even when the COVID-19 pandemic attacks the world, financial technology innovation continues to develop, with one form of financial technology based on peer-to-peer lending. This is a tangible manifestation of technological advances that have influenced economic aspects as fundamental aspects of the country. The application of peer-to-peer lending financial technology provides alternative financing to consumers who need funding [1].

Based on data on the development of fintech finance in Indonesia from the OJK in 2019, there were 164 fintechs, consisting of 152 conventional fintechs and 12 sharia fintechs. In April 2022, there were 102 fintechs registered and licensed at the OJK, consisting of 95 conventional fintechs and 7 sharia fintechs. From this data, it can be seen that the number of fintechs registered with OJK has decreased.

The financial technology regulations used are regulations made by the Financial Services Authority OJK, which has authority over financial services, namely OJK regulation No. 77/PPOJK 01/2016, which regulates the course of financial technology business in Indonesia. However, this regulation does not provide a clear regulatory basis or legal certainty for the running of sharia-based financial technology because POJK regulation NO 77/PPOJK 01/2016 regulates loan interest rates and does not explain sharia-based financial technology, where the principles of sharia-based financial technology do not adhere to the interest system because it contains riba, which is out of Islamic law.

Other than PJOJK No. 77/PPOJK 2016 which is used as the legal basis, Fatwa DSN MUI No. 117/DDSNN-MUI / II / 2018 concerning financial technology is the basis for the running of sharia-based financial technology businesses. In addition to the absence of legal certainty for financial technology, POJK No. 77/PPOJK 01/2016 cannot answer the existing problems, and the development of transactions in financial technology also increases the level of problems in the field. With many financial technology complaints, based on complaints received by the financial services authority, there are two things that are often complained about by borrowers: the use of unwise personal data in debt collection by peer-to-peer

providers and how they contact borrowers to collect debts [2]. In addition, fintech peer-to-peer lending has no legal protection due to the spread of COVID-19 peer-to-peer fintech regulations and the need to get legal protection in the form of stimulus provided to recipients and lenders of fintech peer-to-peer lending [3]. Regulations from the Financial Services Authority and Bank Indonesia are considered unable to provide firm sanctions for violations committed by fintech entities [4].

Based on several existing problems related to digital financial technology-based financial business regulations, OJK issued regulatory changes in June 2022. Changes to PJOJK No. 77/PPOJK 2016 regulations were replaced with POJK No. 10/PPOJK. On May 5, 2022, changes made by OJK are based on the Principle of Legal Certainty, namely the principle in a legal state that prioritizes the basis of legislation and justice in every policy for the implementation of the Service Authority Finance, and the Principle of Public Interest, which is the principle that defends and protects the interests of consumers and society and promotes the general welfare. So with the revision of POJK No. 77/PPOJK 2016 to POJK No. 10/PPOJK. 05/2022, it can provide legal certainty for sharia-based financial technology and answer problems regarding consumer protection in conducting transactions in financial technology, especially in peer-to-peer lending or funding activities.

Analysis of the new regulations issued by OJK on financial technology has not been studied by other researchers as a form of encouraging the growth of the digital economy in Indonesia. Therefore, the purpose of this study is to analyze the impact of the new OJK regulation, POJK No. 10/PPOJK 05/2022, on the development of sharia fintech. This research needs to be carried out to improve the development of financial technology, especially sharia-based peer-to-peer funding, so that the development of sharia fintech can have the maximum influence on economic development in Indonesia.

2. LITERATURE REVIEW

Fintech is a term used to designate the application of new technology to financial services. The use of fintech is in line with technological advances and digital transformation that change the paradigm of transacting in the financial industry and are accompanied by changes in technology-based business models [5]. The development of fintech innovation has the potential to change not only the fundamentals of several financial products but also the attributes underlying the financial system and will further complicate fintech financial transactions [6]. Regulations and supervision of fintech are needed.

Fintech based on sharia principles, based on Islamic law, is, according to the context of jurisprudence, included in the category of fathu al-dzari'ah, which is a breakthrough opportunity to make new innovations. Fintech, in essence, is the use of technological sophistication to carry out a financial transaction that has been carried out before. Switching to using digital means that there will be a problem that will be more complex, because of course there is a need for security guarantees for fintech business people and users of fintech services, and this is something that must be prioritized by being protected by clear regulations [7].

Especially in the regulation and implementation of non-performing credit risk mitigation, this is an important issue in P2PL implementation. So far, there has been no specific regulation regarding risk mitigation of P2PL implementation for non-performing loans, which has resulted in weak legal certainty and protection for lenders. First, P2PL risk mitigation arrangements, especially the risk of non-performing loans in Indonesia, are still spread across several regulations of the Financial Services Authority and Bank Indonesia. Second, the organizing company implements non-performing credit risk mitigation based on their respective internal policies [8]. management and distribution of ZAKAT through Islamic Financial Institutions (LKS) with the Peer-to-Peer Lending (P2PL) method. Zakat funds can be managed by LKS institutions with this method because the P2PL scheme is inclusive in the management of zakat funds. LAZ and LKS can synergize in the use of information technology to manage and distribute zakat funds to improve the economy and reduce mustahik in Indonesia [9]. The role of peer-to-peer lending for SMEs has a positive impact on the economy and industry. Especially the growth of microindustries in various regions. The ease of technology enlightens the difficulties of capital in industrial activities [10]. The shift in sharia fintech transactions is considered a potential alternative choice for the majority of Muslim Indonesians, with the support of the National Sharia Council of the Indonesian Ulema Council (DSN MUI) by issuing Fatwa Number 117 / DSN-MUI / II / 2018 concerning Information Technology-Based Financing Services Based on Sharia Principles, which becomes religious legitimacy for the growth and development of sharia fintech in Indonesia. This fatwa is in line with the Regulation of the Financial Services Authority of the Republic of Indonesia Number 13/POJK.02/2018 concerning digital financial innovation in the financial services sector, which is the formal basis for the existence of fintech in Indonesia [11].

OJK as a supervisory institution for Indonesian financial institutions Many improvements are made through regulations with a business approach (i.e., policies) and user participation. OJK is one of the parties that has planned far ahead of P2P lending, such as by planning user data privacy regulations and regulations for P2P lending business people that will not be too strict and still support innovation and development. Thus, with such changes, there will be more drivers and challenges in the future that can be explored [12], so appropriate regulations are needed to encourage the development of fintech so as to create harmonization between business people and fintech users. This is very important to ensure that innovative companies can compete and grow and users have clear legal protection[13].

3. METHOD

This research is qualitative research with a normative juridical approach, namely legal research conducted by examining library materials that use the object of writing study in the form of existing literature, both in the form of books and secondary legal materials and tertiary legal materials. regulations that have a correlation to discussing problems [10]. The legal issues discussed in this paper are the regulation and supervision of sharia fintech in Indonesia.

4. RESULT AND DISCUSSION

Regulation and Supervision of Sharia Financial Technology

Legal aspects are an important element in the development of the sharia economy in Indonesia, including sharia fintech. So that the direction of travel of sharia fintech runs in accordance with legal corridors, including sharia economic law. The regulation and supervision of sharia fintech businesses in Indonesia are regulated and supervised by the Financial Services Authority (OJK), Bank Indonesia (BI), and DSN MUI. In addition, because fintech in its implementation utilizes information technology, using electronic contact instruments, fintech is also regulated and supervised by the Ministry of Communication and Information Technology (Kemkominfo) through "Law No. 19 of 2008 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions [14].

BI is an independent state institution authorized to regulate and maintain a smooth national payment system. BI encourages the development of fintech businesses to respond to information and communication technology as well as online business developments. BI has issued BI Regulation Number 18/40/PBI/2016 concerning the implementation of payment transaction processing as a legal umbrella for fintech business development in Indonesia. As reported from its official website, the issuance of PBI Number 18/40/PBI/2016 aims to meet the needs of the community, including in the field of payment system services, both in terms of instruments, operators, mechanisms, and infrastructure for processing payment transactions. In addition, BI also issued Bank Indonesia Regulation (PBI) Number 19/12/PBI/2017 concerning the implementation of financial technology [15].

The Financial Services Authority (OJK) is an institution authorized to supervise fintech-based companies in Indonesia because OJK does have the authority to supervise institutions in the field of financial services in general in Indonesia. This supervisory function is also part of one of the other OJK functions contained in Article 4 of the OJK Law, namely that all activities in the financial sector are able to protect consumers and the public. This supervisory function is also part of the mandate of Law Number 8 of 1999 concerning consumer protection, especially related to financial service products. OJK regulations related to fintech supervision in Indonesia are still very minimal (only 1), namely the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning information technology-based money lending and borrowing services. Therefore, the lack of regulations related to the supervision of fintech-based companies is also a threat to the enforcement of protection laws [16].

In line with this, the Financial Services Authority issued a special regulation on the regulation and supervision of sharia fintech, namely POJK No. 10/POJK.05/2022. This regulation was issued based on the development of sharia fintech, which is increasingly needed by the public, so that POJK No. 77/POJK.01/2016 of 2016 concerning information technology-based money lending services is no longer in accordance with industry developments and legal needs, so that new regulations are needed to support the development of sharia fintech in Indonesia. In addition to the Financial Services Authority Regulation, the National Sharia Council-Majlis Ulama Indonesia (DSN-MUI) plays a role in accelerating the improvement of the Islamic financial market in Indonesia. DSN-MUI provides a strong foundation for the development of Indonesia's sharia financial technology by issuing Fatwa Number 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles [17].

Regulations issued by the three institutions to provide protection for sharia fintech consumers, information system security and information system operator responsibilities, prevention of illegal sharia

fintech as a sharia fintech legal entity, protection for investors, capital adequacy of sharia fintech companies, financial literacy and sharia fintech, coordination between financial institutions related to personal data protection and data centers, regulation of Know Your Customer principles, as well as strengthening supervisory and law enforcement agencies [18].

Application of Sharia Fintech Financial Technology Regulations

It is very important that there be regulation in the running of the sharia fintech business as a regulator and supervisor of fintech in Indonesia. Sharia fintech in Indonesia runs based on regulations issued by OJK on Sharia fintech and Fatwa DSN MUI.

The National Sharia Council-Indonesian Ulema Council (DSN-MUI) has issued a fatwa DSN-MUI No. 117/DSN-MUI/II/2018 concerning information technology-based financing services based on Sharia principles (Fatwa DSN-MUI No. 117/DSN-MUI/II/2018). One of the considerations for the fatwa is that the Indonesian people need an explanation of the legal provisions and limitations related to information technology-based financing services based on Sharia principles, namely the provision of financial services based on Sharia principles that bring together or connect lenders with borrowers in order to make financing contracts through electronic systems using the internet network [19].

According to the Indonesian Ulema Council (MUI), a fatwa sharia fintech carried out with Islamic rules means that the contract to be used in the transaction process is based on Islamic law. The concept of contract used for all sharia fintech transactions includes mudharabah and musharakah contracts. Both contracts are the right choice for Sharia-compliant fintech players [20].

In the new regulation, POJK No. 10/POJK.05/2022 Changing the term information technology-based lending and borrowing services to those listed in POJK No. 77/POJK.01/2016 to "information technology-based joint funding services" (LPBBTI) The replacement of this term is a form of certainty principle carried out by OJK, which provides fairness in determining policies because in sharia transactions do not use the terms lending and borrowing but funding or financing. The choice of the word funding is more general and can be used on conventional and sharia principles. In Chapter I concerning general provisions, Article I of PJOK No. 10/POJK.05/2022 includes: 1. Sharia principles, which are business activities in accordance with the provisions of Islamic law and based on fatwas and/or statements of sharia conformity from the National Sharia Council of the Indonesian Ulema Council; 2. Sharia Supervisory Board as a party involved in the financial technology business, where we know the Sharia Supervisory Board is one of the requirements for financial institutions that use Sharia principles. 3. Sharia Akad, which is a written agreement or contract between parties containing the rights and obligations of each party in LPBBTI that does not conflict with Sharia Principles. In addition, in the fourth part, Article 10 discusses specifically and in detail the conversion from conventional operators to organizers based on Sharia principles. Changes and improvements to POJK No. 77/POJK.01/2016 to PJOK No. 10/POJK.05/2022 can be used as a clear legal umbrella for the running of financial technology companies that use sharia principles.

5. CONCLUSION

Information technology that brings massive transportation changes to industrial transactions includes the financial services industry. Financial technology is the real form of such change. The presence of sharia fintech in Indonesia is protected by law as a regulator, and supervision of the running of sharia fintech must be in accordance with sharia principles and provide security and comfort to the Indonesian people who need sharia-based fintech transactions. Regulation of sharia fintech in Indonesia is under the authority of OJK, an institution that regulates and supervises the running of financial institutions both conventional and sharia. In addition to OJK, DSN regulates transactions of fintech service activities that carry out sharia services.

Based on the results of this study, it is concluded that the regulation and supervision of sharia-based fintech businesses have become stronger with the issuance of a special OJK regulation on sharia-based financial technology regulation, namely PJOK No. 10/POJK.05/2022, which changes from POJK No. 77/POJK.01/2016 concerning fintech in general. It is hoped that with the special regulations issued by the OJK regarding sharia fintech in Indonesia, it can provide regulatory strength for the running of sharia-based fintech services.

REFERENCES

- [1] H. S. Disemadi, M. A. Yusro, dan W. G. Balqis, "The Problems of Consumer Protection in Fintech Peer To Peer Lending Business Activities in Indonesia," *Sociol. Jurisprud. J.*, vol. 3, no. 2, hal. 91-97, 2020, doi: 10.22225/scj.3.2.1798.91-97.

- [2] U. Kamal dan A. S. Ningsih, "The Urgency of Revising The Finance Services Authority Regulation Number 77/POJK. 01/2016 As an Umbrella Law in Practicing Peer to Peer Lending based on Financial Technology in Indonesia," *Pandecta Res. Law J.*, vol. 16, no. 1, hal. 186–194, 2021, [Daring]. Tersedia pada: <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/30397>.
- [3] Mudjahidin, A. A. Hidayat, dan A. P. Aristio, "Conceptual model of use behavior for peer-to-peer lending in Indonesia," *Procedia Comput. Sci.*, vol. 197, no. 2021, hal. 215–222, 2021, doi: 10.1016/j.procs.2021.12.134.
- [4] A. K. Silalahi, "Urgensi Undang-Undang Fintech (Peer to Peer Lending) P2P Terkait Pandemi Covid-19," *J. Huk. POSITUM*, vol. 5, no. 2, hal. 20–31, 2020.
- [5] E. Abad-Segura, M. D. González-Zamar, E. López-Meneses, dan E. Vázquez-Cano, "Financial Technology: Review of trends, approaches and management," *Mathematics*, vol. 8, no. 6, hal. 1–36, 2020, doi: 10.3390/math8060951.
- [6] V. Sangwan, Harshita, P. Prakash, dan S. Singh, "Financial technology: a review of extant literature," *Stud. Econ. Financ.*, vol. 37, no. 1, hal. 71–88, 2020, doi: 10.1108/SEF-07-2019-0270.
- [7] M. Fachrurrazy dan D. N. Siliwadi, "Regulasi Dan Pengawasan Fintech Di Indonesia : Perspektif Hukum Ekonomi Syariah," *AL-SYAKHSHIYYAH J. Huk. Kel. Islam dan Kemanus.*, vol. 2, no. 2, hal. 154–171, 2020, doi: 10.35673/as-hki.v2i2.928.
- [8] I. Rahadiyan dan M. Hawin, "Pengaturan Dan Penerapan Mitigasi Risiko Dalam Penyelenggaraan Peer To Peer Lending Guna Mencegah Pinjaman Bermasalah," *J. Huk. Ius Quia Iustum*, vol. 27, no. 2, hal. 285–307, 2020, doi: 10.20885/iustum.vol27.iss2.art4.
- [9] D. Rizki, "A Peer-to-Peer Lending Methods in Management of Zakat Funds through Sharia Financial Institutions," *Int. Conf. Zakat*, hal. 25–40, 2019, doi: 10.37706/iconz.2019.146.
- [10] S. A. Serlika Aprita, "Peranan Peer to Peer Lending dalam Menyalurkan Pendanaan pada Usaha Kecil dan Menengah," *J. Huk. Samudra Keadilan*, vol. 16, no. 1, hal. 37–61, 2021, doi: 10.33059/jhsk.v16i1.3407.
- [11] T. N. Cahyadi, "Aspek Hukum Pemanfaatan Digital Signature Dalam Meningkatkan Efisiensi, Akses Dan Kualitas Fintech Syariah," *J. Rechts Vinding Media Pemb. Huk. Nas.*, vol. 9, no. 2, hal. 219, 2020, doi: 10.33331/rechtsvinding.v9i2.424.
- [12] A. Syamil, P. Heriyati, A. Devi, dan M. S. Hermawan, "Understanding peer-to-peer lending mechanism in indonesia: A study of drivers and motivation," *ICIC Express Lett. Part B Appl.*, vol. 11, no. 3, hal. 267–277, 2020, doi: 10.24507/icicelb.11.03.267.
- [13] M. R. Alfaris, M. W. Mursida, dan M. I. D. Syahroni, "Model Regulasi Financial Technology Syariah Dalam Kerangka Hukum Indonesia: Studi Perbandingan Malaysia Dan Inggris," *Legislatif*, vol. 3, no. 1, hal. 73–96, 2019.
- [14] K. Benuf, E. A. Priyono, S. Mahmudah, S. M. Badriyah, B. Rahmanda, dan A. Soemarmi, "Efektivitas Pengaturan dan Pengawasan Bisnis Financial Technology (Peer to Peer Lending) di Indonesia," *Pandecta Res. Law J.*, vol. 15, no. 2, hal. 198–206, 2020, [Daring]. Tersedia pada: <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/21777>.
- [15] F. A. Aziz, "Menakar Kesyarahan Fintech Syariah di Indonesia," *Al-Manahij J. Kaji. Huk. Islam*, vol. 14, no. 1, hal. 1–18, 2020, doi: 10.24090/mnh.v14i1.3567.
- [16] H. Nugroho, "Perlindungan Hukum bagi Para Pihak dalam Transaksi Pinjaman Online," *J. Huk. Positum*, vol. 5, no. 1, hal. 32, 2020, doi: 10.35706/positum.v5i1.3482.
- [17] Y. S. Rasidi, C. S. Budi, dan P. A. Hatmoko, "Fintech Syariah Alternatif Pendanaan Umkm Pada Masa Pandemi Covid-19 Di Indonesia," *Finans. J. Sharia Financ. Manag.*, vol. 2, no. 1, hal. 1–10, 2021, doi: 10.15575/fjsfm.v2i1.12462.
- [18] A. N. Rohman, S. Sugeng, D. Fitriana, dan W. R. Aidy, *Ekosistem Bisnis Dan Regulasi Fintech Syariah Dalam Perspektif Keamanan Ekonomi*. 2021.
- [19] E. Mulyati dan N. Harrieti, "Sosialisasi Regulasi Financial Technology Syariah Dan Wakaf Uang Dalam Pelaksanaan Waqf Fintech Di Indonesia," *Dharmakarya*, vol. 10, no. 1, hal. 53–57, 2021, doi: 10.24198/dharmakarya.v10i1.31067.
- [20] T. Winarsih, "Memaknai Perkembangan Fintech Syariah melalui Sistem Akad Syariah," vol. 1, no. 3, hal. 130–142, 2022.