

Civil liability in illegal online loans

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ABSTRACT

The development of financial technology-based online lending services in Indonesia has been accompanied by the widespread emergence of illegal online loan providers operating without registration or supervision from the Financial Services Authority (Otoritas Jasa Keuangan/OJK). These illegal practices are characterized by high interest rates, short repayment periods, and weak consumer protection, leading to increased defaults and legal uncertainty for borrowers. This study aims to examine the role of the OJK in regulating and supervising online loan companies and to analyze the civil liability arising from credit agreements involving illegal online lending. This research employs normative legal research using statutory and conceptual approaches, with data obtained through library research of primary and secondary legal materials. The findings indicate that the OJK functions as a regulator and supervisor to ensure order, transparency, and consumer protection in the financial services sector. Credit agreements with unlicensed online loan companies may be canceled due to the absence of legal authorization; however, debtors remain obligated to return the borrowed funds, and default does not eliminate civil liability.

Keyword: online loans; default; civil liability; financial services authority

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1. INTRODUCTION

In the modern era, technological development has progressed rapidly, making technology an inseparable part of human activities. One of the most significant technological innovations is financial technology (*fintech*), which combines technology and financial services. This development is manifested through the integration of internet-based platforms to facilitate financial transactions and the automation of financial services. As a result, financial industry actors increasingly rely on digital media as their primary operational platform (Andista & Susilawaty, 2021).

One prominent fintech service is digital lending platforms, commonly known as online loans (*pinjaman online* or *pinjol*), which are provided by fintech lending companies. According to the Financial Services Authority (*Otoritas Jasa Keuangan* / OJK), at least 75% of Indonesia's adult population has access to financial institution services, and the utilization of these services continues to increase in order to meet various financial needs. OJK data indicate that total online loan disbursement through fintech lending in Indonesia reached IDR 225.55 trillion in 2022, representing a 44.6% increase compared to IDR 155.97 trillion in the previous year. Furthermore, the number of fintech lending recipients reached approximately 178 million entities in 2022 (Putri, 2022).

In the era of global technological advancement, lending services have undergone substantial transformation. Online lending, which digitizes money-lending services through mobile applications, is one of the most notable innovations within the fintech sector. However, behind the convenience and speed offered by these platforms, several legal and consumer protection issues arise, particularly concerning the rights and obligations of parties involved in online lending transactions (Research, 2016).

In Indonesia, numerous legal online lending applications operate under OJK supervision, such as Smart Credit, Akulaku, Shopee PayLater, Kredivo, Easy Cash, Julo, and others. Compared to conventional financial institutions such as banks, savings and loan cooperatives, and finance companies, online loan applications are increasingly preferred by the public due to their accessibility, speed, and flexible usage purposes (Purba, Ardhya, & Dantes, 2023). Legal online lending companies often attract borrowers through

advertisements offering low interest rates. However, in practice, borrowers may encounter different conditions once the loan is disbursed.

In contrast, illegal online lending platforms typically impose excessively high interest rates and extremely short repayment tenors. For example, a loan of IDR 10 million may require repayment of up to IDR 12 million within only seven days (Purba, Ardhya, & Dantes, 2023). This situation is exacerbated by the low level of public understanding regarding online lending mechanisms, causing individuals to be easily tempted by the convenience of borrowing funds without carefully considering the associated risks. One of the main indicators of illegal online lending is the failure of such platforms to register with and obtain authorization from the Financial Services Authority (Santi et al., 2017).

Before utilizing fintech lending services, the public must understand that fintech lending platforms can operate either legally or illegally. Legal consequences often arise when borrowers experience repayment difficulties, particularly in illegal lending arrangements that lack regulatory oversight (Kasmir, 2015). Article 4 of Law Number 21 of 2011 concerning the Financial Services Authority states that OJK was established to ensure that all financial service activities are conducted in an orderly, fair, transparent, and accountable manner, to promote a sustainable and stable financial system, and to protect the interests of consumers and the public (Heriyadi, 2023).

In practice, numerous cases related to online lending arise from borrowers' inability to repay loans due to high interest rates combined with short repayment periods imposed by lenders (Kasmir, 2015). Loans provided by companies that are not registered with and supervised by OJK constitute financial crimes that significantly harm the public. Since illegal online lending companies operate outside government supervision, they often employ coercive collection methods and deceptive practices, making them one of the most prevalent forms of financial fraud (Kasmir, 2015).

Based on the above background, the research problems in this study are formulated as follows:

1. What is the role of the Financial Services Authority (OJK) in supervising online loan companies?
2. What are the civil liabilities of the parties involved in credit agreements on online loans that are not licensed and not supervised by the Financial Services Authority (OJK)?

Accordingly, the objectives of this study are:

1. To examine and analyze the role of the Financial Services Authority (OJK) in online loan companies.
2. To examine and analyze the civil liability of parties involved in credit agreements on online loans that are not licensed and not supervised by OJK.

The expected outcomes of this research are intended to provide both theoretical and practical benefits. From a theoretical perspective, this study is expected to contribute to the development of legal science, particularly in the fields of civil law and economic law, concerning the role of OJK and civil liability in illegal online loan agreements.

From a practical perspective: (a) For the public, this research is expected to enhance awareness of the legal risks associated with illegal online loans and the legal obligations of debtors. (b) For the government and the Financial Services Authority, this study may serve as input for strengthening regulatory supervision and law enforcement against illegal online lending practices. (c) For academics and researchers, this research can serve as a reference and comparative material for further legal studies related to online lending.

The theoretical framework of this study is grounded in the concept of the rule of law, which emphasizes supervision as an essential element in the regulation of economic and financial activities. In this context, the Financial Services Authority (OJK) functions as the institution authorized to regulate and supervise the financial services sector, including online lending companies, in order to ensure legal certainty and consumer protection. This research also draws upon contract law theory, particularly the legal requirements of agreements as stipulated in Article 1320 of the Indonesian Civil Code, which is used to assess the validity of credit agreements entered into by illegal online lending companies.

Furthermore, the theories of civil liability and default are employed to analyze the legal obligations of the parties involved in illegal online loan agreements and the legal consequences arising from non-performance by debtors. As an additional theoretical foundation, legal protection theory is used to examine efforts to safeguard financial services consumers, particularly debtors, as well as the role of OJK in ensuring legal certainty and justice in online lending practices in Indonesia.

2. RESEARCH METHOD

This study employs a normative legal research method, also known as normative juridical or doctrinal legal research. In normative legal research, law is conceptualized as norms contained in legislation and written legal sources (*law in books*). The nature of this research is descriptive-analytical, aiming to systematically describe and analyze legal norms related to the issues under study (Muhaimin, 2020).

This research relies primarily on secondary data as its main source of information. The data collected are closely related to the research problems and are analyzed comprehensively to identify legal issues, examine applicable legal norms, and formulate appropriate legal interpretations and solutions (Lubis, 2019). The legal materials used in this study consist of three categories. Primary legal materials include laws and regulations relevant to online lending and financial services supervision. Secondary legal materials consist of legal literature that explains and analyzes primary legal materials, such as scientific articles, books, journals, and research reports related to the topic under study. Tertiary legal materials include sources that provide guidance and clarification regarding primary and secondary legal materials, such as legal dictionaries, encyclopedias, and reputable online legal resources relevant to the research topic (W, 2014).

The data collection technique applied in this research is library research or documentary research. This method is used to collect and examine relevant secondary data through a literature review, as the study focuses on legal principles, legal systematics, the level of legal synchronization, legal history, and comparative law related to illegal online lending practices (Rifa'i, 2023).

The data analysis technique used in this study is qualitative legal analysis. This process involves selecting and examining legal theories, principles, norms, doctrines, and statutory provisions that are relevant to the research issues. The collected data are then systematically organized to produce legal classifications and interpretations that correspond to the research problems being discussed. Data collection is carried out through documentation techniques, including note-taking, citation tracking, and systematic searches of legal literature, books, laws, and other relevant sources, both offline and online (Koto & Faisal, 2021).

3. RESULTS AND DISCUSSION

A. *The Role of the Financial Services Authority (OJK) in Relation to Online Loan Companies*

The regulation of online loan services in Indonesia was initially governed by Financial Services Authority Regulation (POJK) No. 77/POJK.01/2016 concerning Information Technology–Based Money Lending Services. This regulation was later revoked and replaced by POJK No. 10/POJK.05/2022 concerning Information Technology–Based Joint Funding Services, which currently serves as the primary legal framework for fintech lending activities (Nurhilmayah, 2023).

The Financial Services Authority (*Otoritas Jasa Keuangan* / OJK) is an independent state institution that operates free from interference by other parties. OJK is vested with regulatory, supervisory, examination, and investigative authority as stipulated in Law Number 21 of 2011 concerning the Financial Services Authority. Article 1 paragraph (1) of the law defines OJK as an institution tasked with organizing an integrated system of regulation and supervision of all activities within the financial services sector. In addition, OJK is responsible for ensuring legal protection for consumers and maintaining stability in the financial system (Maroena, 2024).

In carrying out its duties, OJK must act in accordance with applicable laws and regulations and ensure consistency with other relevant legal instruments. One of the most significant aspects of OJK's role in the context of online lending is consumer protection. Article 4 of Law Number 21 of 2011 states that OJK was established to ensure that financial services activities are conducted in an orderly, fair, transparent, and accountable manner, while supporting sustainable and stable economic growth and protecting the interests of consumers and the public. Accordingly, OJK is responsible for supervising and enforcing compliance among financial institutions, including online loan companies (Triansyah A, 2022).

OJK regularly publishes a list of online loan companies that are registered and licensed. As of January 31, 2025, there were 97 online loan companies officially registered and licensed by OJK (www.ojk.go.id, 2025). However, despite the availability of this information, many members of the public remain unaware of or do not access the data provided by OJK. As a result, a significant number of consumers continue to suffer losses due to the use of illegal online loan services that operate without OJK registration and supervision (Nugi, 2024).

To strengthen consumer protection, OJK collaborates with the Investment Alert Task Force (*Satuan Tugas Waspada Investasi* / SWI) to prevent and handle illegal online lending practices. OJK also conducts cyber patrols and routinely blocks illegal websites and lending applications. Furthermore, cooperation has been established with digital platform providers such as Google, which now requires online loan applications to demonstrate licensing or registration with OJK as a prerequisite for operation. In addition, Bank Indonesia (BI) and relevant ministries actively support OJK's efforts to ensure that the financial sector develops in a healthy, inclusive, and sustainable manner (Nugi, 2024).

1) OJK as a Regulator

As a regulator, OJK exercises its authority based on Law Number 21 of 2011 to formulate policies and regulations governing the financial services sector, including fintech lending. OJK acts as a trusted regulatory institution to protect public and consumer interests while fostering stability and integrity within the financial services industry. To safeguard consumers of licensed fintech lending companies, OJK has issued various regulations aimed at establishing a reliable consumer protection system, enhancing consumer empowerment, and increasing awareness among financial service providers regarding the importance of consumer protection. These regulatory efforts are intended to strengthen public trust and ensure the sustainable development of the financial services sector (Triansyah A, 2022).

2) OJK as a Supervisor

In its supervisory role, OJK oversees the implementation of POJK No. 6/POJK.07/2022 concerning Consumer Protection in the Financial Services Sector, including online lending services. Supervision is conducted to create a fair, orderly, and conducive financial environment and to enforce compliance with applicable regulations. OJK carries out both direct and indirect supervision. Direct supervision includes on-site inspections, thematic examinations, and special audits, while indirect supervision is conducted through research, review, evaluation, and early warning mechanisms.

From the perspective of legal protection theory, OJK's supervisory function encompasses both preventive and repressive measures. Preventive legal protection aims to minimize potential violations and disputes, particularly cases of default, through regulation, guidance, education, and socialization. Repressive legal protection involves law enforcement actions against financial service providers that violate legal provisions, including administrative sanctions and coordination with law enforcement agencies (Y, 2023).

In response to illegal activities that threaten the integrity and reputation of the financial sector, OJK exercises its supervisory authority by summoning online loan service providers, conducting briefings, providing education, and disseminating information regarding applicable rules and compliance standards. These measures are essential in addressing the challenges posed by rapid technological advancements, which continue to outpace legal adaptation and enforcement in many areas of financial services (Syafriana, 2024).

B. Civil Liability of the Parties in Credit Agreements at Online Loan Companies That Are Not Licensed and Not Supervised by the Financial Services Authority (OJK)

In order to legally conduct online lending business activities, fintech lending providers are required to obtain a business license from the Financial Services Authority (OJK). In addition, organizers must register as Electronic System Operators with the authorized institution no later than 30 calendar days after the business license is granted by OJK (www.ojk.go.id, 2025). Article 9 paragraph (2) of POJK No. 10/POJK.05/2022 stipulates that, as part of the licensing process, organizers are required to submit their business models and electronic systems to OJK. Furthermore, OJK conducts on-site inspections to assess the operational readiness of the organizer. Article 9 paragraph (8) of POJK No. 10/POJK.05/2022 further provides that OJK must approve or reject a licensing application within 20 working days after the application is received in complete form (Harahap & Ramadhani, 2024).

Compared to conventional financial institutions, the administrative requirements for online loans are relatively simpler, which has contributed to the rapid proliferation of illegal online lending platforms (Wahyuni & Turisno, 2019). According to the latest data released by OJK through the Illegal Investment Alert Task Force (*Satgas PASTI*), as of January 31, 2024, OJK identified and blocked 233 illegal peer-to-peer lending platforms and 78 illegal personal loan offers (*pinjaman pribadi*). These platforms were blocked due to their potential to cause public harm and their violation of personal data protection provisions (Ratnawati, 2025). Consequently, the public is encouraged to verify whether an online loan provider is officially registered and licensed by OJK. If a lending platform is not listed by OJK, it is legally classified as an illegal online loan provider.

In the context of illegal online lending agreements, civil liability arises from the contractual relationship between the parties involved. In fintech lending arrangements, two legal relationships generally exist: (1) an agreement between the lender and the platform organizer, and (2) an agreement between the lender and the borrower (fund recipient). Agreements formed through online loan platforms that are not registered and licensed by OJK may be subject to annulment. This is because unlicensed organizers lack the legal authority (*handelings onbevoegdheid*) to conduct lending activities, which renders the agreement legally defective. As a consequence of annulment, the legal situation must be restored to its original condition prior to the agreement. Therefore, the debtor (borrower) remains obligated to return the principal amount received (Adeline, 2020).

However, if the debtor fails to fulfill this obligation due to negligence or fault, the debtor bears civil liability. Such liability may include the obligation to pay compensation and interest. Compensation is generally assessed in monetary terms, and creditors may request a separate judicial procedure to determine the amount of damages incurred. If the debtor fails to perform their contractual obligations, the creditor has the right to claim compensation under the applicable provisions of civil law (Triastarina Pratama Putri, 2020).

Although agreements are generally binding as law for the parties involved (*pacta sunt servanda*), the enforceability of an agreement is limited by the principle of good faith. Article 1338 paragraph (3) of the Indonesian Civil Code explicitly states that agreements must be executed in good faith (Ginting, 2016). In the context of electronic lending, a credit agreement is legally valid only if both parties have provided an electronic signature, which serves as proof of consent. Without an electronic signature, the agreement lacks binding legal force (Noerzein et al., 2022).

In addition to contractual liability, parties involved in illegal online loan agreements may also be subject to liability under Article 1365 of the Civil Code concerning unlawful acts (*perbuatan melawan hukum*). Furthermore, Article 1238 of the Civil Code governs default (*wanprestasi*), while Article 1243 regulates the legal consequences arising from a debtor's failure to perform contractual obligations. Under these provisions, creditors are required to issue a formal summons (*somasi*) to the debtor before pursuing compensation claims.

Online loan agreements are categorized as written agreements, as they are executed through digital applications in which the terms and conditions are explicitly stated. Although illegal online loan agreements operate outside OJK supervision, the civil liabilities of the parties remain governed by general contract law principles under the Civil Code, as well as the terms mutually agreed upon by the parties in the electronic agreement.

4. CONCLUSION

Based on the results of this research, it can be concluded that the Financial Services Authority (OJK) plays a strategic role as both a regulator and supervisor within the financial services sector, including online loan companies. OJK is vested with the authority to formulate regulations, conduct supervision, and provide consumer protection in order to prevent illegal online lending practices that may harm the public. Nevertheless, the continued prevalence of unlicensed online loan providers indicates that regulatory oversight and law enforcement by OJK must be further strengthened, particularly in response to the rapid growth of financial technology in Indonesia.

Furthermore, credit agreements executed through illegal online loan companies that are neither registered with nor supervised by OJK may, in principle, be subject to annulment due to non-compliance with statutory licensing requirements. However, such annulment does not automatically eliminate the debtor's obligation to repay the loan funds that have been received. In cases of default, legal consequences remain applicable, and the debtor's repayment obligation persists. This is because debt repayment constitutes a form of civil liability that must be fulfilled, irrespective of the illegal status of the online loan provider.

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