

Legal Protection Against a Non-Bind Party as Warranty on Transaction Loans Online

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Abstract. Online loan transactions or P2P-lending with the purpose of borrowing money online. The purpose of study is to analyze the legal relationship between fintech companies, debtors and third parties in online agreements, the legal consequences of third parties who do not bind themselves as guarantors and to analyze legal protection efforts to resolve data misuse in online loans relating to non-parties have ever entered into an agreement as a guarantor. The results showed that legal relations with third parties that never entered into a relationship never existed because there were no agreements made between holding Fintech and third parties. Legal protection for third parties who do not bind themselves as guarantors, namely by reporting it to the Financial Services Authority (OJK) with along with evidence that is obtained by email <https://consumer.ojk.go.id/complaint> form and @complaint BRTI along with the recording via Line.

Keywords: binding, legal protection, financial technology

1 Introduction

Online loan transactions, better known as P2P-lending, are a service provided by a company to the public with the aim of lending and borrowing money online through a website or application managed by the company. Online loan services provide convenience and benefits to the community. Lending-borrowing money no longer requires a physical meeting between the borrower and lender but is brought together through an application or website. The advantages of lending and borrowing money through other P2P-lending services are very easy terms and a fast process compared to borrowing money through bank institutions. Online loans actually weaken the position of the lender. Lenders and borrowers in P2P-lending services do not meet face to face, they are only brought together by a website or online application provided by a P2P-lending company. This has the opportunity for fraud that can harm the lender.

The Operator has the obligation to provide compensation, compensation and / or compensation for losses resulting from the use, use and utilization of traded goods and / or services. However, in practice the organizers limit their obligations by making an exoneration clause in the standard agreement for the use of P2P-lending services. The exoneration clause contains the transfer of responsibility for the organizer for losses suffered by borrowers or lenders as users of P2P-lending services.

PT. Amarta Mikro Fintek (Amarta.com) is a P2P-lending company. In providing its services to users, Amarta.com prepares a standard service usage agreement as outlined in the "Terms and Conditions of Service". In this standard agreement, Amarta.com states the transfer of responsibility if the lender or service user experiences a loss due to the use of Amarta.com services. The provisions regarding the limitation of liability and compensation are exoneration clauses that harm consumers and are prohibited by law. The exoneration clause shows the existence of a form of transfer of responsibility carried out by the organizer, so that the service user ultimately bears the risks.

A phenomenon that often occurs in cases of online loans is a guarantor who never guarantees. This is related to regulation and supervision to be very important for the sustainability of online loans based on technology. This is related to the legality of the business being carried out because in its implementation, fintech development has potential risks, namely those related to consumer protection, financial system stability, payment systems and economic stability. In a loan clause, there is usually an emergency call point or emergency contact that is contacted when the borrower cannot be contacted or experiences delays. Actually, what is done by the borrower is to make it easier to reach the borrower when there is a delay, but in its implementation, the borrower contacts those who have nothing to do with the borrower, considering that contacts are not always friends or relatives.

Currently, there are many violations of human rights (HAM) in cases of terror online loan debt committed by Peer to Peer (P2P) financial technology (fintech) companies to debtors. There were two cases of human rights violations when representatives of fintech companies billed the victims, namely misappropriation of their rights to security and privacy. Fintech companies represented by debt collectors often embarrass debtors by sending short messages to many of the closest people to collect their debts. There was a Vloan case that occurred in January 2019. The National Police named four employees of an illegal 2 peer (P2P) lending fintech company, Vloan, as suspects involved in cases of pornography, threats, immorality, threats of violence, and scaring through electronic media in collecting loans from customers. Vloan is a P2P lending fintech owned by PT Vcard Technology Indonesia. The Vloan case is the first case of unethical billing of illegal fintech applications in Indonesia handled by the Police.

There are several cases that occur regarding online loan guarantee problems. The latest data from the Investment Alert Task Force (SWI), until September 2019, there were 127 fintech P2P lending (online loans / pinjol) registered with the Financial Services Authority (OJK). The number of unregistered fintechs is growing more fertile, until this September, there are at least 1,477 online loans closed by (SWI). The rise of the phenomenon of illegal online loans has made the Head of the Investment Alert Task Force Tongam L Tobing ask the public to be more careful in applying for online loans. Tongam also revealed that there were cases where someone had loans in 141 online loans at once. The number of people borrowing from 141 online loans at once and every day receives 250 calls. Online loans can actually be useful if people are able to recognize and use them well

The research objectives include

1. To analyse the legal relationship between fintech companies, debtors and third parties in online agreements;
2. To analyse the legal consequences of third parties who do not bind themselves as guarantor and
3. To analyse legal protection efforts to resolve data abuse in online loans relating to parties who have never entered into an agreement as guarantor.

2 Literature Review and Research Methods

2.1 Literature Review

Legal protection theory

Legal protection is one of the most important elements of a rule of law. Legal protection is considered important because in the formation of a country, laws will also be established to regulate each citizen. Legal protection will be the right of every citizen. But on the other hand, it can also be felt that legal protection is an obligation for the state itself, therefore the state is obliged to provide legal protection to its citizens. Phillipus M.Hadjon divides the form of legal protection into two, namely

1. Preventive legal protection, which aims to prevent disputes, which gives people to raise objections (*inspraak*) or their opinions before a government decision takes a definitive form, which means a lot for government action. those based on freedom of action because governments are driven to be cautious in making decisions based on discretion;
2. Repressive legal protection, aimed at resolving disputes, including the handling of legal protection for the people by general courts and administrative courts in Indonesia.

Based on this definition, legal protection is explained that legal protection provides protection to human rights that have been harmed by others. This protection is given to the community so that they can enjoy all the rights provided by law. Legal protection is given to be protected and given legal force in all the rights of the community.

Legal certainty theory

This legal certainty can be realized through proper and clear normations in a law and its application will also be clear. In other words, legal certainty means the accuracy of the law, the subject and the object as well as the legal threat. However, legal certainty may not be considered an absolute element at any time, but the means used are in accordance with the situation and conditions by taking into account the principles of benefit and efficiency. In principle, law enforcement must be able to provide benefits or utility for the community, but in addition, the community also expects law enforcement to achieve justice. However, it cannot be denied that what is considered useful (sociologically) is not necessarily fair, and vice versa what is considered fair (philosophically), is not necessarily useful for society.

Based on these conditions, society only wants legal certainty, namely the existence of a regulation that can fill the legal void regardless of whether the law is fair or not. Social realities like this force the government to immediately make regulations practically and pragmatically, prioritizing the most urgent areas in accordance with the demands of society without strategic predictions, thus giving birth to patchy regulations whose effectiveness does not last long. As a result, it does not guarantee legal certainty and a sense of justice in society.

The law that is developed from the ideals of reform and development of national states will therefore require another basis of legitimacy, which is not always taken for granted from the existing moral legitimacy of the people. Economic, traffic and urban planning laws based on pragmatic purposes are clear apart from traditional moral consciousness. The existence of justice must be considered in the implementation of law enforcement. However, law is not synonymous with justice, it is general in nature, binding everyone, generalizing. Every person who steals must be punished regardless of who stole. On the other hand, justice is subjective, individualistic and does not generalize.

2.2 Research Methods

The approach method used in this research is juridical empirical. The use of the empirical juridical approach in question is to approach the problem by looking at the prevailing laws and regulations, systematics of laws, cases, documents, and theories relating to legal protection for parties who are not binding, as a guarantor for online transactions. The empirical juridical approach in this study was carried out by interviewing several informants who were victims of Fintech and those who understood Fintech so that they provided research data.

This research uses the method of determining the sample used is purposive sampling, which is a random sampling technique, where each object or individual has the same opportunity to be selected as a sample. This research was conducted by the author with the object of research being parties who have done online transactions. The sources of legal materials used in the writing of this thesis are: First, primary legal materials are legal materials that are authoritative in nature, meaning they have authority. Primary legal material consists of statutory official records or minutes in the making of legislation and judges' decisions.

The primary legal materials used by the author in writing this thesis include the 1945 Constitution of the Republic of Indonesia; Code of Civil law; Law Number 11 of 2008 concerning Electronic Information and Transactions; Law Number 21 of 2011 concerning the Financial Services Authority; and POJK Number 77 / POJK.01 / 2016 concerning Information Technology-Based Lending and Borrowing Services; Second, the secondary legal material is in the form of all publications on Law that are not official documents. Publications on law include text books, legal dictionaries and legal journals, and commentaries on court decisions. Secondary legal materials that are used in this writing include using legal text books and writings on law that are relevant to the content of the law at hand and third non-legal material, namely tertiary legal material, which is a support for primary and secondary legal materials. Tertiary legal materials can be in the form of books on political science, economics, sociology, philosophy, culture or non-legal research reports and non-legal journals as long as they have relevance to the research topic.

3 Results and Discussion

3.1 Legal Relationships Between Fintech Companies, Debtors and Third Parties in Online Agreements.

The implementation of this online lending and borrowing service is carried out by several parties so that they can run the Fintech mechanism. The parties in providing this service include:

1. The Lender

A lender is a person, legal entity and / or business entity that has receivables due to the Information Technology-Based Lending and Borrowing Service agreement. Lenders can come from within or outside the country. The lender can be individual Indonesian / foreign citizens, Indonesian / foreign legal entities, Indonesian / foreign business entities, and international institutions.

2. Loan Recipients

The loan recipient is a person and / or legal entity that has a debt due to the Information Technology-Based Lending and Borrowing Service agreement. The Borrower must

originate and be domiciled in the jurisdiction of Indonesia, either an individual Indonesian citizen or an Indonesian legal entity.

3. Online loan-based Fintech Service Providers

Information Technology-Based Lending and Borrowing Service Providers (Operators) are Indonesian legal entities that provide, manage and operate Information Technology-Based Lending and Borrowing Services. The Operators must first be declared as Other Financial Services Institutions in the form of Legal Entities, either Limited Liability Companies or Cooperatives

4. Third Parties

The parties involved in online loans or online loan services are different from the money lending and borrowing agreements as stipulated in Book III of the Civil Code which only involves the lender and the recipient of the loan, involving various parties, namely Fintech companies as providers of online lending and borrowing services, lenders (creditor), loan recipient (debtor), bank and the Financial Services Authority and guarantor as described below.

3.2 Legal Relationship Between the Lender and the Operator

Organizers in the online loan agreement that they manage can offer the wider community to invest by taking a position as a lender in online loans. In this case, if a prospective lender is interested in providing a loan through an online loan system, the lender and organizer will agree on a certain agreement. The legal relationship between the lender and the organizer is based on an agreement set out in an electronic document between the two parties. This agreement must specify at least the number of the agreement, the date of the agreement, the identity of the parties, the provisions regarding the rights and obligations of the parties, the amount of the loan, the loan interest rate, the amount of the commission, the period of time, details of related costs, provisions regarding fines (if any), dispute resolution mechanism, and settlement mechanism in case the organizer is unable to continue its operational activities.

The legal relationship between the bank and the customer is based on the granting of power (lastgeving) as regulated in Article 1792 of the Civil Code. In this case, the depositing customer authorizes the bank to utilize the funds entrusted to him in carrying out fintech business activities. However, Sutan Remy Sjahdeini cannot accept the opinion that the legal relationship between a bank and a depositing customer is a power of attorney relationship. One of the reasons for this is if the relationship between the depositing customer and the bank is the provision of power of attorney, the bank as the recipient of the power of attorney is certainly not allowed to use the customer's money for its purposes, among others, given in the form of credit to third parties.

In the implementation of financial technology or Fintech P2PL-based money lending, there is a legal relationship between the parties including the lender or creditor, business actor or operator, and loan recipient or debtor. A legal relationship is a relationship against which the law places "rights" on one party and places "obligations" on the other. Where the legal relationship in the implementation of Fintech was born from an agreement.

3.3 Legal Relationship between Lender (Fintech Company) and Borrower (Debtor)

Even though lenders (Fintech companies such as Amarta) and loan recipients in the online loan system do not meet each other directly, this is because the loan recipient to get the loan simply opens an online loan application and completes an online loan form, the lending and borrowing relationship that occurs is between lenders and loan recipients. The loan agreement did not occur between the loan recipient and the operator. This must be maintained

so that the construction of the legal relationship between the parties in the online loan system is different from the construction of the legal relationship between the parties in fintech.

The legal relationship between lenders (fintech companies) and loan recipients (debtors) arises because of the online loan agreements. Legal actions that arise between the debtor and creditor which are based on the existence of the agreement. The credit agreement between the parties must refer to or be based on Article 1320 of the Civil Code, hereinafter referred to as the Civil Code, so that an agreement arises from an agreement (consensualism) which is preceded by an equality of will.

3.4 Legal Relationship between the Operator and the Bank

The legal relationship between the operator and the bank was created by the agreement on the use of the virtual account and the escrow account as mandated by Article 24 POJK No. 77 / POJK.01 / 2016 concerning Information Technology Based Lending and Borrowing Services. It is hoped that with this online scheme, the delivery of bill information (collection) can be online, the provision of loan status information to parties as well as online, and the provision of an escrow account and virtual account in fintech to the parties so that all payment of funds takes place in the fintech system.

The provisions mentioned above provide convenience as well as legal certainty for parties, namely between online loan providers and banks. The involvement of banks in online loan schemes as providers of virtual accounts and escrow accounts shows that the bookkeeping system that must be run by online loan providers must run as efficiently as possible and remain accountable.

3.5 Legal Relationship between Providers and OJK

The legal relationship between the organizer and the OJK was born based on the provisions of the laws and regulations in this case POJK No. 77 / POJK.01 / 2016 concerning Information Technology Based Lending and Borrowing Services. Based on the provisions of this POJK, administrators who intend to run a peer to peer system must obtain permission from the OJK and after running an online loan system must provide periodic reports to OJK. Based on these provisions, it is clear that online loan operations must be licensed and under the supervision of the OJK. The legal relationship between the online loan provider and the OJK is a legal relationship that is born from the provisions of laws and regulations not on the basis of an agreement. OJK as an independent institution established under the law has the capacity to supervise business activities carried out by the Financial Services Institution (LJK). This is aimed at realizing legal certainty and legal protection for the parties.

3.6 Legal Relationship between Providers and Third Parties (Guarantor)

The existence of a guarantor in the credit agreement is intended to reduce the risk in payments to creditors so that a guarantor is needed if the recipient of the loan defaults on the settlement of the credit agreement. A guarantor will take over the rights of the creditor against the debtor and other guarantor if it completes the debtor's obligations. In the Anglo-Saxon legal system there is a term for this, namely, "the guarantor stand in the creditor's shoes"

The law regulates two important things for a guarantor who has completed the debtor's obligation to credit, namely the so-called regression rights and subrogation rights. The first is the right to "reclaim" all the amounts paid to the creditor. So in the form of principal, interest, fines, and other costs demanded by creditors based on the principal agreement, while the second is the right to "take over and replace" the position and rights of the creditor against the

debtor (and other guarantor). This includes, for example, rights arising from collateral in the form of mortgages or liens received by creditors.

The existence of a guarantor in an online loan is different from conventional or bank loans. This is because in a third party online loan as a guarantor, there is no agreement made between fintech and a third party (guarantor). In this case, it is explained that the third party, namely the party who guarantees the debt, will be responsible if the debt is not paid by the debtor. This can be explained that the third party (guarantor) in online loans has no legal relationship because in online third party loans never increase themselves in an agreement.

Legal consequences for third parties who do not bind themselves as guarantor

The mechanism for implementing online loan-based Financial Technology is different from fintech. Online loans do not collect funds from the public in channeling financing. Online loans are also different from multi-finance companies that provide direct financing to borrowers using the company's own capital (balance sheet financing). Online loans are financing activities that are carried out online in a container, namely through the marketplace. The marketplace brings together debtors (loan recipients) and creditors (lenders). The income received by online loan providers comes from fees and commissions obtained from debtors (loan recipients) and creditors (lenders) so they are not from interest income.

The online lending and borrowing mechanism is carried out by parties that are connected by a legal relationship to regulate Fintech activities. The legal relationship of the parties is linked through an agreement or contract. An agreement or contract is an act by which one or more people bind themselves to one or more other people who promise to carry out something.

Agreements are generally made by making an agreement that is made directly between the parties that will bind themselves to each other, however the agreement in Fintech is done electronically so that the agreement is in the form of an electronic agreement as outlined in an electronic document by the parties. An electronic contract is an agreement between the parties that is made through an electronic system. Making electronic agreements in Fintech operations is done without having to meet face to face in person. This provides convenience, especially easy access for parties who will use Fintech. In the implementation of online lending and borrowing, the electronic agreement creates a legal relationship.

This legal relationship was born from the contractual relationship of the parties, both for lenders, loan recipients and Fintech service providers. This legal relationship has been regulated in accordance with Article 18 of the Financial Services Authority Regulation Number 77 / POJK.01 / 2016 which regulates the existence of an agreement for the parties. The first regulation regulates the agreement between the Provider and the Lender. Second, regulates the agreement between the Lender and the Borrower. Based on this mechanism, there is a legal relationship between the Borrower and the Fintech service provider. The agreement between the Provider and the Lender is an agreement to grant power of attorney, namely a special power. The power-giving agreement as referred to in Article 1792 of the Civil Code is an agreement whereby a person grants power to another person, who receives it, to carry out an affair on his behalf.

3.7 Online Loan Agreement between Debtor and Creditor

In addition to the agreement between lenders and online loan-based Fintech service providers, there are also other agreements. The agreement is an agreement between the Lender and the Borrower. The agreement that occurs between the Lender and the Borrower is a loan and loan agreement in general, as referred to in Article 1754 of the Civil Code. In the loan and borrowing agreement (debt and credit), the position of the lender is as a creditor while the

recipient of the loan is a debtor. The agreement was made because of an agreement between the parties' intentions, namely to conduct funding and borrow funds from other parties. The parties then agreed to bind themselves to enter into a legal relationship.

Legal Consequences of Third Parties as Non-Binding Guarantor

The credit agreement is one very important aspect of providing credit. Without a credit agreement signed by the creditor and debtor, there is no such debtor agreement. This agreement is a legal bond or relationship in which there are agreements regarding the rights and obligations of the two parties in connection with the provision of credit, and usually a credit agreement, in addition to collateral in the form of goods or objects that can be valued for money, usually a credit agreement followed by an individual guarantee agreement (guarantees), each credit agreement between the bank and the debtor, provides legal certainty for submitting and extending credit, so in granting credit the bank asks for the guarantee.

Based on the results of the interview, it can be explained that the informant became a victim of an online loan who was made a guarantor, even though in this case he never signed an agreement with the debtor. However, in relation to the law, the guarantor is called the guarantor who never binds himself to an agreement. Third parties must be interpreted as legal subjects, in this case an individual (person) or legal entity (rechtsperson). In accordance with Article 1320 of the Civil Code, an individual who is a legal subject must meet the adult requirements, and not be under interdiction. Meanwhile, legal entities include Limited Liability Companies (PT) which were established in accordance with Law Number 1 of 1995 concerning Limited Liability Companies. If the insurer dies, the obligation is transferred to his heirs. To prove that the insurer has given a firm statement and is not suspected, the agreement to provide a guarantee is made in writing in a deed signed by the parties concerned.

Electronic agreements such as online loans are easy and fast to get funds. Online loans are loan facilities from financial institutions where all processes are carried out online. This process includes from submitting applications to receiving loan funds. Due to the online nature of the process, these loans can be disbursed in a much faster time than traditional bank loans. However, the amount is relatively lower and the term is shorter, compared to Bank Unsecured Loans (KTA). The financial institutions that provide this service are usually Fintech (Financial Technology) companies, but sometimes banks also start providing them. Similar to KTA, online loans have certain interest rates and fees, and installment payments must be made every month.

There are problems that occur in online loans, especially the problem of the agreement, which results in losses to several people involved in online loans. Based on the results of an interview with one of the informants who had suffered a loss due to an online loan, one of them was BD, who was a victim of being chased by online loan debt collectors. This happened a few months ago that the ID card was borrowed by a friend to support the conditions for borrowing money from an online loan company. The victim is made a guarantor and there will be no legal effect whatsoever as a result of the loan from the victim's friend. As a friend, the victim fulfills the request. But after a few days, the victim's house was visited by several men who claimed to be Debt Collectors from an online lending company where his friend borrowed and were informed that he had been late in paying several times. As a result, debt collectors often haunt victims 'lives with terror to collect debts from the victims' friends. Even though the victim had met and said that it had nothing to do with the loan, the victim was made a guarantor by the victim's friend to borrow money.

There are also victims who are used as guarantor in an online loan agreement even though the victim was never involved in the agreement. Call me this informant is IND.

According to IND, a friend of the victim once lent his KTP with the excuse of making it a complement to a business partner that had no impact. IND was accused of being a debt collector of saying that IND was the guarantor of X's debt. The debt collector was threatening to guarantee the debt. Even though IND has never been involved in any transaction before, but IND friends provide a telephone number as guarantor. Based on the results of the interview, it was explained that the guarantor who was used to make an online loan agreement generally the guarantor did not understand and never bind himself as a guarantor in the agreement.

According to Article 1820 of the Civil Code, it is explained that coverage is an agreement with which a third party, in order to be in debt, binds himself to fulfill his commitment when the debtor does not fulfill it himself. The formal involvement of the debt guarantor can occur beforehand by the debtor even outside of his knowledge as if debt insurance can be provided by a third party who does not have any laws with the debtor (Article 1823 of the Civil Code).

Based on the results of interviews with victims of online loan agreements who have never binded themselves as guarantor of other people's debts, the legal consequences that arise in this case explain that third parties (debt collectors) are not obliged to pay debtors' debts unless the debtors are negligent. That is because the guarantor (third party) never binds himself directly to the online loan agreement. This means that a third party that is guaranteed by a guarantor but does not bind itself to an agreement between Fintech and a third party will not cause rights and obligations between them.

Based on the case of an online loan agreement where the guarantor never binds himself as a guarantor, the third party is not obliged to pay the debtor's debt so that the guarantee agreement is not legally valid because there is no legal engagement and the third party never binds itself as a guarantor.

3.8 Legal Protection Efforts to Resolve Misuse of Data in Online Loans Related to Parties Who Have Never Binded Themselves to an Agreement as Guarantor.

Third parties who do not bind themselves as guarantor in online agreements are entitled to legal protection in carrying out this service practice, in other words the government must guarantee legal certainty in implementing online lending practices. The basic principle in the protection of a user of information technology-based lending and borrowing services is that the operator is obliged to carry out the basic principles of transparency, fair treatment, reliability, confidentiality and data security, and resolution of user disputes in a fast, simple, and affordable cost. Operators are required to provide current information that is accurate, honest, clear and not misleading. If there is acceptance, delay, or rejection of requests for lending and borrowing services based on information technology, the organizer is obliged to convey this information to users.

According to Philipus M. Hadjon, legal protection is divided into preventive and repressive, based on this, legal protection for users of information technology-based lending and borrowing services in practice in Indonesia will be described as follows.

1. Preventive Legal Protection

Legal protection for users of online loan-based Fintech services can be divided into two types, namely preventive protection and repressive legal protection. Preventive legal protection is legal protection that aims to prevent disputes. Thus, this legal protection is carried out before the dispute occurs. Legal protection for users of online loan-based Fintech services before a dispute occurs with the efforts of Fintech service providers. The organizer's effort before the dispute occurs is to apply the basic principles of legal protection for Fintech service users. These principles are regulated in Article 29 POJK Number 77 / POJK.01 / 2016

concerning Information Technology-Based Borrowing and Lending Services, including the principles of transparency, fair treatment, reliability, confidentiality and data security, and User dispute resolution in a simple, fast and affordable cost.

2. Repressive Legal Protection

Repressive legal protection is legal protection whose purpose is to resolve disputes. This legal protection can only be done after the first dispute arises. Disputes in the implementation of online loan-based Fintech can occur between Users and other Users or between Users and Operators. If the dispute does occur, then there are certain mechanisms to be able to resolve the problem. The party who feels aggrieved can file a complaint so that the dispute can be resolved immediately. With the action of complaints from users of online loan-based Fintech services to the Fintech platform organizers, this made the Organizer have to immediately follow up.

Fintech P2PL is part of (Fintech startup) which is included in the non-PUJK (Financial Service Business Actors) category, until now this category has not been determined regarding the consumer dispute resolution mechanism if the complaint or problem cannot be resolved by the Fintech organizer itself. It is different from the dispute resolution at Fintech which is categorized as PUJK (Fintech 2.0) where the settlement mechanism can be done through internal PUJK (Internal Dispute Resolution mechanism), Alternative Dispute Resolution Institutions (LAPS), and limited facilitation from OJK. So this is a weakness in efforts to resolve disputes at non-PUJK Fintech including disputes at Fintech P2PL which do not have clear legal certainty.

According to Utrecht, legal certainty contains two definitions, namely first, the existence of general rules that make individuals know what actions are allowed or not to be done, and second, in the form of legal security for individuals from government abuse because with these general rules individuals can know what the state may impose or do against individuals. In an effort to guarantee legal certainty, the OJK together with the P2PL Fintech associations and organizers who are currently registered are preparing a standard implementation mechanism for the Internal Dispute Resolution (IDR) and Alternative Dispute Resolution (ADR). The goal is that consumers who use P2PL services get clarity or legal certainty for handling complaints and disputes. In addition, one of the things that can be considered for the implementation of complaint handling and dispute resolution in the implementation of Fintech P2PL is Online Dispute Resolution (ODR). ODR is a dispute resolution system that utilizes information technology facilities, for example, such as telephone, email, applications, web chat, and video conferencing.

4 Conclusion

Based on the description in the discussion, the following can be concluded: Legal relationships between fintech companies, debtors and third parties in online agreements. The legal relationship between the online loan provider and the OJK is a legal relationship that is born from the provisions of laws and regulations not on the basis of an agreement. OJK as an independent institution established under the law has the capacity to supervise business activities carried out by the Financial Services Institution (LJK). This is aimed at realizing legal certainty and legal protection for the parties. The legal relationship between the operator and the bank was created by the agreement on the use of the virtual account and the escrow account as mandated by Article 24 POJK No. 77 / POJK.01 / 2016 concerning Information

Technology Based Lending and Borrowing Services. Meanwhile, a legal relationship with a third party that has never been binding has never existed because there was no agreement made between the provider of Fintech and a third party (meaning that the legal relationship between fintech and a third party that is the guarantor without an agreement does not result in certain legal consequences;

Law if the third party never binds itself as a guarantor, the third party does not have legal consequences in terms of the rights and obligations of the third party as a guarantor because there is no agreement so that legal rights and obligations do not arise. Third parties who are not bound in an agreement are not obliged to pay debtors' debts so that the guarantee agreement is not legally valid because there is no legal agreement and agreement in the loan and Legal protection for third parties who are not bound as guarantor, namely by reporting it to the Financial Services Authority (OJK) along with the evidence held by means of via email <https://consumer.ojk.go.id/complaintform> and @ Complaint BRTI along with the recording via Line. In addition, from the Ministry of Communication and Information via @ojkindonesia via Instagram and @complaintcontent via twitter.

Suggestions

The Fintech company also makes an agreement in the form of an agreement with the guarantor so that a clear legal relationship will emerge between Fintech and the guarantor. In addition, Fintech parties are advised not to involve third parties that are not mentioned in the agreement;

1. The government can provide more protection for Fintech victims on the basis of Law No. 8 of 1999 concerning Consumer Protection and
2. Regulations are expected to address major issues such as confidentiality, security, integrity and reliability of data presented by Fintech companies to the public as well as legal protection for users -Users of Fintech services, especially peer to peer lending. It is hoped that the government will make the Fintech Law because the POJK does not write criminal sanctions, the sanctions given are in the form of administrative sanctions, namely in the form of revoking the operating license while the Fintech will register again with a new name and so it does not appear to have a deterrent effect.

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