

# Legal Protection of Online Loan Consumers in the Perspective of Law Number 8/1999 on Consumer Protection and Law Number 27/2022 on Personal Data Protection

Istanto, Y.<sup>1</sup>, Ramadhani, Z. I. E.<sup>2</sup> & Rohmah, S. M.<sup>3</sup>

<sup>1,2,3</sup>Muria Kudus University, Kudus, 59327 Central Java, INDONESIA

\*Corresponding author: [yusuf.istanto@umk.ac.id](mailto:yusuf.istanto@umk.ac.id)

To Cite This Article: <https://doi.org/10.53797/icccmjssh.v3i3.5.2024>

Received 14 February 2024, Revised 28 February 2024, Accepted 13 March 2024, Available online 15 March 2024

**Abstract:** Financial technology, or Fintech, is a type of business that offers financial services through information technology. Its goal is to make financial product transactions more accessible to the public. Fintech includes digital financial services, such as online loan services, which provide a convenient transaction process from submission to disbursement without unnecessary complications. Fintech has gained popularity, particularly among millennials, due to its convenience. Fintech and digital platforms offer customers transactional convenience. However, this convenience can lead to problems such as the misuse of customers' personal data. Provisions that require online loan customers to provide personal data can make them vulnerable to debt collectors who may use intimidation tactics to share their personal information, leading to potential imprisonment or job loss. Fintech companies offering online loans may access the mobile phone data of their customers, including contact numbers listed as emergency contacts. This can lead to inconvenience for customers who may receive continuous calls from debt collectors without realizing that their emergency contact information has been shared. It is important for fintech companies to clearly communicate their use of customer data and ensure that customers are aware of how their information will be used. Law No. 8 of 1999 concerning Consumer Protection aims to provide protection to customers, but it does not adequately address the protection of personal data. Therefore, the government needs to adjust Financial Services Regulation (POJK) Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending and Borrowing Services to prevent and handle cases related to online loans, especially illegal ones. Additionally, Law No. 27 of 2022 concerning Personal Data Protection provides further provisions for personal data protection.

**Keywords:** Fintech, consumer, personal data

## 1. Introduction

The 1945 Constitution (UUD) basically contains these two parts. Specifically for the material part, the founding fathers idealized Indonesia as a state based on law (*rechtsstaat* or the rule of law). The affirmation of Indonesia as a state based on law can be read in the General Elucidation of the 1945 Constitution. In fact, in the amendment of the 1945 Constitution (1999-2002), the idea was explicitly stated in Article 1 Paragraph (3) of the 1945 Constitution which states "The State of Indonesia is a state of law (Isra, 2014).

Article 28G paragraph (1) of the 1945 Constitution states that "Every person has the right to protection of self, family, honor, dignity and property under his control, as well as the right to security and protection from threats of fear to do or not to do something that is a human right". One of the rights of citizens that need to be given protection is the right to privacy rights, namely rights relating to all personal data information that must be kept confidential and must not be disseminated carelessly, protection is intended to protect a person from possible crimes that can harm him (Karo & Prasetyo, 2020).

The provisions of Article 28H paragraph (4) of the Constitution state "everyone has the right to have private property rights and such property rights may not be taken over arbitrarily by anyone". Samuel explained that personal data protection will minimize privacy violations and misuse of personal data, as well as increase public awareness to protect personal data so that it cannot be disseminated without prior permission from the owner (Directorate General of Information Applications, 2019). The rapid growth of Fintech companies is also caused by Fintech offering a variety of financial services that greatly help the community in managing the economy more efficiently and effectively, especially in the financial sector. But in its implementation, it seems that there are still shortcomings. There are at least two possible

risks in the Fintech business, namely the risk of consumer information security and the risk of transaction errors (Margaretha, 2015). These two risks then bring losses to both sides of the Fintech business. The emergence of cybercrime such as wiretapping, hacking, and cybercrime in banking financial transactions makes people hesitant to access the internet.

Financial technology or hereinafter referred to as Fintech is a company that seeks to produce financial services using modern software and technology (FinTech Weekly, 2023). This was revealed by the Head of the Fintech Licensing Subdivision of the Fintech Regulatory, Supervisory and Licensing Agency (OJK). In 2018, total transactions in the peer-to-peer lending Fintech sector amounted to Rp 26 trillion (Suharini & Hastasari, 2020). The number of registered and licensed Fintech service providers was 144 companies as of December 13, 2019 (OJK, 2019). The rapid growth of Fintech in This is also due to Fintech offering a variety of financing services that help people manage their finances more effectively and efficiently, especially in the financial sector. The introduction of Fintech can be done through a mutual lending system, namely by implementing loan and loan agreements, connecting lenders with borrowers via the Internet. This system can have many positive impacts, one of which is that people living in remote areas can easily borrow and borrow money. With these online loans, loans can be granted quickly. In addition, loans can also be granted without collateral, in contrast to banks where the law is written that KTA (unsecured credit) is not possible, and although banks provide special unsecured credit, it does not mean that unsecured loans are in addition to any collateral at all (Anshori, 2008).

Regarding the state of art, the author found research that examines the same problem with the title "Legal Protection of Fintech (Financial Technology) Service User Customers" where this journal was written by Pranita and Suardana (2019). The research examines the legal protection of Fintech service users and the role of the Financial Services Authority (OJK) in the implementation of Fintech in Indonesia. Furthermore, there is research with the title "Legal Protection of Personal Data in Financial Technology Peer to Peer Lending." by Bima Guntara and Abdul Hadi (Priyonggojati, 2019). The research focuses on the protection of personal data in peer to peer lending fintech-based lending services and legal sanctions for personal data violations in peer to peer lending fintech services. However, these two studies differ from this article in that both studies still use old regulations and given the enactment of new regulations, this article has used the latest laws and regulations in its research.

This research will focus on the security risks of consumer data in the Fintech business in Indonesia. Protection of personal data of Fintech consumers is absolutely necessary, there must be rules that guarantee the confidentiality of consumer personal data in the Fintech business (required regulatory reform regarding the information technology, particularly on the protection of misuse of personal data) (Abubakar & Handayani, 2018). The problems to be discussed are how is the protection of personal data of online loan consumers in the perspective of Law No. 8 of 1999 concerning Consumer Protection and Law No. 27 of 2022 concerning personal data protection.

## **2. Methodology**

The research method that will be used in this article is a normative legal research method, which is legal research conducted from an internal perspective with the object of research being legal norms (Diantha, 2017). Normative legal research has a function to provide juridical argumentation when there is a vacuum, vagueness and conflict of norms (Diantha, 2017). Normative legal research is generally carried out by examining secondary data sources in the form of primary legal materials, secondary legal materials and tertiary legal materials. The data collection technique used in this research is literature study. In this research, the secondary data sources are primary legal materials such as laws and regulations, secondary legal materials such as books, scientific journals, and other supporting sources. Secondary data in the form of the above legal materials will then be analyzed again by the author in a descriptive analytical way.

## **3. Analysis and Discussion**

### **3.1 Legal Protection of Personal Data of Online Loan Customers in the Perspective of Consumer Protection Law No. 8/1999 on Consumer Protection**

Legal protection refers to efforts to protect individual needs protected by law (McCrudden, 2017). Companies or services in the financial sector are a form of business that is very vulnerable to adverse actions taken by irresponsible individuals who use technology as a forum for fraud or abuse that can harm service users (Santoso, 2018). One example of a digital financial business that is currently being discussed is Fintech Lending. Fintech lending is a form of service that provides credit, loans and sources of fees for everyone who uses digitally. This innovation can certainly be said to be a way out for each individual in need of a loan with an express process that is also simple, without facing complicated requirements such as when applying for credit to a bank (Carolin & Apriani, 2022).

Law No. 8/1999 on Consumer Protection aims to provide protection to customers, but it is not sufficient regarding the protection of personal data. On the other hand, the government also needs to adjust Financial Services Regulation (POJK) No. 77/POJK.01/2016 on Information Technology-Based Money Lending and Borrowing Services to prevent and handle cases related to online loans, especially illegal ones.

Regulations related to fintech lending that provides money lending services are now controlled in "Financial Services Authority Regulation Number 10 of 2022" or hereinafter referred to as "POJK.05/2022". Where fintech funding in this provision is known as information technology-based joint funding services (LPBBTI). The LPBBTI organizer itself is a legal entity in Indonesia that is responsible for presenting, controlling, and applying banking services, both in conventional form and based on sharia principles. The convenience provided by fintech lending or LPBBTI is of course very beneficial for the community, the use of fintech lending also presents the problem of leakage of personal data of users, generally personal data of fintech users, including proof of personal identity, personal data, and personal information. fintech including proof of personal identity, bank accounts, cellphone numbers, photos, videos, addresses, user contacts, and others (Adelia, 2021). According to "Article 1 point 18 POJK.05/2022" stipulates that personal data is all data about individuals, from those that can be categorized directly or indirectly, both in the form of electronic and non-electronic systems. In the Association of Southeast Asian Nations (ASEAN) Declaration of Human Rights, the right to privacy is recognized as a human right which includes protection of personal data (Tejomurti et al., 2018). The right to privacy is an absolute individual right that does not depend on the rights of others. However, the right to privacy can be sacrificed if a person decides to publish their personal information openly to the public. Each individual has the right to determine the extent of their personal information that will be shared in social life. If someone intentionally shares their personal information publicly, then privacy protection is not needed because there has been consent from the owner (Priscyllia, 2019).

Seeing the vulnerability of data recording, the government took the initiative to immediately formalize provisions on personal data protection, so that on October 17, 2022, the "Personal Data Protection Law No. 27 of 2022" officially came into force. The implementation of fintech lending is certainly inseparable from the use of personal data, where "Article 4 of the Personal Data Law (PIC)" describes two forms of personal data, namely special personal data and general personal data. Special personal data includes health data, biometric data, genetic data, criminal data, child data, personal financial data and other data in accordance with legal regulations. At the same time, general personal data includes full name, gender, nationality, religion, marital status, and personal data combined to identify the person.

In addition to the Personal Data Protection Law, "POJK.05/2022" specifically regulates electronic data. document information in the financial agreement between the lender and the beneficiary, which at least contains the agreement number, the date of the agreement, the identity of the parties, rights and obligations, the amount of funding, financial incentives, the amount of financial support. installments, term, guarantees (if any), related costs, fines (if any), use of personal data and dispute resolution mechanisms, as well as legal rights and obligations if the organizer cannot continue its operations. In brief, it can be concluded that the financial agreement between the parties contains complete information regarding the personal and financial information of the borrower, as well as the financial information of both the lender and the recipient.

Business actors or organizers of electronic systems can collect personal data from customers offline or online, where digital data can be traded without the knowledge and permission of the data owner or misused (for purposes outside the provision, submission of digital personal data), it can also happen that connected personal data is hijacked, stolen (*hacked*) by third parties. Some examples of cases of misuse of personal data include: 1) copying customer ATM card data and information (*skimming*) where the *skimming* perpetrator withdraws funds elsewhere; and 2) online loans, where the transaction mechanism fills in data *online*, but in the event of late payment it is not uncommon to use collectors to intimidate customers, customers' families, leaders where customers work and can even access data from customers' *cellphones*. *Online* transportation, where consumers experience sexual harassment through WhatsApp numbers (Situmeang, 2021).

As a form of consumer protection for online loan customers in fintech services, it is also guided by regulations that have been issued by several related agencies such as OJK, Kemkominfo to Bank Indonesia, where consumer protection rules are regulated in the ITE Law, UUPK and also regulated in POJK NO.77/2016. The rights of consumers as parties enjoying services that are outlined in the provisions Article No. 4 of Law No. 8 of 1999 concerning Consumer Protection (UUPK) include: a) the rights to comfort, security, and safety in consuming goods and / or services; b) the right to choose goods and / or services and obtain these goods and / or services in accordance with the exchange rate and the conditions and guarantees promised; c) the right to correct, clear, and honest information about the conditions and guarantees of goods and / or services; d) the right to be heard with opinions and complaints about the goods and / or services used; e) the right to obtain advocacy, protection, and efforts to resolve consumer protection disputes properly; f) the right to receive guidance and consumer education; g) the right to be treated or served correctly and honestly and non-discriminatory; h) the right to compensation, compensation and / or replacement, if the goods and / or services received are not in accordance with the agreement or not as they should be; i) the rights stipulated in the provisions of other laws and regulations (Disemadi & Regent, 2021).

Law No. 8/1999 on Consumer Protection aims to provide protection to customers, but not enough on personal data protection. On the other hand, the Government also needs to adjust Financial Services Regulation (POJK) Number 77/POJK.01/2016 on Information Technology-Based Money Lending and Borrowing Services to prevent and handle cases related to online loans, especially illegal ones. Consumer is any person who is a user of goods and/or services available in the community for the benefit of themselves, their families, other people and other living beings and not for trade. Consumer protection is the overall rules and laws that regulate the rights and obligations of consumers and

producers arising in their efforts to meet their needs and regulate efforts to ensure the realization of legal protection of consumer interests. These provisions are contained in the Consumer Protection Law Number 8 of 1999 concerning Consumer Protection of the Republic of Indonesia which is based on the 1945 Constitution Article 5 paragraph (1), Article 21 paragraph (1), Article 27, and Article 33 (Tarigan & Paulus, 2024).

According to the provisions of Article 1 point 1 of the Consumer Protection Law, consumer protection is all efforts that ensure legal certainty to provide protection to consumers (Tarigan & Paulus, 2024). The principles of consumer protection according to Article 2 of Law No. 8 of 1999 (PK Law) are consumer protection based on benefits, justice, balance, consumer security and safety, and legal certainty. Customers are consumers of banking services, consumer protection for them is a demand that cannot be ignored. The customer is a very instrumental element, the life and death of the banking world relies on the trust of the community or customers. Consumer rights are also regulated in Law No. 8/1999 in Article 4, which should be respected and upheld, because it is an integral part of human rights. With the terror of business actors in the form of defamation, consumer rights have been openly harassed, resulting in material and immaterial losses (Kusuma & Rosando, 2022).

In Legal Protection Efforts, it is divided into 2, namely preventive protection and repressive protection. Preventive legal protection aims to prevent legal problems from arising (Fatmasari, 2023). Preventive legal protection has been made by the Government, namely that the PK Law can create a healthy business and encourage the birth of quality goods / services companies and can elevate the dignity of consumers who will raise awareness, knowledge, concern, ability, and foster the behavior of responsible actors to not commit acts that can harm consumers. Meanwhile, repressive legal protection is the last step that involves the imposition of sanctions such as detention, and extra punishment in the event of a dispute or violation of the law with the intention of resolving the dispute (Yulenrivo et al., 2023). Repressive legal protection is also intended as a legal defense that seeks to resolve a legal problem that arises (Fatmasari, 2023).

Repressive protection can be realized in a way, Consumers who feel their rights have been violated by Business Actors can complain to authorized institutions, one of which is the Indonesian Consumer Institute Foundation YLKI as a Consumer protection institution recognized by the Government. Business Actors are obliged to provide compensation, compensation or reimbursement due to losses suffered by Consumers (Ramadhan, 2023). In addition, to strengthen protection for consumers, UUPK mandates the establishment of the Consumer Dispute Settlement Body (BPSK) based on Article 49 paragraph (1) of UUPK. In addition, the Government also recognizes Non-Governmental Organizations for Consumer Protection (LPKSM) based on Government Regulation of the Republic of Indonesia Number 59 of 2001 concerning Non-Governmental Organizations for Consumer Protection (Fitria, 2021). If violations of consumer data protection when settling online loan debts through non-litigation channels cannot be resolved through an amicable agreement, then the consumer or data protection authority can proceed with lawsuits to obtain compensation (Kurniawan, 2023).

The responsibility of business actors for losses suffered by consumers is regulated in the Consumer Protection Law, namely in Article 19 (Ramadhan, 2023). Law 8/1999 states that a group of consumers who have the same interests can file a lawsuit (Wisnu, 2023). Given that the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection in Article 4 contains provisions governing the rights of consumers (Anastasia, 2023). The misuse of personal data of online borrowers by online loan companies can then be construed as a violation of the liability and rights of consumers as provided for in the Consumer Protection Act. The consumer has indeed been entitled to legal protection based on the corridors that have been regulated in the Consumer Protection Act.

Referring to these rules, it is known that users of online loan services as consumers have rights that must be considered by online loan companies (Anastasia, 2023). Actually, from various forms of losses experienced by consumers, if they want to sue the business actor, they can still do so based on the existence of some basic evidence as a valid means of proof (Ramadhan, 2023). So that consumers can sue business actors through related institutions (outside the general court) that can resolve problems between the parties or can go through the general court which is in the general court environment, this is stated in Article 45 paragraph (1) and paragraph (2) of the Consumer Protection Law (Prayoga et al., 2021). Legal protection based on the PK Law clearly refers more to the civil aspect which boils down to compensation, because the true spirit of the PK Law protection is the civil realm, which can be mediation or a civil tort lawsuit. Mediation by means of an Alternative Dispute Resolution institution can be taken if it is possible to settle outside the Court, then after failing through Alternative Dispute Resolution, legal action can be taken through the General Court in the form of a Tort Lawsuit as a form of legal protection.

On the other hand, Financial Services Authority Regulation No.77/POJK.01/2016 concerning Information Technology-based Lending and Borrowing Services in Article 29 has an organizer's efforts to apply the basic principles of user protection such as transparency, fair treatment, reliability, confidentiality, and data security, as well as user dispute resolution simply, quickly, and at an affordable cost. In connection with this, every business actor who has violated the rights of online loan service users as consumers must be subject to sanctions. The Consumer Protection Law also imposes criminal sanctions for violators of consumer rights, as stated in the Consumer Protection Law Article 45 Paragraph 3, "Settlement outside the Court as referred to in Paragraph 2 does not eliminate criminal liability as regulated in the law" (Anastasia, 2023).

Through various existing laws and regulations that have imposed sanctions on organizers who violate the rights of users of online loan services, it is necessary for the Government to prevent and handle various cases of crimes committed

by online loan organizers through introductory efforts carried out by the Financial Services Authority (OJK) affiliated with the Ministry of Communication and Information Technology in order to convey knowledge to the public about online loans from various aspects of legality, interest rates, offering methods and so on (Anastasia, 2023). Indeed, the presence of the Government in efforts to protect the law against online loan customers is the starting point for its protection aspects as emphasized in the PK Law, before later entering the realm of legal remedies as a form of protection in the realm of Civil Lawsuits in the General Court.

### **3.2 Legal Protection of Personal Data of Online Loan Customers in the Perspective of Law No. 27/2022 On Personal Data Protection**

Law No. 27 of 2022 on Personal Data Protection provides further provisions regarding the protection of personal data. Every Person is entitled to legal protection against this kind of intrusion or violation. The right to privacy is also the capacity of individuals to determine who has their information and how it is used. The perception of data protection means that individuals have the right to decide whether to share or exchange their personal data (Tarigan & Paulus, 2024).

Tarigan and Paulus (2014), explaining about personal rights as human rights is the protection of personal rights or private rights will increase human values, improve the relationship between individuals and their communities, increase independence or autonomy to exercise control and obtain decency, and increase tolerance and keep away from discriminatory treatment and limit the power of the Government. Regulations on personal data protection in Indonesia are currently regulated in various laws and regulations.

The Law on Personal Data Protection is mandated by Article 28 G paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that, "Every person shall have the right to the protection of his/her person, family, honor, dignity, and property under his/her control, and shall have the right to security and protection from the threat of fear to do or not to do something which constitutes an Human Right (Tarigan & Paulus, 2024). Based on humanitarian values, the Victims of the dissemination of personal data must receive legal protection from the applicable laws and regulations.

Article 1, paragraph 2, of the Law of the Republic of Indonesia No. 27 Year 2022 on the Protection of Personal Data (PDP Act) states that Personal Data Protection is the whole effort to protect personal data in the processing of personal data to guarantee the Constitutional rights of the personal data subject. Then in Article 1 paragraph 1, the PDP Act mentions personal data as data about an identified or identifiable individual individually or in combination with other information either directly or indirectly through electronic or non-electronic systems. The processing of personal data carried out by online loan opponents (Fintech) is bound to comply with the principle of the personal data protection regulated in Article 16 (2) of the PDP Act (Pane & Kansil, 2023) Under any circumstances against citizens who are injured by the dissemination of personal information by online lending companies, which means that the Customer as a citizen of the State has the right to be protected as a form of protection of the Constitutional rights of the citizens of Indonesia.

In principle, the form of protection of personal data online loans is the Administrator as the personal data controller is obliged to obtain the consent of the legitimate personal data owner explicitly from the subject of the data owner when carrying out the processing of personal information. Consent is a written or recorded consent, both electronically and non-electronically, having the same legal force, this can be seen in Article 22 of the PDP Act. Then in Article 35 of PDP Act says the offender as a personal data controller is obliged to protect and ensure the security of the personal data it processes (Pane & Kansil, 2023). Without the consent of the customer online loan if the customer data is spread either deliberately or accidentally, then the online loan company fails to protect customer data and does not maintain customer data security.

More strictly regulated by Law No. 27 of 2022 on the Protection of Personal Data (Act 27/2022), that if a personal data protection failure occurs, it is mandatory to notify the data owner (Wisnu, 2023). According to Article 47 of Law 27/2022, the personal data operator is obliged to implement the principle of the protection of personal data as a form of responsibility for the processing of data carried out by him (Pane & Kansil, 2023). Claims for personal data breach may also be based on the provisions contained in Article 1365 of the Covenant. This article instructs the party that has violated the law and caused damage to others, then the party is obliged to compensate for the loss suffered (Wisnu, 2023). Failure to preserve and protect personal data by making legal efforts Perdata Claims in the form of Anti-Law Claims is as a form of recovery of conditions that have been detrimental to online borrowers, because it is true that the responsibility of the online loan Company is not to be violated in the case of agreement to keep the personal data of the customer in any way and condition.

Claims for personal data breaches are generally intended for damages to the victim, but they must be able to prove a number of things, namely: 1) that the data operator has an obligation to protect personal data; 2) that the personal data administrator has breached such obligation; 3) the existence of tangible losses; and 4) that such losses are a direct consequence of the breach of the duty and responsibility of the data manager. For example, there is an obligation of the electronic system operator to notify the user that an unauthorized access to the information system has occurred, then the electronic systems operator is obliged to inform it. However, in the event of non-compliance with such obligations, the user or Data Owner may claim damages for losses suffered in the absence of an invalid access notice (Wisnu, 2023). Evidence by the victim of the disclosure of personal data must indeed actually arise, this is in order not to happen mistake

the Company whether it is correct or not in keeping and protecting the personal data of the online borrowers. The evidence is also in order to ensure that the protection effort has the guarantee value based on the Personal Data Protection Act.

In the context of personal data protection, preventive efforts as a form of preventive legal protection are one with the birth of Law 27/2022 on the Protection of Personal Data. The guarantees set out in Articles 65 and 66 prohibit the misuse of personal data (Wisnu, 2023). In addition to the repressive legal protection, this is also regulated by provisions on the rights held by the data owner. Law 27/2022 guarantees the right of the personal data subject to be able to sue and receive damages for the occurrence of a violation in the processing of his personal data (Wisnu, 2023). The guarantees of the rights of online borrowers in the form of personal data protection under the PDP Act are closely linked to the civil claims for the acceptance of damages, which correlate with Article 1365 KUHP. The red thread is one of the basic principles of the protection of personal data by the online lending company as an entrepreneur, which must be implemented on the basis of a digital debt agreement made and agreed upon.

Furthermore, under Articles 27-29 of the PDP Act, which relates to the Education and Protection of Users of Information Technology-Based Money Loan Services, it is aimed at consumer protection. The Service Provider is mandated to comply with the basic principles of User Protection, which include: Transparency, Fair Treatment, Reliability, Confidentiality and Data Security. In cases where these principles are violated by the online loan service provider, resulting in losses to the User as a result of unlawful actions, the provider is obliged to provide damages as provided for in Article 1365 of the Code of Procedure. The victim has the right to claim compensation, which can be compensation for the loss incurred or recovery to its original condition (Nature) prior to the incident. However, if a person wishes to claim compensation for an offence committed by another person, the following elements must be taken into account: The offence must be a offence; the offence (Schuld); the loss (Schade); and the cause and consequence relationship (Oorzakelijk Verband) (Silviani & Teo, 2023). The link between the elements of the violation of the law committed by the Online Loan Company and the claim for damages should be noted by the online borrower, especially in the case of making legal efforts to obtain legal protection, as a recovery of the victim's condition of the misuse of personal data by online loans.

In the event that the online loan service provider commits an unlawful act as defined by applicable law, and such action results in loss to the User, the affected User shall be entitled to lodge a claim for damages. These claims are intended to restore their rights as legal subjects that have been violated by the wrongfulness of the Provider. Users are entitled to seek compensation for the damage caused, taking into account the cause and consequences of the loss caused. By submitting a claim for compensation, Users strive to assert their rights and find appropriate solutions for the losses they suffer (Silviani & Teo, 2023). Again, it is true that the legal effort through the judicial action is as the ultimate legal effort (Ultimum Remedium) as a form of legal protection. Legal protection that must be sought first is to remain through Alternative Dispute Resolution, through institutions outside the competent courts such as compensation and recovery of the condition of online loan victims injured for the abuse of customer's personal data by the online loan company. If it does, it has failed through an Alternative Dispute Resolution attempt, only through an attempt to litigate through a court for a victim of personal data abuse, in fighting for his legal protection in accordance with the Personal Data Protection Act.

#### 4. Conclusion

Law No. 8/1999 on Consumer Protection aims to provide protection to customers, but it is not sufficient regarding the protection of personal data. On the other hand, the government also needs to adjust Financial Services Regulation (POJK) No. 77/POJK.01/2016 on Information Technology-Based Money Lending and Borrowing Services to prevent and handle cases related to online loans, especially illegal ones. As a form of consumer protection for online loan customers in fintech services, it is also guided by regulations that have been issued by several related agencies such as OJK, Kemkominfo to Bank Indonesia, where consumer protection rules are regulated in the ITE Law, UUPK and also regulated in POJK NO.77/2016. The misuse of personal data of online borrowers by online loan companies can then be construed as a violation of the liability and rights of consumers as provided for in the Consumer Protection Act. The consumer has indeed been entitled to legal protection based on the corridors that have been regulated in the Consumer Protection Act. Legal protection based on the PK Law clearly refers more to the civil aspect which boils down to compensation, because the true spirit of the PK Law protection is the civil realm, which can be mediation or a civil tort lawsuit. Mediation by means of an Alternative Dispute Resolution institution can be taken if it is possible to settle outside the Court, then after failing through Alternative Dispute Resolution, legal action can be taken through the General Court in the form of a Tort Lawsuit as a form of legal protection. The Consumer Protection Law also imposes criminal sanctions for violators of consumer rights, as stated in the Consumer Protection Law Article 45 Paragraph 3, "Settlement outside the Court as referred to in Paragraph 2 does not eliminate criminal liability as regulated in the law".

Article 1 paragraph 1, the PDP Act mentions personal data as data about an identified or identifiable individual individually or in combination with other information either directly or indirectly through electronic or non-electronic systems. In principle, the form of protection of personal data online loans is the Administrator as the personal data controller is obliged to obtain the consent of the legitimate personal data owner explicitly from the subject of the data owner when carrying out the processing of personal information. Consent is a written or recorded consent, both electronically and non-electronically, having the same legal force, this can be seen in Article 22 of the PDP Act. personal

data protection, preventive efforts as a form of preventive legal protection are one with the birth of Law 27/2022 on the Protection of Personal Data. The guarantees set out in Articles 65 and 66 prohibit the misuse of personal data. Law 27/2022 guarantees the right of the personal data subject to be able to sue and receive damages for the occurrence of a violation in the processing of his personal data.

## Acknowledgement

The authors would like to thank the fellow authors and organizations whose intellectual properties were utilized for this study.

## Conflict of Interest

The authors declare no conflicts of interest.

## References

- Abubakar, L., & Handayani, T. (2018, July). Financial technology: Legal challenges for Indonesia financial sector. In *IOP Conference Series: Earth and Environmental Science* (Vol. 175, No. 1, p. 012204). IOP Publishing. <https://doi.org/10.1088/1755-1315/175/1/012204>
- Adelia, F. (2022). Peran Otoritas Jasa Keuangan Atas Perlindungan Data Pribadi Konsumen Fintech Lending. *Dinamika*, 27(21), 3142-3157. *Scribbr*. <https://jim.unisma.ac.id/index.php/jdh/article/view/14496>
- Anastasia, D. S. (2023). Urgensi Pembentukan Hukum Fintech Untuk Memberi Perlindungan Hukum Kepada Konsumen Dalam Pinjaman Online. *Jurnal Hukum dan HAM Wara Sains*, 2(02), 136-151. <https://doi.org/https://doi.org/10.58812/jhhws.v2i02.227>
- Anshori, A. G. (2008). Sejarah Perkembangan Hukum Perbankan Syariah di Indonesia dan Implikasinya bagi Praktik Perbankan Nasional. *La\_Riba*, 2(2), 159-172. <https://doi.org/10.20885/lariba.vol2.iss2.art1>
- Carolin, F. P., & Apriani, R. (2022). Analisis Pengaturan Perlindungan Data Pribadi Pengguna Fintech Lending dalam Peraturan OJK Nomor 06/Pojk. 07/2022. *Jurnal Ilmiah Wahana Pendidikan*, 8(8), 88-96. <https://doi.org/10.5281/zenodo.6613275>
- Diantha, I. M. P. (2016). *Metodologi penelitian hukum normatif dalam justifikasi teori hukum*. Jakarta: Prenada Media.
- Directorate General of Information Applications. (2019). *Personal Data Protection Bill to Anticipate Data Misuse*. *Scribbr*. <https://aptika.kominfo.go.id/2019/09/ruu-perlindungan-data-pribadi-untuk-antisipasi-penyalahgunaan-data/>
- Disemadi, H. S., & Regent, R. (2021). Urgensi Suatu Regulasi yang Komprehensif Tentang Fintech Berbasis Pinjaman Online Sebagai Upaya Perlindungan Konsumen di Indonesia. *Jurnal Komunikasi Hukum (JKH)*, 7(2), 605-618. <https://doi.org/10.23887/jkh.v7i2.37991>
- Fatmasari, E. D. (2023). Fatmasari, E. D. (2023). Perlindungan Hukum Terhadap Data Pribadi Pengguna Layanan Pinjaman Online. *Jaksa: Jurnal Kajian Ilmu Hukum dan Politik*, 1(4), 90-99. <https://doi.org/10.51903/jaksa.v1i4.1405>
- FinTech Weekly. (2023). *FinTech Definition*. *Scribbr*. <https://www.fintechweekly.com/fintech-definition>.
- Fitria, A. (2021, May). Legal Protection of E-Commerce Consumers Through Privacy Data Security. In *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)* (pp. 275-284). Atlantis Press. <https://doi.org/10.2991/assehr.k.210506.038>
- Isra, S. (2014). Peran Mahkamah Konstitusi dalam penguatan hak asasi manusia di Indonesia. *Jurnal konstitusi*, 11(3), 409-427. <https://doi.org/10.31078/jk1131>
- Karo, R. P. K., & Prasetyo, T. (2020). *Pengaturan perlindungan data pribadi di Indonesia: perspektif teori keadilan bermartabat*. Nusa Media.
- Kurniawan, A. S. (2023). *Perlindungan Data Konsumen Terhadap Pembayaran Hutang Pinjaman Online* (Doctoral dissertation, Universitas Muhammadiyah Surabaya).
- Kusuma, O. W., & Rosando, A. F. (2022). Urgensi Perlindungan Hukum Terhadap Data Pribadi Peminjam Dalam Layanan Aplikasi Pinjaman Online. *Jurnal Hukum Bisnis Bonum Commune*, 123-141. <https://doi.org/10.30996/jhbbs.v5i1.6087>
- Margaretha, F. (2015). Dampak electronic banking terhadap kinerja perbankan Indonesia. *Jurnal Keuangan dan Perbankan*, 19(3), 514-524. *Scribbr*. <http://jurkubank.wordpress.com>
- McCrudden, C. (2017). Legal research and the social sciences (1<sup>st</sup> Ed.). In *Legal Theory and the Social Sciences* (pp. 149-167). Routledge.



- OJK. (2019). *Penyelenggara Fintech Terdaftar dan Berizin di OJK per 13 Desember 2019*. Scribbr. <https://ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Penyelenggara-Fintech-Terdaftar-dan-Berizin-di-OJK-per-13-Desember-2019.aspx>
- Pane, I. D. W., & Kansil, C. S. (2023). Tanggung Jawab Penyelenggara Pinjol Terhadap Data Pribadi Dalam Layanan Fintech. *Cakrawala Repositori IMWI*, 6(4), 1152-1161. <https://doi.org/10.52851/cakrawala.v6i4.454>
- Pranita, N. K. P., & Suardana, I. W. (2019). Perlindungan Hukum Terhadap Nasabah Pengguna Layanan Fintech
- Prayoga, N. T., Sujana, I. N., & Ujianti, N. M. P. (2021). Perlindungan Hukum Nasabah Kartu Kredit dalam Perspektif Undang-Undang Nomor 8 Tahun 1999. *Jurnal Preferensi Hukum*, 2(1), 145-149. <https://doi.org/10.22225/jph.2.1.3060.145-149>
- Priscyllia, F. (2019). Perlindungan Privasi Data Pribadi Perspektif Perbandingan Hukum. *Jatiswara*, 34(3), 239-249. <https://doi.org/10.29303/jtsw.v34i3.218>
- Priyonggojati, A. (2019). Perlindungan Hukum Terhadap Penerima Pinjaman Dalam Penyelenggaraan Financial Technology Berbasis Peer To Peer Lending. *Jurnal USM Law Review*, 2(2), 162-173. <http://dx.doi.org/10.26623/julr.v2i2.2268>
- Ramadhan, A. B. (2023). *Perlindungan Konsumen Dalam Transaksi Jual Beli Online Melalui Media Sosial Di Tinjau Dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen (Studi Kasus Desa Wirowongso Kecamatan Ajung Kabupaten Jember)* [Universitas Islam Negeri Kiai Haji Achmad Siddiq Jember]. Scribbr. <http://digilib.uinkhas.ac.id/27171/>
- Santoso, E. (2018). *Pengaruh Era Globalisasi terhadap hukum bisnis di Indonesia*. Jakarta: Prenada Media.
- Silviani, N. Z., & Teo, J. (2023). Enhancing Consumer Protection In Indonesia's Fintech Industry: Safeguarding The Rights of Fintech Service Users. *Ganesha Law Review*, 5(1), 58-68. Scribbr. <https://ejournal2.undiksha.ac.id/index.php/GLR/article/view/2238>
- Situmeang, S. M. T. (2021). Penyalahgunaan Data Pribadi Sebagai Bentuk Kejahatan Sempurna Dalam Perspektif Hukum Siber. *Sasi*, 27(1), 38-52. <https://doi.org/10.47268/sasi.v27i1.394>.
- Suharini, S., & Hastasari, R. (2020). Peran otoritas jasa keuangan terhadap fintech ilegal di indonesia sebagai upaya perlindungan pada konsumen. *Akrab Juara: Jurnal Ilmu-ilmu Sosial*, 5(3), 25-38. Scribbr. <https://akrabjuara.com/index.php/akrabjuara/article/view/1162>
- Tarigan, H. A. A. B., & Paulus, D. H. (2019). Perlindungan Hukum Terhadap Nasabah Atas Penyelenggaraan Layanan Perbankan Digital. *Jurnal Pembangunan Hukum Indonesia*, 1(3), 294-307. <https://doi.org/10.14710/jphi.v1i3.294-307>
- Tejomurti, K., Hadi, H., Imanullah, M. N., & Indriyani, R. (2018). Legal Protection for Urban Online-Transportation-Users' Personal Data Disclosure in the Age of Digital Technology. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 5(3), 485-505. Scribbr. <https://journal.unpad.ac.id/pjih/article/view/18908>
- Wisnu, A. M. (2023). *Gugatan Class Action Dalam Penegakan Pelanggaran Data Pribadi Di Indonesia Dan Amerika Serikat* [UIN Syarif Hidayatullah Jakarta]. Scribbr. <https://repository.uinjkt.ac.id/dspace/handle/123456789/67131>
- Yulenrivo, F., Azheri, B., & Yulfasni, Y. (2023). Perlindungan Hukum Terhadap Konsumen Pengguna Pinjaman Online Berbasis Financial Technology oleh Otoritas Jasa Keuangan. *UNES Law Review*, 6(1), 1312-1323. <https://doi.org/10.31933/unesrev.v6i1.927>