



## Juridical Analysis Of Information Technology Based Lending And Borrowing Implementation Based On Financial Services Authority Regulation Number 10 /Pojk.05/2022

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### ABSTRAK

Meningkatnya pemanfaatan teknologi informasi khususnya secara elektronik berdampak pada berkembangnya layanan pinjam meminjam uang yang memanfaatkan jaringan teknologi, tidak lagi hanya dilakukan secara tatap muka seperti bank konvensional, namun dapat dilakukan secara jarak jauh dengan menggunakan media elektronik. Tujuan dari penelitian ini adalah untuk menganalisis pelaksanaan pinjam meminjam uang dan mengetahui kendala-kendala dalam pelaksanaan pinjam meminjam uang yang memanfaatkan jaringan teknologi dan cara mengatasinya. Dalam pelaksanaan transaksi pinjam meminjam secara elektronik masih terdapat penipuan atau penyalahgunaan data, padahal pemerintah telah mengatur pinjam meminjam elektronik sedemikian rupa. Dalam penerapannya metode yang digunakan adalah pendekatan yuridis notmatif dengan menerapkan studi literatur dan peraturan perundang-undangan dengan menggunakan metode hukum komparatif. Untuk itu hasil penelitian menunjukkan bahwa pelaksanaan pinjam meminjam uang berbasis teknologi informasi memang sangat mudah, namun kenyataannya masih banyak kendala dalam memanfaatkan data orang lain. Untuk itu perlu ditambahkan ketentuan mengenai pinjam meminjam dalam bertransaksi, yaitu kewajiban melakukan verifikasi ulang sebelum mencairkan dana atau melakukan transaksi untuk menunjukkan bahwa yang melakukan transaksi adalah pihak yang melakukan transaksi atau orang yang sama pada saat pendaftaran awal. Secara spesifik, akad yang terkandung dalam ikrar wakaf merupakan salah satu kategori akad tabarru' (perbuatan sukarela) yang pada gilirannya mempunyai hubungan bermakna dengan amanah.

## ABSTRACT

The increasing use of information technology, especially electronically, has had an impact on the development of money lending and borrowing services that utilize technological networks, no longer only done face-to-face like conventional banks, but can be done remotely using electronic media. The aim of this research is to analyze the implementation of money lending and borrowing and find out the obstacles in the implementation of money lending and borrowing that utilize technological networks and how to overcome them. In implementing electronic lending and borrowing transactions, there is still fraud or misuse of data, even though the government has regulated electronic lending and borrowing in such a way. In its application, the method used is a normative juridical approach by applying literature studies and statutory regulations using comparative legal methods. For this reason, the research results show that implementing information technology-based money lending and borrowing is indeed very easy, but in reality there are still many obstacles in utilizing other people's data. For this reason, it is necessary to add provisions regarding lending and borrowing in transactions, namely the obligation to carry out re-verification before disbursing funds or carrying out transactions to show that the person carrying out the transaction is the party carrying out the transaction or the same person at the time of initial registration. Specifically, the contract contained in the endowment pledge is a category of *tabarru'* (voluntary act) contract which in turn has a meaningful relationship with trust.

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## 1. Introduction

The development of the financial industry is of course expected to encourage the growth of alternative financing by simplifying and increasing it. Improvised developments that must be adjusted include many provisions in regulations that are no longer in accordance with current industrial developments. That is why the existence of regulations no longer accommodates the needs of all interested parties. Of course, leaving a legal vacuum, this condition certainly has the potential to cause losses that are felt not only by the organizers but also by the public, especially consumers. As is known, Financial Services Authority Regulation Number 10 /Pojk.05/2022 concerning Information Technology-Based Joint Funding Services is a refinement of Financial Services Authority Regulation Number 77 /Pojk.01/2016 concerning Information Technology-Based Lending and Borrowing Services. Development of technology application. in the financial sector in Indonesia which is increasing, as is the case with human civilization which is increasing as well as in science, especially technology. Of course, this can be seen in society being enjoyed/operated (used)

by the use of electronic lending and borrowing which is already available in the financial system, such as banking (conventional) or non-banking financing (financial technology).

The presence of the financial technology industry is a very positive requirement for providing an alternative for some communities who need capital funds for small businesses, and also plays a role in helping to increase financial inclusion in Indonesia through implemented digital facilities and utilizing technology networks in the implementation of loan services. borrow electronically (financing). Carried out by organizing companies operating in the financial services sector by utilizing software, internet and communications technology. So, that is why the use of logarithms in a technological network that is synchronized in the form of financial technology, so that its presence in the lending and borrowing transaction process is very practical, easy and modern. For this reason, to support the implementation of national development in the national economic sector, this has been regulated in Article 4 Letters a, b and c, Number 21 of 2011 concerning the Financial Services Authority (OJK) which was formed openly and accurately, including:

a. organized in an orderly manner, must be fair, financial management transparent and accountable; b. able to realize a financial system that grows sustainably and stable; And. c. able to protect the interests of consumers and society.

With such regulations that have been issued to the Financial Services Authority (hereinafter abbreviated as OJK), it is recommended that its implementation be more efficient and improve the service of the interests of the national financial services sector so that it is able to compete on a national scale. For this reason, the OJK is required to safeguard overall (national) interests. The benefits of the existence of the OJK are that it regulates, supervises and in the last word protects businesses involved in financial goods/services, of course by implementing rules and public interests which are one unit, namely starting from educating the public to consumers. Then the second is market supervision, namely supervision of the first parties involved in the business, second is the behavior of the business actors, third is handling consumer complaints.<sup>1</sup>

So, with the regulations that have been promulgated regarding the implementation of technological innovation in financial transaction services according to Bank Indonesia regulations article 1 paragraph (1) Bank Indonesia regulations number 19/12/PBI/2017 concerning the implementation of financial technology states that, financial technology is a technological development that Rapidly bringing changes and convenience for people in carrying out various activities, various technological innovations are presented, one of which is a smartphone which is equipped with various features with a more flexible nature. Apart from that, what is behind the presence of fintech is the increasing use of gadgets, both available applications and the emergence of various technology-based startups and Fintech developments are currently the center of industry attention.<sup>2</sup> Information Technology-Based Joint Funding services (LPBBTI) are Fintech Lending/Electronic Loans which are the provision of financial services to bring together funders/lenders with fund recipients/borrowers in order to carry out lending and borrowing agreements in rupiah currency directly via an electronic system. Fintech lending is also known as Information Technology-Based Joint

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<sup>1</sup> Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan" (Indonesia, 2011), [https://ojk.go.id/id/regulasi/otoritas-jasa-keuangan/undang-undang/Documents/uu2111\\_1388664376.pdf](https://ojk.go.id/id/regulasi/otoritas-jasa-keuangan/undang-undang/Documents/uu2111_1388664376.pdf).

<sup>2</sup> Peraturan Bank Indonesia Nomor 19/12/PBI/2017, "Peraturan Bank Indonesia Nomor 19/12/PBI/2017 Tentang Penyelenggaraan Teknologi Finansial," *Bank Indonesia*, 2017, 1, <https://www.bi.go.id/id/sistem-pembayaran/fintech/Contents/default.aspx>.

Funding Services (LPBBTI). In its implementation between the giver and recipient (funds) in accordance with the regulations of the Financial Services Authority.<sup>3</sup>

Applying for loans electronically is faster and easier and does not need collateral or special policies and regulations, because it is done digitally and is internet-based.<sup>4</sup> The growth of providers of electronic lending and borrowing services based on information technology means that many people still use financial products and services but do not understand them, this is due to the lack of education or lack of information for the community, especially rural areas. So, problems of misuse and utilization will occur, giving rise to risks arising from electronic lending and borrowing. The problem that often occurs is the use of someone's personal data by (deliberately) leaking someone's personal data to be used as collateral for electronic lending and borrowing.<sup>5</sup>

The implementation of lending and borrowing is outlined in the Financial Services Authority regulations in article 32 articles 1 and 2, namely: Article (1) The Funding Agreement between the Fund Provider and the Fund Recipient is set out in an Electronic Document. Article (2) Electronic Documents as intended in paragraph (1) must contain at least:

a. There is an agreement number; b. The agreement is dated; c. Must include the identities of the parties; d. Contains the rights and obligations of the parties; e. Description of the funding amount; f. Include the economic benefits of funding; g. The amount and value that must be repaid; h. time period; i. collateral object, if any; j. related costs; k. provisions regarding fines, if any; l. use of Personal Data; m. dispute resolution mechanisms; And; n. mechanism for settling rights and obligations in accordance with statutory provisions if the Operator is unable to continue its operational activities.<sup>6</sup>

In reality, in the field there are many problems with the use of personal data, namely that the recipient of funds or the owner of the electronic lending and borrowing application is not the actual user or has consciously lent it to friends, work relatives, family or even misused it by irresponsible people by deliberately leaking it. to be used as collateral for electronic loans. This is the result of how easy it is to register for loans electronically, which requires an ID card, selfie photo and facial verification by the application system. Weak supervision with the inclusion of different telephone numbers is not a problem. This will cause problems in the future when there is a default (default) caused by (consciously loaning data to someone else or being misused by a certain person), and the data owner does not want to be involved. So, because of that, it will cause unilateral losses (to the data owner). There are defects in all banking, both private and state, and it will be difficult to get access to borrowing and borrowing from banks and financing which is supervised by the OJK. Apart from that, the form of lawsuit that can be filed in connection with the KTP being misused or the data being used by someone else intentionally or unintentionally which causes harm to the data owner, the data owner has the right to file a lawsuit as stated and regulated in Article 1365 of the Civil Code which reads: "Every an act that violates the law and brings loss to another person, requires the person who caused the loss through his fault to compensate for the loss."

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<sup>3</sup> Ni Nyoman Ari Diah Nurmantari, "Perlindungan Hukum Terhadap Data Pribadi Peminjam Dalam Layanan Aplikasi Pinjaman Online," *E-Journal Ilmu Hukum Kertha Wicara* 8, no. 12 (2019): 1–14.

<sup>4</sup> Alicia Noviandari, "Perlindungan Hukum Terhadap Nasabah Dalam Pinjaman Online Dengan Fidusia," no. 77 (2020), [http://eprints.uniska-bjm.ac.id/3041/1/alicia\\_noviandari\\_npm\\_16810310.pdf](http://eprints.uniska-bjm.ac.id/3041/1/alicia_noviandari_npm_16810310.pdf).

<sup>5</sup> Dharu Triasih, Dewi Tuti Muryati, and A Heru Nuswanto, "Perlindungan Hukum Bagi Konsumen Dalam Perjanjian Pinjaman Online," *Seminar Nasional Hukum Universitas Negeri Semarang* 7, no. 2 (2021): 591-608.

<sup>6</sup> Republik Indonesia, "Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 10 /Pojk.05/2022 Tentang Layanan Pendanaan Bersama Berbasis Teknologi Informasi," 2022.

Debt collectors (debt collectors) are generally referred to as collection services in the banking or financing sector. Debt collector is a profession that has been certified as a Financing Collection Profession and is worthy of establishing collaboration to improve Human Resources (HR) skills, of course with the legality of professional certification. There are still no legal regulations for debt collectors, specific regulations or legal basis regarding debt collectors. However, according to the regulations of the Ministry of Finance of the Republic of Indonesia, to carry out duties and functions as a profession in debt collection, Bank Indonesia Circular Letter (SE BI) Number 14/17/DASP of 2012 concerning Debt Collection has been issued. With requirements including:

1. Debt collectors may only collect bad debts based on collectibility criteria in accordance with Bank Indonesia regulations governing quality. The bad debt category is when the installment delay is more than 6 months.

2. The quality of collection must comply with bank standards. It must be ensured that the quality of collections carried out by debt collectors follows the quality standards that apply at the bank.

3. Debt collectors must have adequate training.

4. The debt collector's identity must be clear and administered by the bank.<sup>7</sup>

In accordance with statutory provisions that in Article 48 (1)

In particular, companies operating in the financing sector can certainly establish relationships between other parties in the form of increasing skilled and certified human resources (HR) to carry out outstanding or overdue collections from customers. Provisions in Article 48 (3) letter c. The other party referred to is obtaining the legality of billing professional certification from an institution that has been determined, entrusted and given permission to issue professional legality.<sup>8</sup> For this reason, the existence of billing professions that have been certified by certain institutions with legally recognized legality is not prohibited. This means that the collection profession must remain obedient, follow the rules as implemented by the financing company and of course not violate general rules and decency.

Based on the originality as presented, this research article will try to provide an analysis of the Implementation of Information Technology-Based Joint Funding Services Lending and Borrowing (LPBBTI) Based on Financial Services Authority Regulation Number 10/POJK.05/2022 and Obstacles in Implementing Information Technology-Based Lending and Borrowing and How How to fix it.

## 2. Methods

In its application, this article uses normative law. Writing this article combines literature as basic data and secondary data.<sup>9</sup> The nature of this article is descriptive analysis, that is, it describes the applicable laws and regulations linked to legal theories and the practice of implementing positive law regarding problems.<sup>10</sup> The author uses a statutory approach.<sup>11</sup> In

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<sup>7</sup> Agus Widayat, "Samakah Juru Sita Piutang Negara Dengan Debt Collector?," DJKN Kemenkeu, 2020, <https://www.djkn.kemenkeu.go.id/artikel/baca/13062/Samakah-Juru-Sita-Piutang-Negara-dengan-Debt-Collector.html>.

<sup>8</sup> Otoritas Jasa Keuangan, "POJK Nomor 35 /Pojk.05/2018 Tentang Penyelenggaraan Usaha Perusahaan Pembiayaan."

<sup>9</sup> Endeh Suhartini dan Ani Yumarni Martin Roestamy, *Metode Penelitian, Laporan, Dan Penulisan Karya Ilmiah Hukum Pada Fakultas Hukum* (Fakultas Hukum Universitas Djuanda, 2020).

<sup>10</sup> Ronny Hanitijo Soemitro, *Metode Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, 1988, Hlm. 35.

<sup>11</sup> ZULFIANTI, Sintia Tri, et al. APPLICATION OF THE PRINCIPLE OF VOLUNTARINESS IN MARITAL PROPERTY DECISIONS. *Transnational Business Law Journal*, 2023, 4.2. p. 144

this article the approach method used is a normative juridical approach, namely by using literature study or a statutory approach, a legal comparison method.

### 3. Results and Discussion

#### **Implementation of Lending and Borrowing Information Technology-Based Joint Funding Services (LPBBTI) Based on Financial Services Authority Regulation Number 10/POJK.05/2022.**

In the implementation of lending and borrowing, an agreement is something that is commonplace for people to do verbally, in writing and electronically, of course it cannot be separated from the era of globalization which is increasingly advanced in information technology, one of which is an electronic lending and borrowing agreement (fintech) which is carried out by fintech lending organizer (Platform) which brings together donors and recipients of funds on an application or website and then will facilitate filling in complete agreement data, signatures in electronic form and disbursement of funds. When executing an electronic loan agreement which is carried out electronically, it basically still follows the rules in the Civil Code as stated in articles 1320 of the Civil Code and 1754 of the Civil Code. For this reason, the regulations for implementing agreements electronically have been promulgated. Therefore, in this agreement there must be no misuse or errors which are contrary to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. The requirements in this agreement must of course be carried out electronically and must include or fill in the complete personal data information form by explaining, namely, personal data information (identity), status, and information regarding goods and/or services.<sup>12</sup>

The rules relating to engagements in Indonesia can be found/read in the Civil Code (KUHPERDATA) book on Engagements. This book is free to use an open system, meaning "every Indonesian citizen is free to enter into an agreement of course with agreement and legal competence between the parties who do so, the provisions of which do not violate public order and decency."<sup>13</sup> As explained above, the implementation of Information Technology-Based Joint Funding Services, hereinafter abbreviated as (LPBBTI), is the implementation of financial services to bring together funders and recipients of funds in carrying out conventional or principle-based funding through an electronic sharia system directly using the internet.<sup>14</sup> The provisions that have been issued are in accordance with Article 3 paragraph (1) letter (a) of Bank Indonesia Regulation Number 19/12/PBI/2017 of 2017 which regulates the implementation of financial technology, technological developments that continue to move forward faster and more efficiently and require attention and demand acceleration. digital in the financing sector will certainly become increasingly prominent and has become a public expectation for the momentum of change in various aspects of social and economic life in society as a whole, starting from payments, loans, capital to investment.<sup>15</sup>

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<sup>12</sup> Pemerintah Indonesia, "Undang-Undang NOMOR 11 TAHUN 2008 Tentang Informasi Dan Transaksi Elektronik," *Bi.Go.Id*, no. September (2008): 1–2, <https://peraturan.bpk.go.id/Home/Details/37589/uu-no-11-tahun>

<sup>13</sup> Dara Doria Hasibuan, "Keabsahan Perjanjian Pinjaman Tanpa Jaminan Berbasis Fintech," *Jurnal Notarius 2*, no. 1 (2023): 65–75.

<sup>14</sup> Republik Indonesia, "Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 10 /Pojk.05/2022 Tentang Layanan Pendanaan Bersama Berbasis Teknologi Informasi."

<sup>15</sup> Republik Indonesia, "Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 10 /Pojk.05/2022 Tentang Layanan Pendanaan Bersama Berbasis Teknologi Informasi."

In the financial services authority regulation article 31 paragraph (1) "the agreement between the Organizing parties and the parties providing funds has been agreed in the form of an electronic document." that is:

a. agreement number, b. agreement date, c. the identity of the parties in the form of the Funder's name and the Funder's Population Identification Number, d. rights and obligations of the parties, e. Funding amount, f. economic benefits Funding, g. the amount of the commission, h. time period, i. cost breakdown, j. provisions regarding fines, if any, k. use of Personal Data; l. Funding collection mechanism; m. risk mitigation in the event of funding delays, n. dispute resolution mechanisms and, o. mechanism for settling rights and obligations in the event that the Operator is unable to continue its operational activities.

The rules stated in article 31 paragraph (3) provide that service providers are required to provide information to Funders regarding the use of their funds.<sup>16</sup>

The legal skills of the parties and also the agreements that have been agreed in the form of filling out forms are increasingly sophisticated and advanced in technology in today's digital era. This significant change in the digital era has brought many influences and changes to agreements, namely electronic agreements/contracts. Electronic agreements are of great interest to many people (parties) to carry out an agreement (agreement) without any obstacles, meaning time and distance are not a problem. For this reason, with the presence of this technology, especially for electronic agreements wherever and whenever the parties enter into an agreement in electronic form, the agreement is in electronic form and also electronic signatures are contained in the agreement between the parties entering into the agreement. So, the form of requirements in this electronic agreement is that one of the electronic signatures is legally stated in legislation. Electronic/digital agreements occur when carrying out implementation activities by utilizing or using an internet network service by producing proof of transactions online. In accordance with the regulations on electronic agreements or electronic contracts with the provisions of article 1 paragraph (17) of the law concerning electronic information and transactions, this is an agreement with the parties who agree and are agreed upon through special internet network media services. The validity of an agreement that has been regulated in the Civil Code will be legally valid if it meets the requirements in article 1320 of the Civil Code, including:

1. agreement of the parties, 2. the skills of the parties, 3. a specific object or a certain thing, 4. lawful reasons.<sup>17</sup>

The regulations that play a major role or most touch on the validity of an electronic agreement or electronic contract are listed in article 46 paragraph (2) and article 47 paragraph (3) of the Government Regulation of the Republic of Indonesia number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. There are several things that need to be paid attention to. including:

1. There is an agreement between the parties, 2. carried out by competent legal subjects or those authorized to represent them in accordance with the provisions of statutory regulations; 3. there are certain things; And, 4. The object of the transaction must not conflict with laws and regulations, morality and public order.

The provisions in article 47 paragraph (3) which are meant by electronic contracts between are:

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<sup>16</sup> ibid

<sup>17</sup> Bhuana Ilmu Populer, *Himpunan Peraturan Perundang-Undangan KUHper (Kitap Undang-Undang Hukum Perdata)*, 2021.

1. identity data of the parties, 2. objects and specifications, 3. Electronic Transaction requirements, 4. prices and costs, 5. procedures in the event of cancellation by the parties; 6. provisions that give the injured party the right to return the goods and/or request a product replacement if there are hidden defects; And, 7. Choice of law for electronic transaction settlement.<sup>18</sup>

Agreements that have been regulated in Article 1313 of the Civil Code which reads: everything that is agreed is everything that has been done by one party to another party to bind themselves in an agreement and treaty.<sup>19</sup> Based on the provisions and regulations in article 1 paragraph (4), it is explained that the regulations in Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions "Electronic Documents are any Electronic Information that is created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or similar form, which can be seen, displayed, and/or heard via Computers or Electronic Systems, including but not limited to writing, sound, images, maps, designs, photographs or the like, letters, signs, numbers, Access Codes, symbols or perforations that have meaning or meaning or can be understood by people who are able to understand them."<sup>20</sup>

3.2. Discussion The Lending and Borrowing Implementation Process according to Pojk Number 10 /Pojk.05/2022 concerning Information Technology-Based Joint Funding Services (LPBBTI) with the provisions in article 27 paragraph (1): Funders can come from within and/or abroad. However, paragraph (2): Funders as intended consist of:

1. Indonesian citizen, 2. foreign nationals, 3. Indonesian legal entity, 4. Indonesian business entities, 5. foreign business entities; and/or, 6. international institutions.

The form of agreement and fulfills the requirements stipulated in the regulations in force in Pojk Number 10 /Pojk.05/2022 concerning Information Technology-Based Joint Funding Services (LPBBTI). Article 32 paragraph (1): Explains that the Funding Agreement between the Fund Provider and the Fund Recipient is set out in an Electronic Document paragraph (2): The Electronic Document as referred to in paragraph (1) must contain at least:

a. agreement number, b. agreement date, c. identity of the parties, d. rights and obligations of the parties, e. Funding amount, f. economic benefits Funding, g. installment value, h. time period, i. collateral object, if any, j. related costs, k. provisions regarding fines, if any, l. use of Personal Data, m. dispute resolution mechanisms; And, n. mechanisms for settling rights and obligations in accordance with statutory provisions if the Operator is unable to continue its operational activities.

In general, a signature provides a legal marking or approval which is affixed to a document directly which will be signed manually (wet signature) whereas an electronic signature which only requires clicking to agree on the screen enters a code so that in fact the provisions are agreed upon at the time. what appears on the screen. That's why when we talk about digital signatures or in English it is consistently called electronic signature which covers a very wide range of methods that indicate someone agrees to a document, which is an electronic form. However, when the term used is digital signature or digital signature, it specifically refers to

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<sup>18</sup> Sekretariat Negara, "Peraturan Pemerintah Republik Indonesia Nomor 71 Tahun 2019 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik," *Media Hukum*, 2012.

<sup>19</sup> Bhuana Ilmu Populer, *Himpunan Peraturan Perundang-Undangan KUHper (Kitap Undang-Undang Hukum Perdata)*.hlm 359

<sup>20</sup> Presiden Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik," 2016.

a method that uses a certificate or in Indonesian laws and regulations the term is an electronic certificate. So, according to the law that applies to the application of electronic signatures, there are two types, the first is a signature that has been electronically legalized, meaning it has been certified, and the second is a signature that is electronic but invalid, meaning the signature has not been certified. However, the difference is in the strength of the evidence when it is denied by the parties to an agreement, the parties concerned regarding a digital document. This is a digital signature that has been certified by the Ministry of Communication and Information, a form of electronic signature but whose evidentiary strength is the strongest, equivalent to a wet signature or even stronger than a wet signature. This electronic signature is used to certify documents.

Article 1 paragraph (19) based on Government Regulation (hereinafter abbreviated as PP) Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions (hereinafter referred to as PP No. 82 of 2012) explains the meaning of electronic signature as a signature consisting of electronic information. attached, associated with Electronic Information used as a verification and authentication tool. Article 1 paragraph (20) PP No. 82 of 2012 determines the meaning of a Signer as a legal subject that is associated or related to an Electronic Signature. Article 52 paragraphs (1) and (2), PP no. 82 of 2012, explains that: 1) Electronic Signature functions as a means of authentication and verification of: a) the identity of the signer; and b) the integrity and authenticity of electronic information. 2) Electronic Signature in Electronic Transactions is the Signer's approval of Electronic Information and/or Documents Electronically signed with the Electronic Signature. Electronic signatures use algorithms and special computer techniques in their application that can prevent changes to the contents of the document. The signature is in its position as evidence as stated in Article 11 paragraph (1) and (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as the ITE Law) and Article 53 paragraph (2) of PP No. 82 of 2012. Article 11 of the ITE Law confirms that.<sup>21</sup> Electronic signatures have valid legal force as long as they meet the following requirements:

- a. Electronic Signature Creation Data relates only to the Signer,
- b. Electronic Signature Creation Data during the signing process is only in the control of the Signer,
- c. any changes to the Electronic Signature that occur after the time of signing can be known,
- d. any changes to the Electronic Information related to the Electronic Signature after the time of signing can be known,
- e. there are certain methods used to identify who the Signer is; And,
- f. There are certain ways to show that the Signer has given consent to the relevant Electronic Information.<sup>22</sup>

Legislation in Indonesia is not regulated in detail or limited or determined by methods. However, according to article 11 paragraph (1), which regulates information and electronic transactions in Indonesia, it is regulated in such a way that electronic signatures are very relevant and the legal subject is valid as long as the criteria listed are fulfilled, namely: the criteria referred to are that there are 6 points from the letter (a ) to letter (f) as explained above, so it is not determined what the method should be as long as it can fulfill the provisions stipulated in article 11 paragraph 1 letters (a) to (f). However, if you summarize the

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<sup>21</sup> Lyta Berthalina Sihombing, "Keabsahan Tanda Tangan Elektronik Dalam Akta Notaris," *Jurnal Education and Development* 8, no. 1 (2020): 135.

<sup>22</sup> Pemerintah Indonesia, "Peraturan Pemerintah Republik Indonesia Nomor 82 Tahun 2012 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik," 2012

requirements from letters (a) to (f), it goes back to the two functions of a signature that were discussed at the beginning, namely: firstly ensuring that the signing party cannot deny what has been signed, secondly ensuring that everything that has been signed has not been changed. on the signed document. After being signed by the parties, if there are changes, they must be known and they must be able to detect them. The point is that as long as these two things are fulfilled, it is broken down in more detail by letters (a) to (f), even though the essence is there are two things, the first is having legal skills and the second is valid legal actions.<sup>23</sup>

The implementation of verified electronic certification must contain certainty and legal harmony for actors or users as follows:

- a. The legality provided by the Minister of Communications and Informatics based on government regulation number 71 of 2019 concerning electronic signature certification providers in Indonesia must be under the Ministry of Communications and Informatics.
- b. verify the identity of the electronic certificate holder, so if you give a signature using an electronic certificate, use a digital signature.
- c. Accuracy and security of electronic signatures. As explained above, certainty of legality has been provided in accordance with applicable regulations in Indonesia.

Electronic signatures in accordance with article 1 paragraph (20) of the Republic of Indonesia Financial Services Authority Regulation Number 10 /Pojk.05/2022 concerning Information Technology-Based Joint Funding Services (LPBBTI) electronic signatures are signatures whose information is affixed electronically and attached as certified, associated and relating electronic information to verification and authentication tools. And electronic documents in accordance with article 1 paragraph (16) of the Republic of Indonesia Financial Services Authority Regulation Number 10 /Pojk.05/2022 concerning Information Technology-Based Joint Funding Services (LPBBTI). Electronic Documents are any electronic information created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical or similar form, which can be seen, displayed and/or heard via a computer or electronic system, including but not limited to writing, sound, images, maps, plans, photos or the like, letters , signs, numbers, access codes, symbols or perforations that have meaning or meaning or can be understood by people who are able to understand them as intended in the law governing electronic information and transactions.<sup>24</sup> The legal power of electronic hands in article 11 paragraph (1) states that several requirements must be met to be valid according to applicable law as follows:

- a. The signer's data is tied to the electronic signature
- b. Electronic signing can only be done by the owner of the signature
- c. Changes after the electronic signature is made are known
- d. Changes in electronic information related to the signature after the signature has been carried out can be known
- e. There are certain ways to find out the signing information,

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<sup>23</sup> Thalís Noor Cahyadi, "Aspek Hukum Pemanfaatan Digital Signature Dalam Meningkatkan Efisiensi, Akses Dan Kualitas Fintech Syariah," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, No. 2 (2020), <https://doi.org/10.33331/Rechtsvinding.V9i2.424>.

<sup>24</sup> Republik Indonesia, "Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 10 /Pojk.05/2022 Tentang Layanan Pendanaan Bersama Berbasis Teknologi Informasi."

f. There are certain ways to show that the signer agrees to the electronic information contained therein.<sup>25</sup>

In reality, in the field there is a lot of use of other people's data, that the recipient of funds is not the actual user or has consciously lent it to people closest to them such as their own family, friends, work relatives and others or even misused by people who are not responsible (on purpose). ) is leaked to be used as collateral for electronic loans and borrowings. This is the result of the fact that it is too easy to borrow and borrow electronically, with the capital of the person's ID card taking a selfie and accompanied by an OJK SLIK which is still untouched (disabled) by banks, both private and state, and face verification using a weak application system with the inclusion of a different telephone number is not a problem. . Therefore, this will cause problems in the future when there is a failure to pay (default) which is caused by (knowingly lending data to someone else or being misused), and the data owner does not want to be involved regarding what has happened to the customer's data. therefore it will cause unilateral losses (data owner). flaws throughout banking and it will be difficult to get access to credit from private and state banks and other financial institutions. Apart from that, the form of lawsuit that can be filed in connection with the KTP being misused or the data being used by someone else intentionally or unintentionally which causes loss to the data owner, the data owner has the right to file a lawsuit as stipulated in article 1365 of the Civil Code (Civil Code). ) which reads:

Every act that results in a violation of the law, which results in losses due to the violation due to its fault, must be compensated for the losses caused.<sup>26</sup> For this reason, anyone who has been harmed by someone close to them by knowingly borrowing their data to use as collateral for an electronic loan can complain to the authorities if in the future there is no good ethics in making payments or (defaults) with the agreement agreed.

Business competition in the world of technology is growing and is also in demand, especially millennial generation Z. However, there are several things that need to be paid attention to regarding the rise of business in the world of technology, such as electronic lending and borrowing, both legal and illegal. Therefore, it is necessary to know what is legal and what is illegal in electronic lending and borrowing. According to the author, legal electronic lending is lending and borrowing that has been supervised by the Financial Services Authority (OJK) or is a legal entity, whereas in the case of illegal electronic lending and borrowing, it is electronic lending and borrowing services that are provided by certain individuals or entities online. /electronic, however this service is not registered with the Financial Services Authority and is a legal entity. For this reason, it is not uncommon to hear a lot of news or complaints among people who are tempted by electronic borrowing and borrowing, not a few of them are in debt and then despair and even think about ending their lives due to a lack of knowledge about electronic lending and borrowing between Legal and Illegal. There are various ways to advertise electronic lending and borrowing using frequently used social media such as Facebook, Instagram, WhatsApp and others. However, due to a lack of understanding as explained above and on the other hand, we already know, but because of economic needs we are forced to borrow and borrow electronically, both legally and illegally. For this reason, in the case of electronic lending which has been supervised by the Financial Services Authority, the application as explained above has been verified by the organizing system

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<sup>25</sup> Pemerintah Indonesia, "Undang-Undang NOMOR 11 TAHUN 2008 Tentang Informasi Dan Transaksi Elektronik."

<sup>26</sup> Bhuana Ilmu Populer, *Himpunan Peraturan Perundang-Undangan KUHper (Kitap Undang-Undang Hukum Perdata)*.

either through the website or application for certain electronic lending and borrowing. When the party's data is approved, of course with the application submitted, in this case the limit is still very minimal. The choice of tenor for the proposed loan repayment is of course with different interest rates at the time of application, whether it is three months, six months or even a year for the tenor and a discount on administration fees depending on the size of the loan, for collection usually two days before the due date there is a notification or warning applied to immediately make payments so that it does not exceed the date specified in the application. When applying for illegal electronic loans, the requirements are the same, namely verifying your personal data according to the legal ones as explained above. However, there is one thing you need to know about electronic lending and borrowing, namely that in illegal loans the interest is irregular and the tenor is not stated, the method of collection is also impolite, such as using harsh words, spreading all contacts to photos. This means how the customer pays by putting pressure on them personally until they are traumatized.

The obstacles in implementing technology-based lending and borrowing are seen from the perspective of when submitting a transaction:

- a. obstacles in the form of incorrect and misleading data provided.
- b. the data provided at the time of application already contains defects with an unfit status and does not meet the specified requirements.

Viewed from the perspective of successful funding application and passing verification:

- a. Obstacles that are often encountered include recipients of funds having bad intentions by not fulfilling their obligations to pay bills.
- b. did not respond when contacted
- c. the registered telephone number is no longer active.
- d. The recipient of the funds always avoids being met.
- e. recipients of funds often change addresses without confirming it.

Therefore, it is appealed to all people to be more vigilant in using electronic lending and borrowing. To address the what ifs This happens to relatives, even their own family who also become victims even though they never registered on the electronic lending application. In fact, there are two possibilities for data leaks or the data being deliberately leaked by people close to them who don't even realize they are being cheated, namely by telephone and advertising on social media. Therefore, the public is advised to immediately report transactions to certain organizers to cancel transactions and block data in certain applications. So, the public is also required to immediately make a police report regarding fraud where it is not actually the application owner who carries out the transaction but is being misused by someone else.

#### **4. Conclusion**

The development of today's digital era has had an overall impact, especially in fintech technology in Indonesia, starting from payments, M-banking. not only focusing on payment and financing system businesses but also other business models such as digital capital insurance or investment. This certainly brings about comprehensive social change for Indonesian society. Changes and the existence of fintech technology in Indonesia can certainly have negative and positive effects on its users. Likewise with the implementation of electronic lending and borrowing which utilizes technological networks and is not always considered safe and a solution, despite the sophistication of the electronic lending and borrowing system, many errors are caused by oneself or by other people. For this reason, when carrying out electronic lending and borrowing, you must be careful and alert.

To anticipate things that are detrimental to certain parties caused by other people (criminals who take advantage of someone's personal data) or yourself, you need understanding and knowledge regarding the implementation of electronic lending and borrowing. So, with additional regulations from government agencies and organizers that must be more stringent. The rules for carrying out this transaction apply to the implementation of electronic lending and borrowing to avoid losses to certain parties.

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