

# Legal Protection for Online Loan Borrowers

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**Abstract:** Online loan application services have generated numerous complaints regarding the unauthorized and non-consensual dissemination of personal data by online loan providers without notice and without the owner's permission. Consequently, it is important to study the legal protection of borrowers' personal data in online loan applications, as well as the sanctions for personal data breaches. This article aims to examine the legal protection of borrowers' personal data in online loan applications using a normative legal method through legislative and factual approaches. The study results indicate that legal protection and sanctions for personal data breaches have been regulated in Law No. 11 of 2008 and its amendments concerning Electronic Information and Transactions. However, specific provisions regarding legal protection and sanctions for personal data breaches in online loan services are stipulated in Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Peer-to-Peer Lending Services, as emphasized in Article 26 which states that the provider is responsible for maintaining the confidentiality, integrity, and availability of users' personal data and should utilize it with the consent of the personal data owner, unless otherwise specified by legislation. Sanctions for personal data breaches are regulated in Article 47 paragraph (1), which include written warnings, monetary obligations, fines, business activity restrictions, and permit revocation.

**Keywords:** Legal Protection, Personal Data, Online Loan Borrowers.

**Abstrak:** Layanan aplikasi pinjaman online banyak yang mengeluhkan permasalahan terkait penyebaran data pribadi yang dilakukan oleh penyedia pinjaman online tanpa pemberitahuan dan tanpa seizin pemilik. Terkait dengan hal tersebut, penting untuk mempelajari perlindungan hukum data pribadi pinjaman dalam pengajuan pinjaman online, dan sanksi atas pelanggaran data pribadi. Tujuan dari penulisan ini adalah untuk mengkaji perlindungan hukum terhadap data pribadi peminjam dalam pengajuan pinjaman online. Metode yang digunakan dalam penulisan ini adalah metode hukum normatif dengan pendekatan perundang-undangan dan faktual. Hasil kajian menunjukkan bahwa perlindungan hukum dan sanksi atas pelanggaran data pribadi telah diatur dalam UU No. 11 Tahun 2008 dan perubahannya tentang Informasi dan Transaksi Elektronik, namun khusus mengenai perlindungan hukum dan sanksi atas pelanggaran data pribadi dalam layanan pinjaman online, telah tertuang dalam Peraturan Otoritas Jasa Keuangan No. 77/POJK. 01/2016 tentang Teknologi Informasi-Berbasis Layanan Pinjam Meminjam yang ditegaskan dalam pasal 26 bahwa penyelenggara bertanggung jawab untuk menjaga kerahasiaan, keutuhan dan ketersediaan data pribadi pengguna dan dalam memanfaatkannya harus mendapat persetujuan dari pemilik data pribadi kecuali ditentukan lain oleh ketentuan legislasi. Sanksi pelanggaran data pribadi mengacu pada pasal 47 ayat (1) yaitu sanksi administratif berupa teguran tertulis, kewajiban membayar sejumlah uang, denda, pembatasan kegiatan usaha, dan pencabutan izin.

**Kata Kunci:** Perlindungan Hukum, Data Pribadi, Peminjam, Pinjaman Online.

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## Introduction

Due to technological advancements society has now been in the ease of communication. Many people have made the most use of such a technological progress for business purposes, one of which is financial services such as various non-bank applications available on the internet which provide society with loan services.

The online loan application employs a "peer-to-peer lending" system whereby lenders and borrowers are connected through an internet network. The implementation of the "peer-to-peer lending" system in Indonesia holds the potential for significant positive outcomes, as it facilitates the participation of individuals residing in remote areas in the borrowing and lending process. Within this online loan framework, accessing credit is conveniently feasible without requiring collateral, distinguishing it from conventional banking practices that legally preclude unsecured personal loans (KTA). Nevertheless, it is important to note that although banks may extend loans without specific collateral, this does not imply that loans are entirely devoid of any form of collateralization.

A violation of personal data has occurred in the case of Rupiah Plus, known for providing online loans through an application. Several Rupiah Plus customers have filed complaints regarding the unauthorized dissemination or publication of their personal data by RupiahPlus, without confirmation or consent from the owners of said personal data. The dissemination of personal data was carried out by sending messages to all the telephone contacts of the borrowers, containing information about the loan amount, the borrower's personal data, and instructing the recipients to make debt payments to the borrower.

Researcher is in favor of online loan customers protection as they must provide personal data which puts them in pressure to repay their debts promptly. Online loan debt collectors spread threats ranging from putting the case to court, imprisonment, to being fired from their jobs. Furthermore, based on some netizens' confession, loan providers can access data on customers' mobile phones that many suggest to not take out online loans as loan applications may not be accepted, but customer data has already been easily obtained. In addition, online loans are also considered highly detrimental to consumers. For instance, applying for a loan of only Rp 1 million to Rp 2 million, but online lenders can obtain all customer data. Thus, the legal protections for these customers based on applicable regulations are desperately required.

## Research Method

This study utilizes the normative legal research methodology, which involves the identification of legal rules, principles, and doctrines through a qualitative literature review to address prevailing legal issues. According to Peter Mahmud Marzuki, normative legal research is a systematic approach that aims to discover and analyze legal norms within the existing legal framework. It entails examining relevant legal sources, such as statutes, case law, and legal commentaries, to develop an understanding of the legal principles and doctrines applicable to the research topic.

In the context of this study, the literature review, as defined by Hasibuan, encompasses an extensive examination and synthesis of scholarly works, empirical findings, and research materials derived from authoritative references. It serves as the fundamental basis for conducting the research, providing a comprehensive overview of existing knowledge, theories, and insights relevant to the research problem. The primary objective of the literature review in this research is to establish a coherent conceptual framework that facilitates the systematic analysis and resolution of the identified research problem.

By undertaking a literature review-based research approach, the researcher endeavors to acquire a solid theoretical foundation for problem-solving. The integration of theoretical perspectives into the research design allows for a more accurate comprehension of the

problem at hand and aligns the study with established scientific frameworks. This process ensures that the subsequent investigation is guided by rigorous scholarly inquiry and enhances the overall validity and reliability of the research outcomes.<sup>1</sup>

Whereas, this study utilizes the statutory approach (The Statute Approach) and the factual approach (The Fact Approach). The statutory approach involves examining all relevant legislation and regulations pertaining to the issues raised in this paper. On the other hand, the factual approach involves seeking out facts that are related to the issues addressed in this paper.

## Result and Discussion

### An Overview of Legal Protection

The term "protection" is commonly used in this context. It apparently encompasses several meanings: (1) the action of protecting or being protected; (2) the protection of a system; (3) an individual or entity that serves as a shield. Whereas, Kamus Besar Bahasa Indonesia (Indonesian Dictionary) refers "protection" to: (1) a physical or metaphorical place of shelter; (2) an act or entity that offers protection.<sup>2</sup> From both definition, "protection" signifies the act of shielding, particularly in the context of extending protection to those who are considered vulnerable. Legal protection, therefore, involves establishing measures to protect the rights of individuals who are deemed to be in a position of weakness or vulnerability.

Harjono explained about legal protection, which is known in Dutch as "rechtsbescherming." Harjono emphasized that legal protection utilizes legal means or legal safeguards for specific interests, namely the primary interests that need to be protected and granted legal rights.<sup>3</sup>

Legal protection is closely related to a person's right to receive legal protection and the right to security. This is enshrined in Article 28 letter G of the 1945 Constitution of the Republic of Indonesia stated as follows:<sup>1</sup>

- 1) Everyone has the right to protection of their personal, family, honor, community, dignity, and property under their control, as well as the right to security and protection from threats or fears in exercising or not exercising their fundamental rights.
- 2) Everyone has the right to be free from torture or inhuman treatment and has the right to seek asylum in another country.

Article 28 letter G of the 1945 Constitution of the Republic of Indonesia signifies that every citizen is entitled to protection from the state, both for themselves, their honor, dignity, and property under their control. Every individual has the right to security and protection from threats that may lead to actions contradicting human rights.

Citizens also have the right to avoid and be free from torture and actions that protect the dignity and honor of human beings and protect their citizens. Therefore, the state establishes legal institutions to prevent undesirable occurrences such as violence and crime in society. Every citizen also has the right to political representation from other countries.

The protection of the guarantee of security is also regulated in Article 35 of Law Number 39 of 1999 concerning Human Rights, which states: "Every person has the right to

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<sup>1</sup> Hasibuan Zainal A, *Metodologi Penelitian Pada Bidang Ilmu Komputer Dan Teknologi Informasi: Konsep, Teknik, dan Aplikasi*. (Jakarta: Faculty of Computer Science University of Indonesia, 2007), 27

<sup>2</sup> Kamus Besar Bahasa Indonesia, <https://kbbi.web.id/>. Accessed on October 13, 2022

<sup>3</sup> Harjono, *Perlindungan Hukum Terhadap Konsumen Yang Menderita Kerugian Dalam Transaksi Properti Menurut Undang-Undang Perlindungan Konsumen*, Surakarta: Yustisia, 2006), 68

live in a peaceful, safe, and secure society and state, which respects, protects, and fully implements human rights and basic human obligations as stipulated in this law."<sup>4</sup>

Hence, legal protection is an action or effort to protect society against the dignity and honor it possesses, which is possessed by every legal subject, from arbitrary actions by authorities that do not conform to legal rules. Legal protection can be used in an effort to protect the public interest from arbitrary actions, which is a legal goal that can be realized in the form of legal certainty.

### 1. Forms of Legal Protection

According to Muchsin, legal protection is a matter of protecting legal subjects through applicable legislation that is enforced (mandatory) with a sanction. Legal protection is divided into two categories:

- a. Preventive Legal Protection is the protection provided by the government to prevent violations before they occur. This is found in legislation to prevent a violation and establish limitations in fulfilling a requirement.
- b. Repressive Legal Protection is the ultimate form of legal protection, which involves sanctions such as imprisonment, fines, and additional penalties imposed when a violation occurs.<sup>1</sup>

### 2. Principles of Legal Protection

Pancasila, as the ideology and philosophy of the state, serves as the foundation for formulating the principles of legal protection in Indonesia. Meanwhile, the concept of legal protection in Western societies is based on the concepts of "Rechtstaat" and "Rule of Law." The principle of legal protection towards government actions originates from and relies on the concept of recognition and protection of human rights in Western history. The concepts's emerge mainly focuses on the limitations and obligations of both society and the government in acknowledging and protecting human rights.

The next principle underlying the existence of legal protection against government actions is the principle of the rule of law. This is closely related to the recognition and protection of human rights, as the recognition and protection of human rights are fundamental and can be associated with the purpose of a state governed by the rule of law. According to Philipus M. Hadjon, the principles of legal protection for the people based on Pancasila are divided into two, as follows:<sup>5</sup>

- a. The Principle of Recognition and Protection of Human Rights, the principle of legal protection for the people against government actions is based on the concept of recognition and protection of human rights, referring to the limitations and obligations on society and the government. Similarly, efforts to formulate principles of legal protection for the people based on Pancasila begin with understanding the concept and declaration of human rights.
- b. The principle of the rule of law is the second principle that underlies the legal protection for the people against government actions, and it becomes the foundation of the rule of law. The principle of recognition and protection of human rights receives primary attention and becomes the goal of a rule of law state.

Thus, the above description emphasizes that legal protection is an effort to safeguard society for the sake of the dignity and honor possessed by every legal subject from arbitrary actions by authorities and certain interests that do not comply with the rule of law.

Preventive forms of legal protection include handling, prevention, and resolution of disputes. The principle of this legal protection is for the sake of safeguarding human rights by emphasizing prohibitions and obligations on society and the government.

<sup>4</sup> Article 35 of Law No. 39 of 1999 concerning Human Rights.

<sup>5</sup> Phillipus M. Hadjon, *Perlindungan Huku Bagi Rakyat Indonesia*, (Surabaya : Bina Ilmu, 1987), 19

## **An Overview of Online Loans**

### **1. The Definition of Online Loans**

Financial technology or fintech is a digital technology application where debtor and creditor meet in an online media, and thus it is also called as financial intermediation. Fintech also refers to information technology-based industry to create more efficient financial system and services.

Moreover, many experts have provided more detailed definitions of fintech. Dorfleitner, Hornuf, Schmitt & Weber state that fintech is a highly accessible and dynamic industry with various different business models. This view is reinforced by Hsueh, who defines fintech as a new financial service model developed through information technology innovation. Furthermore, the Financial Stability Board (FSB) also provides a more detailed definition of fintech, which encompasses technological innovation in financial services with business models, applications, processes, products, and material effects related to the provision of financial services. Moreover, there are also experts from Indonesia who provide definitions of fintech, such as Pribadiono, who emphasizes that fintech is a combination of financial innovation and modern technology.<sup>1</sup>

The definition of fintech can also be found in Regulation No. 77/POJK.01/2016 issued by the Financial Services Authority. This regulation specifically pertains to Information Technology-Based Money Lending Services. According to this regulation, fintech refers to the provision of financial services that enable the interaction between lenders and borrowers, with the purpose of facilitating loan agreements denominated in Indonesian Rupiah currency. This facilitation occurs directly through an electronic system utilizing the internet network.

Moreover, Bank Indonesia Regulation No. 19/12/PBI/2017 concerning the Implementation of Financial Technology (Fintech) provides further concept of fintech. According to this regulation, fintech is the utilization of technology in the financial system that generates new products, services, technologies, or business models within the financial system. It can have an impact on the stability of the financial system, monetary stability, security, efficiency, smoothness, and reliability of payment systems.

Online loans are a simple loan obtained through a mobile application without face-to-face interaction. This method provides convenience and efficiency in the credit application process, which eventually has rapid development in Indonesia. The convenience and efficiency become the main attractions. Credit applications, which used to be implemented offline and were known to be inefficient and complicated, can now be implemented quickly and easily and no need of face-to-face interaction. Prospective borrowers simply need to download the loan application on their mobile phones through the Google Play Store or via an APK.

In a broader sense, online loans refer to any type of loan that is obtained indirectly from traditional banks. Online loans are loans obtained indirectly from traditional banks. Historically, this term has been used to include credit unions, government loans, and other structurally similar credits to bank loans but originating or coming through different sources. Currently, traditional loans are part of the traditional loan market. They share the same requirements, use the same criteria for approval, and fall under the same regulatory category, or alternatively, they become alternative lenders.

Thus, based on the definitions above, fintech is a service that primarily provides financial products using and leveraging the current advancing information technology.

### **2. Types of Financial Technology**

Hsueh suggested three types of financial technology such as:

- a. Third-party payment system, for example: online to offline (O2O), cross-border EC, mobile payment system, and payment platforms that provide services such as bank payments and transfers.
  - b. Peer-to-Peer (P2P) Lending Fintech is a platform model that connects lenders and borrowers through information technology or the internet. It typically provides credit mechanisms and risk management. Peer-to-Peer loans help lenders as investors and borrowers fulfill their respective needs and achieve efficient use of funds.
  - c. Hsueh defines crowdfunding fintech as a type of financial technology where a concept or design, content, program, or creative work get public dissemination, and interested individuals will likely support the concept through financial backing provision. This model is typically used to alleviate the financial needs of entrepreneurs and predict market demand.
3. **Online Lending Party**
- a. P2P lending (peer-to-peer lending) and online lending (pinjol) are platforms that provide financing (credit) to their customers. Both of them act as marketplaces that connect lenders (investors) and borrowers (lenders). Therefore, there are three parties involved in P2P lending and lending, including:
    - b. Investors (lenders/creditors),
    - c. P2P lending operators, and
    - d. Borrowers/debtors/lenders. Their relationship can, though, be understood differently from a contractual perspective. In detail, the relationship is related to the following aspects:
      - The relationship between borrowers/lenders and P2P lending and lenders.
      - The relationship between operators and investors.
      - The relationship between borrowers and investors.

However, the funds provided by P2P lending platforms or lenders are not their own funds, but the investors' which are managed together on the platform. Thus, the platform acts as a facilitator of the meeting and provider of information (an intermediary role), both to borrowers and investors.

#### **An Overview of Customer**

A customer is an individual or company that benefits from products or services offered by a banking institution, including purchasing, leasing, and services. According to Article 1 paragraph (17) of Law No. 10 of 1998, a customer is defined as "a party that uses banking services". Customers play a crucial role in the banking industry, as the funds they deposit in banks are the primary source for the bank's operations. The definition of a customer according to various experts is as follows:

- According to Kasmir, "A customer is a specific party consumer who buy or use products sold or offered by a bank."
- According to Saladin, a customer is "a specifi party who provides funds."
- According to Tjiptono, the definition of a customer is "anyone who buys and uses a company's products or services."
- According to Komaruddin, a customer is "an individual or company that holds a current account, deposit, or similar savings account in a bank."

Thus, a customer is an individual or corporate entity that holds a savings and loan account and conducts transactions related to such accounts in a bank.

## **Legal Protection of Borrowers' Personal Data in Online Loan Application Services**

The current development of information technology has enabled the storage, collection, retention, and analysis of data. The concept of personal data protection explains that anyone has the right to determine whether they will join a community and share personal data or not. Data protection laws encompass measures to safeguard the security of personal data and provisions related to the use of personal data.

Furthermore, Law No. 39 of 1999 concerning Human Rights states in Article 29 paragraph (1) that "Every person has the right to personal protection...." Therefore, the protection of personal data is a right (privacy right) possessed by every individual that must be protected by the state, where in the privacy right, every individual has the right to conceal or safeguard something of a personal nature. The protection of personal data is regulated in Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions, which is stated in Article 26 paragraphs (1) and (2), which state that:

Unless stated otherwise or as regulated by the legislation, the use of electronic media information regarding personal data of individuals must be implemented with the consent of the respective person. Any person whose rights are violated as referred to in paragraph (1) may file a lawsuit for damages arising under this law.<sup>6</sup>

The provisions that have been established grant the right to the owner of personal data to maintain the confidentiality of their personal data. If such personal data is disseminated and misused by others, the owner of the personal data may file a lawsuit in court. The lawsuit referred to here is a civil lawsuit filed based on the legislation. The provisions of this article provide protection for personal data in general, which means that in any activity related to electronic transactions that involve personal data, it is mandatory to safeguard and protect that personal data. With such regulations, every individual has the right to store, maintain, and preserve the confidentiality of their data so that the data they possess remains private. Any personal data that has been provided must be used in accordance with the consent of the owner and must be kept confidential.

Regarding the protection of personal data in online loan services, the Financial Services Authority has issued Regulation No. 77/POJK.01/2016 concerning Technology-Based Peer-to-Peer Lending Services. This regulation governs the protection of borrowers' personal data in the context of using technology-based peer-to-peer lending services. Article 26, letter a of this regulation states that operators are obliged to "maintain the confidentiality, integrity, and availability of personal data, transaction data, and financial data from the moment the data is obtained until its destruction." Thus, lenders have an obligation to keep borrowers' personal data confidential, from the loan agreement process until the agreement is completed. This obligation must be fulfilled to ensure the protection of borrowers' personal data.

Furthermore, Article 26, letter c of this regulation states that the operator is obliged to "ensure that the acquisition, use, utilization, and disclosure of personal data obtained by the

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<sup>6</sup> Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (Official Gazette of the Republic of Indonesia Year 2016 Number 251, Additional Official Gazette of the Republic of Indonesia Number 5952).

operator are based on the consent of the owner of the personal data, transaction data, and financial data," unless otherwise stipulated by other provisions of the legislation.

Hence, without the consent of personal data's owner (borrower), the lender cannot use the personal data except with the owner's consent or as otherwise provided by the legislation. Online lenders are also prohibited from providing or disseminating data or information about users to third parties without the user's consent as required by the law. Based on the provisions set forth in this legislation, it ensures legal certainty regarding the protection of personal data. This protection includes granting rights to borrowers to safeguard their personal data in the implementation of online loans.

If the rights are violated, the borrower can resolve the issue through legal recourse, namely non-judicial remedies (outside of the court system) and judicial remedies (court proceedings). Non-judicial remedies can be pursued by filing a complaint with the supervisory authority in the field of financial services, which is the Financial Services Authority (OJK). The OJK will then issue warnings or reprimands to the operator. On the other hand, judicial remedies are punitive in nature, meaning they involve the enforcement of law. These legal remedies are pursued after a violation has occurred with the intention of restoring or remedying the situation.

Legal action can be taken by filing a lawsuit in court. Filing a lawsuit in court not only demands accountability from the online lending provider that has disseminated the borrower's personal data, but also from third parties or parties of no legal relationship with the owner of the personal data that have misused such personal data. With the provision of these rights, legal certainty in the form of legal protection for the customer's personal data will likely emerge when using online lending applications, and they have the right to take legal action if their personal data is disseminated without consent.

The misuse of personal data which is not in accordance with the agreement, as stated in Article 26 paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. Therefore, any person whose rights are violated as referred to in Article 26 paragraph (1) of Law 19/2016 may file a lawsuit for the resulting damages. Thus, if someone feels harmed because their personal identity has been misused, a civil lawsuit can be filed. The lawsuit in this case is a lawsuit against the law. Regarding the disruptions experienced by online loan customers, they can file complaints to the OJK based on Article 29 of Law Number 21 of 2011 concerning the Financial Services Authority.<sup>7</sup>

The protection of personal data is necessary due to its close relationship with the rapid development of technology in the internet world, where personal data can be accessed by others without the knowledge of the individuals involved. Nowadays, the government together with the parliament (DPR) has initiated the Draft Law on Personal Data Protection (RUU PDP). Whereas, previous regulations mostly focused on the mechanisms and administrative sanctions for protecting personal data, the RUU PDP also includes criminal sanctions for those who misuse personal data.<sup>8</sup>

<sup>7</sup> V. Tika "Penipuan Marak, UU Perlindungan Data Pribadi Mendesak in <https://nasional.sindonews.com/berita> accessed on November 25, 2022.

<sup>8</sup> Faiz Rahman & Annisa Rahma, 2020. "Bagaimana Mewujudkan UU Perlindungan Data Pribadi Yang Kuat Di Indonesia" in <https://theconversation.com/id> accessed on November 25, 2022.



### Respondents' Identity

The following table is a table of respondent identities obtained during the research (39 respondents).

**Table of Respondents' Identity**

No.	Questions	Answers	Total
1.	Have you ever dealt with online loans?	Yes	15
		No	24
2.	How often do you make online loan?	Never	24
		1	7
		2	4
		3	0
		More than 3	4
3.	Residence	Gowa	3
		Makassar	8
		Others	28
4.	Age	Under 20 years of age	19
		21-25 years old	16
		26-30 years old	2
		31-40 years old	1
		Over 40 years old	1
5.	The total amount of loans that have been or will be taken.	Under 1 million IDR	5
		1-3 million IDR	4
		3-5 million IDR	3
		Over 5 million IDR	3
		Others	24
6.	The use of online loan funds (if borrowing).	Businesscapital	13
		Education	5
		Health	1
		Daily needs	2
		Wedding expenses	2
		Delivery expenses	0
		Vacation	2

		Lainnya	14
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Source: Questionnaire result <https://tinyurl.com/4hry3cfr>

### Questionnaire Result Test

The following table shows the respondents' answers in the questionnaire.

No.	Statements	Response	Total
1.	Easy online loan process	Totally disagree	1
		Disagree	8
		Neutral	12
		Agree	15
		Totally Agree	3
2.	Online loans is very helpful	Totally disagree	3
		Disagree	5
		Neutral	11
		Agree	19
		Totally Agree	1
3.	Reasonable amount of interest charged by online loans	Totally Disagree	9
		Disagree	11
		Neutral	8
		Agree	1
		Totally Agree	1
4.	I believe that my personal data is secure on the online loan application	Totally Disagree	8
		Disagree	14
		Neutral	6
		Agree	9
		Totally Agree	2
5.	The use of the loan funds is in accordance with my intended purpose	Totally Disagree	5
		Disagree	5
		Neutral	8
		Agree	19
		Totally Agree	2

Source: Questionnaire result <https://tinyurl.com/4hry3cfr>

Based on the research result, the following statements pop up:

1. Based on the data analysis, 38.5% of the respondents agree with the statement that the loan process is very easy to accomplish.
2. That 48.7% of the respondents agree with the statement that the presence of online loans is very helpful.
3. That 28.2% of the respondents disagree that the amount of interest charged is reasonable.
4. That 35.9% of the respondents disagree that the data stored in the application is secure.
5. That 48.7% of the respondents agree that the loan funds will be used according to the borrowing purpose.

Thus, the survey eventually has come to a conclusion as follows:

1. Many people are reconsidering the use of online loan applications when they need funds.
2. The online borrowing process is very easy to do, which leads to many people getting trapped in online loans.
3. The presence of online loan applications is very helpful in times of emergency funding needs.
4. The interest rates imposed on borrowers are unreasonable or high.
5. Respondents do not trust the security of personal data stored in online loan applications.
6. If someone takes out a loan, the funds will be used for the intended purpose stated during the application.

### **Sanctions for Personal Data Violations**

Violations of personal data can have legal consequences for the violators. Legal consequences are the effects that arise from legal actions taken by legal subjects. Thus, the legal consequences of personal data violations by online loan providers involve the imposition of sanctions. Under civil law provisions, the most important type of obligation is one that arises from an agreement.<sup>9</sup> Borrowing money is one of the obligations that arise from an agreement. According to Ch. Gatot Wardoyo, a credit agreement or loan agreement serves as the main agreement, evidence of the rights and obligations of the parties involved, and as a means of supervision.<sup>9</sup>

Creating an agreement must fulfill the requirements for its validity, as regulated in Article 1320 of the Civil Code. The rights and obligations of the parties are stipulated in the agreement clause. With the presence of rights and obligations for each party, in this case, the lender must fulfill the specified obligations to provide legal protection for the borrower. However, in certain circumstances, the lender may fail to fulfill their obligations, which can cause harm to the borrower. From a formal legal perspective, any person who feels disadvantaged can file a claim for compensation, and the person who caused the harm due to their fault is obligated to compensate for the damage, as stipulated in Article 1365 of the Civil Code.

Legal protection needs to be provided to borrowers against unilateral actions taken by business entities (in this case, the lenders)<sup>10</sup> and borrowers have the right to seek legal resolution.<sup>1</sup> In order to achieve legal protection, sanctions are necessary in their implementation. The imposition of sanctions is motivated by the societal need to address

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<sup>9</sup> Hermansyah, 2011, *Hukum Perbankan Nasional Indonesia*, Cet. VI, Kencana, Jakarta p. 72.

<sup>10</sup> Suharnoko, 2012, *Hukum Perjanjian: Teori dan Analisis Kasus*, Cet. VII Frenada Median Group, Jakarta, p. 64.

crimes or violations that occur within its community. Sanctions help establish order and security within society.

If related to the dissemination of personal data by online loan providers, defamation can be categorized as regulated in Article 27 paragraph (3) of Law No. 11 of 2008 concerning Electronic Information and Transactions, which states that "Any person who intentionally and without authority distributes and/or transmits and/or makes electronically accessible Electronic Information and/or Electronic Documents containing defamation and/or defamation of character," the imposed sanctions are regulated in the criminal provisions of the ITE Law, specifically Article 45, which states that "Anyone who fulfills the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of up to IDR 1,000,000,000.00 (one billion Indonesian Rupiah)." In addition to criminal sanctions, specific to personal data violations in the online loan sector, administrative sanctions can also be imposed, as regulated in Article 47 of POJK No.77/POJK.01/2016, which states that: For violations of obligations and prohibitions under this POJK, the Financial Services Authority (OJK) has the authority to impose administrative sanctions on the Providers, in the form of:

- a. Written warning;
- b. Fine with the obligation of paying a certain amount of money;
- c. Restriction on business activities; and
- d. Revocation of license.

Furthermore, Article 47 paragraph (2) and (3) of POJK state that administrative sanctions in the form of fines, restrictions on business activities, and revocation of licenses can be imposed with or without prior imposition of administrative sanctions in the form of written warnings. Therefore, administrative sanctions in the form of fines can be automatically imposed separately or together with the imposition of administrative sanctions in the form of restrictions on business activities and revocation of licenses.

A written warning is a written reprimand issued by the Financial Services Authority (OJK) to online loan providers to prevent them from repeating the violations they have committed and causing harm to others. The fine sanction is an obligation imposed by the OJK on online loan providers to pay a certain amount of money, aiming to deter them from further violations and causing harm to others. Restriction on business activities involves limiting the capacity of online loan providers to accept borrowers within a certain period. This is done to prevent potential borrowers from being harmed due to personal data violations committed by the providers. Revocation of business license is the most severe sanction imposed on online loan providers. This sanction prohibits the providers from conducting their business activities legally. These administrative sanctions are imposed by the OJK as the supervisory authority in the financial services sector, including online loans. Sanctions are applied to online loan providers after the OJK receives reports from affected parties, followed by an investigation. If the providers are found to have violated regulations and caused harm to multiple parties, sanctions will be imposed.

## Conclusion

Legal protection for personal data is regulated in Article 26 of the ITE Law. Specifically, the protection of personal data of borrowers in online loan services is governed by POJK No. 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services. Article 26 emphasizes that the provider is obliged and responsible for maintaining the confidentiality, integrity, and availability of users' personal data, and its

utilization requires the consent of the data owner unless otherwise stipulated by the legislation. Sanctions for violations of personal data, including defamation, are regulated in Article 45 of the ITE Law in the form of criminal penalties. In addition to criminal sanctions, administrative sanctions are also stipulated in Article 47 paragraph (1) of POJK No. 77/POJK.01/2016, which include written warnings, fines, restrictions on business activities, and revocation of licenses.

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