

# Transformation of fintech law in Indonesia: Harmonization between digital innovation and legal certainty

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## Abstract

The transformation of Financial Technology (fintech) in Indonesia has spurred rapid development in the financial services ecosystem, introducing various digital innovations that offer convenience and inclusivity. However, this progress also brings legal challenges, particularly in ensuring legal certainty, consumer protection, and the validity of agreements made through fintech platforms. This research aims to analyze how current fintech regulations can accommodate the development of digital innovations while also providing legal certainty. A normative juridical approach is employed to examine existing regulations, including the policies of the Financial Services Authority (OJK), Bank Indonesia, and the principles in the Indonesian Civil Code (KUHPERDATA) related to agreements. The research findings indicate that while the transformation of fintech law in Indonesia has evolved to support innovation, challenges remain in ensuring the validity of digital agreements. These challenges include issues of mutual consent, the legality of the object of the agreement, and compliance with formal requirements such as legally recognized electronic signatures. Additionally, agreements made on fintech platforms often involve consumers who do not fully understand the legal implications of their consent, potentially leading to disputes. To achieve harmonization, it is necessary to strengthen regulations that ensure digital agreements meet the validity requirements as stipulated in Article 1320 of the Civil Code and the concept of contracts in Islamic law, as well as to enhance legal education for fintech users.

## Keywords

Fintech, Legal transformation, Validity of agreements, Digital innovation, Fintech regulation

## Introduction

In the context of fintech legal transformation in Indonesia, it is important to understand how digital innovation and legal certainty can go hand in hand. Fintech has rapidly

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developed in recent years, offering more efficient and inclusive financial solutions. Based on data from the Financial Services Authority (OJK) as of September 2024, there are 91 conventional fintech providers with total assets of 7,954 billion, and 7 sharia fintech providers with total assets of 177 billion [1]. However, this rapid growth has raised new issues regarding regulation and consumer protection. Therefore, this research aims to examine how digital innovation and legal certainty correlate in the Indonesian fintech industry.

After OJK and Bank Indonesia implemented regulations in 2016, the growth of fintech in Indonesia began. This regulation aims to create a safe and transparent fintech ecosystem for consumers and industry players. However, with the emergence of fintech providers, existing regulations must be updated to adapt to market changes [2]. The issuance of the Job Creation Law in 2020 was an important step in fintech regulation. This law provides legal certainty for fintech entrepreneurs and enables innovation. With this law, licensing becomes easier, making it easier for fintech startups to operate [3]. However, there are still concerns regarding consumer protection and personal data security in the digital ecosystem.

Fintech regulations heavily rely on consumer protection. Consumer rights, cost transparency, and dispute resolution are regulated by OJK regulations. Despite that, there are still many issues that need to be resolved, especially those related to unregistered online lending practices and the misuse of personal data [3]. Fintech legislation is very important to be created to enable the resolution of fintech transaction violation disputes in Indonesia, especially disputes related to fintech [4]. Therefore, cooperation between regulators and fintech providers is necessary to ensure that consumer rights are well protected.

The research conducted by [2,5] stating that to create an environment that supports innovation while maintaining legal certainty, the government, regulators, industry players, and society must work together. With this collaboration, it is hoped that there will be synergy. Research conducted by [3,6] stated that it is very important to create specific fintech laws to provide better legal protection for all parties involved. This law must be able to accommodate various aspects of the fintech industry, including personal data protection, digital transaction security, and consumer rights. With the presence of a clear and comprehensive legal framework, it is hoped that the fintech industry in Indonesia can grow sustainably. Finally, this research is expected to contribute to the understanding of how the harmonization between digital innovation and legal certainty can be achieved in the context of fintech in Indonesia.

This research uses a normative juridical approach, which is a legal study that focuses on the examination of legislation, legal documents, and legal theories related to fintech regulation in Indonesia. This approach aims to analyze how current fintech regulations can accommodate the development of digital innovations while also providing legal certainty.

## Method

This research employs a normative juridical method, which is a legal study focused on examining legislation, legal documents, and legal theories related to fintech regulation in Indonesia. The data sources in this research consist of primary legal materials, including laws and regulations as well as related legal documents. Additionally, it utilizes secondary legal materials such as legal literature, including books and journal articles. The data collection technique is conducted through library research. The collected data is analyzed qualitatively. This research aims to analyze how current fintech regulations can accommodate the development of digital innovations while also providing legal certainty.

## Results and Discussion

### *The evolution of fintech regulations in Indonesia*

The development of digital technology is changing all aspects of life, including the financial world. In Indonesia, fintech has experienced rapid development in recent years, with its innovations providing faster, more efficient, and more inclusive financial solutions. The development of fintech has prompted the Indonesian government to develop regulations in the digital financial sector with the aim of encouraging innovation while protecting consumers in the digital ecosystem [7]. Regulations regarding fintech play a role in ensuring sustainable development of the digital economy, thereby ensuring safety and protection for fintech service users.

The Indonesian government, through the OJK, plays a role as a regulator in overseeing the fintech industry in Indonesia. The OJK institution has issued a series of regulations that govern various aspects of fintech activities, including operational requirements, consumer protection, and the safe use of technology. Among the many regulations regarding fintech, OJK Regulation Number 13/POJK.02/2018 on Digital Financial Innovation in the Financial Services Sector is the most important regulation because it provides a framework for fintech companies to operate legally in Indonesia [8].

With clear regulations and criteria that must be met, fintech companies are encouraged to develop more innovative financial solutions that facilitate financial transactions, peer-to-peer lending services that enable access to finance for those who previously found it difficult to obtain, and blockchain-based financial solutions that optimize transaction security and efficiency.

Bank Indonesia, as the monetary authority and payment system, plays an important role in regulating fintech. Bank Indonesia has issued several regulations to oversee and regulate the implementation of financial technology. One of the important regulations is Bank Indonesia Regulation (PBI) Number 19/12/PBI/2017 concerning the Implementation of Financial Technology. This regulation aims to support the creation of monetary stability, financial system stability, as well as an efficient, smooth, safe, and

reliable payment system, by applying consumer protection principles and risk management and prudence.

In addition, BI also issued the implementation provisions of PBI through the Governor's Board of Directors Regulation (PADG) No. 19/14/PADG/2017 concerning the Limited Testing Space (Regulatory Sandbox) for Financial Technology and PADG No. 19/15/PADG/2017 concerning the Procedures for Registration, Information Submission, and Monitoring of Financial Technology Providers. This regulation allows fintech innovations to be tested in a limited environment before being widely implemented, in order to ensure safety and compliance with applicable regulations [9].

The role of OJK in regulating fintech is to establish the implementation regulations of laws in the financial services sector, OJK regulations, and decisions. The supervisory role of OJK is carried out to ensure that digital financial service companies implement the agreed-upon plans, including systems, processes, and achieved results, and also to prevent deviations from occurring. The OJK institution is authorized to take preventive measures against consumer and community losses, which include providing information and education to the public about the characteristics of the financial services sector, its services, and products, requesting financial service institutions to cease their activities if such activities are potentially harmful to the community, and other actions that need to be adjusted according to the regulations in the financial services sector [10].

### *The challenges of legal harmonization and fintech innovation in Indonesia*

The rapid development of fintech in Indonesia has had a significant impact on the financial industry, but it has also posed challenges in harmonizing innovation with legal regulations. One of the main challenges is the regulatory gap, where existing regulations often fail to keep pace with the rapid development of fintech innovation in Indonesia.

Furthermore, the validity of credit agreements conducted online through fintech platforms raises questions regarding their legal strength, particularly concerning the identities of the parties and agreements made without face-to-face interaction. Issues of security and consumer protection are also a major concern, given that the use of digital platforms for financial services increases the risk related to personal data security and the potential for fraud.

Fintech services use agreements to obtain credit, which are conducted through an online system. In the context of civil law, the validity of an agreement is regulated by Article 1320 of the Civil Code, which stipulates four (4) conditions for a valid agreement: mutual consent of the parties, the capacity to enter into an agreement, a specific subject matter, and a lawful cause. Based on Article 1320 of the Civil Code, the issue of online credit agreements can be justified within the framework of a valid agreement to be made by the party wishing to enter into an agreement.

This is based on the elements of online credit agreements found in fintech, which have objects of agreement that do not contradict what is regulated in the Civil Code and other

legislative regulations. The requirement of an ID card or driver's license as a condition for online credit indirectly confirms that the debtor is legally competent or at least minimizes the legal subjects who are not of legal age as debtors. Furthermore, the agreement and the object of the agreement are not prohibited by law. Thus, in general, the conditions proposed in entering into an online credit agreement are in accordance with the concept of agreements found in the Civil Code.

Furthermore, based on Article 1 paragraph 17 of the ITE Law, it also regulates the validity of an agreement made electronically. This article states that "an electronic contract is an agreement between parties made through an electronic system," which is further reinforced by the provisions of Article 18 paragraph (1) of the ITE Law, which states that "an electronic transaction recorded in an electronic contract binds the parties." Based on these two articles, it can be said that agreements made electronically or online are essentially similar to agreements regulated in the Civil Code [11].

Consumer protection in fintech services is also one of the existing regulatory challenges. The security of consumers' personal data is a primary concern in the fintech ecosystem. The use of digital platforms increases the risk of data misuse such as identity theft and fraud. Legal protection for the security of fintech consumer data in Indonesia still needs to be strengthened, even though there are regulations such as OJK Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending and Borrowing Services, its implementation has not been optimal in protecting consumer data. Efforts to address the misuse of consumer data by fintech companies are carried out by providing a consumer complaint service for those harmed by fintech, including creating a mechanism for consumer complaints [12].

In addressing this challenge, there needs to be an approach towards technological development, enhancing human resources, strengthening oversight, improving personal data protection, and encouraging collaboration between the government, fintech companies, and relevant stakeholders. By addressing these challenges, fintech regulations in Indonesia can create an environment conducive to responsible innovation, thereby protecting consumer interests in the digital ecosystem. The development of fintech regulations in Indonesia has provided a foundation for the sustainable and safe growth and development of the fintech industry, thereby encouraging innovation and protecting consumers.

### *Implication*

The transformation of fintech law in Indonesia has many consequences that affect consumers, industry players, and regulators. To ensure that digital innovation and legal certainty are aligned, steps forward are necessary. Indonesian fintech regulations, such as OJK Regulation No. 77/POJK.01/2016 on P2P financing, provide consumer protection. Data security, dispute resolution, and cost transparency are some of these protections. Nevertheless, there are still difficulties in ensuring adequate protection against the threats of personal data misuse and illegal financial practices [3].

Although fintech innovations make financial services more efficient and accessible, they also pose risks to financial stability if not properly regulated. For example, financial criminals can exploit regulatory gaps to create imbalances in the conventional banking ecosystem [13]. Regulators need a flexible and responsive regulatory approach due to the rapid technological developments, so they must continuously update their policies to align with the latest trends such as cryptocurrencies and decentralized financial platforms [13]. To support an inclusive and sustainable digital economy and strengthen global competitiveness, the harmonization of digital laws in Indonesia also requires the implementation of international standards such as GDPR in terms of personal data protection [14].

The government must create a plan to respond to the more advanced growth of fintech in Indonesia. To provide stronger legal certainty for industry players and protect consumers from potential risks, specific fintech legislation must be created with the active participation of all stakeholders, such as the government, OJK, BI, fintech associations, and civil society.

## Conclusion

The transformation of fintech law in Indonesia is crucial to changing Indonesia's fintech law and keeping pace with the rapid growth of digital innovation in the financial industry. Although current regulations have contributed to providing a legal foundation, there are still issues in protecting consumers, maintaining financial stability, and supporting new technologies such as cryptocurrencies and decentralized financial platforms. Strategies such as creating specific fintech laws, enhancing regulatory cooperation, implementing regulatory technology (RegTech), and increasing public knowledge about digital finance can harmonize digital innovation and legal certainty. In order to keep up with technological advancements without stifling innovation, flexible principle-based regulation is also necessary.

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