THE ROLE OF FINANCIAL SERVICES AUTHORITY IN THE CONSUMER PROTECTION AMID THE GROWTH OF FINTECH INDUSTRY IN INDONESIA

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Abstract

The growth of the financial technology (fintech) industry is a necessity as an effort to make financial services more practical and efficient. On the other hand, consumers of financial services are still low in financial literacy levels, especially in considering various risks that can occur in dealing with the fintech industry. Indonesian Financial Services Authority (OJK) is the body responsible for carrying out the protection of consumers of financial services. This article describes how legal matters in the fintech business, which are actually useful and can encourage financial inclusion, but on the other hand have the potential to harm consumers if they are not properly regulated. Existing related OJK Regulations would be examined and what things should be regulated by the OJK so that consumers of financial services are protected amid the development of fintech, will also be elaborated in this article. This article respectively describes the rationality of consumer protection in the financial services, the dynamics of fintech growth and its problems, and an analysis of the role of OJK in the era of fintech industry.
Keywords: *fintech, consumer protection, financial services, OJK.*

Intisari

Pertumbuhan industri teknologi keuangan (*fintech*) adalah sebuah keniscayaan sebagai konsekuensi kemajuan teknologi sekaligus upaya untuk menjadikan jasa keuangan lebih praktis dan efisien. Sementara tingkat "melek keuangan" konsumen masih rendah, khususnya dalam mempertimbangkan berbagai risiko yang dapat terjadi sehubungan dengan layanan *fintech*. Artikel ini menggambarkan bagaimana persoalan hukum dalam industri *fintech* di satu sisi, yang sesungguhnya bermanfaat dan dapat mendorong peningkatan derajad inklusi keuangan masyarakat, namun di sisi lain berpotensi merugikan konsumen apabila tidak diatur dengan baik. Apa yang seharusnya diatur oleh Otoritas Jasa Keuangan (OJK) sehingga konsumen terlindungi hak-haknya di tengah pertumbuhan industri *fintech*, juga akan dianalisis dalam artikel ini.
Kata Kunci: fintech, perlindungan konsumen, jasa keuangan, OJK.

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A. Research Background

Access to financial services that is stable, secure, and fair is strongly important for consumers around the world. In fact consumers often buy financial services products that are not suitable for their needs. Besides, the contract and the charge fees are also unfair and often detrimental for consumers. This is because the bargaining power of consumers is very weak in front of financial services providers. Consumers are facing more complicated problems because of the use of technology by the financial services industry and it had long been predicted. According to Moore's law, the computing speed will grow exponentially the communication cost will continue to drop quickly. Without any doubt, the advance in IT will continue to play an important role in the development of the financial industry.[1]

The emergence of fintech industry actually aims to make financial services, banking and non-banking industries, more efficient. Access to financial services providers become easier and faster as well. But unfortunately, the arrangements and the supervision of the OJK is still weak and has not been effective. On the other hand, consumers are still at a low level of financial literacy. There has been a growing recognition that limited consumer understanding of financial services, or a lack of financial literacy as it is often called, means that consumers of financial services are vulnerable to exploitation.[2] This is the condition which causes occurrence of cases in the field of financial services.

The development of fintech industry essentially already anticipated by OJK with OJK Regulation No. 77/POJK. 01/2016 concerning on Informational Technology Based Lending Services. OJK, which was established under the Law No. 21 year 2011, has been regulating the liability of the Financial Services Providers (FSP) to provide consumer protection. OJK has also set up a procedure of registration, licensing, lending to the rules about the billing. Then every fintech provider is obliged to register at OJK. However, the status listed at OJK is not a guarantee that they will not violate the rules and/or detrimental to consumers. Moreover, the data show an increasing number of fintech providers are not listed. For registered, OJK should remain punish them, such as revoke their permission, if fintech industry violated consumer rights.

Thus, without good and comprehensive arrangements as well as strict supervision, it is certain that business growth fintech may bring losses to consumers. Indonesia Consumer Organization Foundation (YLKI) for example, during the year 2018 has received more than 50 complaints online borrowing money (one of the type of fintech). Most of the complaints are related to unethical way in collecting debt, even calculation system of interest and fines that is not obvious and detrimental to the consumers.

According to Article 4 of Law No. 21 of 2011 about Financial Services Authority, states that one of the tasks of OJK is to give protection to consumers and/or the community. Therefore in order to provide consumer protection, OJK has issued OJK's regulation (POJK) No. 01/POJK. 07/2013 about the Protection of Consumers of Financial Services Sectors. The research question is how OJK Regulation provides consumer protection on one side and also delivers regulation to mitigate risk for the companies or related parties mainly in the context of the growth of fintech industry.

Therefore, this article analyzes the importance of consumer protection in the the middle of fintech industries and examines the role of OJK through their related policies. This article respectively describes the rationality of consumer protection in the financial services, the dynamics of fintech growth and its problems, and concludes with an analysis of the role of OJK in the era of fintech industry.

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1 Steven Li, "Future Trends and Challenges of Financial Risk Management in the Digital Economy", *Managerial Finance*, Vol. 29, No. 5/6, 2003, p. 115.

2 James F. Devlin, "Monitoring the Success of Policy Initiatives to Increase Consumer Understanding of Financial Services", *Journal of Financial Regulation and Compliance,* Vol. 11, No. 2, 2003, pp.151-163.

B. Research Method

This was normative legal research based on the secondary data involving both primary and secondary legal material. The primary legal material consists of Law No. 21of 2011 and OJK's Regulations concerning its role in the era of fintech industry. This research was enriched by an interview with some of OJK's staff and also by doing FGD with financial industry representatives. The approach used was the normative juridical approach. Whereas analysis was carried out by using a qualitative approach.

C. Research Result and Analysis

1. Rationality of Consumer Protection in the Financial Services Sector

Consumer protection actually includes a variety of topics, but not limited to product liability, privacy rights, unfair business practices, fraud, misrepresentation, other business/consumer interaction. In the perspective of consumer protection, the FSP has the bargaining power that is relatively better and more dominant rather than consumers. Their bargaining position is more powerful in the middle of digital financial industry growth, among others, are characterized by the use of a standard agreement followed by unbalance provisions and tend to harm consumers. The consumer that was already in a very weak position, even will be more exacerbated by vague and mislead information given by FSP. Unfortunately most consumers rely solely on information about financial services products that will be bought from FSP only. Furthermore according to Angelo Capuano and Iain Ramsay the weakness of the consumer of financial services includ:[3]

1. Consumers may not consider the key features of financial products before making a decision to purchase a product. This includes not considering risk and return, being over optimistic about return and having price insensitivity such that consumers are unaware of the actual cost of the products they hold;
2. Consumers may not read the terms and conditions of financial products;
3. Consumers may not compare the price and quality of different financial products from different providers;
4. Consumers may not evaluate financial products they already own to determine whether they are still needed;
5. Consumers may purchase financial products they do not need;
6. Consumers may not consider that the fees and charges attached to financial products contribute to the overall cost of owning those products;
7. Consumers may ignore their invest-ment objectives and needs when purchasing financial products;
8. Consumers may be "short sighted", or look at initial short-term cost without fully considering long term benefit and cost;
9. A number of consumers rigidly "compartmentalize" money. This means that some consumers may allocate particular funds or a percentage of income to saving, and despite having accumulating credit card debt, continue to save and not repay that credit card debt.

One of the problems faced by financial services consumers is about the transparency of the product. The Consumers International[4] asserts that financial information should at least meet the criteria: clear, sufficient, reliable, comparable, and timely. Law No. 8 of 1999 concerning Consumer Protection also regulates the obligation of the businessmen to provide information that is clear, correct and fair. Meanwhile, in order to protect the interests of consumers and the public, Article 28 Law No. 21 of 2011 concerning Financial Services Authority allow to OJK to provide information and

[3] Angelo Capuano, *et al.*, "What Causes Suboptimal Financial Behaviour? An Exploration of Financial Literacy, Social Influences and Behavioural Economics", *University of Melbourne Legal Studies Research Paper* No. 540, 2011.

[4] Consumers International, "Safe, Fair and Competitive Markets in Financial Services: Recommendations for the G20 on the Enhancement of Consumer Protection in Financial Services", CI: March 2011.

education to the public regarding the characteristics of the financial services sector, services, and products. But in practice, at least by examining the cases of financial services occured, there are still many FSP violates their obligations and have an impact on consumer losses. It was shown at least by the amount of consumer complains lodged to OJK.[5]

Then it is reasonable if OJK issued Circular Letter No. 12/SEOJK.07/2014 concerning Provision of Information for Marketing of Financial Products and/or Services. The esential principles in this letter requires FSP to:

1. deliver information regarding products and/or services that are accurate;
2. deliver information regarding products and/or services that are fair based on actual information about the benefits, costs, and risks of each product and/or service;
3. convey information regarding products and/or services that are clear and complete;
4. convey information regarding products and/or services that are not misleading;
5. pass information as mentioned in No. 1 - 4 along with information summary of products and/or services, marketing activities and advertising as well as other things that can be equated with it;
6. deliver concerning the realization of the issuing and/or change product features and/or financial services that require approval from OJK.

Access to obtain information that is correct and accurate as the basis of consumers to choose products, is one of the important things to be realized and guaranteed by the Government. Despite it being an obligation of FSP but OJK must ensure that FSP meet its obligations through effective and ongoing supervision. Various efforts to embody protection of financial services' consumer must be realized. In addition to encouraging products transparency, in consumer protection perspective there are few things that should be regulated such as: (1) standard mechanisms of consumer complaints; (2) the existence of the institution of an independent consumer dispute resolution; and (3) consumer education and empowerment programs.

Concerning with consumer education in financial services sector it ought to be noted ideas of Tim Kaiser and Lukas Menkhoff[6] that affirm several things: (1) effects of financial education depend on the target group: teaching low-income participants (relative to the country mean) and target groups in low-and lower-middle income economies have less impact; (2) the success of financial education depends on the type of financial behavior targeted. There is evidence that borrowing behavior may be more difficult to impact than saving behavior by conventional financial education; (3) increasing intensity supports the effect of financial education. Then Government and OJK whose have responsibility to do it, must be seriously prepare and develop consumer education programs effectively.[7] In its implementation, the involvement of Consumer Organizations, Association of FSP, and other related parties should be optimized.

Thus, consumer's access to justice should be enhanced and improved, not only through formal juridical approach but also using of sociological approaches. In this case Iain Ramsay[8] argues that: "the question of access to justice has been an important theme in consumer protection. Redress institutions can effectively continue the goal of awarding compensation, settlement of disputes, behavior modification, and the development of

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[5] Total number of consumer complain lodged to OJK since 2013 until July 2018 was 3.968 cases. The data was obtained from Adam Novriansyah, staff of Education and Consumer Protection Unit – OJK, 27 July 2018.

[6] Tim Kaiser, *et al.,* "Does Financial Education Impact Financial Literacy and Financial Behavior, and if so, When?", *DIW Discussion Papers*, No. 1562, 2017.

[7] Nowadays, OJK is preparing a draft of OJK Regulation concerning Consumer and Community Services to the Financial Services Sector in Financial Services Authority

[8] Iain Ramsay, "Consumer Law, Regulatory Capitalism and the 'New Learning' in Regulation", *28 Sydney L. Rev. 9,* 2006.

norms, as well as give confidence to consumers and businesses in the market". In the mean time Klaus Viitanen[9] argues that consumers' access to justice can be divided into two groups: (1) the protection of the collective interests of consumers; such as through the regulation and supervision of the marketing as well as regulation and oversight of product safety; (2) the protection of the individual rights; where consumer rights are met in individual cases after a contract is completed or when a consumer is not satisfied with the product that they bought.

Furthermore Michell Lyttle[10] states that consumers' access to justice includes: (1) the ability to claim and succeed in obtaining compensation; (2) the ability to retain insufficient claims of evidence; (3) proportional costs; (4) effective and simple procedures; (5) rapid process from beginning to conclusion; and (6) the effective enforcement of a decision. Meanwhile Mary Donnelly[11] argues that financial services have particular features which make the issue of consumer access to justice/ redress especially relevant. *First*, financial services often involve highly complex products. This gives rise to inevitable information asymmetry, where financial service providers know a great deal more about their products than even cautious and careful consumers. *Secondly*, many financial services are purchased on a "credence" basis whereby their value to the consumer becomes apparent only with the passing of time. For example, the determination of whether an insurance contract meets a particular consumer's needs typically becomes apparent to the consumer only when s/he makes a claim on the insurance policy.

In this context the great hope was also placed to OJK to realize consumers' access to justice in financial services sector through a variety of rules, policies and programs. In the context of information, OJK should be able to make itself as the center of information for consumers of financial services at any time they requires information related products and other financial services. In this case OJK helds its function as "financial adviser" (as in the United Kingdom there is The Money Advice Service) that play a role in providing information and advice to consumers with regard to financial services for free and independent. The independence of the institution who provides financial advice is strongly important according to Gerard Lemos[12] because: (1) consumer needs to be clear that a particular product is the one that he or she wants and will do the job expected of it; (2) after making a purchase, the consumer needs to know that if something does go wrong they have someone they can trust to turn for redress; and (3) the consumer wants to know that the government is on their side.

OJK should be more active and able to "equal" with FSP in influencing consumer decision making process, so that consumer decisions is taken consciously and appropriately and not just based on the advertising/promotion given by FSP. In this case Toni Williams[13] argues that: "Proponents of financial literacy education may assume that if firms can influence consumer decision-making processes so powerfully then financial educators also should be able to do so with well-designed interventions that are effectively delivered ". Moreover, with the use of technology in the field of financial services, market penetration on financial services sector has been going on with the massif, fast, and difficult to be controlled. The centrality of finance and financial markets to economic change has been dramatically

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9 Klaus Viitanen, "Consumer Law: Especially from the Viewpoint of Consumer´s Access to Justice", *Lecture Material*, University of Helsinki, October 2008.

10 Michell Lyttle, "Consumer Access to Justice", *Paper* on the Conference on Litigation Costs and Funding, University of Oxford Faculty of Law, 6-7 July 2009.

11 Mary Donnelly, "The Financial Services Ombudsman: Asking the 'Existential Question'", *Dublin University Law Journal*, Vol 35, 2012, pp 229-260.

12 Gerard Lemos, 'Towards a National Strategy on Financial Education", *Paper* on Bank of Indonesia-OECD Regional Asian Seminar on Financial Literacy, Jakarta 27 June 2011.

13 Toni Williams, "Empowerment of Whom and for What? Financial Literacy Education and the New Regulation of Consumer Financial Services*"*, *Law & Policy*, Vol. 29, No. 2, April 2007, pp.226-256.

reinforced by technological change, and this is leading to a new hegemony of financial markets in a more open and interdependent world. This new global transformation has gravely challenged the capacity of the state to provide effective governance of financial markets are not only themselves, but also of economic affairs generally.[14]

2. Dinamics of Fintech Growth and Its Problems

Article 4 of Law No. 21 of 2011 about Financial Services Authority states that one of the tasks of OJK is to give protection to consumers and/or the community. Therefore in order to provide consumer protection, OJK has issued OJK's regulation (POJK) No. 01/POJK. 07/2013 about the Protection of Consumers of Financial Services Sectors. This regulation is intended to apply the principle of balance, i.e. between the developing of financial services sector continuously and simultaneously provide protection to consumers and/or the community as a user of financial services. This rule contains 3 main aspects, namely: (1) improvement of transparency and disclosure of the benefits, risks and costs over the product and/or service of FSP; (2) the responsibility of the FSP to perform a conformity assessment of products and/or services to the risk faced by the consumer; (3) the simpler procedure and ease of consumer to lodge a complaint and dispute resolution over the products and/or services of FSP.

The growth of fintech industry, including peer to peer lending, became a challenges of OJK to further regulate it. The Non-Performing Loan (NPL) risk according to the data of OJK per December 2017 is 0.99% which is means that 0.99% of the disbursed loan stalled or failed to be returned by the borrower although the ratio of the loan stalled as of the end of May 2018 according to OJK has already dropped to 0.64%.[15] While the loans were distributed through the service of lending and borrowing is IDR 6.16 billion. Therefore approximately IDR 39,424 billion which are jammed.[16]

Relating to the efforts of pressing the NPL, some fintech service providers use: (1) collect loans from borrowers who have the NPL of 0.49%; (2) select a business segment services and creative industries because both have a relatively low risk; (3) in collaboration with the underwriting insurance to anticipate the NPL; (4) strict selection of partners for lenders and borrowers, among others, they have no record of debt loans and loans to productive effort; (5) using of artificial intelligence to evaluate the feasibility of loans, prevent, and detect fraud, as well as the guarantee of a loan.[17]

The cooperation conducted by PT Asuransi Kredit Indonesia (Askrindo) and fintech service providers which in line with the trend of the financing which leads to digitally base, will be a challenge and at the same time opportunities for the company. The company's premium income was not the target, but the number of new clients from small and micro enterprise of financing technology-based. Askrindo targeting 10,000 new customers of small and micro enterprises of financing technology-based. More and more clients of fintech guaranteed, then more small and micro enterprises got the ease to develop their business.[18]

OJK also requires Fintech service providers to protection their consumer data security. Regarding this Krishnan Dandapani[19] asserts that "as the electronic modes of finance evolves rapidly across the globe, security and integrity concerns become acute." OJK has issued POJK No. 77/POJK. 01/2016 concerning on [20]IT Based Lending Services or peer to peer lending to support it. Fintech platform in

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14 Philip G. Cerny, "The Dynamics of Financial Globalization: Technology, Market Structure, and Policy Response", *Policy Sciences,* Vol. 27, 1994, p. 320.

15 Kompas Daily Newspaper, June 19, 2018

16 Kompas Daily Newspaper, July 7, 2018.

17 Kompas Daily Newspaper, June 19, 2018

18 Business Indonesia Daily Newspaper, June 28, 2018

19 Krishnan Dandapani, "Growth of e-Financial Services: Introduction to the Special Issue", *Managerial Finance*, Vol. 34, No. 6, 2008, pp. 361-364.

20 Anne Messy Flore, "Role of Coordinated Financial Education Strategies to Improve Financial Inclusion: an International Perspective", *Paper* on Bank Indonesia - OECD Regional Asian Seminar on Financial Literacy, 27 June 2011.

Indonesia is now obliged to sign up to OJK as proof of a commitment to consumer protection. Up to December 21, 2018, the total number of registered and licensed fintech providers is as much as 88 companies. Indeed OJK encourages people to use the services of fintech which is already registered/ licensed in OJK. However, OJK does not able to control the illegal practices of fintech which are potentially harming consumers. Hundreds of illegal fintech service providers still operate and offer their products in the community.

Fintech service or peer to peer lending between interest parties becomes a means of encounter between investors and micro-enterprises who need additional funds. This service more favored because its business process more efficient as well as the regulation is more lenient especially regarding the procedures and requirements (compared with procedures and requirements that must be met by the prospective debtor if borrowing at the bank). However, this service risk is quite high due to the absence of the agreement of guarantee/collateral (special guarantee) either in the form of a guarantee over the moving objects or fixed objects as well as individual or corporate guarantee. In the process of peer to peer lending business which are mediated by fintech companies, at least there are three parties involved in it i.e., the owner of the funds, the borrower of funds and fintech providers. The legal construction between them is not simple because it can be occured: (1) between the owner of funds and the borrower of funds upon the intercession of fintech providers; (2) between the owners of funds with the fintech providers which is entrust their funds to the borrower. Various possibilities of legal construction over the triangle relationship bring each responsibilities consequence. The responsibility here is also has begun when the risk will be transferred to the insurance companies; who will be burdened to pay insurance premiums; and which property can be saddled by surety for the debt arising from the relationship of loan and borrowing money.

On the other hand if the debtor is not able to meet its obligations and then its status become gridlocked lending, it surely would be detrimental to the owner of the funds that put their money on the fintech companies. In this context consumer protection should be embodied, one of them is by involving insurance company (as risk guarantor). This cooperation will positively impact i.e. existence of users' convenience and increasing of public trust. In addition this mutual cooperation will raise trust of fund owners, retail, or institution being higher then can increase the on-time rate of return. After all, the development of platform fintech is something that is natural and attract the people who looking for a higher profit potential than conventional services while getting a simple, fast and easy service.

As the complement of POJK No. 77 of 2016 concerning IT Based Lending Services, OJK has also issued OJK's regulation No. 13/POJK.02/2018 about the Digital Financial Innovation (DFI) to further strengthen the consumer protectio towards the risks that might be occured in the era of DFI. Regulation about DFI is not regulating Fintech Company institutionally, but rather set of products, processes, and business models. This new regulation also does not regulate the prudential issues; all such matters are directly submitted to FSP.

Policy making of OJK based upon market-discipline approach. In this case there are three principles that must be met by fintech service providers i.e. (1) disclosure of information, (2) the creation of a code of conduct by fintech community, and (3) consumer protection. In the DFI's regulation there is fintech health program through the limited test space of fintech (called "regulatory sandbox"). Evaluator do not only come from OJK, but also from Bank Indonesia as well as the Ministry of Communication and Information Technology. The elected fintech providers will be allowed to follow regulatory sandbox. As for the criteria of fintech providers that would follow such program is based upon their new financial service innovation and their efforts to provide benefits to the public.

Actually fintech industries have been growing rapidly. Based on a survey conducted by OJK in collaboration with the Association of Fintech Service Providers, there are more than 187 start up companies in the financial services sector operating in Indonesia and there are more than 500,000 convensional companies such as banks, capital market, insurance, financing institute and other who did the digital transformation in their services and products. Unfortunately, not all of them registered and fulfill requirements that have been defined by OJK. It means that OJK cannot reach fintech industries that operate illegally. In this case, OJK just declares public warning by issuing information concerning licensed fintech industries. OJK cannot use its authority to force and provide punishment to unlicensed fintech industries. The public must be aware to avoid damage caused by those industries.

In order to protect the interests of consumers (either a lender or borrower), OJK issued a press release No. SP-05/VII/SWI/2018 about "Task Force on Investment Vigilant" that encourage people to beware towards unlicensed Fintech Peer to Peer Lending. The core of the press release is warning the public to always check the legality of fintech service providers (fintech peer to peer lending) to OJK because based on OJK Regulation No. 77/POJK. 01/2016 nor OJK Regulation No. 13/POJK.02/2018, fintech service providers are mandatory filing of registration and licensing into OJK. OJK's Task Force on Investment Alert have found that over 200 entities who perform business activities of peer to peer lending are not registered or do not have a business license. OJK's Task Force also asks the public not to establish business relations with them because they are not under supervision of OJK and potentially detrimental to society.

On the other hand, the growth of start-up business in financial services sector will improve financial services to the public and could be speed up the realization of the digital economy. Thus, it can encourage the acceleration of the financial inclusion especially for those who are not able to reach banking services. The phenomenon of the fintech growth has certainly encouraged OJK to strengthen market discipline-based approach (market conduct) as already stated in OJK Regulation No.13/POJK.02/2018. The steps taken by the OJK aims to strengthen the structure of financial services, protect consumers and safeguard the stability of the financial system.

OJK argues that the market discipline approach is taken because the pattern of development of fintech industry follows the market's demand. For example, in the financing of trade in fintech sector peer to peer lending affected investors in determining the magnitude of interest rate. It could not be approached with prudence principle as concerns third party funder. However, OJK will remain monitor its progress by not immediately determining the upper limit of interest rates on fintech peer to peer lending. OJK also encourage the association of fintech providers to supervise the growth of startup business so as not grow into the new "moneylender" model. These are in OJK Regulation No. 13/POJK.02/2018 referred to as the principle of independent monitoring. OJK opens an opportunity in fintech sector innovation, but it must be done responsibly with upholding consumer protection and maintain the stability of the financial system. By paying attention to their responsibility, the growth in fintech industries is expected to increase the level of financial inclusion in Indonesia. In this case, Messy-Anne Flore[21] argues that in order to improve financial inclusion qualitatively, supply-side approaches should be combined with demand-side strategies which includes financial education and consumer protection. Improved financial literacy in particular can help ensure consumers are aware and make savvy use of financial services available to them for all stakeholders' benefits.

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[21] Stijn Claessens, "Access to Financial Services: A Review of the Issues and Public Policy Objectives", *the World Bank Research Observer*, Vol. 21, No. 2, 2006.

As it known financial inclusion in Indonesia is still growing slowly. Slow growth in financial inclusion can be caused due to non-price barriers (e.g. because of the absence of financial institutions in this area - the supply curve is vertical at zero for them) and the issue of cost (price) charged to the consumer for any service. Lack of access because banks do not serve a particular area or charge too much may arise because of a low level of competitiveness in the banking system. Fintech industry therefore needs to contribute to improve and accelerate the growth of financial inclusion. They can collaborate with the banking industry to provide better financial access to the community. Banking is geared towards supporting the platform fintech providers, including peer to peer lending which is based upon information technology. During this time the banking and the platform fintech providers is still running alone. By using of technology and innovation, they can fill the gap and eliminate dependence on bank in various economic financing. Fintech has to take their role in strengthening the structure of financial services. During this time, the structure of the financial services was still superficial; 74% of national financial services are still dominated by the banking. Of that total, about two thirds were dominated by huge banks owned by the Government. OJK notes that inclusive financial ratios in Indonesia has reached 63 percents of the total population by the end of 2017. At the end of 2018 OJK's target in inclusive financial ratio could reach 70 percent and 75 percent being in 2019. Is it optimistic figures? Of course it could be debatable.

3. The Role of OJK in Fintech Industrial Era

As mentioned above, trend of the growth of fintech industry is already happening and its existance becomes a phenomenon that "rip off" and disrupt the practices of conventional financial institutions. The Asian Development Bank[22] also noted that fintech industry has greater scope for reducing costs and improving service quality. For example, by utilizing Big Data, machine learning and alternate data. Fintech companies can also develop innovative risk assessment model to generate credit score for consumers with a limited credit history. In addition its challenge is the company's need to build stable fintech ecosystem and costly effective in Indonesia.

Therefore OJK in accordance with the tasks and functions should keep paying attention to the growth of fintech business and regulates them properly. Although OJK is already attempting to regulate the fintech service providers in order to protect the interests of consumers, for example by obliging fintech industry to register to OJK, but in fact only a small part of fintech industry listed at OJK. As mentioned above, up to December 21, 2018 total number of registered and licensed fintech business as much as 88 companies and hundreds of other did not registered. Their existence is potentially harming consumer. Even many consumers have been already complain their losses to some consumer organizations. In this case, OJK should take more serious steps to prevent consumer losses and not enough just by a public warning.

Indeed OJK should strengthen the fintech industry in Indonesia through its arrangements and oversight, to control its risk and to ensure that their growth bring benefit to the public and there is no legal vacuum on it. This is called by Folarin Akinbami[23] as an interventionist approach. Akinbami identifies the interventionist approaches to consumers protection are characterized by the greater involvement of government or regulators in the monitoring of suppliers and sellers of goods and services in a bid to protect the interests of the consumers. Typical interventionist approaches

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[22] See: ADB, "How fintech can accelerate financial inclusion in Indonesia", *https://blogs.adb.org/blog/how-fintech-can-accelerate-financial-inclusion-indonesia*, accessed in Oktober 5, 2018.

[23] Folarin Akinbami, "Financial Services and Consumer Protection after the Crisis", *International Journal of Bank Marketing*, Vol. 29, No. 2, 2011, pp.134-147.

include bans and regulation, altering the default rules and risk-sharing. Interventionist approaches in financial services include conduct of business regulation and product regulation.

Therefore the existence of OJK Regulation No.13/POJK.02/2018 should be followed with law enforcement both by preventive or repressive ways. In this case OJK (and supported by other government institutions) should take steps that are already recommended by the ADB[24] as follows: (1) creating a national digital identification system will ensure that every Indonesian has a unique demographic number. This will help address the root of the problem, namely the know-your-customer verification; (2) expanding access to financial services. The government's push for digitization of government-to-person payments is an important initiative; and (3) leveraging the near-universal penetration of mobile phones, which have become the primary medium through which consumers get their information. They also facilitate new types of information including extremely precise, real-time, geo-location information in the form of transactions, inquiries, and SMS. Use of mobile phones for financial services provision might facilitate access in developing countries, where mobile phones are often more widespread than fixed lines and can have a lower threshold for many users than banks do.[25]

The success of the future of fintech in Indonesia also relies on effective regulation. It means that the risks associated with the providers and products that are driven by new technology should be well understood and managed efficiently. Regulation increases transparency, decrease of the risk of fraud, data usage violation, and increase market confidence that can accelerate the acceptance of fintech. The existence of effective regulation is very important because basically, the start-up is a disruptive innovation that is innovations that help create new markets, disturbing or damaging the existing markets. They are looking for opportunities where the regulations do not exist or are not clear. Fintech companies trying to do various things in a way that is cheaper, more efficient, and transparent compared to the traditional financial institutions.

Besides OJK should continue to optimizing the existence and role of the "OJK Innovation Centre for Digital Financial Technology/OJK INFINITY" to protect the interests of consumers. Things related to the consumer data protection must be well-ordered by OJK in such manner in order to the fintech industries implement good corporate governance principles such as risk management to push transparency, accountability, responsibility, independence and justice. Transparency is the key factor of success of fintech development through clear reporting systems to consumers and OJK. To improve transparency, there should be a standard about the types of information that must be owned by fintech industry and how more detail information should be provided. These things should be better regulated by OJK, clearer and detail, including in establishing of the loan transactions, electronic applications (with authentication and fraud detection in the online application), web sites, and privacy concerns.

Similarly with the transparency of information concerning with the rights and obligations of each parties, such as investors, borrowers, fintech platform, bank correspondent regarding potential income, potential risks, costs, results, risk management and mitigation if failure occurred, then it must be opened widely. Another important thing is establishing effective communication with consumers, either through the phone, texting, chatting, sending emails, and encouraging the fintech to do that through clear regulations and standards.

OJK also should ask the fintech industry to provide financial education to consumers so that

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[24] ADB, "How fintech can accelerate financial inclusion in Indonesia", *https://blogs.adb.org/blog/how-fintech-can-accelerate-financial-inclusion-indonesia*, accessed in Oktober 5, 2018.

[25] Stijn Claessens, *Op. cit*., p. 229.

they have better understanding regarding fintech service. All that is needed by the consumer of financial services as mentioned Gerard Lemos above. However expectation to the fintech company to educate consumers should not be separated from the intervention of OJK to ensure that all of fintech industry assignments will be well implemented. With adequate financial literacy at consumer level, the expected market conditions would be more efficient because consumers will be more critical and have enough capability in responding to the various offers come from FSP. Angelo Capuano and Ian Ramsay[26] said that: "financially literate consumers are more financially efficient. Seeking and purchasing 'better, cheaper and more appropriate products and services can drive efficiencies in the financial industri'. This leads to increased competition, better quality products and greater innovation and diversity in the market. Knowledge of consumer rights and contracts also allows consumers to evaluate products more carefully and as a result demand more from suppliers."

D. Conclusion

OJK are still face a lot of challenges and obstacles in implementing its policies especially in the growing of fintech industry. One of OJK challenges in this case is its capability to control and regulate the growing of fintech in one side and provide consumer protection in other side. Besides that support of the Government policy in terms of consumer data management system or secure digital nationwide identification system is absolutely needed. One of them is immediately stipulate the Law of Personal Data Protection as a legal basis for OJK Regulation on consumer data protection.

OJK must continue to improve their internal systems in order to make them more effective in building an integrated surveillance system. OJK also should optimizing their role in preventing harm of consumers through various preventive actions and increase consumer education in financial services issues. Development of fintech supporting infrastructure should be conducted including the existence of comprehensive and effective rules. Last but not least, improving of consumer financial literacy through various programs that involving related stakeholders such as Universities, Fintech Industry Association, Local Governments, and Consumer Organizations, should be strengthened. In this case OJK must aware that they have limited capacity to implement its tasks and responsibilities.

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26 Angelo Capuano*, et al., Loc. cit.*

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