

**ISLAMIC LAW REVIEW AGAINST EFFECTIVENESS OF PERSONAL
DATA PROTECTION OF FINANCIAL TECHNOLOGY CONSUMERS
BY FINANCIAL SERVICES AUTHORITY
(Study in Financial Services Authority Jakarta)**

Thesis

By:

Ita Wardatul Janah

Student ID Number 16220039



**SHARIA ECONOMIC LAW STUDY PROGRAM
SHARIA FACULTY
THE STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM
MALANG
2020**

**ISLAMIC LAW REVIEW AGAINST EFFECTIVENESS OF PERSONAL
DATA PROTECTION OF FINANCIAL TECHNOLOGY CONSUMERS
BY FINANCIAL SERVICES AUTHORITY
(Study in Financial Services Authority Jakarta)**

Thesis

Presented to
Sharia Faculty of State Islamic University of Maulana Malik Ibrahim Malang
To Fill One of Requirements Used to Get Degree of
Bachelor of Law (S.H)

By:

Ita Wardatul Janah

Student ID Number 16220039



**SHARIA ECONOMIC LAW STUDY PROGRAM
SHARIA FACULTY
THE STATE ISLAMIC UNIVERSITY MAULANA MALIK IBRAHIM
MALANG**

2020

STATEMENT OF THE AUTHENTICITY

In the name of Allah SWT,

With consciousness and responsibility towards the development of science, the author declares that the thesis entitled:

**ISLAMIC LAW REVIEW AGAINST EFFECTIVENESS OF PERSONAL
DATA PROTECTION OF FINANCIAL TECHNOLOGY CONSUMERS
BY FINANCIAL SERVICES AUTHORITY
(Study in Financial Services Authority Jakarta)**

Is truly the author's original work. It does not incorporate any material previously written or published by another person. If it is proven to be another person's work, duplication, plagiarism, this thesis and my degree as the result of this action will be deemed legally invalid.

Malang, 1st January 2020

Author,



Ita Wardatul Janah

Student ID Number 16220039

APPROVAL SHEET

After examining and verifying the thesis of Ita Wardatul Janah, Student ID Number 16220039, Sharia Economic Law Study Program of Sharia Faculty of State Islamic University, Maulana Malik Ibrahim of Malang entitled:

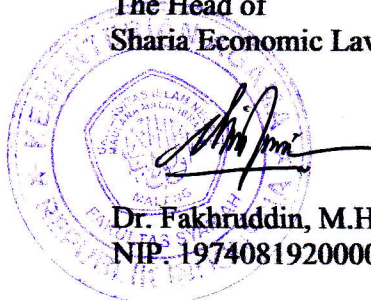
**ISLAMIC LAW REVIEW AGAINST EFFECTIVENESS OF PERSONAL
DATA PROTECTION OF FINANCIAL TECHNOLOGY CONSUMERS
BY FINANCIAL SERVICES AUTHORITY
(Study in Financial Services Authority Jakarta)**

The supervisor states that this thesis has met be the scientifie requirements to be proposed and to be tested by the Thesis Board of Examiners.

Malang, 8th January 2020

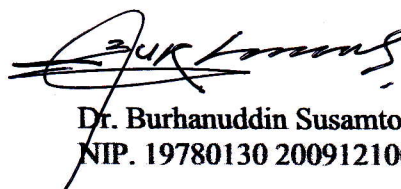
Acknowledged by,

The Head of
Sharia Economic Law Study Program



Dr. Fakhruddin, M.HI
NIP. 197408192000031002

Supervisor,



Dr. Burhanuddin Susamto, S.HI., M.Hum
NIP. 19780130 2009121002



KEMENTERIAN AGAMA
UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM MALANG
FAKULTAS SYARIAH

Terakreditasi "A" SK BAN-PT Depdiknas Nomor : 157/SK/BAN-PT/Ak-XVI/SM/II/2013 (Al Ahwal Al Syakhshiyah)
Terakreditasi "B" SK BAN-PT Nomor : 021/BAN-PT/Ak-XIV/S1/III/2011 (Hukum Bisnis Syariah)
Jl. Gajayana 50 Malang 65144 Telepon (0341) 559399, Faksimile (0341) 559399
Website: <http://syariah.uin-malang.ac.id/>

CONSULTATION PROOF

Name : Ita Wardatul Janah
Student Number : 16220039
Study Program : Sharia Economic Law
Supervisor : Dr. Burhanuddin Susanto, S.HI., M.Hum
Thesis Title : ISLAMIC LAW REVIEW AGAINST EFFECTIVENESS OF PERSONAL DATA PROTECTION OF FINANCIAL TECHNOLOGY CONSUMER BY FINANCIAL SERVICES AUTHORITY (Study in Financial Services Authority Jakarta)

No	Day/ Date	Subject of Consultation	Signature
1	Thursday, 10 th October 2019	Proposal	
2	Friday, 20 th December 2019	CHAPTER I, II, and III	
3	Thursday, 26 th December 2019	Revision: CHAPTER I, II, and III	
4	Friday, 27 th December 2019	CHAPTER IV and V	
5	Monday, 30 th December 2019	Revision IV	
6	Tuesday, 31 th December 2019	Revision: CHAPTER IV and V	
7	Thursday, 2 nd January 2020	Abstract	
8	Friday, 3 rd January 2020	Revision Abstract	
9	Monday, 6 th January 2020	Bibliography and Appendixes	
10	Wednesday, 8 th January 2020	Approval: CHAPTER I, II, III, IV, and V	

Malang, 8th January 2020

Acknowledged by:

o.b. Dean

Head of Sharia Economic Law

Study Program

Dr. Fakhruddin, M.HI
NIP. 197408192000031002

LEGITIMATION SHEET

The Thesis Board of Examiners states that Ita Wardatul Janah, Student ID Number 16220039, student from the Sharia Economic Law Study Program of Sharia Faculty of State Islamic University, Maulana Malik Ibrahim of Malang, her thesis entitled:

**ISLAMIC LAW REVIEW AGAINST EFFECTIVENESS OF PERSONAL
DATA PROTECTION OF FINANCIAL TECHNOLOGY CONSUMERS
BY FINANCIAL SERVICES AUTHORITY
(Study in Financial Services Authority Jakarta)**

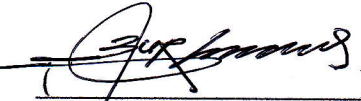
Has passed and certified with grade A (Excellent)

Board of Examiners:


1. Dr. H. Abbas Arfan, Lc., M.H
NIP. 197212122004041004

()
Chairman

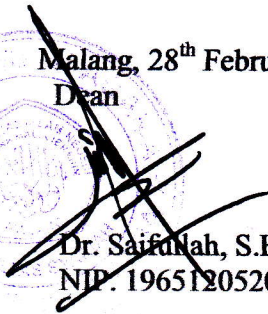
2. Dr. Burhanuddin Susanto, S.H., M.Hum
NIP. 19780130 2009121002

()
Secretary

3. Prof. Dr. H. Mohamad Nur Yasin, S.H., M.Ag
NIP. 196910241995031003

()
Main Examiner

Malang, 28th February 2020
Dean

()
Dr. Saifulah, S.H., M.Hum
NIP. 196512052000031001

MOTTO

“Bapak teu tiasa masihan warisan pikaharta, ngen wungkul ngusahakeun ngawariskeun ilmu. Barang saha anu gaduh ilmu, insya Allah hirupna mudah. Zaman tos benten, ayeuna anu berilmu sainganna jeung anu berilmu, kukitu neng kudu tiasa jadi jalmi nu berilmu jeung berakhlak. Anu bakal janten keunggulan pikeun kahareupna”

“Ayah tidak bida memberi warisan berupa harta, hanya berusaha mewariskan ilmu. Barang siapa yang memiliki ilmu, *insya Allah* hidupnya akan mudah. Zaman telah berubah, saat ini orang yang berilmu bersaing dengan orang yang berilmu, karena itu neng harus bisa jadi orang yang berilmu dan berakhlak. Itulah yang akan menjadi keunggulan di masa mendatang”

(My father, Ahmad Kurtubi)

ACKNOWLEDGEMENT

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah (Glory to Him, the Exalted), most gracious and most merciful. All praise to Allah for his grace and guidance, so this thesis entitled **“Islamic Law Review Against Effectiveness of Personal Data Protection of Financial Technology Consumers By Financial Services Authority (Study in Financial Services Authority Jakarta)”** could be completed on time and expresses. *Shalawat* and *salaam* may deliver to the Prophet Muhammad (Peace Be Upon Him) who had brought us from the darkness into the brightness, in this life. May we be together with him *syafaa’at* in the day of Judgment. Aamiin.

With all supports and helps, discussions, and guidances from all parties involved during the process of completing this thesis, the author wishes to express his utmost gratitude to following:

1. Prof. Dr. H. Abdul Haris, M.Ag as Rector of State Islamic University of Maulana Malik Ibrahim of Malang.
2. Dr. Saifullah, S.H., M.Hum as Dean of the Sharia Faculty of State Islamic University of Maulana Malik Ibrahim of Malang.
3. Dr. Fakhruddin, M.HI as head of Sharia Economic Law Study Program of Maulana Malik Ibrahim of Malang. All at once as academic advisor during course of the author study in this program. May Allah *subhaana wa ta’ala* shower *barakah* to him and his family.

4. Dr. Burhanuddin Susanto, S.H.I., M.Hum as the thesis supervisor who has guided the author during the thesis. The author expresses his gratitude for guidance and directional motivation given in the course of completed this thesis. May Allah *subhaana wa ta'ala* shower him and his family with healthy and Allah's blessings.
5. All lecturers in Sharia Economic Law Study Program which has given their knowledge to us, guide, commitment and dedication teaching.
6. The administrative staff in Sharia Faculty of State Islamic University of Maulana Malik Ibrahim for all their helps and co-operation to the author expresses gratitude.
7. My beloved parents are Mr. Ahmad Kurtubi and Mrs. Atikah, also my sisters are Mrs. Kholilatul Musyarofah, Ms. Siti Nihayatul Fauziyah, and Ms. Wildayatun Nufus who always give supports, motivation, and prayers to the author so this thesis can be completed.
8. All of teachers in SDN 1 Cimarga, MTsN 4 Lebak, and MAN 1 Lebak who has given knowledge and prayer until the author could do this so.
9. All members of Excellent People of Science-Two (EXPOST) and the best partner for the author's life is Mr. Asep Suryana as support system since 2013. May Allah *subhaana wa ta'ala* shower eternal friendship until paradise.
10. My friends in Sharia Economic Law who have learnt together since 2016, especially my friends in Internasional Class Program (ICP) there are Ms. Sartika, Ms. Ainun, Ms. Erika, Ms. Siti Sundari, Mr. Ananta,

Mr. Faiz, Ms. Salis, Ms. Fina As'ada, Mrs. Fina Aulia ulva, Ms. Ayu, Ms. Hana, Ms. Nadia, and Ms. Mariska who always give the author zeals and inspiration during study at the university.

11. My friends in the boarding Mrs. Bunga and Ms. Lisha who have helped the author since at Malang City and also my cousin Mr. Tubagus Ahmad Didin as research helper at Jakarta City.

Hopefully, by imparting what has been learnt during the course of study in Sharia Faculty, State Islamic University of Maulana Malik Ibrahim of Malang. All readers and the author himself will be gotten the benefit. Realizing the fact that errors and weakness is impartial to being human. So this thesis is yet perfection, therefore the author give appreciation for constructive critical and suggestions in order to the improvement of this thesis.

Malang, 27th December 2019

Author,

Ita Wardatul Janah

Student ID Number 16220039

TRANSLITERATION GUIDENCE

A. General

The transliteration guide which is used by the Sharia Faculty of State Islamic University, Maulana Malik Ibrahim Malang, is the EYD plus. This usage is based on the Consensus Directive (SKB) from the Religious's Ministry, Education and Culture's Ministry of the Republic of Indonesia, dates 22nd January 1998, Number 158/1987 and 0543.b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

ا	= unsigned	ض	= dl
ب	= b	ط	= th
ت	= t	ظ	= dh
ث	= ts	ع	= ' (comma facing up)
ج	= j	غ	= gh
ح	= <u>h</u>	ف	= f
خ	= kh	ق	= q
د	= d	ك	= k
ذ	= dz	ل	= l
ر	= r	م	= m
ز	= z	ن	= n
س	= s	و	= w

ش = sy

ه = h

ص = sh

ي = y

The hamzah (ء) which is usually represented by and *alif*, when it is at the begining of a word, henceforth it is transliterated following its vocal pronouncing and not represented in writing. However, when it is in the middle or end of a word, it is represented by a coma facing upwards (ˆ), as oppose to a comma (ˊ) which replaces the “ع”.

C. Long Vowel and Difting

In every written Arabic text in the *latin* form, its vowel *fathah* is written with “a”, *kasrah* with “i”, and *dlommah* with “u”, whereas elongated vowels are written as such:

Elongated (a) vowel = â for example قال become qâla

Elongated (i) vowel = î for example قيل become qîla

Elongated (u) vowel = û for example دون become dûna

Specially for the pronouncing of *ya' nisbat* (in association), it cannot represented by “i”, unless it is written as “iy” so as to represent the *ya' nisbat* at the end. The same goes for sound of a diftong, *wawu* and *ya'* after *fathah* it is written as “aw” and “ay”. Study the following examples:

Diftong (aw)	= و	for example	قول	become	qawlun
Diftong (ay)	= ي	for example	خير	become	khayrun

D. Ta' Marbûthah (ة)

Ta' Marbûthah is transliterated as “ṭ” if it is the middle of word, but if it is *ta' Marbûthah* the end, then it is transliterated as “h”. For example: الرسالة للمدرسة will be *al-risalat_ li al-mudarrisah*, or if it happens to be in the middle of a phrase which constitutes *mudlaf* and *mudlaf ilayh*, then the transliteration will be using “ṭ” which is enjoined with the previous word, for example في رحمة الله become *fi rahmatillah*.

E. Definite Article

Arabic has only one article “al” (ال) and it written in small letters, unless at the beginning of a word, while “al” in the phrase of *lafadhjalalah* (speaking of God) which in the middle of a sentence and supported by and (*idhafah*), then it is not written. Study the following:

1. Al-Imâm al-Bukhâriy said ...
2. Al- Bukhâriy explains, in the prologue of his book ...
3. *MasyâAllâhkânawamâ lam yasya' lam yakun*
4. *Billâhi 'azzawajalla*

TABLE OF CONTENT

FRONT COVER	i
TITLE SHEET	ii
STATEMENT OF THE AUTHENTICITY	iii
APPROVAL SHEET	iv
CONSULTANCY PROOF	v
LEGITIMATION SHEET	vi
MOTTO	vii
ACKNOWLEDGEMENT	viii
TRANSLITERATION GUIDENCE	xi
TABLE OF CONTENT	xiv
TABLE	xvii
CHARTS	xviii
APPENDIXES	xix
ABSTRACT	xx
الملخص	xxi
ABSTRAK	xxii
CHAPTER I : INTRODUCTION	1
A. Background of Research	1
B. Problem Formulation	6
C. Objective of Research	6

D. Benefits of Research	6
1. Theoritically	7
2. Practically	7
E. Operational Definition	8
F. Discussion Structure	9
CHAPTER II : REVIEW AND RELATED LITERATURE.....	12
A. Previous Research	12
B. Theoretical Framework	17
1. Legal Effectiveness Theory	17
2. Legal Protection Theory	18
3. Protection of Personal Data and Privacy Rights.....	20
CHAPTER III : RESEARCH METHOD.....	29
A. Type of Research	29
B. Research Approach.....	30
C. Location of Research	31
D. Type and Data Sources	32
E. Data Collection Technique	34
F. Data Analysis Technique	37
CHAPTER IV : FINDINGS AND DISCUSSION.....	40
A. Profile of Financial Services Authority Jakarta.....	40
1. History of Financial Services Authority.....	40
2. Vision and Mission of Financial Services Authority	41

3. Location of Financial Services Authority	42
4. Organization Structure of Financial Services Authority	42
B. Analysis of Discussion	43
1. Effectiveness of Personal Data Protection of Financial Technology Consumer in Jakarta Financial Services Authority.....	43
2. Islamic Law Review Against Personal Data Protection of Financial Technology Consumers	60
CHAPTER V : CONCLUSIONS AND SUGGESTIONS	69
A. Conclusion	69
B. Suggestion	71
BIBLIOGRAPHY	72
APPENDIXES	78
CURRICULUM VITAE.....	88

TABLES

Table 2.1 : Similarities and Differences of Previous Research	16
Table 3.1 : List of Resource	36
Table 4.1 : Financial Services Authority Fintech Unit	44
Table 4.2 : The Peer To Peer Lending Platform is Registeres With The Financial Services Authority	52
Table 4.3 : List of Personal Data Protection of Fintech Lending at The Jakarta Legal Aid Institute	59

CHARTS

Chart 4.1 : Organization Structure of Financial Services Authority	43
Chart 4.2 : Flow of Personal Data Misuse Settlement Dispute	49

APPENDIXES

Appendix 1 : Guidelines For Interview	78
Appendix 2 : Documentation	81
Appendix 3 : Jakarta Financial Services Authority’s Invitation to Interview	83
Appendix 4 : Jakarta Legal Aid Institute’s Interview Certificate.....	84
Appendix 5 : Fintech Lending “Danamart”‘s Interview Certificate	85
Appendix 6 : Victim’s Interview Certificate	86

ABSTRACT

Ita Wardatul Janah, 16220039, *Islamic Law Review Against Effectiveness of Personal Data Protection of Financial Technology Consumers by Financial Services Authority (Study in Financial Services Authority of Jakarta)*, Thesis, Sharia Economic Law Program Study, Sharia Faculty, State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Dr. Burhanuddin Susanto, S.H.I., M.Hum

Keywords: Personal Data, Financial Technology, Financial Services Authority

Industrial Revolution 4.0 is a phase of digitizing various aspects of life, including economic aspects. The existence of the internet makes it easy for the public to conduct digital financial transactions, one of which is the use of financial technology technologies to peer lending. The ease of internet, which is supported by the completeness of personal data, makes people more quickly and efficiently obtain loan funds from fintech lending providers without any collateral. Fintech lending are explicitly regulated in the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. Besides the convenience presented, making personal data more vulnerable to misuse by unscrupulous fintech organizers.

This research has problem formulation namely; 1) How is the effectiveness of personal data protection for consumers of financial technology at the Jakarta Financial Services Authority ?; 2) What is the concept of Islamic law in protecting personal data technology consumers financial data? This study aims to describe the effectiveness of personal data protection for consumers of financial technology at the Jakarta Financial Services Authority and to find out the concept of Islamic law in protecting consumer personal data against financial technology practices. This type of research is legal-empirical with a socio-legal approach. Data collection methods through interviews and documentation studies. While the data analysis is done through the method of editing, classifying, verifying, analyzing and concluding.

Protection of fintech consumer personal data at the Jakarta Financial Services Authority consists of two means of legal protection namely preventive and repressive. The effectiveness of protection of consumer personal data by the Financial Services Authority is less effective because the legal substance is not comprehensive so it results in a weak legal structure (law enforcement). Islamic law upholds personal data as part of the protection of honor (*hifz al-irdh*) which is included in *maqashid syariah dharuriyat* (primary needs), because it contains someone's privacy rights. So it is forbidden to disseminate personal data without the permission of the owner of the data because it can cause *kemudharatan*. The government must make a policy in the form of personal data protection for financial consumer technology based on the consideration of the benefit of the people.

الملخص

إيتاء وردة الجنة، 16220039، نظرة الشريعة الإسلامية في تطبيق حماية البيانات المالية لمستهلكي التكنولوجيا المالية (فينتيك) من قبل هيئة الخدمات المالية (دراسة في هيئة الخدمات المالية بجاكرتا) البحث شعبة حكم الإقتصادي الإسلامي، كلية الشريعة، جامعة الإسلامية الحكومية مولانا مالك إبراهيم مانج.المشرف:الأستاذ برهان الدين الماجستير.

الكلمات الدلالية: البيانات الشخصية ، التكنولوجيا المالية ، هيئة الخدمات المالية

الثورة الصناعية ٤,٠ هي مرحلة الدحتلة (الرقمنة) في جوانب الحياة ، ومنها جانب الاقتصاد. و إن وجود الإنترنت تسهيل على المجتمع في معاملات مالية رقمية ، ومنها استخدام التكنولوجيا المالية (فينتيك) في إقراض النظراء . بوجود الانترنت المكمل بالبيانات الشخصية يحصل المجتمع على قروض أكثر سرعة و فعال بدون ضمانات من منظمي قروض الفينتيك عبر الإنترنت . يتم تنظيم قروض فينتيك عبر الإنترنت بشكل صريح في نظام هيئة الخدمات المالية رقم ٧٧ / POJK.01 عن شأن خدمات إقراض واستعارة الأموال المستندة إلى تكنولوجيا المعلومات . إلى جانب الراحة والسهولة المقدمة في استخدام فينتيك فإنه يجعل البيانات الشخصية أكثر عرضة لسوء الاستخدام من قبل منظمي فينتيك غير مسؤولين، مع أن البيانات الشخصية من الحقوق الشخصية للمواطنين الذين يحميهم الدستور الإندونيسي.

وصياغة المشكلة في هذا البحث هي ؛ الأولى ، كيف تطبيق حماية البيانات الشخصية لمستهلكي التكنولوجيا المالية (فينتيك) في هيئة الخدمات المالية بجاكرتا؟ الثانية، ما هو مفهوم الشريعة الإسلامية في حماية البيانات الشخصية لمستهلكي التكنولوجيا المالية (فينتيك) ؟ وتهدف هذه الدراسة إلى توضيح تطبيق حماية البيانات الشخصية لمستهلكي التكنولوجيا المالية (فينتيك) في هيئة الخدمات المالية بجاكرتا ومعرفة مفهوم الشريعة الإسلامية في حماية البيانات الشخصية للمستهلكين التكنولوجيا المالية.

ونوع من هذا البحث هو البحث العملي-التجريبي بالمدخل الاجتماعي - القانوني . والبيانات المستخدمة في هذا البحث هي البيانات الأولية والثانوية . وأسلوب جمع البيانات من خلال المقابلة و دراسة الوثائق . وأما تحليل البيانات من خلال الأساليب، وهي التحرير، والتصنيف والتحقق والتحليل والاستنتاج. تتكوّن حماية البيانات الشخصية لمستهلكي التكنولوجيا المالية في هيئة الخدمات المالية بجاكرتا من وسيلتي الحماية القانونية، وهما الوسيلة الوقائية والقمعية. ويعد تطبيق حماية البيانات الشخصية للمستهلكين من قبل هيئة الخدمات المالية أقل فعالية بسبب المضمون القانوني غير المكتمل، على الرغم من أن الشريعة الإسلامية تدعم البيانات الشخصية كجزء مقاصد الشريعة.

ABSTRAK

Ita Wardatul Janah, 16220039, *Tinjauan Hukum Islam Terhadap Efektivitas Perlindungan Data Pribadi Konsumen Financial Technology Oleh Otoritas Jasa Keuangan (Studi di Otoritas Jasa Keuangan Jakarta)*, Skripsi, Program Studi Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Dr. Burhanuddin Susanto, S.HI., M.Hum

Kata Kunci: Data Pribadi, *Financial Technology*, Otoritas Jasa Keuangan

Revolusi Industri 4.0 merupakan fase digitalisasi berbagai aspek kehidupan, termasuk aspek ekonomi. Adanya internet memudahkan masyarakat dalam melakukan transaksi keuangan digital, salah satunya pemanfaatan *financial technology peer to peer lending*. Kemudahan internet yang didukung kelengkapan data pribadi, menjadikan masyarakat lebih cepat dan efisien memperoleh dana pinjaman dari penyelenggara fintech pinjaman online tanpa adanya jaminan. Fintech pinjaman online secara eksplisit diatur dalam Peraturan Otoritas Jasa Keuangan Nomor 77/POJK.01/2016 tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi. Disamping kemudahan yang disajikan, menjadikan data pribadi lebih rentan disalahgunakan oleh oknum penyelenggara fintech tidak bertanggung jawab.

Penelitian ini memiliki rumusan masalah yaitu; 1) Bagaimana efektivitas perlindungan data pribadi konsumen *financial technology* di Otoritas Jasa Keuangan Jakarta?; 2) Bagaimana konsep hukum Islam dalam melindungi data data pribadi konsumen *financial technology*? Penelitian ini bertujuan untuk menguraikan bentuk efektivitas perlindungan data pribadi konsumen *financial technology* di Otoritas Jasa Keuangan Jakarta dan untuk mengetahui konsep hukum Islam dalam melindungi data pribadi konsumen terhadap praktik *financial technology*. Jenis penelitian yang digunakan ialah yuridis-empiris dengan pendekatan penelitian yuridis-sosiologis. Metode pengumpulan data melalui wawancara dan studi dokumentasi. Sedangkan analisis data dilakukan melalui metode pemeriksaan, klasifikasi, verifikasi, analisis dan pembuatan kesimpulan.

Perlindungan data pribadi konsumen fintech di Otoritas Jasa Keuangan Jakarta terdiri dari dua sarana perlindungan hukum yaitu preventif dan represif. Adapun efektivitas perlindungan data pribadi konsumen oleh Otoritas Jasa Keuangan kurang efektif karena substansi hukum yang tidak komprehensif sehingga berakibat pada struktur hukum (penegak hukum) yang lemah. Hukum Islam sangat menjunjung tinggi data pribadi sebagai bagian perlindungan terhadap kehormatan (*hifz al-irdh*) yang masuk dalam *maqashid syariah dharuriyat* (kebutuhan primer), karena mengandung hak privasi seseorang. Sehingga haram untuk melakukan penyebaran data pribadi tanpa seizin pemilik data sebab dapat menimbulkan kemudharatan. Adapun pemerintah harus membuat kebijakan berupa perlindungan data pribadi konsumen *financiial technology* berdasarkan pertimbangan kemaslahatan umat.

CHAPTER I

INTRODUCTION

A. Background of Research

The development of sophisticated technology is dynamic pattern of global society which driven to the era of industrial revolution 4.0. A phase of digitalization in the form of Internet on Things (IoT), Artificial Intelligence (AI), as well as the increasingly Big Data are influential in human life. Financial Technology (Fintech) became part of economic growth affected by the industrial revolution 4.0. Fintech is a technology that contributes to financial services, one of which is offering technology-based lending and borrowing services (peer to peer lending). Today, people are more familiar with the term online lends.

Comprehensively the Internet on Things and Fintech melt into one another into a social trend that is popular among Indonesian people. Released by the Indonesian Internet Service Providers Association (APJII) stated that the survey results about penetration and behavior of internet users in 2018 increased by 10.12% compared to the previous year. This means that among Indonesia's population which is 264.16 million people consists of internet user

that reaches 171.17 million.¹ The survey results indicate the level of community needs for the internet is very high, thus providing opportunities for companies through various applications to obtain maximum profit.

Technology-based money lending service is the operations of financial services to bring lenders with lend recipients into agreements to borrow in rupiah directly through an electronic system using the internet network.²

Fintech innovation in the online lending sector (Fintech peer to peer lending) is considered to be faster, easier and more efficient than conventional lends. Facilities obtained from online lends are very diverse including; 1) Lend recipients and lenders make transactions through the Fintech peer to peer lending platform; 2) The time needed during the submission process until the lend disbursement is relatively faster than the process at bank or multi-finance institution. After filling in personal data and attaching related documents, consumers only need 1 X 24 (one time twenty four) hours to obtain these funds; 3) The process of transferring credit (take over) without collateral and residential surveys.

Generally, online lend applications provide standard agreements to prospective customers by only giving two offers, which are “agree” or “disagree”. This condition causes companies through online lend applications

¹Indonesian Internet Service Providers Association Team, “Survei APJII Yang Ditunggu-tunggu Penetrasi Internet Indonesia 2018”, APJII Bulletin, Issue 40, May 2019, p.1

²Article 1 paragraph (3) Regulation of the Financial Services Authority Number 77 / POJK.01 / 2016 Concerning Information Technology-Based Money Lending Services.

to abuse the situation (*misbruik van omstandigheden*) so that consumers in this case are in economic inequality are forced to give permission to applications to access personal data on one's own device, including when someone will apply for online lends.

With an application that is supported by the completeness of personal data, it is easy for someone to make various transactions. But departing from this makes personal data vulnerable to misuse by irresponsible persons. Misuse of data that is in the public spotlight is when online lend recipients experience bad credit or late payment, then some Fintech organizers do not hesitate to disseminate personal data in the form of names, personal photos to files that are considered as privacy to other parties including colleagues, coworkers, to the general public.

Constitutionally, it is stated that the goal of the state is “to protect the entire nation of Indonesia and the whole of Indonesian blood.” Referring to the clause, a person’s personal data is a valuable asset that needs to be protected because it contains human rights. Article 28G paragraph (1) of the 1945 Constitution further states that “every person has the right to protect himself, family, honor, dignity, and property under his authority, and is entitled to a sense of security and protection from the threat of fear to act or do not do something that is a human right.”

The Financial Services Authority (OJK), as an independent state institution, oversees all matters relating to the financial services sector. This is

in accordance with the mandate of Law Number 21 of 2011 concerning the Financial Services Authority. One of the objectives of the establishment of the Financial Services Authority is to be able to protect the interests of consumers and society through the authority of regulation, supervision, inspection and investigation.

Online lend providers (Platforms) are required to submit applications to the Financial Services Authority (OJK).³ Fintech online lends in the registration process to the Financial Services Authority should meet ISO 27001 international standards with the Information Security Management System (ISMS) as an online lend company efforts to protect personal data. The fact is that the policy does not guarantee that personal data can be safely maintained. Until the June 2019 period, 4,500 complaints were received by the Jakarta Legal Aid Institute regarding the misuse of personal data by fintech online lends.⁴

Dissemination of consumer personal data is against the law. Crucial matters for all elements, especially the government in this case are represented by the Financial Services Authority to provide protection for personal data that contains the victim's privacy rights through repressive and preventive efforts. If

³Article 7 of the Regulation of the Financial Services Authority Number 77/POJK.01/2016 Concerning Information Technology-Based Money Lending Services.

⁴Sakina Rakhma Diah Setiawan, "Per Juni 2019, LBH Jakarta Terima 4.500 Aduan Soal Pinjaman Online fintech," <https://money.kompas.com/read/2019/07/29/154700526/per-juni-2019-lbh-jakarta-terima-4.500-aduan-soal-pinjaman-fintech>, accessed on 5th August 2019 at 10.15 PM

this situation is not immediately addressed, it can potentially have a more fatal impact.

In addition, the Financial Services Authority has issued Financial Services Authority Regulation Number 77/POJK.01/2016 regarding Information Technology-Based Money Lending Services which summarizes key policies towards the online lend cycle. However, the regulation does not specifically mention how long the period of storage of personal data until the flow of destruction by online lend providers. As well as not mentioning how the dispute resolution prepared by the Financial Services Authority to provide solutions for the victims.

According to Islamic law, the Financial Services Authority as a state institution is responsible for overseeing the protection of consumers' personal data. That is personal data is closely related to privacy and dignity of a person. If someone's personal data is misused, it will cause danger to himself and his family. Misuse of personal data is contrary to *maqashid syariah* which essentially to aims personal and someone' else lives. So the authorities must make efforts to prevent and repressive on the issue.

Based on the description above, the researcher is interested in conducting an in-depth study and research with the entitled "**Islamic Law Review Against Effectiveness of Personal Data Protection of Financial Technology Consumers by Financial Services Authority (Study in Financial Services Authority Jakarta)**"

B. Problem Formulation

Based on this background, the problems formulations are as follows:

1. How is the effectiveness of personal data protection of financial technology consumer in Financial Services Authority Jakarta?
2. What is the concept of Islamic law in protecting consumer personal data of financial technology?

C. Objective of Research

In line with the problems that have been presented above, the Researcher has purpose in preparing this study as follows:

1. To describe the form of implementation of personal data protection for consumers of financial technology in Financial Services Authority of Jakarta.
2. To find out the concept of Islamic law in protecting personal data of consumers against the practice of financial technology.

D. Benefits of Research

When the above research objectives are achieved, this research is expected to be able to provide benefits both theoretically and in practice. These benefits are:

1. Theoretically

This research can be used as a reference and additional insight for students and academics of the Study Program of Sharia Economic Law at State Islamic University of Maulana Malik Ibrahim Malang. In line with the facts, until now the regulations regarding the protection of personal data have not been codified, in fact there are no specific laws governing them. So that, this research provides benefits in the academic field with regard to concepts and theories regarding the protection of personal data of fintech consumers in the Financial Services Authority institution in terms of the analysis of Islamic Law.

2. Practically

Practically, this research is expected to be able to contribute to related elements, including the following:

- a. For Public

This research can be used as a consideration of Fintech online lend consumers to enforce privacy rights in the aspect of personal data care which is now a public concern. As for Fintech online lend companies, it can foster legal awareness that consumer personal data is something that is guaranteed by the country's constitution so that it can improve the information security system.

b. For Government

The results of this study can also be used as a contemplation for the government as a regulator function, particularly with regard to the formation of the Personal Data Protection Act, bearing in mind that until now the regulations regarding the protection of personal data of consumers have not been codified so that when they do not cause duplicative overlapping regulations.

E. Operational Definition

Limitation of operational definitions in this research is very important in order to avoid understanding double meanings. The operational definitions are as follows:

1. Personal data

Personal data is data of someone who has privacy rights and is protected by the security of his information. If the data is misused, it can cause social inequality in individuals in the community.

2. Financial technology

Financial technology is the use of technology in the financial or economic fields that can facilitate the services and movements of certain digital financial transactions. In this case the type of financial technology discussed is in the online lend sector.

3. Consumer

Consumers are parties who obtain utilization of services available at the Financial Services Institution in the online lend sector.

4. Financial Services Authority (OJK)

The Financial Services Authority (OJK) is an independent institution that is supervised directly by the House of Representatives of the Republic of Indonesia and operates as an integrated regulatory and supervision system in all financial services sectors, and can carry out investigative functions to the investigation and prosecution of cases in financial institutions that are detrimental to consumers.

F. Discussion Structure

This research consists of V (five) chapters. Each chapter has several sub-chapters which each contain of clear description related to the researcher's problem discussed. The systematic discussion in this study is as follows:

Chapter I contains of an introduction, this chapter illustrates the background of the importance of examining the implementation of personal data protection for consumers of financial technology by the Financial Services Authority, the formulation of the problem as a research benchmark, research objectives in the form of prospects to be achieved with the existence of this

research, the benefits of research obtained both theoretically and practically related to the issues discussed, operational definition and discussion structure.

Chapter II contains of literature review consisting of two sub-topics, namely previous research and a theoretical framework. Previous research is information about previous studies that have similarities and differences with this study. Actual issues related to the protection of personal data Fintech consumers by the Financial Services Authority have not been studied by academics considering the misuse of personal data in the online lending sector is still categorized as a recent problem. While the theoretical framework is a theories taken from a variety of literature as a knife analysis of the facts that occur in the field.

Chapter III regarding research methods. This chapter contains the procedure that the researcher goes through to find answers to the problems that have been determined. The research methods in this chapter consist of the type of research, the research approach, the location of the study, the types and sources of data used, as well as the data collection methods and data processing methods chosen by the researcher to produce valid and reliable data.

Chapter IV contains of findings and discussion. In this subject contains the research core, in this chapter the researcher presents the results of primary data analysis and secondary data to answer the problem formulation. This

chapter describes how the effectiveness of personal data technology consumer financial protection by the Jakarta Financial Services Authority and a review of Islamic law related to the topic.

Chapter V is the concluding part that draws conclusions and suggestions. The conclusion is drawn from the results of in-depth analysis of empirical data obtained. This brief generalization illustrates the answers to the problem formulation. The suggestion is the researcher's suggestion which is shown to several parties including the community, the fintech lending provider, and the Financial Services Authority as an institution that has a supervisory function over the financial technology sector.

CHAPTER II

REVIEW AND RELATED LITERATURE

A. Previous Research

Previous research is used to determine the originality and novelty of research so as to avoid duplication of scientific buildings that have been carried out by others. The construction of thought contained in the research has links with previous studies, including the following:

1. Research by Rati Maryani Palilati

This research was conducted in 2016 by Rati Maryani Palilati, a student at the Notary Magister of the University of Mataram with the title of the article "*Perlindungan Hukum Konsumen Perbankan Oleh Otoritas Jasa Keuangan*" published in *Jurnal IUS Kajian Hukum and Keadilan*. This study aims to find out how the role and legal protection of banking consumers by the Financial Services Authority uses the type of normative research.⁵ The similarity with this study is the chosen research subject, the Financial Services Authority. But the difference is the object of research is related to the protection of banking consumers, while the

⁵Rati Maryani Palilati, "Perlindungan Hukum Konsumen Perbankan Oleh Otoritas Jasa Keuangan", *Jurnal IUS Kajian Hukum dan Keadilan*, 3, (December 2016), p. 50

researchers discuss the protection of personal data of consumers of financial technology.

2. Research by Zahra Zahadina Zikhaula Toba

Previous research conducted in 2017 by Zahra Zahadina Zikhaula Toba, student of the Sharia Business Law Department, Faculty of Sharia, Maulana Malik Ibrahim State Islamic University Malang with the thesis title of “*Tinjauan Hukum Islam Terhadap Legalitas Penjualan Baham Bakar Minyak (BBM) Pom Mini dengan Menggunakan Nozzle di Kota Malang*”. This study aims to determine the practice of selling mini pom fuel in accordance with Islamic law and legislation through legal empirical research with a qualitative descriptive approach.⁶ The similarities with this research is the review of Islamic law as a knife for data analysis and legal empirical research methods. The difference that appears is that the problem discussed is related to the legality of selling mini pom fuel, while the researcher focuses on the problem of implementing personal data protection for consumers of financial technology.

⁶ Zahra Zahadina Zikhaula Toba, “*Tinjauan Hukum Islam Terhadap Legalitas Penjualan Baham Bakar Minyak (BBM) Pom Mini dengan Menggunakan Nozzle di Kota Malang*”, *Thesis*, (Malang: UIN Maulana Malik Ibrahim Malang, 2017), p. xv

3. Research by Masitoh Indriyani, Nilam Andaria Kusuma Sari, and Satria Unggul W.P

Research conducted in 2017 by Masitoh Indriyani, Nilam Andaria Kusuma Sari, and Satria Unggul W.P from the Law Faculty of Airlangga University with the title “*Perlindungan Privasi and Data Pribadi Konsumen Daring Pada Online Marketplace System*” published in the *Justitia Jurnal Hukum*, Faculty of the University Muhammadiyah Surabaya. This type of research is legal normative research with several research approaches, namely 1) the statutory approach; 2) conceptual approach; 3) case approach; and 4) a comparative approach to find out the settings and protection of privacy and personal data of online consumers online marketplace systems.⁷ The research has the same object of research in the form of privacy protection and personal data of consumers, but the difference is that the chosen variable is online on the online marketplace system while the Researcher focuses on protecting personal data from consumers of financial technology with the subject research of Financial Services Authority of Jakarta.

⁷Masitoh Indriyani, Patchouli Andaria Kusuma Sari, Satria Unggul W.P, “Perlindungan Privasi dan Data Pribadi Konsumen Daring Pada *Online Marketplace System*”, *Justitia Jurnal Hukum*, 2, (October 2017), p. 194

4. Research by Ismiyatul Arifah

Previous research conducted in 2018 by Ismiyatul Arifah, student of the Sharia Economic Law Study Program, Faculty of Sharia and Law, State Islamic University of Syarif Hidayatullah Jakarta with the thesis title “*Perlindungan Hukum Terhadap Pengguna Pada Transaksi Bisnis Teknologi Finansial Berdasarkan Prinsip Syariah.*” This study uses a type of legal normative research with the aim to determine the form of sharia, how the contract used in Islamic financial technology transactions and the protection and security obtained by users of Islamic financial technology.⁸ The similarity with this research is object of study i.e. online lend financial technology. The difference is that this research focuses on sharia and examines consumer protection globally, while the researcher examines all online Fintech lends that are registered or not registered with the Financial Services Authority and the protection referred to by the researcher is more specific in the form of consumer personal data protection.

Based on the description above, this study has similarities and differences with previous research. As for in brief, the similarities and differences will be outlined in the following table:

⁸Ismiyatul Arifah, “Perlindungan Hukum Terhadap Pengguna Pada Transaksi Bisnis Teknologi Finansial Berdasarkan Prinsip Syariah”, *Thesis*, (Jakarta: UIN Syarif Hidayatullah Jakarta, 2018), p.

Table 2.1: Similarities and Differences of Previous Research

No	Name and Year of Research	Title	Formal Object	Material Object
1	Rati Maryani Palilati (2016)	<i>Perlindungan Hukum Konsumen Perbankan Oleh Otoritas Jasa Keuangan</i>	Financial Services Authority	Protection of personal data about consumers of financial technology
2	Zahra Zahadina Zikhaula Toba (2017)	<i>Tinjauan Hukum Islam Terhadap Legalitas Penjualan Baham Bakar Minyak (BBM) Pom Mini dengan Menggunakan Nozzle di Kota Malang</i>	Overview of Islamic Law	Implementation of personal data protection for consumers of financial technology
3	Masitoh Indriyani, Nilam Andaria Kusuma Sari, and Satria Unggul W.P (2017)	<i>Perlindungan Privasi and Data Pribadi Konsumen Daring Pada Online Marketplace System</i>	Protection of Privacy and Consumer Personal Data	<i>Financial technology</i>
4	Ismiyatul Arifah (2018)	<i>Perlindungan Hukum Terhadap Pengguna Pada Transaksi Bisnis Teknologi Finansial Berdasarkan Prinsip Syariah</i>	Financial Technology	Protection of personal data on consumers of financial technology by the Financial Services Authority

B. Theoretical Framework

1. Legal Effectiveness Theory

This theory is used by researchers to measure the success rate of the Financial Services Authority in the field to protect the personal data of consumers of financial technology based on the regulations. According to Lawrence M. Friedman, law enforcement will be effective if it contains three components, which are:⁹

- a. Legal structure is institutional framework, the number of courts and the legislature. This component is generally associated with law enforcement officials.
- b. Legal substance is the rule of law or legal norms apply in society. This component explores more sharply about rules, norms, decisions or legal products that have been issued.
- c. Legal culture is social character of a family that develops in the region.

Meanwhile, according to Soejono Soekanto, quoted by Munir Fuady, the effectiveness or enforcement of law is influenced by the following factors:¹⁰

- a. Regulatory factors (norms or regulations)
- b. Law enforcement factors (those who make or implement the law)
- c. Factors of facilities or facilities that support law enforcement.
- d. The community factor is the society in which the law is applied

⁹ Lawrence M. Friedman, "On Legal Development", *24 Rutgers Law Review* 11, (1959), p. 26-29

¹⁰ Munir Fuady, *Aliran Hukum Kritis*, (Bandung: PT Citra Aditya Bakti, 2003), p.46

- e. Cultural factors, as a result of work, creation, and intention based on human will in life.

2. Legal Protection Theory

According to Christine S. T Kansil, “legal protection is all legal efforts that must be given by law enforcement officers to provide a sense of security, both mind and physical from interference and various threats from any party.”¹¹

Whereas Philipus M. Hadjon defines legal protection as “protection of dignity and dignity, as well as recognition of human rights possessed by legal subjects based on general provisions of arbitrariness or as a collection of rules or rules that will be able to protect something else.”¹²

Legal protection is basically provided as a protection of human rights that are impaired by certain people’s behavior so that the law is needed through the role of government to provide the means so that these rights can be fully enjoyed. The means of legal protection referred to by Philipus M. Hadjon consists of:¹³

¹¹ C.S.T Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, (Jakarta: Balai Pustaka, 1989), p. 40

¹² Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, (Surabaya: PT. Bina Ilmu, 1987), p. 25

¹³ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, p. 20

a. Preventive Legal Protection

Preventive legal protection is an opportunity given by law to legal subjects to submit an objection before a definitive decision from the government. It aims to prevent disputes after the decision is issued. So that with this preventive legal protection tool, the government prioritizes the principle of prudence in making decisions on the basis of discretion

b. Repressive Legal Protection

Repressive legal protection are actions after a dispute or violation of law by someone. The purpose of this tool is to resolve legal disputes. This protection is categorized as the last legal protection that can lead to punishment against certain legal subjects. Basically, this means of legal protection was born because of the principle of recognition and protection of human rights and the principle of the rule of law. Recognition and protection of human rights is a priority in an area as the goal of the rule of law.

3. Protection of Personal Data and Privacy Rights

a. Definition of Personal Data

In Article 4 paragraph (1) of the General Data Protection Regulation, the term personal data or personal data is defined as:

“any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.”¹⁴

Based on the above definition, stating that personal data is information that can be recognized either directly or indirectly (through electronic or non-electronic systems) sourced from the name, identification number, location data, online identity or factors that explain a person's specifications relating with physical, psychological, genetic, mental, economic, cultural or social identity of individuals. Whereas the Minister of Communication and Information through its regulations defines “personal data is certain personal data that is stored, maintained, and preserved truthfully and is protected by confidentiality.”¹⁵

b. Types of Personal Data

The European Union General Data Protection Regulations classify the types of personal data based on the level of loss that a person would feel when using data without permission. The types of data include:

¹⁴ Andrew Denley dan Mark Foulsham (eds), *GDRP: How to Achieve and Maintain Compliance*, (Oxon: Routledge, 2019), p. 2

¹⁵ Article 1 paragraph (1) Regulation of the Minister of Communication and Information Number 20 Year 2016 concerning Protection of Personal Data in Electronic Systems

- 1) Sensitive data is data that causes large losses, generally obtains dominant protection so sensitive data processing requires written permission (explicit) from the owner of personal data. The data is clearly stated in the General Data Protection Regulations including information on race or ethnicity, political opinions, religion or beliefs, trade union membership, genetic information, biometric data, health, to sex life (marriage).¹⁶
- 2) Non sensitive data is data that can cause losses below the level of sensitive data. Non-sensitive data are all data outside sensitive data.

While in the Financial Services Authority Circular Letter Number 18/SEOJK.02/2017 concerning Governance and Risk Management of Information Technology in Information Technology Lending and Borrowing Services, there are personal data of consumers that must be protected, namely:

- 1) Personal identifiable data and information (general data), that is data relating to the subject, so that the data can be known by others including:
 - a) Individuals include names; residence address; identity card (ID, SIM, Passport); Taxpayer Identification Number (NPWP); date of birth and/or age; email address; IP address; phone number;

¹⁶Article 9 General Data Protection Regulation

account number; biological mother's name; credit card number; digital identity (Biometrics); signature; educational background; job experiences; current account; register of assets; or other related data and information.

b) The corporation includes the name of the corporation; address; phone number; composition of directors and commissioners including identity documents in the form of ID/Passport/residence permit; board of director; account number; current account; asset list; company document; data and other related information.

2) Material non-public data and information including financial statements; business performance; management decision; number of customers; data and other related information.

3) Data and information related to financial transactions; and

4) Data and information related to contracts/agreements.

c. Principle of Personal Data Protection

Efforts to protect personal data will be effective if carried out based on the principles of good personal data protection, including:¹⁷

1) Respect for personal data as privacy.

¹⁷ Article 2 paragraph (1) Regulation of the Minister of Communication and Information Number 20 Year 2016 concerning Protection of Personal Data in the Electronic System

- 2) Personal data is confidential in accordance with the agreement and/or based on statutory provisions.
- 3) Based on agreement.
- 4) Relevance for the purpose of acquiring, collecting, processing, analyzing, sending and distributing.
- 5) Eligibility of the electronic system used.
- 6) A good intention to immediately notify the owner of personal data of any failure to protect personal data.
- 7) Availability of internal rules for managing personal data protection.
- 8) Responsibility for personal data in the possession of the user.
- 9) Ease of access and correction of personal data by the owner of personal data.
- 10) The integrity, accuracy, validity of data and the updating of personal data.

According to the legal side there are principles of data protection that must be fulfilled by service providers including:¹⁸

- 1) The principle of limiting the collection of personal data.
- 2) The principle of the quality of personal data.
- 3) The principle of special purpose use of personal data.
- 4) The principle of limitation on the use of personal data.

¹⁸ Dian Purna Anugerah and Masitoh Indriani, "Data Protection in Financial Technology Services", *Sriwijaya Law Review*, 2, (January, 2018), p. 90

- 5) The principle of security protection.
- 6) The principle of openness.
- 7) The principle of individual participation.
- 8) The principle of accountability.

d. Personal Data Owner Rights (Data Subject)

Referring to the regulations in the west, the data owner has rights related to data protection. These rights consist of:

- 1) The right of transparency and modality, which is the right to request explanations from data controllers (such as applications) to provide information that is concise, transparent, easily understood and accessed using clear and simple language.¹⁹
- 2) The right to access data is the right of the data owner to obtain confirmation of all details of data management, including the purpose of data processing, third party information that obtains data owner.²⁰
- 3) The right to correct data if there is erroneous and incomplete personal data.²¹

¹⁹ Article 12 Paragraph (1) General Data Protection Regulation

²⁰ Article 15 Paragraph (1) General Data Protection Regulation

²¹ Article 16 General Data Protection Regulation

- 4) The right to be forgotten, i.e. data owner has the right to have his data (digital record) deleted completely from the system without delay by the data controller.²²
- 5) The right to limitations on data processing.²³
- 6) The right of data portability, which is. the rights of the data owner to obtain the same data as the data stored in a system (application), and provide the data to another system (application).²⁴
- 7) The right to object to the processing of personal data intended for the needs of other parties, as intended for marketing.²⁵
- 8) The right to refuse to submit to standard agreements that have a legal effect.²⁶

e. Personal Data as Privacy Right

Privacy is seen as a broader definition than personal data in the context of profiling.²⁷ The reason is, in that context, privacy can be used for processing data as material for analyzing information about an interest in something, reliability, behavior, or moving one's location compared to the term personal data.

²² Article 17 Paragraph (1) General Data Protection Regulation

²³ Article 18 General Data Protection Regulation

²⁴ Article 20 General Data Protection Regulation

²⁵ Article 21 General Data Protection Regulation

²⁶ Article 22 General Data Protection Regulation

²⁷ Ridha Aditya Nugraha, "Perlindungan Data Pribadi dan Privasi Penumpang Maskapai Penerbangan Pasa Era Big Data", *Jurnal Mimbar Hukum*, 2 (June, 2018), p. 264

The existence of the right to privacy is recognized in Article 12 of the Universal Declaration of Human Rights which has the following meanings

“No one shall be subjected to arbitrary interference with this privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the rights to the protection of the law against such interference or attack”²⁸

Based on the description above, Indonesia's constitutional foundation in Article 28G paragraph (1) of the 1945 Constitution Article 29 paragraph (1) of Law Number 39 Year 1999 concerning Human Rights states that “every person has the right to protection of personal, family, honor, dignity, and property under his authority, and is entitled to a sense of security and protection from threats fear to do or not do something that is a human right.”

Privacy in the Big Indonesian Dictionary means freedom or privacy.²⁹ Whereas in the Regulation of the Minister of Communication and Information states that "privacy is the freedom of the owner of personal data to declare confidential or not reveal the confidentiality of his personal data, unless otherwise stipulated in accordance with statutory

²⁸Article 12 Universal Declaration of Human Rights

²⁹ Dictionary Drafting Team Center for Language Development and Development, *Kamus Besar Bahasa Indonesia, Cet.2*, (Jakarta: Balai Pustaka, 1989), p. 788

regulations.”³⁰ In line with this definition, Gellert and Gutwirth provide an understanding of privacy in the form of a way for someone to protect data obtained from social interactions so that they can keep it a secret and secure it from other people's unwanted observations..³¹

In the use of information technology and financial technology, protecting personal data is one part of personal rights. Personal rights contain of the following meanings; 1) Personal rights are the rights to enjoy private life and are free from all kinds of distractions; 2) Personal rights are the right to be able to communicate with others without spying; 3) Personal rights are the right to supervise access to information about one's personal life and data.³²

The urgency of protecting personal data as part of privacy rights that is a basic human right is needed. Misuse of personal data will certainly have an impact on one's privacy rights, especially in this era of electronic systems personal data retention protection. Protection of personal data in an electronic system includes protection of the acquisition and collection process; Processing and analyzing; Storage;

³⁰ Article 3 Regulation of the Minister of Communication and Information Technology Number 20 Year 2016 concerning Protection of Personal Data in the Electronic System

³¹Serge dan Gutwirth, “How to Cope with Information Sistemming from Social Interaction in a way that certain areas of one’s personal life are hidden from unwanted views”, *Reforming European Data Protection*, (2015), p.16

³²Elucidation of Article 26 paragraph (1) Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transactions

Performance, announcement, delivery, distribution and/or opening of access; and destruction of personal data.³³

True privacy rights are rights that can still be limited or reduced (derogable rights) based on law.³⁴ These restrictions are specifically mentioned in Article 73 of the Human Rights Law which reads:

“the rights and freedoms set forth in this Law can only be limited by and based on the law, solely to guarantee the recognition and respect for human rights and the basic freedoms of others, decency, public order and the interests of the nation”³⁵

³³ Article 3 Regulation of the Minister of Communication and Information Technology Number 20 Year 2016 concerning Protection of Personal Data in the Electronic System

³⁴ Reda Manthovani, *Penyadapan VS Privasi*, (Jakarta: Bhuana Ilmu Populer, 2015), p. 46

³⁵ Article 73 of Law Number 39 Year 1999 concerning Human Rights

CHAPTER III

RESEARCH METHOD

According to the Indonesian General Dictionary, the word method is defined as an organized and well thought out way to achieve something.³⁶ The method becomes a tool or tool (tool) in a scientific work, so the function of the method is very important because it is related to the technical answer to the hypothesis. While the definition of research words in the Indonesian Dictionary is an activity of collecting, processing, analyzing, and presenting data that is done systematically and objectively to solve a problem or test a hypothesis to develop general principles.³⁷

A. Type of Research

This type of research uses legal empirical research or in other terms called field research. This study aims to determine the extent of the function of law in the community. Some aspects that affect the functioning of law in society are 1) The rule of law or regulation itself; 2) Law enforcement; 3) Facilities used by law enforcement; and 4) Community awareness.³⁸ The reference data that are

³⁶ W.J.S Poerwadarminta, *Kamus Umum Bahasa Indonesia*, (Jakarta: PN Balai Pustaka, 1982), p.649

³⁷ Dictionary Drafting Team Center for Language Development and Development, *Kamus Besar Bahasa Indonesia*, p.920

³⁸ Zainuddin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 2011), p. 31

used as material for analysis in legal empirical research do not rely on written law but refer to the research results obtained at the research location..³⁹

The realization of this research is directed at the effectiveness of the prevailing laws and regulations, especially the Financial Services Authority Regulation relating to the effectiveness of personal data protection for Fintech consumers by the Financial Services Authority based on Islamic Law. So the results (output) of this legal empirical research in the form of recommendations related to whether or not effective implementation of law in general against the reality of the legal community (*Sen*).⁴⁰

B. Research Approach

Based on the type of research above, the approach used by researchers in this study is the socio legal approach. The approach is an activity focusing on the interest in the symptoms that have certain uniqueness in people's lives, generally referred to as variables.⁴¹ The sosio legal approach is used to obtain clear information relating to social interactions both the relationships between individuals, individuals with groups, and groups with groups on legal issues or symptoms.

³⁹ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, Cet.1 (Bandung: PT. Citra Aditya Bakti, 2004), p.54

⁴⁰ Nurul Qamar and Aan Aswari (eds), *Metode Penelitian Hukum*, (Makassar: Social Politic Genius, 2017), p.6

⁴¹ Burhan Ashshofa, *Metode Penelitian Hukum*, Cet 4, (Jakarta: Rineka Cipta, 2004), p. 20

The socio legal approach in this research was carried out through:⁴²

1. Identification of social problems related to the rise of public complaints related to the spread and misuse of personal data online fintech consumer lends received by the Jakarta Legal Aid Institute.
2. Understand the causes of violations committed by online fintech lend providers in the collection, storage and management of their personal data.
3. Understand the lack of supervision and government efforts, especially the Financial Services Authority institutions in dealing with issues of reliability and security of personal data Fintech consumers in the digital and big data era.

C. Location of Research

In order to obtain valid and actual data, the Researcher conducted a field study that was entirely located in the DKI Jakarta area including:

1. Head Office of the Financial Services Authority in Soemitro Djojohadikusumo Building, Jl. Lapangan Banteng Selatan No.2-4, Pasar Baru, Sawah Besar, Kota Jakarta Pusat, Daerah Khusus Ibukota Jakarta 10710.

⁴² Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, (Bandung: Mandar Maju, 2008), p. 130

2. Jakarta Legal Aid Institute in Jl. Pangeran di Ponegoro No.74, RT.9/RW.2, Pegangsaan, Menteng, Jakarta Pusat, 10320.
3. PT. Anda Aguna Nusantara di Citylofts Sudirman Lt.22 Unit 2216, Jl. K.H. Mas Mansyur No. 121 Tanahabang, Jakarta Pusat, 10250.

D. Types and Data Source

Judging from the data collected, this type of research uses qualitative research. Qualitative research is a scientific research that has the aim to understand a phenomenon in a social context naturally by prioritizing intimate communicative techniques between researchers and the phenomenon under study.⁴³ Qualitative research places researchers as active learners who are able to present research results based on facts experienced by researchers. This is very closely related to the function of the catalyst in qualitative research, in which researchers join together with the subject and environment under study without dissolving manipulating data.⁴⁴ In general, the data sources presented in this study consist of primary data and secondary data.⁴⁵ The data is as follows:

⁴³ Haris Herdiansyah, *Metodologi Penelitian Kualitatif untuk Ilmu-Ilmu Sosial*, (Jakarta: Salemba Humanika, 2010), p. 18

⁴⁴ Haris Herdiansyah, *Metodologi Penelitian Kualitatif untuk Ilmu-Ilmu Sosial*, p. 17

⁴⁵ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI-Press, 1986), p. 11

1. Primary Data

Primary data is basic data in the form of information obtained directly from the main source, namely the interviewee. The information was obtained from:

- a. Mr. Bagus
- b. Ms. Yenny Silvia Sari Sirait
- c. Mr. Darda Adnan Pritama
- d. Initial SA (24 years old)
- e. Initial UA (24 years old)

2. Secondary Data

Secondary data is data obtained from literature materials in the form of laws and regulations and literature that supports primary data sources. Secondary data is divided into legal materials, which are:⁴⁶

- a. Primary legal material, namely legal materials in the form of legislation. The research uses primary legal materials relating to the 1945 Constitution; Law Number 39 of 1999 concerning Human Rights; Law Number 21 of 2011 concerning the Financial Services Authority; Act Number 24 of 2013 concerning Amendment to Law Number 23 of 2006 concerning Population Administration, Act Number 19 of 2016 concerning Amendment to Law Number 11 of

⁴⁶ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Jakarta: PT. RajaGrafindo Persada, 2006), p. 31-32

2008 concerning Information and Electronic Transactions; Regulation of the Minister of Communication and Information, Regulation of the Financial Services Authority, and others.

- b. Secondary legal material, an official document in the field of legal science published. The legal documents consist of books, academic texts on the draft of personal data protection law, results (thesis research, thesis, or journal), and even the opinion of legal experts.
- c. Tertiary legal material, is a supplementary material that helps the understanding of secondary legal materials. For example, the Big Indonesian Dictionary (KBBI), the general Indonesian dictionary, the legal dictionary, the encyclopedia, newspapers, magazines and the internet.

E. Data Collection Technique

Research is a structured, directed and purposeful scientific activity.⁴⁷ The material and data above are considered valid and reliable if the data collection techniques or methods used are accurate and relevant to the problem to be examined. In line with the type of legal empirical research and research focus that has been described previously, the researcher as a human instrument is able

⁴⁷ Marzuki, *Metodologi Riset*, (Yogyakarta: BPFU-UII, 2000), p.55

to carry out its function to collect various data from research subjects.⁴⁸ Data collection used in this study through the following methods:

1. Interview

Interview is a question and answer activity between the interviewer (researcher) and the informants or informants who face each other (face to face) in order to obtain objective data and are needed in research.⁴⁹ The results of a good interview are determined by the factors of the interviewer, the resource person, the theme of the problem listed in the composition of the questions, and the interview situation.⁵⁰

The method used by researchers to collect primary data is direct interviews. Interview techniques globally are divided into two namely structured and unstructured interview techniques. The structured interview technique is a question and answer activity conducted by the researcher by setting his own theme of the problem to be raised according to the list of questions.⁵¹

While the unstructured interview technique is an interview that only contains an outline of the questions to be asked.⁵² The researcher uses a semi-structured interview technique, namely the collaboration of the two

⁴⁸ Albi Anggito and Johan Setiawan, *Metodologi Penelitian Kualitatif*, (Sukabumi: CV Jejak, 2018), p.75

⁴⁹ W.Gulo, *Metodologi Penelitian*, (Jakarta: Grasindo, 2002), p. 119

⁵⁰ Singarimbun and Sofian Effendi, *Metode Penelitian Survei*, (Jakarta: LP3ES, 1989), p. 192

⁵¹ Lexy J.oleong, *Metode Penelitian Survei*, (Bandung: PT Remaja Rosdakarya, 2006), p.190

⁵² Suharsimi Arikunto, *Prosedur Penelitian*, (Jakarta: Rineka Cipta, 2013), p. 270

techniques. The following is a list of interviews conducted with resource persons who have qualifications in their fields.

Table 3.1: List of Resource

No	Name/Initial Resource	Information
1	Bagus	Financial Services Sector Research Department
2	Yenny Silvia Sari Sirait	Lawyer of Jakarta Legal Aid Institute
3	Darda Adnan Pritama	Managing Director of “Danamart” fintech lending provider
4	Initial SA (24 years old)	victim of fintech lending
5	Initial UA (24 years old)	victim of fintech lending

2. Documentation Study

Documentation studies are data collection methods related to social research, generally used to explore monumental data.⁵³ This method serves to collect data in the form of manifestations of important records relating to the problem under study so that comprehensive, valid and scientific data are found.⁵⁴

⁵³ Burhan Bugin, *Metodologi Penelitian Sosial dan Ekonomi*, (Jakarta: Kencana, 2013), p. 153

⁵⁴ Sudjarwo and Basrowi, *Manajemen Penelitian Sosial*, (Bandung: Mandar Maju, 2009), p. 161

F. Data Analysis Technique

After a number of data has been collected, the next procedure the researcher undertakes is managing information or data that is still categorized as raw data⁵⁵ Raw data is a characteristic of elements or interview notes and documentation studies conducted at the data collection stage as described above.⁵⁶

Data processing method is a way of presenting data in a factual, structured, and perfect manner so that the data is more easily understood.⁵⁷ Data processing is performed to convert raw data into mature data that is ready to be presented as a solution to the legal issues discussed in this study. The stages of data processing used by the researcher are as follows:

1. Editing

Examination is the stage of editing and harmonizing data obtained from the field in the form of a list of questions and the results of interviews. The examination is carried out on the elements of the completeness of the answers from the sources or respondents, the readability of the writings and the clarity of the meaning of the answers, the suitability of the questions with the answers, the relevance of the answers to the theme of the problem, as well as the

⁵⁵ Abuzar Asra and Puguh Bondro Irawan (eds), *Metode Penelitian Survei*, (Bogor: IN Media, 2016), p. 170

⁵⁶ J. Supranto, *Statistik Teori dan Aplikasi*, Ed.6, Cet I, (Jakarta: Erlangga, 2000), p. 24

⁵⁷ Saifullah, *Metode Penelitian*, Handbook of the Sharia Faculty, (Malang: UIN Maliki, 2006), p. 18

uniformity of the data unit up to the stages of writing scientific papers.⁵⁸ The purpose of this stage is to identify and minimize errors and differences in information received from the explanation of the sources.

2. Classifying

Data classification is the stage of grouping data based on certain categorizations that have been prepared by the researcher.⁵⁹ Data obtained from interviews and documentation studies are further grouped according to the research variables, so this stage is used to answer the problem formulation that has been determined by the researcher.

3. Verifying

Data verification is a logical and objective verification stage about the truth of data and facts obtained by researchers in the field. The benefit of this stage is to re-check the validity of information related to the personal data protection of fintech consumer by the Financial Services Authority with using the triangulation method. The purpose of this triangulation is to re-examine the truth of the data from various perspectives both based on theory, data sources, methods

4. Analyzing

Data analysis is a stage of systematizing verified data including interview transcripts, field notes, documentation and other legal materials to be

⁵⁸ Cholid Nabuko and Abu Achmadi, *Metodologi Penelitian*, (Jakarta: Bumi Aksara, 2007), p. 153-154

⁵⁹ Mohamad Ali, *Penelitian Kependidikan*, (Bandung: Angkasa, 1987), p. 153

interpreted or interpreted scientifically by researchers, so that the empirical data obtained can be described in a whole and structured manner⁶⁰ The data analysis techniques used in this study are descriptive-qualitative techniques, namely the depiction of facts, data, or research objects presented in verbal or written form through accurate and systematic interpretation.⁶¹

5. Concluding

Making conclusions is a stage of generalizing data from research analysis.⁶² A conclusion can be formed if the data presented has been validated so that it can answer the problem formulation briefly, concisely and clearly. This conclusion will give birth to a resolution in the form of suggestions, concepts and policies on issues related to preventing the retention of personal data fintech consumers by the government, especially the Financial Services Authority.

⁶⁰ Muri Yusuf, *Metode Penelitian*, (Jakarta: Kencana, 2017), p. 400

⁶¹ Wahyu Wibowo, *Cara Cerdas Menulis*, (Jakarta: Kompas, 2011), p.43

⁶² Moh. Nazir, *Metode Penelitian*, (Jakarta: Ghalia Indonesia, 1983), p. 440

CHAPTER IV

FINDINGS AND DISCUSSION

A. Profile of Financial Services Authority Jakarta

1. History of Financial Services Authority

The Financial Services Authority (FSA) is an institution that independent and free from interference from other parties, which has the functions, duties and authority of regulating, supervising, checking and investigating as Law Number 21 of 2011 concerning the Financial Services Authority⁶³ The establishment of the Financial Services Authority is based on several reasons including:⁶⁴

- a. Mandate of article 34 of the Bank Indonesia Act which states that "the task of supervising the bank will be carried out by an independent financial services supervision agency, and formed by the act."
- b. There is an interest in carrying out the intermediation function in productive activities in all financial services sectors.
- c. The creation of a complex, dynamic, and interconnected financial system as information technology and financial innovation advances.
- d. The emergence of conglomerates in financial services institutions.

⁶³Article 1 of Law Number 21 Year 2011 concerning the Financial Services Authority

⁶⁴Marfuatun Uliya, *Mengenal OJK Dan Lembaga Keuangan*, (Yogyakarta: Relasi Inti Media, 2017), p.

- e. The emergence of cross-sectoral problems that include moral hazard measures, not yet maximum consumer protection in the financial services sector, as well as hampered financial system stability.

On November 22nd, 2011, Law Number 21 Year 2011 concerning the Financial Services Authority was formed and was promulgated on July 16th, 2012. Over a period of several years, the FSA underwent several transitional periods starting from the formation of organizations and institutions, transferring all Bapepam-LK tasks to function, carried out the transfer of banking regulation and supervision functions from Bank Indonesia. So that on January 1st, 2015, FSA was legally able to move the non-banking industry supervision function from the Microfinance Institution

2. Vision and Mission of Financial Services Authority

The Financial Services Authority has a vision i.e.:⁶⁵

“to become a trustworthy monitoring institution that oversees financial services industry, in order to protect the interest of consumer and public, and to be able bring about the financial services industry into becoming a pillar of national economy with global competitiveness as well as capability to promote public prosperity”

Departing from the vision above, Financial Services Authority institution has several missions:⁶⁶

⁶⁵Financial Services Authority, “Vision and Mission”, <https://www.ojk.go.id/en/tentang-ojk/Pages/Visi-Misi.aspx>, accessed on 23th December 2019 at 07.30 AM

- a. To realize the governing of all activities in financial sector so that they are managed regularly, fairly, transparently, and accountably;
- b. To realize a sustainable and stable financial system;
- c. To protect the interests of consumers and public.

3. Location of Financial Services Authority

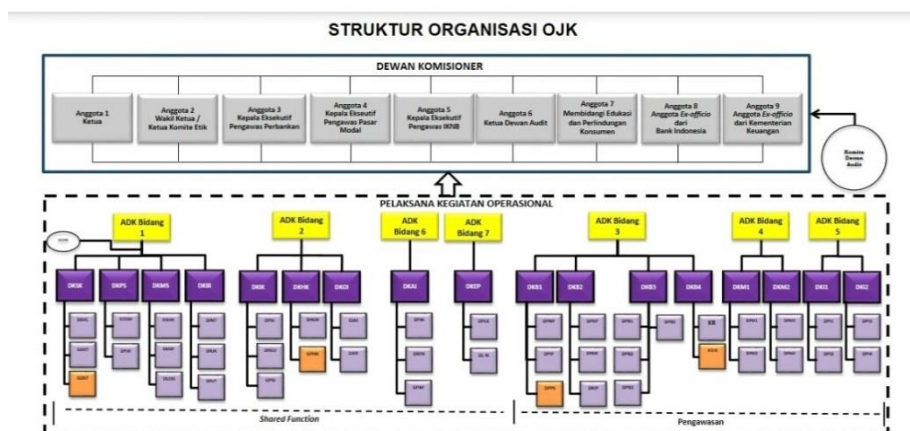
The Financial Services Authority institution located at Soemitro Djohadikusumo building, 2-4 Lapangan Banteng South Street, Pasar Baru, Sawah Besar, Central Jakarta City, Special Capital District of Jakarta 10710. Telephone: (021) 2960 0000, Fax: (021) 385 8321, E-mail: humas@ojk.go.id

4. Organization Structure of the Financial Services Authority

The organization structure of the Jakarta Financial Services Authority consists of two important parts, namely the Board of Commissioners and the Operational Activity Implementer in order to facilitate institutional tasks. The following chart is the organization structure of the Financial Services Authority, namely:

⁶⁶Financial Services Authority, "Vision and Mission", <https://www.ojk.go.id/en/tentang-ojk/Pages/Visi-Misi.aspx>, accessed on 23th December 2019 at 07.30 AM

Chart 4.1: Organization Structure of Financial Services Authority⁶⁷



B. Analysis of Discussion

1. Effectiveness of Personal Data Protection of Financial Technology Consumer in Jakarta Financial Services Authority

The Financial Services Authority is an independent institution that regulates and oversees all activities in the financial services sector both banking and non-banking. As technology advances, the Financial Services Authority offers a renewal in the form of financial technology units (hereinafter referred to as fintech) to balance the needs of the community in the digital economy era. The following table is the fintech unit found at the Financial Services Authority, namely:

⁶⁷Financial Services Authority, "Organization Structure", <https://www.ojk.go.id/en/tentang-ojk/Pages/Struktur-Organisasi.aspx>, accessed on 23th December 2019 at 07.30 AM

Table 4.1: Financial Services Authority Fintech Unit

No	Unit Fintech	Responsible Person
1	Peer to Peer Lending	Directorate of Regulation, Licensing and Supervision of Fintech (DP3F), Department of Sector Supervision of IKNB 2A
2	Equity Crowdfunding	Directorate of Service Sector Corporate Financial Assessment (DPKPSJ), Capital Market Sector Supervision Department 2B
3	Digital Financial Innovation	Digital Financial Innovation Group

Peer to peer lending (P2P Lending) is a financial service to provide financing in the form of technology-based money lends (online lends) regulated in Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. As for the types of personal data that can be accessed by the organizer, Mr. Bagus as the Financial Services Authority states that:

“Peer to peer lending memang diawal-awal pendaftarannya sampe sekitar tahun kemarin (2018) belum membatasi data yang diambil, jadi si pelaku pinjaman online di aplikasinya gitu ngambil semua yang ada di gawainya. Nah kalo sekarang dikeluarkan kebijakan dari DP3F itu data yang diambil ketika aplikasinya diinstall di handphone borrowernya itu terdiri dari CEMILAN (Camera, microphone, dan location)”⁶⁸

In addition to camera data, microphone, and the user's location is personal data that must be protected. Basically the data considered as personal data are

⁶⁸ Bagus, *interview*, (Jakarta, 31st October 2019)

specifically mentioned in Article 58 of the Population Administration Act. Mr.

Bagus states that:

“Dupcapil belakangan ini memperbolehkan data-data di UU Administrasi Kependudukan dibuka selain nama ibu kandung, iris mata, dan sidik jari. Dupcapil tadinya hanya memberikan (data) kepada pemerintah, yang kedua diminta oleh pihak swasta juga dalam hal ini kaya perbankan bisa make data itu. Terus kemudian sekarang-sekarang fintech-fintech juga pada menerapkan itu terutama yang bergerak di bidang digital identity dan digital signature, jadi dupcapil ngasih akses tapi Cuma sampe foto untuk mematch (mencocokan) antara pada saat selfie menggunakan aplikasinya dengan data yang ada di dupcapil”⁶⁹

It should be noted that financial service players to fintech may collect, manage and aggregate customer or consumer data starting from personal data and transaction data. However, if the data is sold or shared with other parties, then the act is not permitted. There is no retention period regulated by the Financial Services Authority for fintech providers to determine the period of storage of personal data of consumers. This was said by Mr. Bagus that:

“Sejauh ini sih termasuk dimulai undang-undang pun belum ada yang mengatur masa retensi kaya kita menyimpan dokumen fisik, kaya di UU Kearsipan minimum (penyimpanan data) 10 tahun. Setelah itu harus dimusnahka, untuk bagian retensi elektronik digital belum ada sih”⁷⁰

The principles in protecting personal data of fintech consumers according to the Jakarta Financial Services Authority consist of; First, security and

⁶⁹ Bagus, *interview*, (Jakarta, 31st October 2019)

⁷⁰ Bagus, *interview*, (Jakarta, 31st October 2019)

confidentiality. The fintech operator must have a strategy regarding data security management. The supervisor must report the Standard Operating Procedure (SOP) for using digital Aps and the Information Technology (IT) protection system. So that fintech providers must automatically comply with the Minister of Communication and Information Regulation Number 4 of 2016 concerning Information Security Management System; Second, transparency; Third, validity. The risks of personal data protection for fintech consumers are as follows:

- a. Legal risk, this a major risk where when we talk of personal data protection, it is directly inseparable from the risk of a lawsuit in the event of a security failure. Of course this risk can lead to criminal acts as regulated in the ITE Law.
- b. Reputational risk, this risk arises accompanied by a lawsuit (legal risk).
- c. Operational risk, this risk arises because the cost to restore reputation is far more expensive than the operational costs of data security.

The Financial Services Authority performs the function of monitoring personal consumer data when online fintech lends have been registered with the FSA. As for supervision on illegal fintech practices (not yet registered) carried out by the Investment Alert Task Force, assisted by the Ministry of Communication and Information. Mr. Bagus states:

“Ada kerjasama dan koordinasi juga dibantu sama mesin crawlingnya Kominfo, tapi memang baru sebatas patrolinya menggunakan keyword kaya “pinjaman online” atau “pinjol” atau “pinjaman uang. Kemudian nanti dicocokkan dengan data P2P lending yang terdaftar di OJK sama P2P lending yang sudah diblok sama Kominfo, karena untuk ngeblok itu Kominfo ga bisa asal ngeblok. Kominfo ga punya kewenangan ngeblok, yang bisa ngeblok hanya OJK”⁷¹

Whereas the supervision system conducted by the Financial Services Authority uses an inherent supervision system. The method used is still conventional where every 1 (one) Financial Services Authority staff supervises 10 (ten) to 20 (twenty) fintech lending. In addition, the organizers fintech online lends are required to make reports consisting of monthly reports, quarterly reports, and semester reports.⁷²

There is no dispute on fintech consumer data leakage received by the Financial Services Authority until October 31st, 2019. As for handling fintech online lend disputes, the Financial Services Authority only serves public complaints arising from fintech peer to peer lending registered at the Financial Services Authority. While complaints misuse of data by fintech peer to peer lending that is not registered into ordinary crime. As for what is meant by complaints according to Mr. Bagus, i.e.:

“Yang bisa dikatakan pengaduan adalah pada saat konsumen itu dia punya dokumen atau surat yang menandakan bahwa Pelaku Jasa Keuangan itu sudah menyelesaikan sengketanya terhadap konsumennya sendiri. Kalo udah ada keputusan (gagal), bisa di bawa ke OJK atau

⁷¹ Bagus, *interview*, (Jakarta, 31st October 2019)

⁷² Bagus, *interview*, (Jakarta, 31st October 2019)

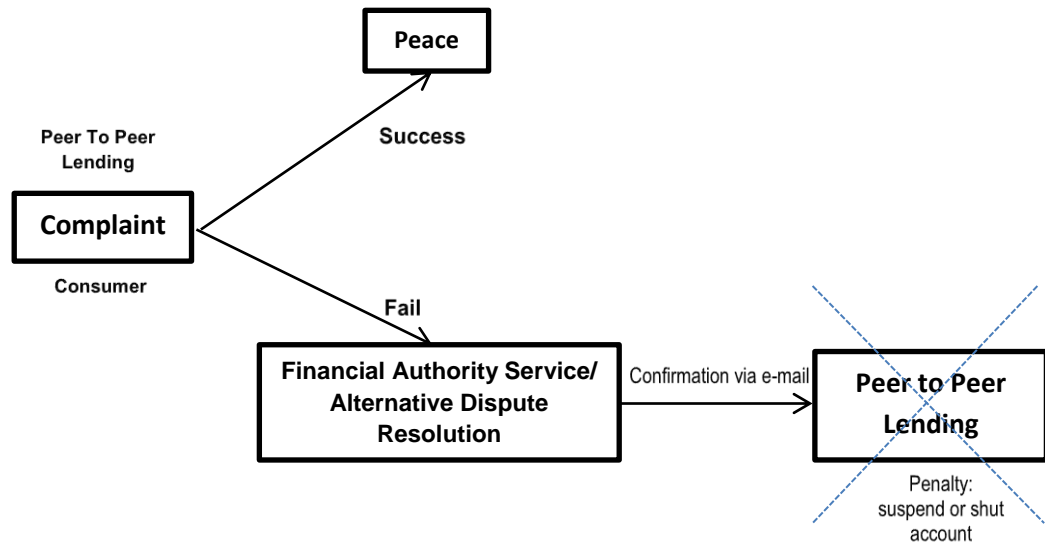
Lembaga Alternatif Penyelesaian Sengketa. Maka aduan itu berubah jadi sengketa.”⁷³

After the dispute entered the Financial Services Authority, there are several steps that must be taken by the FSA to resolve the dispute. The steps are as follows:

- a. The Financial Services Authority conducts a patrol on the company's application name which is complained of by the public.
- b. The Financial Services Authority confirms through the company name, address and e-mail available on the Google Play Store or iOS app store.
- c. The Financial Services Authority confirms the organizer of the peer to peer lending, and ensures that the legality of the organizer is registered or not. If not registered, the FSA calls on companies to immediately take care of the registration of the organizer of peer to peer lending.
- d. If the organizer does not register, the account is deleted. If you register, the Financial Services Authority will impose sanctions for violations of the consumer's personal data in question. The sanctions will be in the form of suspension until the dispute is over.

⁷³ Bagus, *interview*, (Jakarta, 31st October 2019)

Chart 4.2: Flow of Personal Data Misuse Settlement Dispute



As of October 31st, 2019, the Jakarta Financial Services Authority did not accept complaints of misuse of personal data. Bagus revealed that:

“Kalo setauku belum pernah ada penyalahgunaan data. Jadi di OJK itu kalo ini P2P lending berarti P2P lending yang terdaftar aja yang bisa ditanganin sama OJK. Kalo yang tidak terdaftar itu masuknya ke tindak pidana penipuan. Terus itu pun kalo penyidik OJK turun itu diliat dulu dimana tindak pidananya”⁷⁴

The establishment of the Financial Services Authority has the aim that "all activities in the financial services sector are carried out in an orderly, fair, transparent and accountable manner; able to realize a financial system that grows in a sustainable and stable manner; and able to protect the interests of

⁷⁴ Bagus, *interview*, (Jakarta, 31st October 2019)

consumers "⁷⁵. Whereas consumers are "parties who place their funds and/or rely on services available at Financial Services Institutions including banking customers, investors in the capital market, policyholders in insurance, and participants in pension funds, based on laws and regulations."⁷⁶

Legal protection for consumers of financial technology carried out by the Jakarta Financial Services Authority can be grouped into a means of preventive legal protection and a means of repressive legal protection:

a. Preventive Legal Protection

Preventive legal protection is intended to protect the personal data of fintech consumers as an interception function so that the data is not misused by irresponsible parties. Prevention is based on aspects of:

1) Regulation

Peer to peer lending services are subject to the Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. The regulation has not specifically regulated the protection of personal data including the retention period of consumers' personal data storage by fintech providers. Mr. Darda Adnan Pritama as Managing Director of "Danamart" fintech lending provider stated that;

⁷⁵Article 4 of Law Number 21 Year 2011 concerning the Financial Services Authority.

⁷⁶Article 1 paragraph (2) Regulation of the Financial Services Authority Number 1/POJK.07/2013 concerning Consumer Protection of the Financial Services Sector

“Jadi setelah peminjam ini menyelesaikan kewajibannya untuk membayar utang, data pribadinya masih kita simpan minimal 5 tahun setelah itu dihancurkan”⁷⁷

There needs to be guarantees and supervision regarding the retention period of fintech consumer digital transaction traces by the Financial Services Authority. At least the authority is able to uphold the consumer's "right to be forgotten". In addition, the prohibition of taking personal data except for camera data, microphones, and location (CEMILAN) is not set forth in the form of regulations. But only made in the form of directorate policies and Financial Services Authority Press Release Number SP 18/DHMS/OJK/V/2019, meaning that there are no binding forces and strict sanctions of the rules. This allows online lend fintech free to still access the consumer's internal storage memory.

2) Coaching

Through monthly reports, quarterly reports, semester reports, the Financial Services Authority can conduct supervision as well as guidance for registered fintech organizers. As for through patrols in collaboration with the Ministry of Communication and Information, the Financial Services Authority is also able to provide guidance for fintech with illegal status in order to take care of registration as stated in Article 7 of the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-

⁷⁷ Darda Adnan Pritama, *interview*, (Jakarta, 28th October 2019)

Based Money Lending Services which reads "The organizer must submit registration and licensing to FSA"

3) Socialization

In connection with the rampant case of online fintech lending, the Financial Services Authority periodically provides information to the public regarding which fintech are registered with the Financial Services Authority and announces illegal fintech accounts that have been blocked. The aim is for the public to be more careful in making transactions. Until December 13th, 2019, peer to peer lending registered with the Financial Services Authority reached 144 platforms.

Table 4.2: The Peer to Peer Lending Platform is Registered With The Financial Services Authority

No	Names of Platforms	No	Names of Platforms	No	Names of Platforms
1	Danamas	49	Danarupiah	97	Danakoo
2	Investree	50	Danabijak	98	Cairin
3	Amartha	51	Cashcepat	99	Batumbu
4	Dompot Kilat	52	Danalaut	100	Empatkali
5	KIMO	53	Danasyariah	101	Jembatanemas
6	Tokomodol	54	Telefin	102	klikUMKM
7	UangTeman	55	Modalrakyat	103	Kredible
8	Modalku	56	Kawancicil	104	Klikkami

9	KTA Kilat	57	Sanders One Stop Solution	105	Kaching
10	Kredit Pintar	58	Kreditcepat	106	FinPlus
11	Maucash	59	Uangme	107	Alamishariah
12	Finmas	60	Pinjam Duit	108	Syarfi
13	KlikACC	61	Pinjam Yuk	109	Digilend
14	Akseleran	62	Pinjam Modal	110	Asakita
15	Ammana	63	Julo	111	Duha Syariah
16	PinjamanGo	64	Easy Cash	112	Bocil
17	Koinworks.id	65	RupiahOne	113	Qazwa.id
18	Pohon Dana	66	Dana Cita	114	Bsalam
19	Mekar	67	DANAdidik	115	Onehope
20	Adakami	68	TrustIQ	116	LadangModal
21	Esta Kapital	69	Danai	117	Dhanapala
22	KreditPro	70	Pintek	118	Restock
23	FINTAG	71	Pinjam	119	Solusiku
24	Rupiah Cepat	72	Danamart	120	Pinjamdisini
25	Crowdo Connect	73	SAMAKITA	121	AdaPundi
26	AwanTunai	74	Saya Modalin	122	Tree+
27	Taralite	75	PLAZA PINJAMAN	123	Assetkita
28	Invoila	76	Vestia P2P Lending Paltform	124	Edufund

29	TunaiKita	77	Singa	125	Finanku
30	Igrow	78	ModalUsaha	126	Tunasaku
31	Cicil	79	Asetku	127	Uatas
32	Dana Merdeka	80	Danafix	128	DUMI
33	Cash Wagon	81	Lumbung Dana	129	Dynamic Credit Asia
34	Gradana	82	Lahansikam	130	Pundiku
35	Dana Mapan	83	Modal Nasional	131	TEMAN PRIMA
36	Aktivaku	84	Dana Bagus	132	OK!P2P
37	Danakini	85	ShopeePayLater	133	DOEKU
38	Indodana	86	ikredo online	134	Finsy
39	Kredito	87	AdaKita	135	Mopinjam
40	Iternak.id	88	UKU	136	BANTUSAKU
41	Kredito	89	Pinjamwinwin	137	KlikCair
42	Crowde	90	Pasarpinjam	138	AdaModal
43	PinjamGampang	91	Kredinesia	139	KONTANKU
44	TaniFund	92	BKDana	140	IKI Modal
45	Danain	93	Gandeng Tangan.org	141	ETHIS
46	Indofund.id	94	Modalantara	142	Kapital Boost
47	Avantee	95	Komunal	143	PAPITUPI SYARIAH
48	Do-It	96	PosperiTree	144	Berkah Fintek Syariah

4) Complaints Service

The Financial Services Authority provides a consumer complaint page at <http://konsumen.ojk.go.id/form> complaint or telephone 157 (toll free). Complaint services are formed based on Financial Services Authority Regulation Number 18/POJK.07/2018 about Consumer Complaints Services at Financial Services Sector. "Complaints are expressions of consumer dissatisfaction both verbally or in writing caused by the existence of losses and/or potential material, reasonable and direct losses to consumers due to non-fulfillment of agreements and/ or financial transaction documents that have been agreed upon."⁷⁸

It should be noted in the above article that complaints are only limited to expressing dissatisfaction with material losses. While misuse of personal data can have material and immaterial damages. One of the victims of fintech peer to peer lending "akulaku Kredit" the initial SA (24 years) stated;

"Sebenarnya dampak terror dari aplikasi akulaku ya buat saya malu, soalnya dia nagih pake cara neleponin temen-temen yang ga tau permasalahannya gimana, imbasnya tentu ke nama baik. Terus saya Cuma tau kalo kasus kayak gini lapornya ya sama ke polisi atau kominfo, tapi saya ga lapor, udah terlanjur malu."⁷⁹

⁷⁸ Article 1 paragraph (6) Regulation of the Financial Services Authority Number 18/POJK.07/2018 concerning Consumer Complaint Services in the Financial Services Sector

⁷⁹ SA, interview, (Banten, 9th December 2019)

According to the researcher, the existence of a limitation on the meaning of a complaint only includes material damages which can hamper the fulfillment of one's rights. Whereas clearly the constitution of the Indonesian state ends a person's rights as a part that can cause immaterial losses. Article 28G paragraph (1) of the 1945 Constitution states that "every person has the right to protect himself, family, dignity and property under his authority, and is entitled to a sense of security and protection from the threat of fear of doing or not doing something. which is a human right"⁸⁰

b. Repressive Legal Protection

Repressive legal protection are a means carried out by the Financial Services Authority to provide dispute resolution efforts to consumers after the misuse of personal data via litigation and non-litigation. The Financial Services Authority has only implemented three types of punishments as one of repressive legal protection tools, namely suspension of peer to peer lending activities, deletion or blocking of illegal peer to peer lending accounts, and revocation of peer to peer lending licenses that abuse personal data.

The purpose of giving legal punishment is for fintech actors to be able to provide a deterrent effect so that they are then able to comply with applicable

⁸⁰ Article 28G paragraph (1) of the 1945 Constitution

regulations. While compensation in the form of fines for victims who have experienced material or immaterial losses has not been reserved, bearing in mind there are no regulations regarding compensation for victims

Financial Services Authority can conduct an investigation. Investigation in Article 1 paragraph (1) of the Criminal Procedure Code is defined as "a series of investigative actions in terms of and in the manner stipulated in this law to search for and collect evidence which with evidence makes clear about the criminal acts that occurred and to find the suspect."⁸¹

The Financial Services Authority only accepts dispute resolution for misuse of personal data on consumers by registered online lend fintech. According to the researcher there are inconsistencies in the rules whereby the Financial Services Authority can block fintech online lends that have not been registered, but do not serve consumer complaints due to misuse of fintech personal data. Which have not been registered yet. In the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services, there is no mention of the authority of the authority to block unregistered fintech.

In addition, the Financial Services Authority claimed not to accept complaints from the public regarding the misuse of personal data. This is

⁸¹BIP Editorial Team, 3 Laws of the Indonesian Criminal Code, the Criminal Code, the Criminal Procedure Code along with their explanations, (Jakarta: Bhuana Ilmu Populer, 2017), p. 831

different from the issue underlying the existence of this study which is reinforced by the explanation of Mrs. Yenny Silvia Sari Sirait as a public lawyer at the Jakarta Legal Aid Institute which states:

*“kalo sampe sekarang terkait dengan kasus atau pengaduan terkait perlindungan data pribadi ada sekitar 5.000an kasus, paling besar itu terkait pinjaman online sekitar 4.500an, let’s say sisanya terkait penyebaran data pribadi mencakup penyebaran data pribadi tanpa seizin pemilik di sektor perbankan dan leasing. Ada lebih dari 89 aplikasi pinjaman online yang bermasalah, 25 aplikasi pinjaman online itu statusnya terdaftar di OJK”*⁸²

Cases of misuse of personal data by fintech online lends with registered status at the Financial Services Authority were also experienced by victims of the platform "Kedit Pintar" with the initials UA (24 years), he stated:

*“saya pinjem di Kredit Pintar 500 ribu, karena hp saya ganti akhirnya saya telat bayar kan. Nah pihak sana (Kredit Pintar) malah nagih ke nomor temen saya yang ga dicantumin pas pengajuan. Kan kalo mau pinjem, kita harus masukin dua nomor darurat yang bakal dihubungin sama pihak sana (Kredit Pintar), tapi pas kejadian itu malah nomor temen (bukan nomor darurat) yang dihubungin, saya yakin mereka copy IMEI di handphone saya”*⁸³

The Jakarta Legal Aid Institute claims that it will not submit the complaint to the Financial Services Authority. That is due to the distrust of the Jakarta Legal Aid Institute to the Financial Services Authority which is unable to show the flow of dispute resolution of the victims, given the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information

⁸² Yenny Silvia Sari Sirait, *interview*, (Jakarta, 29th November 2019)

⁸³ UA, *interview*, (Banten, 9th December 2019)

Technology-Based Money Lending Services does not cover the flow of settlement disputes over personal data protection.

Table 4.3: List of Personal Data Protection Disputes of Fintech Lending at The Jakarta Legal Aid Institute

No	Disputes Settlement	Victims	Information
1	Litigation	2	Processing in Central Jakarta District Court
2	Non-Litigation (Mediation)	4	Compensation of IDR 150,000,000
3	Police report	1	Not responded
Total victims		7	

The data above shows that of 4,500 complaints, only 7 victims took legal action. A total of 4,493 did not obtain legal certainty regarding the enforcement of their personal rights. Whereas the principle of legal protection for consumers to obtain benefits, justice, balance, security and safety and legal certainty.⁸⁴

Based on the theory of effectiveness put forward by Lawrence M. Friedman. Law protection of personal data consumers of financial technology is able to be implemented well if it meets three components. These components are the legal substance, legal structure and legal culture. Researchers assess the application of personal data protection laws less effective, because the

⁸⁴ Article 2 of Law Number 8 of 1999 concerning Consumer Protection

component of legal substance is Regulation of the Financial Services Authority Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services, which is not comprehensive. Starting from the procedure of collecting and deleting personal data to the resolution of disputes if misuse of personal data has not been specifically regulated.

The impact of the above problems creates a recht vacuum that causes the Financial Services Authority as a legal structure to be unclear in providing legal certainty for victims. While protecting personal data of fintech consumers online lends is very important to be regulated strictly considering the cultural component of the Indonesian people using online lend services is very mushroomed. As of November 27th, 2019, the total number of people making online lends was 15,986,723 entities and 62,171,978 borrower accounts..⁸⁵

2. Islamic Law Review Against Personal Data Protection of Financial Technology Consumers

Personal data is certain personal data that is stored, maintained, and protected by the truth and confidentiality is protected. In other rules, the term personal data protection is equated with information security. According to the Decree of the Minister of Law and Human Rights, information security is the

⁸⁵ Directorate of Regulation, Licensing and Supervision of Fintech, "Perkembangan Fintech Lending", <https://www.ojk.go.id/en/kanal/iknb/data-danstatistik/fintech/Documents/Statistik-%20Oktober-%202019.pdf>, accessed on December 26th, 2019 at 5.30 PM

protection of information assets from various forms of threats to ensure continuity of activities, guarantee activities, integrity, and availability of information assets.⁸⁶

Based on the above understanding, personal data contains two important points in the form of information assets and confidentiality. The information assets consist of: a) data or documents; b) Software, including applications, systems and system development aids; c) Physical assets include computer equipment, network and communication equipment, removable media, and supporting equipment; and d) intangible assets, those are assets that do not have physical form, such as knowledge, experience, expertise, image and reputation.⁸⁷

Personal data or information is an intangible asset that contains a person's image, reputation and dignity. When consumers provide personal data to online lend providers, consumers actually give trust to online lend providers to keep their secrets. So that there arises a right to be kept privacy or confidentiality. The command to keep the mandate contained in the word of Allah SWT:⁸⁸

⁸⁶Article 1D paragraph (18) Decree of the Minister of Law and Human Rights Number: M.HH-01.TI.06.02 Year 2017 concerning Information Security Management Systems within the Ministry of Law and Human Rights.

⁸⁷Article 1D paragraph (5) Decree of the Minister of Law and Human Rights Number: M.HH-01.TI.06.02 Year 2017 concerning Information Security Management Systems within the Ministry of Law and Human Rights

⁸⁸QS al-Anfal[8]: 27

وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَمَنْ جَدُّوا كَاتِبًا فَرِهَانٌ مَّقْبُوضَةٌ ^{صلى} فَإِنْ أَمِنَ بَعْضُكُمْ بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ قَلْبًا وَلَا تَكْتُمُوا الشَّهَادَةَ ج وَمَنْ يَكْتُمْهَا فَإِنَّهُ آتَمٌ قَلْبُهُ قَلْبًا وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ

“And if you are on a journey and can not find a scribe, then a security deosit (should be) taken. And if one of you entrusts another, then let him who is entrusted discharge his trust (faithfully) and let him fear Allah, his Lord. And do not conceal testimony, for whoever conceals it-his heart is indeed sinful, and Allah is Knowing what you do”⁸⁹

The order to fulfill the mandate and the prohibition of treason is also stated in the word of Allah SWT which reads:⁹⁰

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ وَتَخُونُوا أَمْنَتِكُمْ وَأَنْتُمْ تَعْلَمُونَ

“O you who have believed, do not betray Allah and the Messenger or betray your trusts while you know (the consequence)”⁹¹

Personal data and privacy are closely related to one's individual rights. The right is related to the inherent dignity, glory and dignity of the human person, the absolute right that Allah SWT gives to each descendant of Adam *'alaihi salam*. This rights in Al-Qur'an verse:⁹²

⁸⁹ Ministry of Religion Affairs, *Al-Qur'an dan Terjemah New Cordova*, (Bandung: Syamil Qur'an, 2012), p. 49

⁹⁰ QS al-Anfal [8]: 27

⁹¹ Ministry of Religion Affairs, *Al-Qur'an dan Terjemah New Cordova*, p. 180

⁹² QS. al-Isra [17]: 70

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِّنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِّمَّنْ خَلَقْنَا تَفْضِيلًا

“And we have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with (definite) preference.”⁹³

Dissemination of personal data without the knowledge of its owner is the same as entering a house without the permission of its master. The house is a place of rest and a place where someone keeps the secrets of the household.⁹⁴

Allah SWT said:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتُسَلِّمُوا عَلَى أَهْلِهَا فَلْيُذِكِّمَكُمْ حَيْرٌ لَّكُمْ لَعَلَّكُمْ تَذَكَّرُونَ

“O you who have believed, do not enter houses other than your own houses until you ascertain welcome and greet their inhabitants. That is best for you, perhaps you will be reminded”⁹⁵

⁹³ Ministry of Religion Affairs, *Al-Qur'an dan Terjemah New Cordova*, p. 289

⁹⁴ Ahmad Kosasih, *HAM dalam Perspektif Islam*, (Jakarta: Salemba Diniyag, 2003), p. 72

⁹⁵ Ministry of Religion Affairs, *Al-Qur'an dan Terjemah New Cordova*, p. 352

Whereas when consumers have given trust (in the form of permission) to online fintech lend providers to access their personal data (as personal secrets) which includes their reputation and honor, then that trust cannot be betrayed. Imam An-Nawawi in the book *Riyadhus Shalihin* defines treason as an attempt to deceive someone when trusted.⁹⁶ The Prophet Muhammad SAW said:⁹⁷

وَعَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: الْمُسْلِمُ أَخُو الْمُسْلِمِ لَا يَخُونُهُ وَلَا يَكْذِبُهُ وَلَا يَخْذُلُهُ ، كُلُّ الْمُسْلِمِ عَلَى الْمُسْلِمِ حَرَامٌ عِرْضُهُ وَمَالُهُ وَدَمُهُ، التَّقْوَى هَهُنَا، بِحَسْبِ امْرِئٍ مِنَ الشَّرِّ أَنْ يَحْقِرَ أَخَاهُ الْمُسْلِمَ (رواه الترمذي وقال: حديث حسن)

*"From Abu Hurairah Rafhiyallahu Anhu, he said: "The Prophet sallallaahu Alaihi wa Sallam said, 'fellow Muskim are brothers, fellow Muslims must not betray, deceive and humiliate them, fellow Muslims harass their honor, wealth and blood, God is here (while Muslims are brothers, fellow Muslims must not betray, deceive and humiliate them, fellow Muslims harass their honor, property and blood, God is here (while Muslims) pointing at his chest). Someone is considered bad enough if he insults his brother who is Muslim, "(Tirmidhi narrated and he said" This hadith is hasan)"*⁹⁸

The above hadith says it is unlawful to disturb someone's honor and glory. Quoted by Mujaid Kumkelo (eds), according to Ash-Shiddiqy human glory based on the word of God is classified into three types namely:⁹⁹

⁹⁶Syaikh Muhammad Al-Utsaimin, *Syarah Riyadus Shalihin*, Trans. Munirul Abidin, (Mesir: Daar Al-Bahirah-Iskandariyah, 2001), p. 1018

⁹⁷Syaikh al-Islamy Muhyiddin Abi Zakariya Yahya bin Syaraf An-Nawawy, *Riyadhus Shalihin*, (Bandung: Syarkatu Ma'arif, w.y), p, 131

⁹⁸Syaikh Muhammad Al-Utsaimin, *Syarah Riyadus Shalihin*, Trans. Munirul Abidin, p. 1017-1018

⁹⁹Mujaid Kumkelo and Moh. Anas Kholis (eds), *Fiqh HAM*, (Malang: Setara Press, 2015), p. 44

- a. Personal death (*karamah fardiyah*) is the maintenance of the meaning of material and material personality (*maddi*) of humans.
- b. The glory of society (*karamah ijtimaiyah*) is the full guarantee of human equality.
- c. Political glory (*karamah siyasah*) is the form of the caliph on earth, then humans are given the right to choose and be chosen (political rights).

Departing from this, of course, violations of privacy rights are acts that are contrary to the objectives of Islamic law (*maqashid syariah*). Some *fuqaha* define *maqashid syariah* as follows:

الْمَقَاصِدُ الْعَامَّةُ لِلشَّارِعِ فِي تَشْرِيعَةِ الْأَحْكَامِ هُوَ مُصَالِحُ النَّاسِ بِكِفَالَةِ ضَرُورِيَّاتِهِمْ وَتَوْفِيرُ
حَاجِيَّاتِهِمْ وَتَحْسِينَاتِهِمْ

“In general, it is beneficial for humans to take care of their *dharuriyat* needs and perfect their *hajiyyat* and *tahsiniyat* needs”¹⁰⁰

The objectives of Islamic law consist of *dharuriyat* levels (primary needs), *hajiyyat* levels (secondary needs), and *tahsiniyat* levels (tertiary needs).¹⁰¹ According to Imam al-Syatibi quoted by Nurhayati and Ali Imran Sinaga, the needs of *dharuriyat* (primary) consist of *dharuriyat al-khams*

¹⁰⁰Harun al-Rasyid, *Fikih Korupsi*, (Jakarta: Kencana, 2016), p. 62

¹⁰¹Ika Yunia Fauzia and Abdul Kadir Riyadi, *Prinsip Dasar Ekonomi Islam Perspektif Maqashid al-Syari'ah*, (Jakarta: Kencana, 2014), p. 74

namely protection of religion (*hifzh al-din*), protection of the soul (*hifzh al-'aql*), protection of offspring (*hifzh al-nasl*), protection of property (*hifzh al-mal*).¹⁰² The scholars added the principle of protection of honor (*hifzh al-irdh*) as a necessity of *dharuriyat*, this opinion was supported by scholars such as Al-Qarafi, Ahmad Al-Raisun and Yusuf Qardhawi.¹⁰³

The fulfillment of *dharuriyat* must take precedence because it involves the rights of the people as a form of fulfilling the benefit of the existence of Islamic law. According to Amir Syarifuddin, the benefit is divided into two forms namely; 1) realize the benefits, goodness and pleasure for humans; and 2) prevent people from damage and badness.¹⁰⁴ The rule of fiqh states:

دَرْءُ الْمَقَاسِدِ أَوْلَىٰ مِنْ جَلْبِ الْمَصَالِحِ

“Avoiding danger (*mudarat*) must take precedence over achieving benefits (*benefit*)”¹⁰⁵

Dissemination of personal data is a form of damage (*mafsadat*) to the protection of honor (*hifzh al-irdh*) which causes danger. Danger that arises in the form of loss of dignity and dignity of a person, even can result in the

¹⁰²Nurhayati and Ali Imran Sinaga, *Fiqh dan Ushul Fiqh*, (Jakarta: Kencana, 2018), p.76

¹⁰³Syaikh Yusuf Al-Qarhawi, *Fiqh Maqashid Syariah*, Trans. Arif Munandar Riswanto, (Jakarta: Pustaka Al-Kautsar, 2007), p. 27

¹⁰⁴Amir Syarifuddin, *Ushul Fiqh Jilid 2*, Cet.6 (Jakarta: Kencana, 2011), p. 222

¹⁰⁵Muhammad Iqbal, *Fiqh Siyasah*,(Jakarta: Kencana, 2014), p.19

destruction of *dharuriyat al-khamis* because starting from self-esteem as the basic rights of someone who is missing. The rule of *fiqhiyyah* states:

لَا ضَرَرَ وَلَا ضِرَارَ

“Do not harm yourself or other”¹⁰⁶

As for when there is a danger in the form of dissemination of personal data, then the danger must be eliminated either through policy or other efforts. This is as *dharar's* rule states:

الضَّرَرُ يُزَالُ

“The danger must be eliminated”¹⁰⁷

This rule consists of two laws, namely: 1) Must not endanger others, meaning that a prohibition against someone to commit wrongdoing by endangering the lives, dignity and property of others which absolutely has an adverse effect even if it comes from permissible acts (*mubah*). 2) Prohibition of replying to danger with danger but the loss caused by danger due to someone's actions must be resolved by way of complaints to get a fair judge's decision.¹⁰⁸

¹⁰⁶ Abbas Arfan, *99 Kaidah Fiqh Muamalah Kulliyah*, (Malang: UIN-Maliki Press, 2013), p. 172

¹⁰⁷ Pudjihardjo and Nur Faizin Muhith, *Kaidah-Kaidah Fikih Untuk Ekonomi Islam*, (Malang: UB Press, 2017), p. 123

¹⁰⁸ Abbas Arfan, *99 Kaidah Fiqh Muamalah Kulliyah*, p. 173-174

Therefore, there is a need for the role of the Financial Services Authority as an independent institution representing the government. Law enforcement and strict rules for the protection of personal data of consumers of financial technology are very much needed considering that the protection contains benefits for the public interest. As explained in the rules of fiqh, namely:

تَصْرُفُ الْإِمَامِ عَلَى الرَّاعِيَةِ مَنْوُطٌ بِالْمَصْلَحَةِ

"The policy of the authority holder (leader) towards the people must be based on benefit"¹⁰⁹

Based on the above rules, danger on the distribution of personal data must be eliminated. Protection of personal data must be protected by all parties, both fintech customers peer to peer lending, fintech organizers, and the government. The way to resolve the interpretations arising from the dissemination of personal data is through complaints to the judge (in this case the government) in order to obtain guarantees for civil rights (personal rights) in the form of the right to justice in law and the right to obtain security and safety of the people.

¹⁰⁹Muhammad Iqbal, *Fiqh Siyasa*, p.18

CHAPTER V

CONCLUSION AND SUGGESTIONS

A. Conclusion

1. Personal data protection of financial technology consumers by Financial Services Authority Jakarta consists preventive legal protection and repressive legal protection. Preventive legal protection is a means to prevent legal disputes, these facilities include regulation, guidance, socialization, service complaints, and sanctions. While repressive legal protection is a legal effort to resolve disputes including through litigation and non-litigation facilities. In terms of effectiveness, personal data protection of financial technology consumers by Financial Services Authority Jakarta is still ineffective because the legal substance (regulation) is the Financial Services Authority Regulation Number 77 / POJK.01 / 2016 concerning Information Technology-Based Money Lending Services from the retention period to the dispute resolution scheme for victims whose data is disseminated. The weakness of the legal substance has caused the elements of the legal structure (law enforcement), in this case the Financial Services Authority Jakarta cannot perform its functions optimally. As for the community (as an element of legal culture) Indonesia is increasingly conducting online lend transactions (peer to peer lending). So that the urgency regarding the legal personal data protection of financial technology consumers is very important in order to provide justice, usefulness and legal certainty for consumers, especially victims of the distribution of personal data by unscrupulous fintech lending.

2. Personal data is a person's information that must be protected confidentiality. Dissemination of personal data without the permission of the owner can be likened to entering someone else's home without the permission of their master. This is clearly forbidden by Islam, because in personal data contained the glory, honor and dignity of someone who should not be disturbed. As for when financial technology consumers give trust (permission) to online lend providers to access their personal data, then that trust cannot be betrayed. When interpretations occur in the form of misuse of data, there will be danger (*mudharat*) in the form of damage to one's honor and dignity (*hifz al-irdh*) whereas Islamic law is as much as possible to provide benefit to humans. As for some scholars, the protection of honor (*hifz al-irdh*) is part of *maqashid syariah* at the level of *dharuriyat* (primary need) besides protection of religion, soul, reason, descent and wealth (*dharuriyat al-khams*), because honor is closely related to basic human rights. So that the fulfillment of *dharuriyat* needs needs to take precedence over the needs of *hajiyat* (secondary) and *tahsiniyat* (tertiary). The personal data of financial technology consumers must be protected by all elements of society both from consumers, fintech providers, and the government. The government, in this case represented by the Financial Services Authority, is obliged to make policies relating to the personal data protection of financial technology consumers, bearing in mind that there is the benefit of the people that must be safeguarded. Furthermore, when the distribution of personal data occurs, the solution is to make a complaint to the judge (the government or the Financial Services Authority) to obtain a guarantee of the right to justice in law and the right to security and safety.

B. Suggestions

The state of Indonesia is a state of law. The community should be more aware and legal literate, so that they can uphold their rights and dignity. And also for fintech lending providers are more aware to protect the consumers personal data because the Indonesia's constitution protects a person's personal data very clearly. So when bad credit occurs, the dissemination of personal data is not the right solution to make consumers pay an amount of money on time. so there needs to be a more humane strategy and not to harm one's honor. As for the government, the law on the personal data protection must be immediately passed, bearing in mind the large number of victims who have not received justice and legal certainty related to the case of disseminating personal data in the digital age.

BIBLIOGRAPHY

A. Al-Qur'an Al-Karim

B. Regulations

Universal Declaration of Human Rights

General Data Protection Regulation

Law Number 8 Year 1999 concerning Consumer Protection

Law Number 39 Year 1999 concerning Human Rights

Law Number 21 Year 2011 concerning Financial Services Authority

Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transactions

Regulation of the Financial Services Authority Number 1/POJK.07/2013
Concerning Consumer Protection in Financial Services Sector

Regulation of the Financial Services Authority Number 77 / POJK.01 / 2016
Concerning Information Technology-Based Money Lending Services

Regulation of the Minister of Communication and Information Number 20 Year 2016 concerning Protection of Personal Data in Electronic Systems

Regulation of the Financial Services Authority Number 18/POJK.07/2018
Concerning Consumer Complaint Services in the Financial Services Sector

Decree of the Minister of Law and Human Rights Number: M.HH-01.TI.06.02
Year 2017 concerning Information Security Management Systems
within the Ministry of Law and Human Rights

C. Books

- Ali, Mohamad, *Penelitian Kependidikan*, Bandung: Angkasa, 1987.
- Ali, Zainuddin, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, 2011.
- Anggito, Albi and Johan Setiawan, *Metodologi Penelitian Kualitatif*, Sukabumi: CV Jejak, 2018.
- Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Jakarta: PT. RajaGrafindo Persada, 2006.
- Arfan, Abbas, *99 Kaidah Fiqh Muamalah Kulliyah*, Malang: UIN-Maliki Press, 2013.
- Arikunto, Suharsimi, *Prosedur Penelitian*, Jakarta: Rineka Cipta, 2013.
- Ashshofa, Burhan, *Metode Penelitian Hukum*, Cet 4, Jakarta: Rineka Cipta, 2004.
- Asra, Abuzar and Puguh Bondro Irawan (eds), *Metode Penelitian Survei*, Bogor: IN Media, 2016
- Bugin, Burhan, *Metodologi Penelitian Sosial and Ekonomi*, Jakarta: Kencana, 2013.
- Dictionary Drafting Team Center for Language Development and Development, *Kamus Besar Bahasa Indonesia*, Cet.2, Jakarta: Balai Pustaka, 1989.
- Denley, Andrew and Mark Foulsham (eds), *GDRP: How to Achieve and Maintain Compliance*, Oxon: Routledge, 2019.
- Fauzia, Ika Yunia and Abdul Kadir Riyadi, *Prinsip Dasar Ekonomi Islam Perspektif Maqashid al-Syari'ah*, Jakarta: Kencana, 2014.
- Fuady, Munir, *Aliran Hukum Kritis*, Bandung: PT Citra Aditya Bakti, 2003.
- Gulo, W, *Metodologi Penelitian*, Jakarta: Grasindo, 2002.
- Hadjon, Philipus M., *Perlindungan Hukum Bagi Rakyat Indonesia*, Surabaya: PT. Bina Ilmu, 1987.

- Herdiansyah, Haris, *Metodologi Penelitian Kualitatif untuk Ilmu-Ilmu Sosial*, Jakarta: Salemba Humanika, 2010.
- Iqbal, Muhammad, *Fiqh Siyasah*, Jakarta: Kencana, 2014.
- Kansil, C.S.T, *Pengantar Ilmu Hukum and Tata Hukum Indonesia*, Jakarta: Balai Pustaka, 1989.
- Kosasih, Ahmad, *HAM dalam Perspektif Islam*, Jakarta: Salemba Diniyag, 2003.
- Kumkelo, Mujaid dan Moh. Anas Kholis (eds), *Fiqh HAM*, Malang: Setara Press, 2015.
- Manthovani, Reda, *Penyadapan VS Privasi*, Jakarta: Bhuana Ilmu Populer, 2015.
- Marzuki, *Metodologi Riset*, Yogyakarta: BPFE-UUI, 2000.
- Ministry of Religion Affairs, *Al-Qur'an dan Terjemah New Cordova*, Bandung: Syamil Qur'an, 2012
- Muhammad, Abdulkadir, *Hukum and Penelitian Hukum*, Cet.1 Bandung: PT. Citra Aditya Bakti, 2004.
- Nabuko, Cholid and Abu Achmadi, *Metodologi Penelitian*, Jakarta: Bumi Aksara, 2007.
- Nasution, Bahder Johan, *Metode Penelitian Ilmu Hukum*, Bandung: Mandar Maju, 2008.
- An-Nawawy, Syaikh al-Islamy Muhyddin Abi Zakariya Yahya bin Syaraf, *Riyadhus Shalihin*, Bandung: Syarkatul Ma'arif, w.y.
- Nazir, Moh, *Metode Penelitian*, Jakarta: Ghalia Indonesia, 1983.
- Nurhayati dan Ali Imran Sinaga, *Fiqh dan Ushul Fiqh*, Jakarta: Kencana, 2018.
- Oleong, Lexy J, *Metode Penelitian Survei*, Bandung: PT Remaja Rosdakarya, 2006.
- Poerwadarminta, W.J.S, *Kamus Umum Bahasa Indonesia*, Jakarta: PN Balai Pustaka, 1982.

- Pudjihardjo and Nur Faizin Muhith, *Kaidah-Kaidah Fikih Untuk Ekonomi Islam*, Malang: UB Press, 2017
- Qamar, Nurul and Aan Aswari (eds), *Metode Penelitian Hukum*, Makassar: Social Politic Genius, 2017.
- Al-Qardhawi, Syaikh Yusuf, *Fiqh Maqashid Syariah*, Trans. Arif Munandar Riswanto, Jakarta: Pustaka Al-Kautsar, 2007.
- Al-Rasyid Harun, *Fikih Korupsi*, Jakarta: Kencana, 2016.
- Saifullah, *Metode Penelitian*, Handbook of the Sharia Faculty, Malang: UIN Maliki, 2006.
- Singarimbun and Sofian Effendi, *Metode Penelitian Survei*, Jakarta: LP3ES, 1989.
- Soekanto, Soerjono, *Pengantar Penelitian Hukum*, Jakarta: UI-Press, 1986.
- Sudjarwo and Basrowi, *Manajemen Penelitian Sosial*, Bandung: Mandar Maju, 2009.
- Supranto J, *Statistik Teori and Aplikasi*, Ed.6, Cet I, Jakarta: Erlangga, 2000.
- Syarifuddin, Amir, *Ushul Fiqh Jilid 2*, Cet.6 Jakarta: Kencana, 2011.
- Team of Redaction of BIP, *3 Kitab Undang-Undang KUHPer, KUHP, KUHP Beserta Penjelasannya*, Jakarta: Bhuana Ilmu Populer, 2017.
- Uliya, Marfuatun, *Mengenal OJK Dan Lembaga Keuangan*, Yogyakarta: Relasi Inti Media, 2017.
- Al-Utsaimin, Syaikh Muhammad, *Syarah Riyadus Shalihin*, Trans. Munirul Abidin, Mesir: Daar Al-Bahirah-Iskandariyah, 2001.
- Wibowo, Wahyu, *Cara Cerdas Menulis*, Jakarta: Kompas, 2011.
- Yusu,f Muri, *Metode Penelitian*, Jakarta: Kencana, 2017.

D. Research

Friedman, Lawrence M, "On Legal Development", *24 Rutgers Law Review* 11, 1959.

Anugerah, Dian Purna and Masitoh Indriani, "Data Protection in Financial Technology Services", *Sriwijaya Law Review*, 2, January, 2018.

Indonesian Internet Service Providers Association Team, "Survei APJII yang Ditunggu-tunggu Penetrasi Internet Indonesia 2018", *APJII Bulletin*, Issue 40, May 2019

Indriyani, Masitoh, Patchouli Andaria Kusuma Sari, Satria Unggul W.P, "Perlindungan Privasi and Data Pribadi Konsumen Daring Pada *Online Marketplace System*", *Justitia Jurnal Hukum*, 2 October 2017.

Ismiyatul, "Perlindungan Hukum Terhadap Pengguna Pada Transaksi Bisnis Teknologi Finansial Berdasarkan Prinsip Syariah", *Thesis*, Jakarta: UIN Syarif Hidayatullah Jakarta, 2018.

Nugraha, Ridha Aditya, "Perlindungan Data Pribadi and Privasi Penumpang Maskapai Penerbangan Pasa Era Big Data", *Jurnal Mimbar Hukum*, 2 June, 2018.

Palilati, Rati Maryani, "Perlindungan Hukum Konsumen Perbankan Oleh Otoritas Jasa Keuangan", *Jurnal IUS Kajian Hukum and Keadilan*, 3, December 2016.

Serge and Gutwith, "How to Cope with Information Systemming from Social Interaction in a way that certain areas of one's personal life are hidden from unwanted views", *Reforming European Data Protection*, 2015.

Toba, Zahra Zahadina Zikhaula, "Tinjauan Hukum Islam Terhadap Legalitas Penjualan Baham Bakar Minyak (BBM) Pom Mini dengan Menggunakan Nozzle di Kota Malang", *Thesis*, Malang: UIN Maulana Malik Ibrahim Malang, 2017.

E. Website

Directorate of Regulation, Licensing and Supervision of Fintech, "Perkembangan Fintech Lending", <https://www.ojk.go.id/en/kanal/iknb/datadanstatistik/fintech/Document>

s/Statistik-%20Oktober-%202019.pdf, accessed on December 26th, 2019 at 5.30 PM

Financial Services Authority, “Vision and Mission”, <https://www.ojk.go.id/en/tentang-ojk/Pages/Visi-Misi.aspx>, accessed on 23th December 2019 at 07.30 AM

Setiawan, Sakina Rakhma Diah, “Per Juni 2019, LBH Jakarta Terima 4.500 Aduan Soal Pinjaman Online fintech,” <https://money.kompas.com/read/2019/07/29/154700526/per-juni-2019-lbh-jakarta-terima-4.500-aduan-soal-pinjaman-fintech>, accessed on 5th August 2019 at 10.15 PM

F. Interview

Bagus, *interview*, Jakarta, 31st October 2019

Pritama, Darda Adnan, *interview*, Jakarta, 28th October 2019

SA, *interview*, Banten, 9th December 2019

Sirait, Yenny Silvia Sari, *interview*, Jakarta, 29th November 2019

UA, *interview*, Banten, 9th December 2019

APPENDIXES

Appendix 1: Guidelines For Interview

A. Financial Services Authority (OJK) of Jakarta

1. The fintech lending consumer personal data protection procedure by the Financial Services Authority
 - a. In your opinion, what are data included in the criteria of personal data consumers?
 - b. What are the principles used by the Financial Services Authority to protect personal data fintech consumers?
 - c. How long set by the Financial Services Authority for fintech lending providers to protect personal data fintech consumers?
 - d. In your opinion, what are the risks that arise from the collection of personal data by fintech online lenders?
2. Financial Services Authority 's supervision of online fintech lending providers
 - a. When is supervision over online fintech lender providers carried out?
 - b. What are Financial Services Authority's rules for the supervision of consumers' personal data security?
 - c. Is the Financial Services Authority supervised and blocked of unregistered fintech? What is the legal basis?

3. Legal effort taken by Financial Services Authority to resolve disputes over misuse of personal data of fintech consumers
 - a. How many complaints (cases of entered, in progress, and resolved) has Financial Services Authority received related to misuse of personal data of consumers?
 - b. How can Financial Services Authority prove that Fintech is misusing consumers' personal data?
 - c. What are the legal sanctions imposed by Financial Services Authority for misuse of consumer personal data by fintech lending provider?

B. Jakarta Legal Aid Institute

1. How many complaints (being processed and has been resolved) about fintech lending, especially the misuse of consumer personal data received by Jakarta Legal Aid Institute?
2. Why is personal data so important to protect?
3. What response has the Financial Services Authority given to fintech lending complaints received by Jakarta legal Aid Institute?
4. What victims of fintech receive compensation after misuse of personal data?

C. Fintech Lending Provider “Danamart”

1. What data is included in the consumer's personal data criteria?
2. How the mechanism for collecting personal data of consumers by fintech providers?
3. Who can see and access the personal data consumers have collected?
4. How long are consumers' personal data stored and protected by fintech providers?
5. Is there a system that guarantees the security of personal data of consumers, so that potential customers trust to make transactions at “Danamart”?
6. What are the risks faced to protect consumer personal data?

D. Victims of Data Personal’s Abuse in Fintech Lending

1. What personal data do you attach to ask the fund from fintech lending?
2. Is the personal data that you have attached can be edit or delete?
3. Do you know the background of the fintech lending?
4. Why do you think personal data is so important to protect?
5. If there is misuse of your personal data, then where should you make a complaint?
6. Do you receive compensation after the misuse of personal data?

Appendix 2: Documentation



Interview in Meeting Room of Jakarta Financial Services Authority



Photo with Informan in Jakarta Financial Services Authority



Interview in Fintech Lending “Danamart” Office



Photo with Informan in Jakarta Legal Aid Intitute

Appendix 3: Jakarta Financial Services Authority's Invitation to interview



21 Oktober 2019

Nomor : S- 29/MS.422/2019
Sifat : Segera
Lampiran : Satu berkas
Hal : Undangan Wawancara Penelitian

Kepada Yth.

Ita Wardatul Janah

Fakultas Syariah (Hukum Bisnis Syariah)

Universitas Islam Negeri Maulana Malik Ibrahim

Jl. Gajayana No.50, Dinoyo, Kec. Lowokwaru, Kota Malang, Jawa Timur 65144

Menindaklanjuti surat Saudari Nomor: B-5234/F.Sy/TL.03/10/2019 perihal permohonan untuk melakukan penelitian di lingkungan Otoritas Jasa Keuangan yang berjudul "Tinjauan Hukum Islam Terhadap Implementasi Perlindungan Data Pribadi Konsumen *Financial Technology*", dengan ini kami mengundang Saudari untuk melakukan wawancara penelitian tersebut pada:

Tanggal : 31 Oktober 2019
Pukul : 09.00 WIB s.d selesai
Tempat : Gedung Soemitro Djojohadikusumo Lantai 8 Jl. Lapangan Banteng Timur No. 2-4, Jakarta 10710

Sehubungan dengan hal tersebut di atas, kami mengharapkan kehadiran Saudari pada acara dimaksud. Konfirmasi kehadiran dapat disampaikan kepada Sdr. Primandanu Febriyan Aziz melalui *email* primandanu.febrivan@ojk.go.id atau nomor 021-29600000 ext 4662.

Demikian kami sampaikan, atas perhatian Saudari kami mengucapkan terima kasih.

Analisis Eksekutif Senior,
Departemen Riset Sektor Jasa
Keuangan

Ratih A Sekaryuni

Tembusan:

Ketua Jurusan Hukum Bisnis Syariah UIN Maulana Malik Ibrahim

Appendix 4: Jakarta Legal Aid Institute's Interview Certificate



**LBH
JAKARTA**

Direktur:

Arif Maulana, S.H., M.H.

Kepala Divisi Internal:

Uni Illian Marcianty, S.H.

Pengacara Publik:

Pratiwi Febry, S.H.

Nelson N. Simamora, S.H.

Oky Wiratama Siagian, S.H.

Ayu Eza Tiara, S.H., S.Sy.

Citra Referandum M. S.H., M.H.

Aprillia Lisa Tengker, S.H.

Shaleh Al Ghifari, S.H.

M. Charlie Meidino Albajili, S.H.

Andi Komara, S.H.

Muhammad Rasyid Ridha S., S.H.

Yenny Silvia Sari Sirait, S.H., M.H.

SURAT KETERANGAN WAWANCARA

No. 799/SKET-LBH/XII/2019

Dengan hormat,

Kami yang bertandatangan dibawah ini,

Nama : Uni Illian Marcianty, S.H
Jabatan : Kepala Bidang Internal
Lembaga Bantuan Hukum Jakarta
Alamat : Jl. Diponegoro No. 74, Menteng
Jakarta Pusat – 10320

Dengan ini menerangkan, bahwa :

Nama : Ita Wardatul Janah
NIM : 16220039
Universitas : UIN Maulana Malik Ibrahim Malang, Fakultas Hukum
Surat Pengantar : B-4331/F.Sy/TL.10/07/2019

Dengan ini menerangkan bahwa yang bersangkutan telah datang ke LBH Jakarta untuk melakukan wawancara dalam rangka penyusunan Skripsi yang berjudul "Tinjauan Hukum Islam Terhadap Implementasi Perlindungan Data Pribadi Konsumen Financial Technology Oleh Otoritas Jasa Keuangan (Studi Kasus di Otoritas Jasa Keuangan Jakarta). Kemudian yang bersangkutan telah bertemu dan melakukan wawancara atau pengambilan data dengan Sdri. Yenny Silvia Sari Sirait, S.H., dengan posisi Pengacara Publik di Bidang Advokasi – Ekosob pada Lembaga Bantuan Hukum Jakarta.

Jakarta, 04 Desember 2019

Hormat Kami,

Lembaga Bantuan Hukum (LBH) Jakarta


LEMBAGA BANTUAN HUKUM
JAKARTA

Uni Illian Marcianty, S.H.

Kepala Bidang Internal LBH Jakarta

LEMBAGA BANTUAN HUKUM JAKARTA
Jalan Diponegoro No. 74, Jakarta 10320
Telp. (62-21) 3145518 Hunting Fax. 3912377
e-mail : lbhjakarta@bantuanhukum.or.id
www.bantuanhukum.or.id

Appendix 5: Fintech Lending “Danamart”’s Interview Certificate



Telp : +62 21 2555 6719
Email : halo@danamart.id

SURAT KETERANGAN

No. 195/Surat Keterangan/Danamart/XI/2019

Yang bertandatangan di bawah ini menerangkan bahwa:

Nama : **Ita Wardatul Janah**
N.I.K. : 3602117011980001
Tempat/Tgl. Lahir : Lebak / 30 November 1998
Alamat : Kp. Pasir Bungur, RT. 001, RW. 006, Kelurahan Girimukti, Kecamatan Cimarga, Kabupaten Lebak

Yang merupakan Mahasiswi di UIN Maulana Malik Ibrahim Malang dan yang bersangkutan telah menyelesaikan wawancara penelitian untuk penyelesaian tugas akhir (skripsi) di kantor PT Dana Aguna Nusantara (“Danamart”) pada tanggal 28 Oktober 2019.

Demikian Surat Keterangan ini dibuat agar dapat dipergunakan sebagaimana mestinya.

Jakarta, 28 November 2019

PT Dana Aguna Nusantara

Nama : Darda Adnan Pritama
Jabatan : Direktur Utama

PT. Dana Aguna Nusantara
Citylofts Sudirman Lt. 22 unit 16
Jl. K.H. Mas Mansyur No.121 Kel. Karet Tengsin
Kec. Tanahabang Kota Jakarta Pusat
DKI Jakarta 10250

Appendix 6: Victim's Interview Certificate

A. Initial UA (24 Years Old)

SURAT KETERANGAN

Saya yang bertanda tangan di bawah ini

Inisial : UA

Umur : 24 Tahun

Merupakan korban penyalahgunaan data pribadi dari aplikasi pinjaman online "Kredit Pintar". Menyatakan bersedia memberikan informasi kepada **Sdri. Ita Wardatul Janah** (16220039), Jurusan Hukum Bisnis Syariah, Fakultas Syariah, UIN Maulana Malik Ibrahim Malang pada hari Senin, 9 Desember 2019 untuk keperluan penyusunan skripsi yang berjudul "**Tinjauan Hukum Islam Terhadap Implementasi Perlindungan Data Pribadi Konsumen *Financial Technology* Oleh Otoritas Jasa Keuangan (Studi di Otoritas Jasa Keuangan Jakarta)**" dengan beberapa ketentuan sebagai berikut:

1. Identitas atau data pribadi saya dilindungi.
2. Adapun data yang boleh dicantumkan dalam skripsi yaitu inisial dan umur.
3. Tidak diperkenankan mencantumkan foto.

Adapun surat keterangan dibuat demi kenyamanan Saya dan keluarga.

Banten, 10 Desember 2019
Informan

(Inisial UA)

B. Initial AU (24 Years Old)

SURAT KETERANGAN

Saya yang bertanda tangan di bawah ini

Inisial : AU

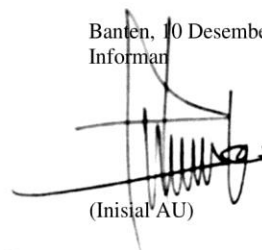
Umur : 24 Tahun

Merupakan korban penyalahgunaan data pribadi dari aplikasi pinjaman online "Akulaku-Kredit". Menyatakan bersedia memberikan informasi kepada **Sdri. Ita Wardatul Janah** (16220039), Jurusan Hukum Bisnis Syariah, Fakultas Syariah, UIN Maulana Malik Ibrahim Malang pada hari Senin, 9 Desember 2019 untuk keperluan penyusunan skripsi yang berjudul "**Tinjauan Hukum Islam Terhadap Implementasi Perlindungan Data Pribadi Konsumen *Financial Technology* Oleh Otoritas Jasa Keuangan (Studi di Otoritas Jasa Keuangan Jakarta)**" dengan beberapa ketentuan sebagai berikut:

1. Identitas atau data pribadi saya dilindungi.
2. Adapun data yang boleh dicantumkan dalam skripsi yaitu inisial dan umur.
3. Tidak diperkenankan mencantumkan foto.

Adapun surat keterangan dibuat demi kenyamanan Saya dan keluarga.

Banten, 10 Desember 2019
Informan



(Inisial AU)

CURRICULUM VITAE

ITA WARDATUL JANA

Pasirbungur village, Girimuki, Cimarga
Lebak- Banten, 42361
Telp: (+62)857-1558-0085
Email: itawardatuljanah30@gmail.com



PERSONAL DETAILS

Place, Date of Birth : Lebak, 30th November, 1998
Sex : Female
Marital Status : Single
Religion : Islam
Nationality : Indonesia

EDUCATION

January 2020 : Bachelor Degree of Sharia Business Law at State Islamic University of Maulana Malik Ibrahim of Malang
2016 : Finished State Islamic Senior High School of Rangkasbitung
2013 : Finished State Islamic Junior High School of Pasirbungur
2010 : Finished State Primary School of Cimarga 1

EXPERIENCE

2019 : Volunteer in Gresik's District Court/ Industrial Relations Class IA
2018 : Volunteer in Rangkasbitung's Religion Court Class II
2017 : Best Speaker of Law Debate in Sharia Faculty, State Islamic University of Maulana Malik Ibrahim of Malang
2016 : Secretary of Islamic Spiritual "RISMAN Rangkasbitung"
2015 : Choir Member of State Islamic Senior High School of Rangkasbitung
2015 : Simulation participants of ASEAN Debate, Banten Province
2014 : Journalism Editor in Chief of "MEISIMA"
2013 : Secretary of Student Council in State Islamic Junior High School of Pasirbungur
2013 : Pratami of Jaguar Paw Scout in State Islamic Junior High School of Pasirbungur