

Risk Mitigation Analysis on Illegal Online Loans Based on DSN MUI Fatwa Number 117/DSN/MUI/II/2018 (Study Case in Maguwoharjo Village)

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Abstract

The rapid development of financial technology has emerged various illegal online applications that provide convenience in lending and borrowing transactions more simply and quickly in the application process, but due to the many risks that occur such as defaults by borrowers and terror carried out by debt collectors make losses to the public. This study aims to analyze the risk mitigation of illegal online loans based on DSN MUI fatwa Number 117 / DSNMUI / II / 2018. The method used in the research is descriptive qualitative with case studies using snowball sampling with a unit of analysis that focuses on people and activities, namely individuals who have made illegal online loans. The informants in this study are 6 (six) people who use illegal online loan applications in Maguwoharjo Village, Yogyakarta Special Region. The type of data used is primary data supported by secondary data collected and data collection techniques using interviews and documentation. The results of this study show that risk mitigation has been carried out by every individual who makes illegal online loan transactions, namely receiving, reducing, and transferring to minimize the risk that occurs. Online lending is allowed. The most crucial thing in its application is that it does not conflict with sharia principles, including usury, gharar, maysir, tadbis, dharar, zhulm, and haram.

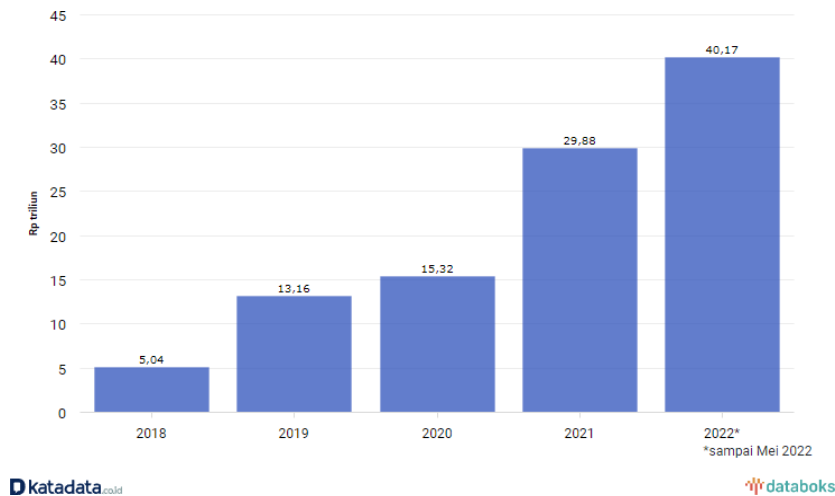
Keywords: Risk mitigation, Illegal online loans, fatwa DSN MUI Nomor 117/DSNMUI/II/2018

Introduction

To address the community is demands, including access to financial services and transaction procedures, financial technology is one of the many innovations continually being created by the development of technology and information systems. Consumers, corporate players, and the national economy have demonstrated the benefits of financial technology development. On the other hand, it carries significant risks that, if not effectively handled, might destabilize the financial system. To support civilization has tensor solutions that make transactions like transfers, buying and selling, payments, and the like quicker. The needs of the times are an encouragement for fintech to grow and develop more quickly. According to the bank of Indonesia's clarification of the financial sector's nature, some of the present uses of fintech include market aggregators, peer-to- peer (P2P) lending, crowdfunding investment management, payment, clearing, and settlement (Tendiyanto, 2021).

The public is very interested in digital lending. This is evident from the rise in lending during the epidemic, a period of significant growth for loans from traditional banks. Nationally, the accumulated credit disbursements were Rp. 155 trillion, up 91.3% from the same time last year, according to the Financial Services Authority/ Otoritas Jasa Keuangan (OJK). The vast market size of Indonesian customers is another factor in the quick expansion of digital loan

services. In addition, the majority of Indonesia's unbankable population has opted for illegal digital loans because they are easier and quicker to apply for (Indrianti et al., 2021).



(Source: Databoks, 2022)

Figure 1. The Value of Funding Through Fintech P2P Lending (2018-2022)

Fintech peer-to-peer (P2P) loan funding has increased dramatically over the past five years, according to the Financial Services Authority (OJK) Report shown in figure 1. Only 5.04 trillion Rp worth of money was provided by fintech lending in 2018. The amount then kept increasing over the years, reaching IDR 29.88 in 2021. The financing total for this year through May 2022 is IDR 40.17 trillion. This number has increased by almost 697% compared to its position in 2018. Up to IDR 32.38 trillion in outstanding funds or funding, which are still in circulation through May 2022, are still concentrated on the island of Java. While it is IDR 7.78 trillion outside of Java (Annur, n.d.).

With the growth of sharia fintech in Indonesia, it is essential to understand how risk arrangements are used there and what to do if these risks materialize in the future. The fact that sharia fintech is new in Indonesia and that so few regulations set it puts this in context. It is believed that risk mitigation will offer protection for the parties, especially fund providers and fund borrowers, so that they will be aware of the potential future outcomes and be able to take proactive measures to minimize potential risks, one of which is the risk of default by the borrower (Ayuningtyas et al., 2020).

According to data compiled by Nolimit Indonesia, 40.7% of conversations revealed that the reason that encouraged the use of illegal lending services was to pay other debts. Then, the use of illegal lending services driven by the middle and lower economic background was 15.4%, funds disbursed 14.1% faster, met lifestyle needs 10.37%. Then, urgent needs 8.4%, consumptive behavior 3.9%, economic pressure 2.9%, buying new gadgets 1.47%, paying tuition fees 1.3%, and online loan literacy which is still low 1.19% (Nur Indrajaya, 2022).

Islam is a religion that set many facets of daily life, including how a person should relate to themselves, their neighbors, the universe, and their God. Islamic law refers to these interactions as muamalah, debt receivables are one type of *muamalah*. The benefit is to help one another as humans since in Islam it is suggested to help each other in compassion and let go of the hardships of other people's lives. Debt receivables are one of the actions of *muamalah* that is inseparable from most people to fulfill the demands of daily life (Mas'ulah, 2021).

Because of the large number of online applications that provide loans, in addition to the impact on people who feel doubts in making lending and borrowing transactions online.

Whether or not usury is prohibited in religion, and what is the MUI's view on online lending and borrowing financing (Anwar et al., 2020).

By sharia law, the National Sharia Council of the Indonesian Ulema Council issued a fatwa on information technology-based financial services. Information technology-based financing services are founded on sharia principles and connect lenders and funding recipients to carry out financing agreements using an electronic system with the assistance of the internet network, as stated in DSN MUI fatwa number 117/DSNMUI/II/2018. Information technology-based finance services with sharia principles suggest that financing must be modified to sharia principles to avoid guaranteeing that it is against sharia. Organizers, beneficiaries Organizers are among the legal subjects who engage in information technology-based financial service activities. *Ijarah, bai', musyarakah, mudharabah, qard, and wakalah bil ujah* are among the contracts used in sharia-compliant transactions for information technology-based financial services (Rifa'i & Sakinah, 2021).

Literature Review

Risk Mitigation

Risk refers to a potentially unpleasant (destructive, damaging) result of an act or activity (Astuti, 2015). The following are a few definitions of risk. (Herman, 2017)

1. Risk is the chance of loss
2. Risk is the possibility of loss
3. Risk is uncertainty
4. Risk is the dispersion of actual from the expected result
5. Risk is the probability of any outcome different from the one expected

Since there are dangers involved in every activity, risk is an inherent part of existence. There is even an assumption that claims that risk and death are both necessary components of life. Uncertainty is the chance of anything happening that, if it does, results in a loss. Risk is the risk of an unforeseen or unwelcome loss (Fauzi, 2015). The numbering of risk occurrences, the efficacy of risk reduction procedures, and the effectiveness of the risk management framework are all aspects that need to be measured in risk indicators (managing the risks that occur) (Nugraha & Aini, 2022).

Risk increases when there is uncertainty because it makes a person mistrust his capacity to predict the potential of future outcomes. When there is uncertainty for several reasons, it is evident: (Azmi & Ismail, 2022).

- a. The grace period is the time between the planning activity and when it returns, the larger the grace period, the greater the uncertainty.
- b. The plan's preparation was complicated by the limited available information.
- c. The planner's limited understanding or decision-making skills. Since risk is unclear, it will become a significant issue for all parties unless its form and size can be known with certainty, as with costs.

Islam holds that everyone is responsible for accurately identifying the variables that could influence the likelihood of dangers occurring and the seriousness of their repercussions. It is crucial to consider prospective repercussions and the possibility that they will materialize while conducting a risk analysis. It is essential to assess the effectiveness of the implemented risk management and include the results in the risk analysis. Depending on the type of risk being considered, there are many ways to express the size of the potential impact and the size of the chance that it would materialize, as well as how to combine these two dimensions to assess the seriousness of the risk (Azmi & Ismail, 2022).

Illegal Online Loans

Based on information technology, online loans are lending and borrowing services in rupiah currency provided directly between creditors/lenders and debtors/borrowers. Online loans are a part of the development of financial technology (fintech), which is the application of technology in the financial system to create new products, services, and technologies or business models. Fintech has an impact on the stability, effectiveness, smoothness, security, and dependability of the payment system as well as the monetary stability system. (Supriyanto & Ismawati, 2019)

By POJK Number 77/ POJK.01/2016, financial services are implemented through an electronic system employing the internet network to connect lenders and loan recipients to carting and borrowing arrangements. There are two distinct categories of online loans: legitimate online loans and illegitimate online loans. An online loan that has been registered with the OJK is a legitimate services authority). Additionally, whereas illegal online loans are not controlled, legitimate online loans are overseen by government organizations (OJK). Because the Google Play store cannot unilaterally accept Play stores whose legality is unclear, users can also determine whether or not an online loan application is legitimate by looking at it (Abdullah, 2021).

One benefit of financial services over banking is the ease of borrowing money thanks to online loans services, which are becoming increasingly popular today. Online loans have several benefits, including the following: (Syarvina & Sudiarti, 2022).

1. Fast distribution; the loan can be made available in a handful of days.
2. There is no need to visit the bank because the terms are quite simple.
3. Self-identification is the only prerequisite, but there is no guarantee.
4. Can be applied to a variety of demands without revealing the money's actual usage.
5. Some internet loan providers do not view borrowers' credit histories.

Online loans include several benefits but also several drawbacks, including:

1. The maximum amount of credit that can be extended is modest.
2. A brief installment payment period or loan duration.
3. Extremely high interest and no constraints.
4. Data theft risk, specifically when using a mobile device to access data to collect debts owed to creditors.
5. Tiny coverage area.

Provisions relating to general rules for information technology-based financial services, the parties shall follow the general principles listed below: (DSN-MUI, 2018)

1. Information technology-based finance service providers must not violate Sharia principles, such as avoiding usury, *gharar*, *maysir*, *tadlis*, *dharar*, *zhulm*, and *haram*.
2. The operator's standard agreement shall adhere to balance, justice, and fairness in line with Sharia and applicable laws and regulations.
3. Contracts used by parties to implement information technology-based financial services can take the form of contracts that correspond to the characteristics of financing services, such as *al-bai*, *ijarah*, *mudharabah*, *musyarakah*, *wakalah bi al ujah*, and *qardh*.
4. The operator's use of electronic signatures in electronic certificates must be done under the condition that validity and authenticity are assured by applicable laws and

- regulations.
5. Organizers may collect fees (*ujrah/ rusum*) for providing systems and infrastructure for information technology-based finance services based on the *ijarah* principle.
 6. If the information on financing or services provided by electronic media or revealed in electronic papers differs from reality, the aggrieved party has the right to withdraw from the transaction.

Research Method

This chapter explains the research technique to process the collecting data for research purposes. The methodology is a theoretical examination of a method or procedure. The following chapters examine study kinds, data types and sources, samples and populations, data collecting method, and data analysis method.

This study focuses on the study's title, which is risk mitigation analysis on Illegal Internet Loans Based on DSNMUI fatwa Number 117/DSNMUI/II/2018. This study focuses on individuals who borrow money online from unregistered organizations with the Financial Services Authority (OJK) or who make unlawful online loans.

This is an example of a descriptive qualitative with case studies. Qualitative research is described as a procedure that yields descriptive data from people in the form of written or spoken words based on observed behavior. Descriptive research, on the other hand, is a research method used to obtain an objective image of a situation descriptive study also seeks to precisely define the qualities of an individual, condition, symptom, or specific grantor to establish whether there is a link between a symptom and other symptoms in society (Ananda, 2018). Case studies, are qualitative strategy in which the researcher explores in depth a program, event, activity, process, or one or more individuals (Sugiono, 2020).

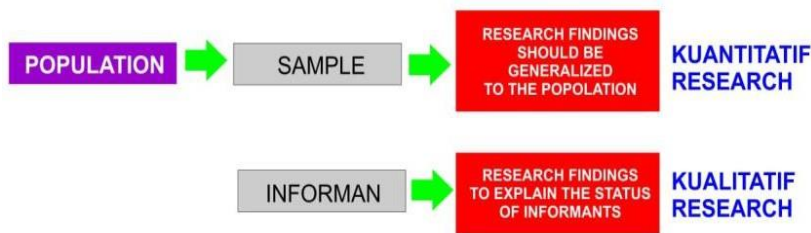


Figure 2. Sampling Process

The primary data in this study from interviews with community members who were the victims of unlawful online loans, totaling 6 (six) people living in Maguwoharjo, Depok, Sleman, Yogyakarta. Secondary data for this study came from numerous articles, journals, books, and previous research on risk reduction, specifically illegal online loans based on DSNMUI fatwa Number 117 / DSNMUI / II / 2018. Regulation number 77/POJK.01/2016 of the Financial Services Authority governing information technology-based money lending and borrowing services. Also, Fatwa No. 11 /DSN- MUI/II/2018 of the National Sharia Council- Indonesian Ulema Council on sharia- compliant information technology-based financing services.

Data Collection Techniques

Interview

An interview is a face-to-face contact between two or more persons. One party interviews, while the other serves as an informant or source. The goal of the interview is to gather direct information about certain situations and conditions, conduct scientific research, and gather data to affect specific situations or parties. M. Si Dr. R. A. Fadhallah, S.Psi., *Wawancara* (UNJ PRESS, 2021).

Documentation

Documentation is a record of past events. Writings, photographs, and historical facts, such as seeing official documents, letters, diaries, and reports, or colossal works of a person, can all be considered documents. The document's content is distinct from the literature. However, the distinction between the two can only be made gradually. Literature is stuff that is published regularly. While documentary information is information that has been saved or preserved as documentary material (Nofita, 2021).

The data analysis technique used is qualitative analysis, which is used to explain and characterize the data received from the chosen research and group it based on its quality and correctness to answer the problem. To answer research questions, qualitative analysis is a process that generates descriptive data, primarily what respondents say on paper or orally, as well as their actual conduct.

According to Miles and Huberman (1984), activities in qualitative data analysis are carried out interactively and constantly until the data is saturated. Data analysis activities include data reduction, display, and conclusion drafting/ verification. The interactive model in data analysis is depicted in the figure below (Sugiyono, 2016).

Result and Discussion

Overview of Maguwoharjo

1. Geographical Location

Monographic data of Maguwoharjo, Yogyakarta:

- a. Postal Code: 55282
- b. Region Code: 34.04.07.2002
- c. Village: Maguwoharjo
- d. Subdistrict: Depok
- e. District: Sleman
- f. Province: Special Region of Yogyakarta

2. Area and Boundaries

- a. Village Area: 15.010.800 M²
- b. Regional Boundaries:
 - 1) North: Wedomartani Village (Ngeemplak District)
 - 2) East: Purwomantani Village (Kalasan District)
 - 3) South: Tegaltirto Village (Berbah District)
 - 4) West: Caturtunggal Village (Depok District)

3. Geographical Conditions of the Village

The name Maguwoharjo derives from the name of the local airstrip, Meguwo airfield, which is today better known as Adisucipto Airport. In addition to Adisucipto Airport, the Maguwoharjo International Stadium, and the Sanata Dharma University are notable landmarks in this neighborhood.

4. Population

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Because the population is the capital of development, it is one of the essential resources for a region. According to population data for 2022, the total population of Maguwoharjo village is 44,565 people.

This study aims to determine how to reduce the risks an informant faces when using illegal online loan services by DSN MUI fatwa Number 117/DSNMUI/II/2018. Direct interviews were done with six speakers who used unlawful internet loan services in Maguwoharjo Village for this study.

Discussion

Risk Mitigation on Illegal Online Loans

Risk mitigation is an action that seeks to minimize and maintain the quantity or degree of the primary risk that an organization will face residual risk expectations. Residual risk is the least predicted level of risk that can be attained by lowering the amount of the principal risk (Kukuh Galang Waluyo, 2022). For example, M. Nugraha and N. Ani conducted research on how risk mitigation techniques might improve the performance of cooperative assets using a house of risk methodology and key risk indicators. (Nugraha & Aini, 2022) Typically, past researchers examined risk mitigation in terms of how to mitigate risks carried out by each company.

According to the Financial Services Authority in 2022, there are as many as 102 fintech lending companies on the list of legal online loans with formal licenses, and the loans are under direct OJK oversight. Meanwhile, the 6 informants interviewed by researchers used unlawful internet loan services where the company was not officially licensed to operate by the OJK and was not supervised by the OJK.

Based on the theory stated in Chapter 2 and the interview results, it can be concluded that the dangers associated with any online loan are very high, particularly given the existence of illegal online loan services that are very appealing to clients in need, as follows:

1. Receive

Accepting losses that cannot be averted from these risks is the risk mitigation theory on unlawful online loans. According to informant 2, this study is similar: "Finally, my house was seized for a few months following that. I refused and intended to report to the court, but owing to financial difficulties, I was unable to do so. I have no choice except to leave the house to them."

So it is with informant 6's experience, who states:

"It is haunted by a rather high installment interest of 10%, which is causing a lot of anxiety and concerns. In addition to the whatsapp terror used to collect loans." Informant 3 reported a similar situation:

"The arrangement on this online loan is that it will be paid in weekly installments. While I can still pay the bill in the first week, it turns out that I am in arrears on the next payment due to the various necessities that require the money I receive. Finally, for the second time, I became entangled with internet loan debts, and debt collectors frightened me via WhatsApp numbers with different numbers to collect the same bill."

2. Reduce

In risk mitigation theory, lowering losses is a solution by undertaking the prevention of unlawful internet loans. Informant 1 likes this study:

"Because I am aware that online loans are unlawful, I am committed to pay on time by decreasing spending and increasing income in order to minimize the risks associated with making illegal online loans, and I am aware that there have been numerous occurrences associated with making illegal online loans."

3. Redirect

According to risk mitigation theory on unlawful internet loans, transferring losses is a remedy by transferring the risk to another party. According to informant 4, this study is similar:

“To avoid debt collectors who always terrify me over the phone, I borrowed money from my brother and paid off the account with one nod.”

The same is the case with informant 5, which says:

“Because I couldn't pay all of my bills on time, I finally told my brother, and he paid off the rest of my loan bill.”

According to Hana Rosita Nury, there are several risks that customers who make online loans will face, the most common of which is the default. Even though the law does not allow customers who default and intend to pay off their debts, borrowers cannot simply escape responsibility, as evidenced by the findings of a study in which many informants were interviewed when they experienced bad debts or fell behind on installment payments (Hana Rosita Nury, 2022).

Illegal Online Loans Based on DSN MUI Fatwa Number 117/DSNMUI/II/2018

According to research conducted by I. Masulah, who stated in the results of his research that Islamic law online loans are allowed, based on the principle of mu'amalah, namely, all forms of mu'amalah are allowed, except those prohibited in the Qur'an and As-Sunnah, and in the fatwa of the national sharia council no 117 / DSN-MUI / IX / 2018 it is explained that online loans are allowed the most (Mas'ulah, 2021)

It explains the provisions related to general guidelines for information technology-based financing services based on sharia principles in the fatwa of the national sharia council of the Indonesian Ulema Council no. 117 / DSN- MUI / IX / 2018 concerning information technology-based financing services based on sharia principles. These parties or service providers must follow the general criteria, which are specified in Chapter 2, and the findings of interviews with consumers who have made illegal online loans can be examined by DSNMUI fatwa Number 117 / DSNMUI / II / 2018, which is as follows:

1. Information technology-based finance service providers must not violate Sharia principles, such as avoiding usury, gharar, maysir, tadbis, dharar, zhulm, and haram. In this study, every informant does not believe that there is no fraud or something like that in every transaction.
2. The operator's standard agreement shall adhere to balance, justice, and fairness in line with Sharia and applicable laws and regulations. Informants in this study, like victims of illegal loans that spread data, media, and so on via the phone, do not feel upset.
3. The contracts used by the parties to implement information technology-based financing services can be in the form of financing service-specific contracts, such as al-bai, ijarah, mudharabah, musyarakah, wakalah bi al ujah, and qardh contracts.
4. Organizers may collect fees (ujrah/ rusum) for prosiding information technology-based financial service systems and infrastructure based on the ijarah principle.
5. If the information on funding or services provided by electronic media or revealed in electronic papers differs from reality, the aggrieved party has the right to withdraw from the transaction.

Similarly, in R. Wahyuni's research, it can be observed from the standpoint of business ethics that online loans activities can be carried out while retaining mutual trust, which significantly impacts the company's reputation. However, if the company is illegal, it might

lead to criminal activity such as fraud, money laundering, or the misuse of consumer data. According to the study, the absence of illegal online loans causes behaviors such as fraud, money laundering, or exploitation of customer data.

Conclusion

This research aims to discover strategies to reduce risks in unlawful online loans and illegal online loans based on DSNMUI Number 117 / DSNMUI / II / 2018. Following interviews with various sources, it is possible to determine that:

1. The informant's mitigation of specific risks, namely
 - a. Accepting inescapable risk-related harm, but not the impact obtained by the informant, such as trauma.
 - b. Reducing losses is a solution to decrease expenses and enhance profits by preventing default.
 - c. Moving losses, i.e. transferring the risk to another party, as some informants do by involving family or other parties to carry the overdue payments.
2. Illegal online loans based on DSNMUI fatwa Number 117 / DSNMUI / II / 2018 that the informant has encountered, namely:
 - a. Information technology-based financial service providers do not violate Sharia principles, such as avoiding usury, *gharar*, *maysir*, *tadlis*, *dharar*, *zhulm*, and *haram*.
 - b. The operator's standard agreement shall adhere balance, justice, and fairness in line with Sharia and applicable laws and regulations.
 - c. Contracts used by the parties to implement information technology-based finance services can take the form of *al-bai*, *ijarah*, *mudharabah*, *musyarakah*, *wakalah bi al ujah*, and *qardh* contracts.
 - d. Organizers may collect fees (*ujrah/ rusum*) for providing systems and infrastructure for information technology-based finance services based on the *ijarah* principle.

If the information on funding or services provided through electronic media or revealed in electronic papers differs from reality, the aggrieved party has the right to withdraw from the transaction.

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