

The Public Interest Implications (*Maslahah*) of The OJK's Regulatory Amendments Pertaining To Islamic Peer-To-Peer Lending In Indonesia

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Abstract

This study discusses the regulatory changes concerning Sharia-based peer-to-peer lending, specifically the transition from POJK No. 77 of 2016 to POJK No. 10 of 2022. A significant aspect of this change is the inclusion of several articles that accommodate Sharia-based peer-to-peer lending transactions. These regulatory amendments indicate that the Sharia principles embedded in the regulation promote public welfare (*maslahah*). Therefore, the author seeks to examine this issue from the perspective of *maqasid asy-syari'ah*. This research focuses on textual and literature analysis, utilizing a library research method, and adopts a normative approach based on religious norms. The result of this study suggest that, from the perspective of *maqasid asy-syari'ah*, the changes made by the Financial Services Authority (OJK) to the regulations on peer-to-peer lending foster public welfare, which is evaluated based on the five essential objectives (*al-daruriyyat al-khams*): the preservation of religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and wealth (*hifz al-mal*).

Keywords: *Peer to peer lending, OJK, Maqasid Asy-syari'ah*

Abstrak

Penelitian ini akan mendiskusikan tentang adanya perubahan regulasi tentang peer to peer lending berbasis syariah yakni POJK No.77 Tahun 2016 yang kemudian digantikan dengan POJK Nomor 10 tahun 2022. Hal yang signifikan yang dapat dilihat dari perubahan ini adalah beberapa pasal yang cukup akomodatif terhadap transaksi peer to peer lending berbasis syariah. Dengan adanya perubahan regulasi tersebut dindikasikan bahwa konsep syariah pada peraturan tersebut menimbulkan kemaslahatan, sehingga penulis ingin mengulsnya dari sudut pandang *maqasid asy-syari'ah*. Penelitian ini berfokus pada analisis teks dan literatur *library research* atau studi kepustakaan dan penelitian ini menggunakan pendekatan normatif, yang berlandaskan norma-norma keagamaan. Dalam penelitian ini menghasilkan temuan bahwa dalam perspektif *maqasid asy-syari'ah* perubahan yang dilakukan OJK dalam peraturannya tentang *peer to peer lending* menimbulkan kemaslahatan yang diukur dari *Al-daruriyat al-khams* (*hifz al-din; hifz al-nafs; hifz al-'aql; hifz al-nasl; dan hifz al-mal*).

Kata Kunci: *Peer to peer lending, OJK, Maqasid Asy-syari'ah*

Introduction

The Fourth Industrial Revolution (4.0), characterized by rapid technological advancements, has significantly influenced the financial sector.¹ The emergence of fintech, a prominent manifestation of these changes, has complemented traditional financial institutions rather than supplanted them. Fintech enhances the efficiency and effectiveness of financial transactions, supports banks in providing financial services, aids customers in making informed financial decisions, and contributes to reducing operational costs and risks. Moreover, fintech has become a valuable tool for marketing financial products, especially in the context of growing consumer preference for online channels.²

In Indonesia, financial technology (fintech) has significantly impacted various sectors of the financial services industry, including payment systems, online lending platforms, retail investment, crowdfunding mechanisms, and personal financial management.³ One prominent form of fintech

¹Irwan Sugiarto dan Hari Sutra Disemadi, "Consumers Spiritual Rights In Indonesia: A Legal Study Of Sharia Fintech Implementation In The Consumers Protection Perspective," *Jurnal IUS Kajian Hukum Dan Keadilan* 8, no. 3 (23 Desember 2020): p. 437–52, <https://doi.org/10.29303/ius.v8i3.766>.

²Hendra Kusuma dan Wiwiek Kusumaning Asmoro, "Perkembangan Financial Teknologi (Fintech) Berdasarkan Perspektif Ekonomi Islam," *Istithmar: Jurnal Studi Ekonomi Syariah* 4, no. 2 (1 Desember 2020), <https://doi.org/10.30762/istithmar.v4i2.14>.

³Hari Sutra Disemadi, "Fenomena Predatory Lending: Suatu Kajian Penyelenggaraan Bisnis Fintech P2P Lending Selama Pandemi COVID-19 Di Indonesia," *Pandecta Research Law Journal* 16, no. 1 (2021): p. 55-67.

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is Peer-to-Peer (P2P) lending, which has experienced rapid growth. P2P lending is a financial service that connects lenders with borrowers. Its primary function is to facilitate loan agreements in Indonesian Rupiah through electronic infrastructures such as the internet.⁴The emergence of P2P lending represents a significant innovation in financial services, characterized by its accessibility. With the use of a smartphone, individuals can easily obtain loans, highlighting the convenience and ease of access provided by this technological advancement.

With the conveniences offered, the number of peer-to-peer (P2P) lending fintech providers in Indonesia has consistently increased year by year. According to data from the Financial Services Authority (OJK) as of January 2023, there are 102 licensed P2P lending fintech providers, with 95 operating as conventional businesses and 7 as sharia-based businesses. Given that the majority of Indonesia's population is Muslim, the fintech sector provides a specific space for sharia-compliant services. Several peer-to-peer lending fintech companies have adopted innovations by branding their products as sharia-compliant. According to the latest OJK data, there are around 7 sharia-based P2P lending providers.⁵ As fintech continues to grow, regulatory adjustments are needed.⁶As the authority responsible for financial transactions, OJK has issued regulations to accommodate peer-to-peer lending activities. OJK introduced Regulation No. 77 of 2016 concerning Information Technology-Based Lending Services, which was later revoked through a press release on July 15, 2022, when OJK issued Regulation No. 10 of 2022 on Information Technology-Based Collective Funding Services (POJK LPBBTI/Fintech P2P Lending).

With the issuance of OJK Regulation (POJK) Number 10 of 2022 concerning Information Technology-Based Joint Funding Services, which also repealed the previous Regulation, POJK Number 77 of 2016 on Information Technology-Based Lending Services, this demonstrates an adaptation to the rapidly evolving and more contributive industry, while also providing optimal consumer protection. A significant aspect of this change is the institutionalization of Sharia principles, which are quite accommodating to Sharia-based peer-to-peer lending transactions. The introduction of POJK Number 10 of 2022, as the latest regulation on peer-to-peer lending, provides considerable space for Sharia principles. For instance, General Provisions Article 1 clearly explains the concept of Sharia-based peer-to-peer lending, Sharia principles, Sharia contracts, and the Sharia supervisory board. This development appears to be a positive signal for the increasingly popular Sharia peer-to-peer lending sector.

This research focuses on examining the substance of sharia as formulated by the Financial Services Authority (OJK) in the relevant regulation. In general, the new regulation indicates that it adequately addresses the sharia requirements for Islamic financial institutions, such as sharia principles, sharia contracts, and the Sharia Supervisory Board. Therefore, the changes in this regulation will be analyzed from the perspective of public interest (*maslahah*) in accordance with the objectives of Islamic law (*maqasid al-shariah*). The revision of the OJK regulation concerning sharia peer-to-peer lending is expected to bring benefits, particularly for individuals engaging in such transactions, and to provide value to the Muslim community in financial transactions (*muamalah*).

Research Methods

This research is a qualitative study, employing a naturalistic inquiry approach, where data were collected through direct observation of existing phenomena.⁷ The study focuses on text and literature analysis, specifically library research. It is categorized as descriptive-analytical, with an emphasis on the comprehensive presentation and explanation of the data gathered. The analysis

⁴Otoritas Jasa Keuangan, "Peraturan Otoritas Jasa Keuangan Nomor 77/POJK.01/2016 tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi," Pub. L. No. 77 (2016).

⁵<https://www.ojk.go.id/id/kanal/iknb/financial-technology/Pages/-Penyelenggara-Fintech-Lending-Terdaftar-dan-Berizin-di-OJK-per-22-Januari-2021> Di akses pukul 17.00 tanggal 13 Februari 2021

⁶Marcello Bofondi dan Giorgio Gobbi, "The Big Promise of Fintech," *SSRN Electronic Journal*, no. 2 (2018): p. 107–19, <https://doi.org/10.2139/ssrn.3099337>.

⁷Barowi Suwandi, *Memahami Penelitian Kualitatif* (Jakarta: Rineka Cipta., 2008), p. 22.

includes various relevant concepts and viewpoints related to the research topic.⁸The study adopts a normative approach, grounded in religious norms.⁹

Results and Discussion

A. Islamic Peer-to-Peer Lending in Indonesia

Sharia-based financial technology (fintech) first emerged in 2004 in Dubai under the name Beehive, offering peer-to-peer lending services.¹⁰ Subsequently, in 2016, a Sharia-compliant crowdfunding platform named Capital Boost was introduced in Singapore, which received a Sharia compliance certificate from the Financial Sharia Advisory in Singapore.¹¹ The adoption of fintech in Indonesia began to gain significant traction between 2015 and 2016.¹² According to a 2016 research report by the Australian Centre for Financial Studies, the type of fintech that experienced the most substantial growth in Indonesia during this period was the peer-to-peer lending model.¹³

Sharia-based peer-to-peer (P2P) lending can be simply defined as the act of providing loans to individuals or business entities, as well as submitting loan applications for personal or business purposes. This practice is grounded in Sharia principles or norms. A more comprehensive definition of Sharia-based peer-to-peer lending is outlined in the Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) No. 117/DSN-MUI/II/2018. In brief, Sharia-based peer-to-peer lending refers to P2P lending platforms that operate in accordance with Sharia principles.¹⁴ These platforms offer financing services through information technology approaches, adhering to Sharia guidelines. In this context, financial services are regulated according to Sharia principles, connecting financiers with those seeking financing. Financing agreements are conducted electronically via internet infrastructure.¹⁵

The fundamental distinction in peer-to-peer lending concepts lies in the contractual structure employed. Conventional peer-to-peer lending operates on a loan system where interest serves as the primary source of profit. In contrast, peer-to-peer lending based on Islamic principles applies contracts oriented toward profit-sharing principles. In this model, various platforms adopt contracts such as *al-bai'*, *ijārah*, *muḍarabah*, *musyarakah*, *wakalah bi al-ujrah*, and *qarḍ* to regulate financial relationships.

In addition to differences in contractual agreements, regulations also govern sharia-compliant peer-to-peer lending, specifically outlined in DSN-MUI Fatwa Number 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles. This document serves as a guideline for conducting peer-to-peer lending transactions in accordance with sharia principles. The fatwa also provides a legal foundation for the implementation of peer-to-peer lending transactions. Various models of information technology-based financing services that adhere to sharia principles can be adopted by service providers through several approaches, including: 1) factoring financing, 2) financing for the procurement of goods ordered by third

⁸ Moh Kasiram, *Metode Penelitian Kualitatif Dan Kuantitatif* (Malang: Uin Maliki Press, 2010), p. 356.

⁹ Andi Eka Putra, "Sketsa Pemikiran Keagamaan dalam Perspektif Normatif, Historis dan Sosial-Ekonomi," *Al-Adyan: Jurnal Studi Lintas Agama* 12, no. 2 (5 Januari 2018): 73–86, <https://doi.org/10.24042/ajsla.v12i2.2110>.

¹⁰ Muhammad Irkham Firdaus, Haerul Akmal, and Setiawan Bin Lahuri, "Implementation of Murabahah Agreement on Peer to Peer Lending Platform," *ISLAMICONOMIC: Jurnal Ekonomi Islam* 12, no. 2 (2022): 191–204, <https://doi.org/10.32678/ije.v12i2.249>.

¹¹ Dina Dwi Setiani dkk., "Fintech Syariah: Manfaat Dan Problematika Penerapan Pada UMKM," *Jurnal Masharif Al-Syariah: Jurnal Ekonomi dan Perbankan Syariah* 5, no. 1 (1 Juli 2020), <https://doi.org/10.30651/jms.v5i1.4718>.

¹² Aam Slamet Rusydiana, "Bagaimana Mengembangkan Industri Fintech Syariah di Indonesia? Pendekatan Interpretive Structural Model (ISM)," *AL-MUZARA'AH* 6, no. 2 (2018): p. 117–28, <https://doi.org/10.29244/jam.6.2.117-128>.

¹³ Inda Rahadiyan, "Perkembangan Financial Technology Di Indonesia Dan Tantangan Pengaturan Yang Dihadapi," *Mimbar Hukum* 34, no. 1 (30 Juni 2022): p. 210–36, <https://doi.org/10.22146/mh.v34i1.3451>.

¹⁴ Muhammad Irkham Firdaus et al., "Implementation of the Qardh Agreement on the Financial Technology Lending Platform in the Development of Small and Medium Enterprises (SME) in Indonesia," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 113–25, <https://doi.org/10.1891/9780826186867.0006>.

¹⁵ Fatwa DSN MUI Nomor 117/DSN-MUI/II/2018 tentang Layanan Pembiayaan Berbasis Teknologi Informasi Berdasarkan Prinsip Syariah

parties, 3) financing for the procurement of goods for online business operators, 4) financing for the procurement of goods for online business operators with payment through a payment gateway, 5) employee financing, and 6) community-based financing.¹⁶

B. Sharia Concepts in Sharia Financial Institutions

In the general implementation of Sharia institutions, the concept of Sharia can be classified into two categories: Sharia as a norm and Sharia as a principle. Sharia as a norm serves as a guideline for social life. In this context, its role is to regulate how individuals or groups within a community behave and interact with one another. Sharia norms are subject to rules derived from both general and specific principles found in the Qur'an and Hadith. These norms are universally applied to achieve collective welfare in social life. In the operational context of Sharia financial institutions, Sharia as a norm is reflected in the avoidance of banking activities that involve usury (*riba*), speculation, and fraud. Additionally, efforts are made to create an institutional environment that embodies other Sharia norms, such as the moral and ethical conduct of these financial institutions.

Meanwhile, Sharia law, as a guiding principle, serves as a framework for financial institutions' operations. The implementation of these guidelines follows and adheres to the fatwas issued by the National Sharia Council (DSN-MUI). These regulations are binding for all banks operating within the realm of Sharia finance. More specifically, every product and service offered must be based on a fatwa issued by the National Sharia Council.¹⁷ The interpretation of Sharia as a set of norms and principles demonstrates that Sharia is not merely abstract or universal. Thus, in a technical sense, Sharia—understood as a norm and principle—can be established as binding regulations for entities, in this case, financial institutions that apply the Sharia concept.

The incorporation of Sharia provisions into regulations, which subsequently serve as the legal framework for the practice of Sharia-compliant peer-to-peer lending, was initially formalized by the Indonesian Financial Services Authority (OJK) through OJK Regulation No. 77 of 2016 on Information Technology-Based Lending Services. This regulation was later updated with OJK Regulation No. 10 of 2022 on Information Technology-Based Joint Funding Services. Within these regulations, from the perspective of Sharia urgency within an institution, three key aspects warrant attention: Sharia principles, contracts (*akad*), and Sharia supervision.

1. The Sharia Principles

The sharia principles outlined in the OJK regulations are intended to provide clarity regarding the principles employed in conducting sharia-based peer-to-peer lending. These principles are considered essential requirements in regulations governing sharia financial institutions. For instance, Law No. 21 of 2008 on Sharia Banking specifies in Article 2 that:

"Sharia banking, in carrying out its business activities, is based on Sharia Principles, economic democracy, and the principle of prudence."

Further elaboration on the definition of Sharia Principles states that business activities based on these principles include those that do not involve elements of *riba* (usury), *maisir* (gambling), *gharar* (excessive uncertainty), *haram* (prohibited), and *zalim* (unjust practices). In addition to Law No. 21 of 2008 on Sharia Banking, OJK Regulation No. 31 of 2016 on Pawnshop Business also addresses sharia principles. In the general provisions of Article 1, point 5, it is stated:

"Sharia Principles are Islamic legal provisions based on fatwas and/or sharia compliance statements from the National Sharia Council of the Indonesian Ulema Council (DSN MUI)." The reference within this regulation is explicitly directed towards the National Sharia Council of the Indonesian Ulema Council (MUI), thereby ensuring that the sharia provisions in this regulation are guaranteed by the MUI. The significance of sharia principles in regulations for sharia financial institutions lies in their role as moral guidelines and values intrinsic to sharia itself. Moreover, sharia regulations should not accommodate contracts that are exploitative or detrimental to any

¹⁶ Jadzil Baihaqi, "Financial Technology Peer-To-Peer Lending Berbasis Syariah Di Indonesia," *TAWAZUN: Journal of Sharia Economic Law* 1, no. 2 (20 September 2018): p. 116, <https://doi.org/10.21043/tawazun.v1i2.4979>.

¹⁷ Abdul Mujib, "Dewan Pengawas Syariah (DPS) Pada Lembaga Keuangan Mikro Syariah Di Wilayah Jawa Tengah," *Az-Zarqa': Jurnal Hukum Bisnis Islam* 9, no. 1 (1 Juni 2017), <https://doi.org/10.14421/azzarqa.v9i1.1433>.

contracting party. The Financial Services Authority Regulation Number 10 of 2022 concerning Peer-to-Peer Lending Services Based on Information Technology sufficiently accommodates this in Article 1, paragraph 4¹⁸, which addresses the principle of sharia by elaborating on the concept of sharia principles as referred to in Islamic law based on MUI fatwas. The desired sharia principles encompass five prohibitions that must be avoided in any contract, which are as follows:

Riba. Concept of *riba* is a crucial aspect that must be avoided in any contractual agreement that adheres to Sharia principles. This stems from the exploitative nature of *riba*, where one party is burdened unfairly. *Riba* can be understood as the acquisition of a specific asset beyond the principal that was initially loaned.¹⁹ Furthermore, in the Shafi'i school of thought, *riba* is defined as a contract involving the exchange of certain goods (*iwadh*) where clear equivalence, according to Islamic legal standards (*sharia*), is absent at the time of the agreement, or where one or both exchanges are deferred.²⁰ In the context of sharia-compliant peer-to-peer lending, *riba* occurs when the borrower is required to repay more than the original amount borrowed. However, if such an increase is mandated, it must be clearly stipulated to ensure fairness within the contract. This is important so that any gains or losses are shared not solely by the borrower, but also by the peer-to-peer lending platform, ensuring a balanced and just agreement.

Maysir. The term "*maysir*" in Arabic literally refers to obtaining something easily without significant effort or gaining profit without engaging in labor. Closely associated with *maysir* is the concept of "*qimar*," which is related to activities involving elements of gambling, betting, or high-risk games.²¹ According to Muhammad Ayub, both *maysir* and *qimar* refer to games of chance.²² From a religious perspective, *maysir* is defined as a transaction between two parties for the ownership of an object or service, where one party gains while the other suffers a loss, contingent upon a specific action or event.²³ *Maysir* is prohibited in Islamic economics and banking due to its potential to harm one of the involved parties.²⁴ Avoiding *maysir* is, therefore, a fundamental principle in sharia-compliant contracts. In the context of peer-to-peer lending based on sharia principles, avoiding *maysir* involves ensuring that contracts between lenders and borrowers are transparent and devoid of speculative elements. For instance, in profit-sharing arrangements within sharia-compliant peer-to-peer lending, the terms regarding profits and losses must be clearly outlined at the outset, ensuring that no party's outcome is left to chance or uncertain circumstances.

Garar is defined as deceiving others and enticing them to engage in wrongful actions. A concrete example of *Garar* is the exchange of an object between parties where elements remain unclear or concealed, ultimately leading to harm or loss. In this context, *Garar* refers to uncertainty in transactions arising from violations of Sharia principles that govern such exchanges. The consequence of transactions involving *Garar* is the occurrence of injustice toward one of the involved parties.²⁵ Under Sharia-compliant agreements, this is a critical issue that must be avoided.

¹⁸ Financial Services Authority Regulation Number 10/POJK.05/2022 Concerning Information Technology-Based Crowdfunding Services, Article 1, Paragraph 4:

The Sharia Principle Refers To The Legal Provisions Of Islamic Law, Which Are Based On Fatwas And/Or Declarations Of Sharia Compliance Issued By The National Sharia Board Of The Indonesian Ulama Council.

¹⁹ Wahbah Zuhaili, 2008, *Al-Fiqh Asy-Syafi'i Al-Muyassar*, Darul Fikr, Beirut. Diterjemahkan Oleh Muhammad Afifi, Abdul Hafiz, 2010, *Fiqh Imam Syafi'i 2*. Almahira, Surabaya, P.. 37.

²⁰ Abi Al-Abbas Ahmad Ar-Ramli, 2004, *Nihayah Al-Mubtaji*, Juz 3, Dar Al-Fikr, Beirut. P.. 424.

²¹ Ascarya, 2013, *Akademi Produk Bank Syariah*, PT Raja Grafindo Persada (Ed.1. Cet 4), Jakarta. P.. 20.

²² Diana Izza Dan Siti Fatimatuz Zahro, "Transaksi Terlarang Dalam Ekonomi Syariah," *Jurnal Keadaban* 3, No. 2 (2021).

²³ Rudiansyah, "Telaah Gharar, Riba, Dan Maisir Dalam Perspektif Transaksi Ekonomi Islam," *Al-Huquq: Journal Of Indonesian Islamic Economic Law* 2, No. 1 (24 Juli 2020): 98, <https://doi.org/10.19105/Alhuquq.V2i1.2818>.

²⁴ Desita Fitriani Dan Fauzatul Laily Nisa, "Analisis Praktek Larangan Maysir, Gharar, Dan Riba Dalam Asuransi Syariah Di Indonesia," *JURNAL MULTIDISIPLIN ILMU AKADEMIK* 1, No. 3 (22 Mei 2024): 181–90, <https://doi.org/10.61722/Jmia.V1i3.1391>.

²⁵ Ar Royyan Ramly, "Konsep Gharar Dan Maysir Dan Aplikasinya Pada Lembaga Keuangan Islam," *Islam Universalia: International Journal of Islamic Studies and Social Sciences* 1, no. 1 (27 Mei 2019): p. 62–82, <https://doi.org/10.56613/islam-universalia.v1i1.107>.

Garar is clearly a harmful act as it involves deception. In the context of Sharia-based peer-to-peer lending, avoiding Garar must be emphasized in agreements between the parties involved. The platform, acting as the intermediary between lenders and borrowers, must ensure transparency in both fund collection and distribution. Additionally, the platform itself must comply with proper establishment procedures to prevent any party from feeling deceived.

Haram. In Islamic law, "haram" refers to anything prohibited by Sharia. Broadly, there are two main categories of haram: *Haram li Dzātibi* and *Haram li Ghairibi*. *Haram li Dzātibi* refers to actions or transactions that are prohibited because the goods or services involved are inherently forbidden.²⁶ Examples include alcoholic beverages, carcasses of animals, pork, and similar items. Therefore, engaging in transactions involving alcohol, for instance, is considered haram, even if the contract itself is legally valid. In the context of Sharia-compliant peer-to-peer lending, transactions cannot involve assets considered haram, such as alcohol, dead animals, pork, and the like. On the other hand, *Haram li Ghairibi* refers to actions or transactions that are not inherently haram but become prohibited due to the means of acquisition or their intended use. If a transaction involves fraud, deception, or dishonesty (*tadlis*), it falls under *Haram li Ghairibi*.²⁷ In the context of Sharia-compliant peer-to-peer lending, transactions intended to deceive others, such as a borrower requesting a loan for a fictitious project, are strictly prohibited.

Dzalim. In linguistic terms, the concept of *Dzalim* or *Zulm* refers to a state of darkness, oppression, and encompasses notions of evil, sin, injustice, and abuse of power.²⁸ *Zulm* is defined as actions that exceed the boundaries of truth and tend toward wrongdoing. In the context of transactions, unjust behavior refers to agreements that cause harm to one party. This is in direct conflict with the principle of justice in Islamic contracts, where *Zulm* contradicts the very essence of fairness. Therefore, the presence of injustice within a transaction is undesirable.²⁹ Conversely, in contracts or transactions, there is a desire to implement the principle of balance. Balance is understood as the equality between giving and receiving, as well as an equitable distribution of risks.³⁰ In the context of Sharia-compliant peer-to-peer lending, avoiding *Zulm* is crucial to ensuring the balance among the parties involved—namely the borrower, lender, and platform. This ensures that any risks occurring in peer-to-peer lending transactions are shared collectively and proportionately according to each party's capacity.

2. Syariah Sharia Peer to Peer Lending Agreement (*Akad*)

The term "contract" (*akad*) refers to an agreement regulated by *fiqh muamalah* (Islamic commercial jurisprudence). In the context of Sharia, contracts are inherently tied to financial agreements. According to Syamsul Anwar in his book *Hukum Perjanjian Syariah* (The Law of Islamic Contracts), a contract (*akad*) is defined as "the convergence of an offer (*ijab*) and acceptance (*kabul*) as a manifestation of the mutual intention of two or more parties to create legal consequences on the object of the contract."³¹

In the framework of a peer-to-peer lending under Sharia principles, several parties are involved in the contract: the lender, the platform, and the borrower. Several parties are involved in the agreement, namely the lender, the platform, and the borrower. These parties, within the context of the contract (*akad*), are referred to as *aqid*, meaning individuals who participate in the contract. Moreover, there are several categories of contracts. In the case of *peer-to-peer* lending agreements, one applicable type is the *akad mudaf*. This type of contract involves conditions wherein the execution of the contract is deferred until a specified future time.

²⁶ Lukman Hakim, *Prinsip-Prinsip Ekonomi Islam* (Jakarta: Erlangga, 2012), p.86.

²⁷ Adiwarmanto A. Karim, *Ekonomi Mikro Islam* (Jakarta: Rajawali Pers, 2012), p.162.

²⁸ Ibn Mansur al-Ansari, *Lisan al-'Arab*, Juz 15 (t.t, Dar al-Fikr, t.th) p. 266.

²⁹ Afif Abd Fattah Tabbara, *al-Khatayab fi Nasar al-Islam*, terj. Bahrin Abu Bakar: Dosa dalam Pandangan Islam: (Cet III; Bandung: Risalah, 1986). p. 3

³⁰ Syamsul Anwar, *Hukum Perjanjian Syariah studi tentang teori akad dalam fikih muamalat* (Jakarta: PT Grafindo Pesada, 2007), p. 90.

³¹ Syamsul Anwar, *Hukum perjanjian syariah : studi tentang Teori Akad dalam Fikih Muamalat* (Jakarta: PT Grafindo Pesada, 2007), p. 68.

The legal framework governing Sharia-compliant peer-to-peer lending in Indonesia is outlined in Financial Services Authority Regulation (POJK) No. 10 of 2022, which adheres to contracts based on the *Akad* system, as specified in Article 1, Paragraph 5.³² This article briefly explains that the term *Akad* refers to transactions that do not conflict with Sharia principles. In addition to the POJK regulation, the National Sharia Board of the Indonesian Ulama Council (DSN-MUI) issued Fatwa No. 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services in accordance with Sharia principles, which serves as a general guideline mandatory for all service providers. One of the key provisions in this guideline pertains to the contracts (*Akad*) used in Sharia-based peer-to-peer lending services. The contracts employed by the parties in the provision of Sharia-compliant Information Technology-Based Financing Services may include those aligned with the nature of the financing services, such as akad al-bai', *ijarah*, *muḍarabah*, *musyarakah*, *wakalah bi al-ujrah* dan *qard*.

In Indonesia, there are seven Sharia-compliant peer-to-peer (P2P) lending institutions that are officially licensed by the Financial Services Authority (OJK). The implementation of contracts (*akad*) within these Sharia-based P2P lending platforms adheres to OJK regulations and the fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). Broadly, Sharia P2P lending in Indonesia encompasses the application of contracts such as al-bai', *ijarah*, *muḍarabah*, *musharakah*, *wakalah bi al-ujrah*, and *qard*. For instance, Ammana, a Sharia P2P lending platform, offers financial services to parties wishing to engage in transactions, using terms like "funding" and "financing." Here, "funding" refers to the lender, while "financing" refers to the borrower. The contracts employed include *muḍarabah* and *musharakah*. Ammana ensures a halal return through an open and transparent process, promising a return of around 24% annually. In addition to providing favorable returns, Ammana prioritizes the security and convenience of its users. Borrowers can make affordable monthly installment payments, and Ammana carefully evaluates borrower profiles to ensure their ability to meet repayment obligations on time.

In the implementation of contracts conducted by Sharia-compliant peer-to-peer lending platforms, the principles are guided by the DSN-MUI fatwa. However, with the change from OJK Regulation No. 77 of 2016 to POJK Regulation No. 10 of 2022, the application of contracts by these platforms can now directly refer to the new OJK regulation. The updated regulation, POJK No. 10 of 2022, sufficiently accommodates the provisions for contract implementation. In practice, Sharia financial institutions are indeed required to enforce contracts in their transactions. If a financial institution operates on Sharia principles, it must apply contracts that align with the nature of the transactions conducted. This is done to distinguish Sharia-based financial institutions, as they emphasize Sharia principles, which are reflected in the contracts they implement.

3. Sharia Supervision in Sharia Peer-to-Peer Lending Platforms.

Sharia supervision, as referred to in written regulations, is understood as the oversight performed by a Sharia Supervisory Board (DPS), which is mandated in regulatory frameworks. The Sharia Supervisory Board is defined as a body responsible for overseeing the operations of Sharia-compliant financial institutions to ensure their adherence to the principles and rulings established by the National Sharia Council (DSN).³³ The presence of a Sharia Supervisory Board (DPS) is indispensable in Sharia financial institutions, given the necessity of ensuring that all operations comply with the established Sharia principles and contracts. The role and responsibilities of the Sharia Supervisory Board (DPS) are elaborated in detail in the Financial Services Authority Regulation (POJK) Number 10 of 2022 concerning Information Technology-Based Collective Funding Services, particularly in Article 1, Paragraph 14.³⁴ This article provides a clear and detailed

³² POJK Nomor 10/POJK.05/2022 Tentang Layanan Pendanaan Bersama Berbasis Teknologi Informasi pasal 1 ayat 5

³³ Andri Soemitra M.A, *Bank & Lembaga Keuangan Syariah* (Prenada Media, 2017), p. 43.

³⁴ Regulation Number 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services, Article 1.

explanation of the Sharia Supervisory Board's function in overseeing the execution of transactions to ensure that they remain in line with Sharia principles.

Functionally, it is demonstrated here that Sharia supervision aims to maintain balance and preserve the integrity of Sharia itself. The existence of the Sharia Supervisory Board in peer-to-peer lending service providers oversees the contracts involved in Sharia-compliant peer-to-peer lending and the mechanisms related to financial reporting. The existence of Sharia supervision, in this case, the Sharia Supervisory Board, is also formulated in Law No. 40 of 2007 concerning Limited Liability Companies, specifically in Article 109.³⁵ Additionally, in the Financial Services Authority (OJK) Regulation No. 31 of 2016 concerning Pawnshop Businesses, detailed provisions regarding the Sharia Supervisory Board are mentioned in Article 8.³⁶

The amendment of OJK Regulation No. 77 of 2016 concerning Information Technology-Based Lending Services to POJK Regulation No. 10 of 2022 concerning Information Technology-Based Joint Funding Services represents the institutionalization process by OJK. This amendment also clarifies the position of the Sharia Supervisory Board within Sharia-compliant peer-to-peer lending platforms.

C. The Public Interest Implications Of The OJK's Regulatory Amendments Pertaining To Islamic Peer-To-Peer Lending

The discussion of the three points previously outlined—Sharia principles, Sharia contracts, and Sharia supervisory boards—indicates that the amendment of POJK No. 77 of 2016 concerning Information Technology-Based Lending and Borrowing Services, which was subsequently repealed and replaced by POJK No. 10 of 2022 on Information Technology-Based Joint Funding Services, underscores the growing importance of Sharia compliance for providers of Sharia-based transactional services. From the perspective of *maqasid al-shariah* (the objectives of Islamic law), the regulatory changes implemented by the Financial Services Authority (OJK) regarding peer-to-peer lending are seen as beneficial and contribute to public welfare (*maslahah*).

The study of *maqasid al-shariah* was extensively developed by Imam al-Syatibi, based on the assumption that every divine law (shariah) revealed by Allah SWT brings benefit (maslahah) to His servants, both in the present and the future.³⁷ The benefits, in terms of human needs and life demands, as well as their strength as a basis for legal rulings, are categorized into three levels: First, *Maslahah Daruriyyat* refers to essential and critical benefits that are indispensable for human existence. These are absolute necessities for the realization of both worldly and spiritual life. In short, if these essentials are not met, human life would be completely destroyed.³⁸ Second, *Maslahah Hajjiyyat* refers to benefits that complement the fundamental needs. This category provides concessions to preserve and maintain the basic necessities of human life. The rationale behind this is that the primary principle of religion is to facilitate ease and prevent hardship or difficulty.³⁹ These benefits are crucial for human well-being, ensuring a happy and prosperous life, free from undue distress.⁴⁰ Third, *Maslahah Tahsiniiyyat* is considered an additional factor that plays a significant role in enhancing the quality of human life. While the absence of these benefits may disturb human happiness, it does not necessarily lead to extreme suffering or total annihilation.⁴¹

³⁵ Law Number 40 of 2007 concerning Limited Liability Companies, Article 109.

³⁶ The OJK Regulation Number 31 of 2016 on Pawnshop Businesses, Article:

"The Sharia Supervisory Board, hereinafter referred to as DPS, is part of the organizational structure of a pawnshop company tasked with overseeing business activities to ensure they are in accordance with Sharia principles

³⁷ Nasrun Rusli, *Konsep Ijtihad Al-Syaukani dan Relevansinya bagi Pembaharuan Hukum Islam di Indonesia*, (Jakarta: Logos Wacana Ilmu, 1999), p.. 43.

³⁸ Hamka Haq, *Al-Syathibi Aspek Teologis Konsep Maslahah dalam Kitab Al-Muwafaqat*, (Jakarta: Erlangga, 2007), p.. 103.

³⁹ Muhammad Ali Rusdi, "Maslahat Sebagai Metode Ijtihad dan Tujuan Utama Hukum Islam," p.. 157.

⁴⁰ Hamka Haq, *Al-Syathibi Aspek Teologis Konsep Maslahah dalam Kitab Al-Muwafaqat*, (Jakarta: Erlangga, 2007), p.. 104.

⁴¹ Hamka Haq, *Al-Syathibi Aspek Teologis Konsep Maslahah dalam Kitab Al-Muwafaqat*, p.. 104.

Based on the classification of *maslahah* outlined above, the urgency of the regulatory changes made by OJK regarding peer-to-peer lending can be assessed from the perspective of *Maslahah Daruriyyat*. This is because regulations encompass various aspects that are essential to human life, particularly in Indonesia. The significance of these regulations can be evaluated in terms of the five essential needs (*al-daruriyyat al-khams*): the preservation of religion (*hifẓ al-din*), the preservation of life (*hifẓ al-nafs*), the preservation of intellect (*hifẓ al-‘aql*), the preservation of lineage (*hifẓ al-nasl*), and the preservation of wealth (*hifẓ al-mal*).

In terms of preserving religion or *hifẓ al-din*, which encompasses the maintenance of faith, worship, and social interactions, there is a relevance to the Financial Services Authority Regulation (POJK) Number 10 of 2022. This regulation incorporates the preservation of religion through the application of Sharia principles, which manifest in faith, worship, and social transactions. The inclusion of Sharia principles in this regulation facilitates the Islamic community's adherence to religious commands, particularly in the realm of social transactions, one example of which is peer-to-peer lending. By accommodating Sharia principles, POJK Number 10 of 2022 provides Muslims in Indonesia with options to engage in transactions that comply with religious provisions, thereby avoiding issues such as *riba* (usury), *gharar* (excessive uncertainty), *maysir* (gambling), *tadlis* (fraud), *zhulm* (oppression), and *haram* (forbidden actions). In other words, the transition from POJK Number 77 of 2016 to POJK Number 10 of 2022 reflects a commitment to the preservation of religion or *hifẓ al-din*.

In the context of preservation life, or *hifẓ al-nafs*, the regulation POJK Number 10 of 2022 concerning Technology-Based Peer-to-Peer Lending Services introduces mechanisms for debt collection. This regulation marks a significant shift from the previous regulation, POJK Number 77 of 2016, which did not include provisions for debt collection mechanisms. This change can be considered a notable development. Previously, the emergence of peer-to-peer lending services led to several serious issues that posed risks to consumers using these technology-based loans. Reports submitted to the Jakarta Legal Aid Institute (LBH Jakarta) highlighted problems such as excessively high interest rates, improper debt collection practices including defamation, threats, and unauthorized disclosure of personal data to third parties. These issues clearly harmed consumers and violated their privacy.⁴² The enactment of POJK Number 10 of 2022, which details the debt collection mechanisms in Articles 102, 103, and 104, can be seen as a preventive measure to address discriminatory debt collection practices and to uphold the principle of *hifẓ al-nafs*.

In the context of preserving reason, or *hifẓ al-‘aql*, which is interpreted as the prohibition of transactions involving items that could impair or destroy reason, this principle is reflected in the Financial Services Authority Regulation (POJK) Number 10 of 2022, which includes provisions on Sharia principles. Among these Sharia principles, one stipulates the avoidance of *haram* elements. *Haram* refers to items prohibited by Sharia. In the context of Sharia-compliant peer-to-peer lending transactions, these transactions are not intended to acquire *haram* assets, such as alcoholic beverages that could impair or destroy reason. Therefore, it is clear that POJK Number 10 of 2022 incorporates the principle of preserving reason, or *hifẓ al-‘aql*.

Regarding the preservation of wealth, or *hifẓ al-mal*, it is evident that this regulation is intended for financial transactions or business activities. In the context of preserving wealth as an encouragement for conducting transactions in accordance with Sharia law, the regulation clearly addresses this issue. For instance, Article 1, Paragraph 4, and Article 1, Paragraph 5 specifically mention the principles of Sharia and Sharia contracts, both of which are essential components of Sharia-compliant transactions. Thus, POJK Number 10 of 2022 includes elements related to the preservation of wealth, or *hifẓ al-mal*.

Conclusion

⁴² Veronica Novinna, Perlindungan Konsumen dari Penyebarluasan Data Pribadi oleh Pihak Ketiga: Kasus Fintech Peer To Peer Lending, *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, Vol. 9 No. 1 Mei 2020, 92-110

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The amendment of POJK No. 77 of 2016 regarding Information Technology-Based Money Lending and Borrowing Services, which was subsequently repealed by POJK No. 10 of 2022 on Information Technology-Based Peer-to-Peer Lending Services, underscores the importance of Islamic principles for service providers engaged in Sharia-compliant transactions. From the perspective of Maqasid al-Shariah, the regulatory changes enacted by the OJK regarding peer-to-peer lending are deemed beneficial. However, effective implementation and oversight of these regulations are crucial. The latest regulations are expected to encourage Sharia-compliant financial institutions in the digital sector to expand more substantially.

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