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Corporate Responsibility in Unconsented Lending Practices: A Comparative Study of Indonesia, Singapore, and Australia

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Abstract

The practice of disbursing loans by fintech companies without the explicit consent of consumers raises serious legal issues, particularly concerning contract validity, consumer protection, and corporate criminal liability. In Indonesia, the existing legal framework does not clearly regulate corporate accountability in cases involving system errors or procedural deviations that harm consumers, unlike the stricter legal approaches implemented in Singapore and Australia. This study aims to analyze the forms of corporate liability in unauthorized lending practices and formulate an ideal legal accountability model for Indonesia through comparative analysis with the legal systems of Singapore and Australia. The research adopts a normative juridical method, using a statute approach, a comparative approach, and a conceptual approach. The analysis focuses on regulations such as POJK No. 10/POJK.05/2022, the Financial Services and Markets Act, and the ASIC Act 2001, as well as case studies including Ochroid Trading Ltd v Chua Siok Lui and ASIC v Rent 2 Own Cars. The findings show that Indonesia's approach remains administrative and lacks a comprehensive foundation for criminal corporate liability, while Singapore and Australia have incorporated system flaws, transparency, and managerial involvement as key elements of legal responsibility. The study concludes that Indonesia needs to adopt a more progressive legal approach by reforming its regulatory norms and strengthening oversight of fintech operations. A liability model integrating corporate culture theory, vicarious liability, and identification theory is considered more effective in ensuring accountability and legal fairness within the digital financial sector.

Keywords:

Corporate Liability, Unauthorized Lending, Fintech, Consumer Protection, Corporate Criminal Law

Introduction

The development of financial technology (fintech) has drastically changed the way people access financial services, especially in the financing sector. In various countries, digital-based lending services have become a fast, flexible, and free, and practical solution, especially for people who do not have access to conventional financial institutions.[1] However, this convenience also raises serious challenges, one of which is the practice of providing loans without the explicit consent of the recipient. This practice not only threatens contractual fairness and consumer protection, but also raises important questions about the legal responsibility of corporations in the digital financial ecosystem. One case that emerged in Indonesia was an incident involving the online lending platform Rupiah Cepat, where a number of users claimed to have received loan funds without submitting an application. The company's

[1]Hendra Kusuma dan Wiwiek Kusumaning Asmoro, Perkembangan Financial Technology (Eintech) Beludbdkkal Pelspektl Ekonomlistam, ISTTTHMAR: Jourhat of islamic Economic Development Vol. 4 No 2(Desember 2020): 142-143.

clarification has not fully answered how the lending procedure can proceed without final action from the user, including acknowledgement or agreement to the contract. This situation illustrates the potential weaknesses in the digital authorization system and shows that regulations in Indonesia, such as POJK No. 10/POJK.05/2022, do not explicitly regulate the legal responsibility of corporations in the context of unauthorized loans due to system errors or internal procedural violations. [2]

In contrast, countries such as Singapore and Australia have faced similar cases, but with a more progressive and concrete legal approach. In Singapore, the case of Ochroid Trading Ltd v Chua Siok Lui (2018) SGCA 5 was an important landmark. The Supreme Court ruled that loans given without an official license were unlawful. Therefore, the loan could not be repaid. This decision affirmed the principle that legal authorization and consumer protection are the basis of every loan transaction, even when carried out by a corporate entity.[3] Meanwhile, in Australia, in the case of ASIC v Rent 2 Own Cars Australia Pty Ltd (2022), the company was found guilty of providing loans with information that included. The company's directors were also held liable for violating the principles of fair lending under the National Consumer Credit Protection Act 2009 and the ASIC Act 2001.[4]

From this comparison, a major gap emerged in the handling of cases between Indonesia and the two comparison countries. In Indonesia, the approach to corporate lending errors is still administrative. This approach does not directly touch on legal responsibility for losses suffered by consumers. In contrast, Singapore and Australia explicitly stipulate that the error of providing loans without a license or without approval is a violation of the law. This violation can be subject to strict sanctions in accordance with applicable legal provisions. The problem is: the absence of an adequate legal mechanism to sue fintech corporations. In addition, the position of consumers as parties who are legally disadvantaged is still unclear.

Several previous studies have discussed legal issues in fintech lending practices, but have not directly highlighted corporate liability in the context of providing loans without consumer consent. Research by Wijaya & Herwastoeti (2023) discusses criminal and civil liability for misuse of personal data by online lending platforms during the COVID-19 pandemic, focusing on illegal fintech, but has not examined the lending mechanism that does not involve explicit authorization from customers.[5] Research by Aulia (2022) examines electronic contracts in peer-to-peer lending services, especially from the perspective of contract law principles and the use of standard clauses, but has not discussed how contractual system errors by corporations can have criminal consequences.[6] Meanwhile, a study by Ardhana & Kasim (2022) assesses the effectiveness of POJK regulation No. 77/POJK.01/2016 on information technology-based money lending services, but does not touch on the aspect of corporate criminal liability when there is a deviation from the lending procedure. [7]Fithria's (2022) research is also important to note because it evaluates the contractual compliance of sharia P2P fintech with sharia principles, but does not explain how lending without consent can be seen as a form of violation of corporate law.[8] Finally, Kurrohman (2023) highlights the

[2]Rupiah Cepat Klarifikasi Kasus Dana Masuk Mendadak, Ini Penjelasannya," Infobanknews.com, 3 Mei 2024, https://infobanknews.com/rupiah-cepat-klarifikasi-kasus-dana-masuk-mendadak-ini-

[3]Unlicensed Lending Firm Loses Bid to Recover,$10m," The Straits Times, January 24, 2018, https://www.straitstimes.com/singapore/courts-crime/unlicensed-lending-firm-loses-bid-to-recover-10m.

[4]Gase Note: Directors' Liability for Gompany's Gredit Breaches," Bright Law, May 12, 2022, https://www.brightlaw.com.au/case-note-directors-liability-for-comnanve-cradit.hragchgo

[5]Hendra Wijaya dan Herwastoeti,"Griminal & Givil Liability Related to Misuse of Illegal Fintech Gustomer Data During the Covid-19 Pandemic," Audito Comparative Law Journal 3, no. 1 (2023), https://ejournal.umm.ac.id/index.php/audito/article/view/19873.

[6]Rahma Indah Aulia,"Kontrak Elektronik dalam Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi Ditinjau dari Asas dan Prinsip Hukum Kontrak di Indonesia," Lex Specialis 1, no. 1(2022), https://jurnal.fakum.untad.ac.id/index.php/LS/article/view/2096.

[7]A. S. Ardhana dan N. M. Kasim,"Efektivitas Penerapan POJK Nomor 77/POJK.01/2016 tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi," Dianoia Law Journal 3, no. 1(2022), https://ejurnal.pps.ung.ac.id/index.php/DLJ/article/download/1749/1305.

[8]Anisah Fithria,"Exploring the Application of Sharia Gontracts on Islamic Fintech Peer-to-Peer Lending in

absence of a specific legal policy regarding illegal fintech lending, and emphasizes the importance of consumer protection. However, his study has not yet led to the construction of corporate liability as a subject of criminal acts.[9] Therefore, this study offers novelty by specifically discussing corporate criminal liability in the practice of lending without consumer consent, with a cross-jurisdictional comparative approach and the application of relevant corporate liability theories.

This research has strategic value both theoretically and practically. Theoretically, this research expands the scientific knowledge in the field of corporate criminal law, especially in corporate liability in the context of digital-based economic crimes that have a direct impact on consumers. This research not only examines the legal norms applicable in Indonesia, Singapore, and Australia, but also uses a conceptual analytical approach to corporate criminal liability. Various theories of liability such as strict liability, vicarious liability, identification theory, corporate culture, and reactive fault theory are applied in this research. The application of these theories aims to identify which approach is most appropriate and relevant to be applied to cases of lending without consent by fintech entities. Practically, the results of this research are expected to be a reference for regulators, law enforcers, and business actors. This reference is useful in formulating policies and supervisory systems that are more responsive to criminal acts committed by corporations in the digital financial sector.

This research is limited to a study of criminal liability imposed on corporations as legal subjects for the practice of lending without consent, which has a direct impact on consumer losses. The main focus is directed at corporate entities as perpetrators, considering that corporations in the modern legal system can be held accountable for acts that are systemically detrimental. However, this study also considers the extent to which individual involvement in corporate structures such as employees, management, or directors—can be considered through an indirect liability approach, especially in the context of vicarious liability and identification theory. The discussion does not cover technical aspects of information technology, such as system programming, application architecture, or studies related to macroeconomic policies in the digital financial sector. This limitation is intended to keep the focus of the analysis in the normative area and substantive legal accountability. The main object of this study is the practice of technology-based digital lending (fintech lending) carried out by legal entities in Indonesia, Singapore, and Australia. The object is analyzed using a normative legal approach with the addition of a comparative legal method to examine the differences and similarities in corporate criminal liability in the three countries.

Research Methods

This study uses a normative legal research method, which is a method that focuses on the study of legal norms that apply in laws and regulations, doctrines, and court decisions. Normative legal research is prescriptive and theoretical because it aims to examine the existing legal norm system in order to find clarity, consistency, and solutions to legal problems that are the object of study. This method was chosen because it is in accordance with the characteristics and objectives of the study and focuses on the analysis of corporate responsibility in the practice of providing loans without consent, which requires an in-depth study of the formal legal structure in Indonesia, Singapore, and Australia. In its implementation, this study uses several approaches. First, the statute approach is used to research and analyze various regulations governing corporate legal responsibility in each country, such as POJK No. 10/POJK.05/2022 in Indonesia, the Financial Services and Markets Act and the Moneylenders Act in Singapore, and the ASIC Act 2001 and the National Consumer Credit Protection Act 2009 in Australia. Second, a comparative approach is used to compare legal systems between countries in handling cases of lending without consent by fintech entities, in order to identify patterns and weaknesses in each legal system. Third, a conceptual approach is applied to examine theories of corporate criminal liability, such as vicarious liability, identification theory,

Ndonesia," ResearchGate.(2022), https://www.researchgate.net/publication/371293482_Exploring_the_Application_of_Sharia_Contracts_

[9]Tholhah Kurrohman,"Kebijakan Hukum Financial Technology Lending Ilegal dalam Upaya Perlindungan Konsumen di Indonesia," Pamulang Law Review.6, no. 1 (2023), https://doi.org/10.32493/palrev.v6i1.33385.

corporate culture theory, and reactive fault theory, as a basis for normative analysis of the most ideal form of responsibility for the Indonesian context.

The data used in this study are secondary data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include laws and court decisions related to fintech lending cases. Secondary legal materials include scientific literature, law journals, academic articles, and previous research results that discuss corporate issues, fintech law, and consumer protection. Meanwhile, tertiary legal materials such as legal dictionaries and encyclopedias are used to support conceptual understanding in this study.

The data collection technique is carried out through library research, and data analysis is carried out qualitatively by describing and interpreting the contents of legal norms and comparing them systematically. This analysis aims to assess the effectiveness of existing regulations, find weaknesses or gaps in the law, and formulate a more adaptive corporate legal liability model for digital lending practices without consent in the context of the Indonesian legal system.

Results and Discussion

Forms Of Corporate Responsibility İn The Practice Of Providing Loans Without Consent, And How This İs Regulated By Law İn Indonesia, Singapore And Australia

Corporate accountability for lending practices without explicit consent is a major challenge in Indonesia's rapidly growing digital financial ecosystem. Although fintech lending offers the convenience of fast and flexible disbursement of funds, cases such as the Rupiah Cepat platform, where a number of users claim to have received funds without formal application, highlight serious gaps in existing regulations.[10]This situation shows that the current legal framework is inadequate to deal with lending practices without consent, especially those caused by system errors, algorithmic failures, or even systemic manipulation of electronic contracts by corporations. The absence of comprehensive regulations not only threatens contractual fairness, but also raises profound questions about corporate legal accountability in the increasingly complex digital financial ecosystem. This issue requires in-depth analysis to understand the shortcomings of regulations in Indonesia compared to other more progressive jurisdictions.

One of the fundamental shortcomings in Indonesian regulations is the unclear status of corporate legal subjects as criminal actors. Existing laws, such as Law Number 8 of 1999 concerning Consumer Protection (UUPK) and Law on Information and Electronic Transactions (UU ITE) Number 11 of 2008, do contain norms on criminal sanctions for business actors. However, its implementation still often highlights individuals or individuals involved in violations, not including the legal entity itself. For example, Article 62 of the UUPK only emphasizes that "business actors who violate... shall be punished...", but does not explicitly mention "legal entities" as criminal subjects. As a result, fintech companies as corporate entities are rarely directly caught in criminal cases when there is a disbursement of loans without systemic authorization. This makes it difficult for law enforcement officers to prosecute corporate entities as a whole, because there is no specific norm that expressly designates corporations as subjects of criminal acts.[11]

In addition, positive Indonesian law to date has not explicitly recognized concepts such as corporate fault, corporate culture, or systemic liability, which are commonly applied in developed jurisdictions. This means that errors arising from system bugs, human error, or incorrect algorithms in the fintech system cannot be immediately punished, unless it can be proven that there is an element of malicious intent from the corporation. More specific fintech regulations, such as POJK No. 10/POJK.05/2022, do require electronic approval from consumers through electronic contracts as regulated in Articles 25-27. However, this regulation does not provide a clear criminal clause

[10] Kompas.com, Pinjol Rupiah Cepat Minta Maaf Terkait Kasus Masyarakat Terima Dana padahal Tidak Ajukan Pinjaman, 23 Mei 2025.
[11] Rachma, D. D. A. (2023). Kebijakan Formulasi Korporasi Penyelenggara Aplikasi Pinjaman Online Ilegal Sebagai Subjek Pidana. Jurnal Hukum Adigama, 5(1). Halaman 3416 – 3427.

for system damage that causes funds to be disbursed without explicit authorization from consumers. Without recognition of the concept of corporate fault or systemic liability, fintech companies are difficult to hold criminally accountable when "systemic errors" occur that harm many consumers, so that violations that occur are often only resolved through administrative or civil channels.

Another shortcoming lies in the inadequate electronic consent standards in Indonesian regulations. POJK 10/2022 only states that fintech is required to obtain "consumer consent through electronic contracts". However, this regulation is not followed by detailed validation standards, such as whether there must be two-step verification (for example, via OTP), or whether simply clicking on "terms and conditions" is considered valid enough. The unclear definition and standards of digital consent create a fairly wide gap for online lenders to create ambiguous or non-transparent consent mechanisms. This can ultimately facilitate the practice of disbursing funds without explicit consent from consumers, because corporations can argue that consent has been "obtained" according to loose standards. As a result, consumer protection becomes vulnerable to unethical practices or systematic negligence.

POJK 10/2022 is also absent in providing relevant criminal sanctions. This regulation only regulates administrative sanctions such as revocation of business licenses, fines, and operational restrictions. There are no specific criminal provisions that can be explicitly applied to fintech that disburse funds without explicit consent from consumers. Thus, serious violations that have the potential to harm many parties can only be handled administratively, without providing a significant criminal deterrent effect. This is different from the approach in developed countries that apply strict criminal sanctions for serious violations committed by corporations. The absence of adequate criminal sanctions means that fintech companies tend to only face relatively light administrative consequences compared to the impact of losses caused to consumers, thus not encouraging higher compliance.

Weak internal audits and information technology (IT) are also crucial issues in the fintech ecosystem in Indonesia. Although the fintech sector is growing rapidly with a fully digital-based business model, regulations in Indonesia do not strictly require adequate IT audits, data security audits, algorithm audits, or periodic validation of system operational procedures. The Financial Services Authority (OJK) does establish a mechanism for registering electronic systems at the Ministry of Communication and Information (Kominfo), but this is different from comprehensive periodic IT security and control evaluations. Without mandatory and periodic IT audits, systemic errors, cybersecurity vulnerabilities, or algorithmic biases can occur without early detection, which can ultimately result in loan disbursements without consent or misuse of consumer data.[12] This poses significant risks to consumers and the integrity of the digital financial system as a whole.

Under Indonesian law, consumers who are victims of detrimental fintech lending practices, including disbursement without consent, are usually viewed as parties to a civil dispute, not a criminal one. There is no article formulation that explicitly recognizes disbursement of loans without consent as a criminal act that is systemically detrimental. This significantly weakens the legal position of consumers in taking effective legal action. If a loan disbursement without consent occurs, victims often can only take civil action, which is known to be expensive, time-consuming, and complex. This limitation causes many cases of violations by fintech to not be resolved completely and does not provide an adequate deterrent effect for business actors. Law enforcement against fintech in Indonesia is also still weak and fragmented. OJK, as a regulator, only has the authority to take action through administrative channels. Meanwhile, for cases that contain criminal elements, law enforcement officers such as the police or prosecutors are often less familiar with the unique characteristics of the fintech business, including the digital aspects and algorithms of online lending. They often do not have a special fintech unit or staff who have a deep understanding of fintech technology and operations. This condition causes many case reports to not be processed optimally or misinterpreted, because they are often considered to be just ordinary contract or civil matters, even though they have complex criminal dimensions.

[12] Azhar, D. P., & Mahyani, A. (2023). Pertanggungjawaban Pidana Korporasi Sebagai Pelaku Tindak Pidana Penyebaran Data Pribadi. Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance, 3(1). Halaman 547 – 557.

Existing old regulations, such as the Consumer Protection Law and the ITE Law, have also not been fully adapted to deal with algorithmic and artificial intelligence (AI) risks that are now widely used in fintech. Both laws were written before the rapid advancement of AI and the use of automated algorithms in fintech lending. As a result, the risk of bugs, algorithmic bias that can violate the principle of transparency, and unauthorized disbursement of funds resulting from the design of automated systems have not been explicitly defined in the law or become the basis for accountability. The existing POJK also does not include a clear responsibility clause for developers and companies for potential information technology risks. Although regulations have regulated aspects of capital, licensing, and data protection, responsibility for automated systems that have the potential to harm consumers has not been adequately regulated.

In addition, the absence of a dedicated enforcement unit in OJK or Kominfo is a significant obstacle. Unlike regulatory institutions in other countries, such as ASIC (Australian Securities and Investments Commission) in Australia or MAS (Monetary Authority of Singapore) in Singapore which have dedicated fintech law enforcement divisions, OJK or Kominfo have not yet formed a similar unit. In fact, handling cases such as illegal online loans or disbursements without approval requires an approach that involves technological expertise, digital audits, and close coordination between institutions. Currently, these cases must be carried out separately and often across institutions, which reduces the effectiveness of law enforcement as a whole. Another important point that is absent from Indonesian regulations is the absence of a restorative justice mechanism or mandatory restitution for victims. In the progressive law enforcement model in other countries, fintechs that are proven to have committed violations are required to automatically pay restitution to the victims who have been harmed. However, in Indonesia, UUPK and POJK only regulate administrative sanctions and do not provide an automatic restitution scheme or strong consumer rights recovery, such as the model implemented in Australia or the Fintech Act discourse in Singapore. This means that victims must take separate legal channels and it is often difficult to obtain compensation for the losses they have suffered, making consumer rights recovery ineffective.

The authority to track and prosecute directors or commissioners of fintech companies is also still limited in Indonesia. In the case of Australia, directors and commissioners were also punished for negligent supervision or involvement in corporate violations. However, the OJK Law and POJK in Indonesia do not have articles that explicitly provide space to ensnare individual fintech leaders for negligent supervision (vicarious liability). For example, if a system error occurs on an official online lending platform, the company director cannot be prosecuted directly because there is no clause regulating personal liability for corporate negligence. This weakens the deterrent effect for decision makers at the highest level of the company.

Finally, the form of criminal sanctions for corporate fintech in Indonesia is also unclear. Indonesian law does not specifically determine the form of criminal punishment that can be imposed on corporations, such as large fines, freezing of assets, or even dissolution of the company. Neither the Criminal Code (KUHP) nor other sectoral regulations have detailed provisions on this matter. The ambiguity of the form of criminal sanctions has led to legal uncertainty and reduced the effectiveness of criminal law enforcement against corporations.

In comparison, regulations in Singapore show significant advantages, especially in terms of licensing and consumer protection. Singapore implements a fintech lending system under the Moneylenders Act framework, which imposes strict criminal sanctions for lending practices by entities without official licenses. The case of Ochroid Trading Ltd v Chua Siok Lui (2018) SGCA 5 clearly states that loan agreements made without a license are null and void. This regulation emphasizes that without a license, financing is considered invalid and cannot be collected back, and there are clear criminal sanctions (Article 14 of the Moneylenders Act) for violators.[13] This approach provides strong protection for consumers because the validity of the loan is highly dependent on compliance with licensing requirements.

[13] Baker McKenzie. (2024). Singapore: When considering whether to lend. Dalam Asia-Pacific Guide to Lending and Taking Security – Singapore.

Australia, on the other hand, adopts a more sophisticated approach by combining the concepts of corporate culture and strict liability. Provisions such as Section 12.3 of the Criminal Code Act 1995 and the decision in ASIC v Rent 2 Own Cars Australia Pty Ltd (2022) demonstrate that penalties are imposed not only on the corporate entity, but also on directors or individuals in management for negligence related to corporate culture. This provides a real deterrent effect, with the value of criminal penalties and large fines, which cannot be equated with administrative sanctions alone. This approach allows law enforcement to charge corporations for systemic failures or cultures that do not support compliance with the law, even where there is no direct malice in the breach.

This comparison shows Indonesia's shortcomings, namely that Indonesia only focuses on licensing and capital requirements for fintech, without a strong systemic liability mechanism. There is no clear criminal law enforcement in the event of unauthorized loan disbursement due to system errors or corporate negligence. In addition, there is no mandatory restitution mechanism for victims, no comprehensive concept of corporate culture liability, and no strict punishment for negligent directors or corporate leaders. Law enforcement in Indonesia is also not yet proactive and technology-based, so it is often difficult to handle complex fintech cases. Existing regulations only focus on administrative sanctions for companies as entities, and there are no clear sanctions for failed systems or algorithms. Therefore, comprehensive regulatory reform is urgently needed in Indonesia. This can include revising the UUPK and the ITE Law to include a clearer definition of fintech lending, as well as strict criminal sanctions for corporations and individual leaders who are responsible, including mandatory restitution for victims. In addition, criminal articles need to be added to the POJK, such as large corporate fines and the possibility of dissolution of the company if funds are disbursed without explicit approval. It is also important to require annual IT audits, algorithm certification, and periodic security evaluations for all fintech lending providers. The establishment of a fintech enforcement unit at the OJK or the Attorney General's Office, supported by competent personnel in the technology field, will increase the effectiveness of case handling. The addition of a vicarious liability clause for directors and commissioners responsible for system changes or negligence in supervision is also crucial. In addition, licensed fintechs must be required to pay automatic restitution in the event of unauthorized disbursement, which can be integrated into the loan agreement template. Coordination between institutions (OJK, Kominfo, Polri, BI) needs to be improved by establishing an integrated fintech task force, and a transparent public reporting system needs to be built, such as a sanctions registry, and an easily accessible online consumer complaint mechanism.

In conclusion, current Indonesian regulations are inadequate to facilitate criminal liability for corporations in fintech lending schemes, especially in cases of loan disbursement without explicit consent.[14] Looking at the implementation of the law in Singapore and Australia, it is clear that the shortcomings in Indonesia include the absence of strict corporate criminal sanctions, the absence of mandatory restitution, the absence of accountability for negligent corporate leaders, and law enforcement that is still administrative and fragmented. Comprehensive reform is needed so that the Indonesian legal system can be on par with global standards in regulating fintech and be able to protect consumers effectively and properly.

The ideal form of corporate accountability for Indonesia based on comparison with practices in Singapore and Australia

The theory of corporate criminal liability is a collection of legal concepts that explain the basis and mechanism of how a legal entity can be held accountable for criminal acts that occur in the environment or for the benefit of the company. In the context of fintech lending practices, especially cases of lending without consumer consent, this theory is very important to ensure that companies cannot escape legal responsibility for violations that harm consumers widely.[15] The development of the business world and technological advances have opened up space for

[14] Pratiwi, N. W. W.,& Ibrahim, A. L.(2023). Pertanggungjawaban Pidana Korporasi Sebagai Pemberi Pinjaman Online. Kertha Patrika, 45(5). Halaman 6-10

[15] Y., Purwadi, H., & , H. (2019). REFORMULASI KONSTRUKSI PIDANA DALAM MENJERAT PELAKU TINDAK PIDANA KORPORASI. *Jurnal Hukum Dan Pembangunan Ekonomi*, *7*(1), 144. https://doi.org/10.20961/hpe.v7i1.29208

violations committed systematically through corporate entities, so that the criminal approach to corporations is a part that cannot be ignored.

The ideal form of corporate accountability for Indonesia in the practice of providing loans without consent must be built firmly and responsively, as has been implemented in Singapore and Australia. In Indonesia, the main regulations such as Law No. 8 of 1999 concerning Consumer Protection, Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE) as amended by Law No. 19 of 2016, and OJK Regulation No. 10/POJK.05/2022, have indeed become the legal basis for fintech lending practices, but all of these laws have not explicitly regulated corporate criminal liability for the practice of providing loans without clear consent from consumers.[16] The sanctions regulated are more administrative or civil, and have not directly touched on the criminal aspects of corporations, especially when losses occur due to weaknesses in the digital authorization system or internal procedural deviations.

The main weakness of regulations in Indonesia lies in the lack of provisions that specifically regulate corporate criminal liability for lending practices without explicit consumer consent. Regulations such as Law No. 8 of 1999 concerning Consumer Protection, the ITE Law, and POJK No. 10/POJK.05/2022 still emphasize civil and administrative sanctions, making them less effective in providing maximum protection for illegal fintech lending consumers. In addition, there is no reverse proof system that requires corporations to prove compliance with the power of attorney procedure. As a result, the burden of proof is largely on consumers who often have difficulty in providing proof.

In comparison, in Singapore, which places the legality of loan authorization as the main foundation in its legal framework. The Moneylenders Act explicitly emphasizes that every lender must have an official license. In the case of Ochroid Trading Ltd v Chua Siok Lui (2018), the Supreme Court of Singapore ruled that a loan agreement made by an institution without an official license is void for the sake of law, and the Moneylenders Act provides a legal basis for following up on corporations that violate the licensing rules, including criminal sanctions in the form of fines and/or imprisonment for companies that violate the article.[17] From Singapore's regulations, Indonesia can adopt the principle of the legality of loan authorization as regulated in the Moneylenders Act. This principle emphasizes that every loan transaction without an official license and approval from the consumer is void for the sake of law and the perpetrator can be subject to severe criminal sanctions, including imprisonment or fines. This is a focus on preventing illegal lending practices and providing clear legal protection for consumers. Automatic cancellation of illegal loan contracts is also an effective way that can be adapted in the Indonesian legal system.

Australia is even more advanced by implementing the principles of strict liability and corporate culture in the Criminal Code Act 1995 and the National Consumer Credit Protection Act 2009. In the case of ASIC v Rent 2 Own Cars Australia Pty Ltd (2022), the court not only imposed sanctions on a cooperative, but also on directors who were considered responsible for the failure of the company's internal control.[18] Article 12.3 of the Criminal Code Act 1995 explicitly stipulates that a corporation can be subject to criminal penalties if the corporate culture fails to encourage compliance with the law so that liability is not only administrative, but also criminal. Indonesia can also adopt and take important lessons regarding the application of the principles of strict liability and corporate culture in the Criminal Code Act 1995 and the National Consumer Credit Protection Act 2009.[19] This approach also allows a corporation

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16 Rineska, O. (2020). Perlindungan Hukum Terhadap Penerima Pinjaman Terkait Penetapan Tingkat Suku Bunga Yang Tinggi Oleh Perusahaan Peer To …. *Selisik*, *6*(2), 10–16. Retrieved from http://journal.univpancasila.ac.id/index.php/selisik/article/view/2199

17 Wibowo, S. A., & Sumiyati, Y. (2021). TANGGUNG JAWAB KORPORASI FINTECH LENDING ILEGAL DALAM PERSPEKTIF PERLINDUNGAN KONSUMEN [Corporate Liability of Illegal Fintech Lending in the Perspective of Consumer Protection Law]. *Law Review*, 117. https://doi.org/10.19166/lr.v0i0.3544

18 Rodliyah, R., Suryani, A., & Husni, L. (2021). Konsep Pertanggungjawaban Pidana Korporasi (Corporate Crime) Dalam Sistem Hukum Pidana Indonesia. *Journal Kompilasi Hukum*, *5*(1), 191–206. https://doi.org/10.29303/jkh.v5i1.43

19 Novridasati, W., Ridwan, R., & Prakarsa, A. (2020). PERTANGGUNGJAWABAN PIDANA DESK COLLECTOR FINTECH ILEGAL SERTA PERLINDUNGAN TERHADAP KORBAN. *LITIGASI*, *21*(2), 238–265. https://doi.org/10.23969/litigasi.v21i2.3103.

and its directors to be prosecuted for failures and negligence in internal supervision that cause violations of the law, without having to prove individual malicious intent. This approach strengthens the responsibility of a cooperative and encourages the implementation of a strict internal control system, thereby preventing repeated violations in fintech lending cases.

Indonesia needs to adopt the principle of strict liability and corporate culture from Australia into the Criminal Code and sectoral regulations. This allows a company to be subject to criminal sanctions for failing to supervise existing internal systems. The principle of strict liability will make a company responsible without having to show any malicious intent, while the theory of corporate culture evaluates the company's internal culture and systems as the main factors in violating the law. Therefore, directors and management must implement an effective internal control system and be responsible for any failures. This approach has proven successful in Australia and can be the basis for strengthening criminal liability for fintech companies in Indonesia, so that companies can be prosecuted for systemic failures, negligence in supervision, or allowing violations of the law by employees or internal systems.

The theory of corporate criminal liability has several approaches that can be applied in the Indonesian legal system. First, the theory of strict liability (absolute responsibility) this approach states that corporations can be punished without having to prove the existence of an element of individual error. This theory is very suitable to be applied in cases of loans without consent, where violations tend to be difficult to prove individual perpetrators. Second, the theory of vicarious liability allows a corporation to be held responsible for criminal acts committed by employees or agents within the scope of their work, as long as the actions are carried out in the interests of the company. Third, identification theory This approach sees that the intentions and actions of company officials are the intentions and actions of the company itself, so that if management knows and allows the violation to occur, the company can be prosecuted.

Fourth, corporate culture theory Pays attention to a company's internal culture and system as the main cause of violations of the law. If the company's culture is proven to allow violations to occur, then the corporation can be held criminally liable. This approach has been used explicitly in Australia and is starting to be applied in the new Indonesian Criminal Code. Fifth, reactive fault theory Explains that corporate responsibility is based on the response to known violations, if the company does not immediately take action or prevention after learning of the violation, then this can be the basis for criminal liability.

Of the five theories, strict liability and corporate culture theory are the most relevant and worthy of being adopted by Indonesia. Strict liability is very effective in overcoming systemic violations, because it is sufficient to prove that the violation occurred within the company's system. Meanwhile, corporate culture theory requires companies to build a system and culture that encourages legal compliance, and imposes criminal sanctions if there is evidence of internal supervision failure. The adoption of these theories can be included in the revision of the Consumer Protection Law, POJK No. 10/POJK.05/2022, and the new Criminal Code, in order to strengthen the framework for corporate criminal liability.

To realize all of this, Indonesia needs to adopt and revise sectoral regulations by adding specific criminal norms for corporations that provide loans without explicit consumer consent. This must be accompanied by reverse proof that requires companies to prove that they have carried out their authorization and supervision obligations properly. That way, the burden of proof is not solely on consumers. This approach not only strengthens legal protection for the community, but also provides a strong deterrent effect on fintech business actors who are negligent and intentionally violate the law.[20] Corporations and their administrators are no longer protected by formal structures, but are criminally responsible for their failure and carelessness in allowing violations of the law to occur within their organizations.

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20 Baiquni, M. I., Adiyatma, S. E., Saputri, A. D., Julianto, R., Arifin, R., & Fibrianti, N. (2023). Criminalization Arrangements for Corporations (Comparative Study of Indonesia and Australia). *Unnes Law Journal*, *9*(2), 489–508. https://doi.org/10.15294/ulj.v9i2.74129

Conclusions

This study concludes that Indonesia's current legal framework remains insufficient to address corporate criminal liability in cases involving unauthorized fintech lending. The existing regulations, such as the Consumer Protection Law, the Electronic Information and Transactions Law, and OJK Regulation No. 10/POJK.05/2022, primarily emphasize administrative and civil sanctions. These legal instruments fail to clearly define corporations as criminal subjects when systemic errors or internal procedural breaches occur. As a result, law enforcement tends to focus on individuals rather than the corporate entity itself. This creates a legal gap that weakens consumer protection and undermines the effectiveness of deterrence. Consumers, often lacking resources and legal knowledge, face difficulties in seeking justice through complex civil procedures. Consequently, corporate actors responsible for harmful lending practices frequently evade meaningful accountability.

A comparative analysis with Singapore and Australia reveals more progressive legal approaches that Indonesia can adopt. Singapore applies the principle of loan legality strictly, rendering unauthorized loans void and subject to criminal sanctions under the Moneylenders Act. Australia goes further by incorporating strict liability and corporate culture theories, holding both corporations and negligent directors criminally liable. These models emphasize proactive regulation, internal supervision, and consumer restitution. Indonesia should reform its laws by integrating these principles into the Criminal Code, Consumer Protection Law, and fintech regulations. Establishing a dedicated fintech law enforcement unit and mandating regular IT audits and algorithm certifications would also strengthen regulatory oversight. By implementing these reforms, Indonesia can enhance consumer legal protection and establish a more responsible and legally compliant fintech environment.

References

Kusuma, H., & Asmoro, W. K. (2020). Perkembangan Financial Technology (Fintech) Berdasarkan Perspektif Ekonomi Islam. ISTITHMAR: Journal of Islamic Economic Development, 4(2), 142–143.

Infobanknews. (2024, Mei 3). Rupiah Cepat klarifikasi kasus dana masuk mendadak, ini penjelasannya. https://infobanknews.com/rupiah-cepat-klarifikasi-kasus-dana-masuk-mendadak-ini-penjelasannya/

Straits Times. (2018, January 24). Unlicensed lending firm loses bid to recover $10m. https://www.straitstimes.com/singapore/courts-crime/unlicensed-lending-firm-loses-bid-to-recover-10m

Bright Law. (2022, May 12). Case note: Directors' liability for company's credit breaches. https://www.brightlaw.com.au/case-note-directors-liability-for-companys-credit-breaches/

Wijaya, H., & Herwastoeti, H. (2023). Criminal & civil liability related to misuse of illegal fintech customer data during the Covid-19 pandemic. Audito Comparative Law Journal, 3(1). https://ejournal.umm.ac.id/index.php/audito/article/view/19873

Aulia, R. I. (2022). Kontrak elektronik dalam layanan pinjam meminjam uang berbasis teknologi informasi ditinjau dari asas dan prinsip hukum kontrak di Indonesia. Lex Specialis, 1(1). https://jurnal.fakum.untad.ac.id/index.php/LS/article/view/2096

Ardhana, A. S., & Kasim, N. M. (2022). Efektivitas penerapan POJK Nomor 77/POJK.01/2016 tentang layanan pinjam meminjam uang berbasis teknologi informasi. Dianoia Law Journal, 3(1). https://ejurnal.pps.ung.ac.id/index.php/DLJ/article/download/1749/1305

Fithria, A. (2022). Exploring the application of sharia contracts on Islamic fintech peer-to-peer lending in Indonesia. ResearchGate. https://www.researchgate.net/publication/371293482

Kurrohman, T. (2023). Kebijakan hukum financial technology lending ilegal dalam upaya perlindungan konsumen di Indonesia. Pamulang Law Review, 6(1), 120–127. https://doi.org/10.32493/palrev.v6i1.33385

Baker McKenzie. (2024). Australia: When lending to borrowers. Dalam Asia-Pacific Guide to Lending and Taking Security – Australia.

Baker McKenzie. (2024). Singapore: When considering whether to lend. Dalam Asia-Pacific Guide to Lending and Taking Security – Singapore.

Rachma, D. D. A. (2023). Kebijakan Formulasi Korporasi Penyelenggara Aplikasi Pinjaman Online Ilegal Sebagai Subjek Pidana. Jurnal Hukum Adigama, 5(1).

Azhar, D. P., & Mahyani, A. (2023). Pertanggungjawaban Pidana Korporasi Sebagai Pelaku Tindak Pidana Penyebaran Data Pribadi. Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance, 3(1).

Y Purwadi, H., & , H. (2019). REFORMULASI KONSTRUKSI PIDANA DALAM MENJERAT PELAKU TINDAK PIDANA KORPORASI. Jurnal Hukum Dan Pembangunan Ekonomi, 7(1), 144. https://doi.org/10.20961/hpe.v7i1.29208

Rineska, O. (2020). Perlindungan Hukum Terhadap Penerima Pinjaman Terkait Penetapan Tingkat Suku Bunga Yang Tinggi Oleh Perusahaan Peer To …. Selisik, 6(2), 10–16. Retrieved from http://journal.univpancasila.ac.id/index.php/selisik/article/view/2199

Wibowo, S. A., & Sumiyati, Y. (2021). TANGGUNG JAWAB KORPORASI FINTECH LENDING ILEGAL DALAM PERSPEKTIF PERLINDUNGAN KONSUMEN [Corporate Liability of Illegal Fintech Lending in the Perspective of Consumer Protection Law]. Law Review, 117. https://doi.org/10.19166/lr.v0i0.3544

Rodliyah, R., Suryani, A., & Husni, L. (2021). Konsep Pertanggungjawaban Pidana Korporasi (Corporate Crime) Dalam Sistem Hukum Pidana Indonesia. Journal Kompilasi Hukum, 5(1), 191–206. https://doi.org/10.29303/jkh.v5i1.43

Novridasati, W., Ridwan, R., & Prakarsa, A. (2020). PERTANGGUNGJAWABAN PIDANA DESK COLLECTOR FINTECH ILEGAL SERTA PERLINDUNGAN TERHADAP KORBAN. LITIGASI, 21(2), 238–265. https://doi.org/10.23969/litigasi.v21i2.3103.

Baiquni, M. I., Adiyatma, S. E., Saputri, A. D., Julianto, R., Arifin, R., & Fibrianti, N. (2023). Criminalization Arrangements for Corporations (Comparative Study of Indonesia and Australia). Unnes Law Journal, 9(2), 489–508. https://doi.org/10.15294/ulj.v9i2.74129

Ali Kusumo, B. (2008). PERTANGGUNGJAWABAN KORPORASI DALAM HUKUM PIDANA DI INDONESIA. Wacana Hukum, 7(2), 52–65.