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Legal Protection for MSMEs as Borrowers in Peer-to-Peer Fintech Lending under on OJK Regulation Number 77/POJK.01/2016

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Abstract

The development of fintech Peer-To-Peer (P2P) lending services in Indonesia has opened up faster, more flexible, and affordable access to financing for Micro, Small, And Medium Enterprises (MSMEs), but has also given rise to problems of high interest rates, over-indebtedness, and imbalances in borrower bargaining power compared to providers. This study examines the form of legal protection for MSMEs as borrowers in fintech P2P lending services based on POJK Number 77/POJK.01/2016 and the development of interest limit regulations through the AFPI code of ethics, SEOJK Number 19/SEOJK.06/2023, and POJK Number 4/2024. The method used is normative legal research with a normative juridical approach, based on analysis of laws and regulations, literature, and secondary data related to P2P lending practices. The results show that POJK 77/2016 initially only provided preventive and repressive protection based on transparency and complaint mechanisms without explicit interest limits, so it is insufficient to suppress excessive interest practices and total costs. The shift to price-based regulation through formal interest caps strengthens legal protection for MSMEs by limiting the maximum daily economic benefit and total costs, reducing the risk of predatory practices and over-leverage, while maintaining P2P lending's role as an alternative source of financing for MSMEs.

Keywords: *Fintech P2P Lending, Interest Cap, Legal Protection, MSMEs.*

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1. Introduction

The development of fintech Peer-to-Peer (P2P) lending services in Indonesia has created significant opportunities for Micro, Small, And Medium Enterprises (MSMEs) as an alternative source of financing that is faster, more flexible, and more accessible.[1] MSMEs are one of the main pillars of economic growth for the country; therefore, they must be provided with the widest possible opportunities,

[1] Nathaniel Bima Aditya, and Maria Rio Rita, "Inklusi Keuangan, P2P Lending dan Kinerja UMKM: Peran Moderasi Literasi Keuangan," *Ekonomis: Journal of Economics and Business* 8, no. 1 (2024): 585. See too, Isa Bisthomi, Januar Dwi Irawan, and Launa Qisti, "Peran Financial Technology Peer-To-Peer (P2p) Lending Dalam Mendukung Pengembangan Umkm Studi Kasus: Kampoeng Batik Laweyan," *Technology and Economics Law Journal* 4, no. 1 (2025) :4.

support, guarantees of protection, and empowerment as a form of commitment to the people's economy.[2] However, the rapid growth of this industry has also given rise to serious issues related to high lending interest rates that are not clearly capped under existing regulations, such as Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) Regulation Number 77/POJK.01/2016.[3] The issue of interest caps has become increasingly important, as excessively high interest rates have been shown to increase the risk of over-indebtedness among MSMEs. As noted by fintech regulation expert David Tan[4] "investors and consumer protection issues arose in the P2P lending industry, which posed a threat to the whole financial system." Data from the Financial Services Authority indicate that the TWP90 level (90-day default rate) remains a significant challenge, particularly among MSME borrowers who struggle to meet their obligations due to high borrowing costs. Therefore, the regulation of interest rates is a crucial issue in ensuring the sustainability of legal protection in the fintech lending sector.

Various previous studies have examined the contours of legal protection in fintech P2P lending services, including legal certainty, dispute resolution mechanisms, and personal data protection.[5] Some studies have also addressed the practice of imposing high and non-uniform interest rates across platforms. However, most of these studies remain largely descriptive and have not comprehensively evaluated how the absence of an interest cap in OJK Regulation Number 77/2016 creates regulatory gaps that directly affect MSMEs. In addition, many studies have not examined in depth how unstandardized interest rate practices influence the bargaining position of MSMEs as borrowers, nor have they linked this issue to consumer protection principles within the Indonesian

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[2] Agung Purnomo, Didin Hadi Saputra, dan Janner Simarmata, *Kewirausahaan Dan Umkm. 1st Ed*, (Medan: Yayasan Kita Menulis, 2020), 12.

[3] Laurentia Ayu Kartika Putri, Bismar Nasution, and Mahmul Siregar, "Tanggungjawab Penyelenggara Layanan Peer to Peer Lending Terhadap Resiko Kerugian Pengguna Layanan Peer to Peer Lending Berdasarkan POJK No. 77/POJK. 01/2016 Tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi," *Mahadi: Indonesia Journal of Law* 1, no. 2 (2022): 217.

[4] David Tan, "Demystifying the proliferation of online peer-to-peer lending in Indonesia: Decoding fintech as a regulatory challenge," *Asian Journal of Law and Society* 10, no. 3 (2023): 380.

[5] Nathaniel Bima Aditya, and Maria Rio Rita, "Inklusi Keuangan, P2P Lending dan Kinerja UMKM: Peran Moderasi Literasi Keuangan," *Ekonomis: Journal of Economics and Business* 8, no. 1 (2024): 586. See too, Yuliana Indah Sari, Neni Ruhaeni, Neni Sri Imaniyati, and Ratna Januarita, "Dispute Over Non-Compliance of Online Lending Companies Based on Financial Services Authority Regulations," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 14, no. 3 (2025): 582; Hendri Khuan, "The legal protection of personal data in fintech peer-to-peer (p2p) lending practices: Orientation and formulation," *Pena Justisia: Media Komunikasi dan Kajian Hukum* 22, no. 001 (2023): 442.

legal system.[6] Accordingly, there remains a clear research gap that specifically focuses on interest caps as a crucial element of legal protection for MSMEs.

This study seeks to address these gaps by providing a comprehensive analysis of more advanced regulatory frameworks concerning MSMEs as borrowers in fintech P2P lending services, as well as emphasizing the importance of regulating interest rate limits (interest caps) in fintech P2P lending. First, this study aims to critically examine the forms of legal protection afforded to MSMEs as borrowers in fintech P2P lending services under OJK Regulation Number 77/POJK.01/2016. Second, it aims to analyze the regulation and implementation of provisions concerning interest rate limits (interest caps) in fintech P2P lending under OJK Regulation Number 77/POJK.01/2016, and to assess the extent to which these provisions provide legal protection for MSMEs as borrowers.[7] Through these objectives, this study seeks to strengthen a legal protection framework that is more responsive to the needs of MSMEs in the digital economy era.

This study starts from the basic argument that the legal vacuum regarding the interest cap or interest limit in POJK 77/2016 weakens legal protection for MSMEs and encourages excessive interest setting practices, thus potentially creating an imbalance in the legal position between borrowers and p2p lending providers. The hypothesis to be tested is that legal protection is crucial for fintech p2p lending services and that the existence of a clear, measurable and consumer protection-based interest cap will increase legal certainty and reduce the risk of default that has burdened MSMEs. Thus, this study will examine whether legal protection and improvement of interest regulations can be an effective solution for the stability of the p2p lending industry while also strengthening the position of MSMEs as legally protected parties.

2. Research Method

The selection of the research focus on legal protection for Micro, Small, And Medium Enterprises (MSMEs) as borrowers in fintech Peer-To-Peer (P2P) lending services is based on the increasing use of these services by MSME actors and the high level of legal vulnerability they face.[8] P2P lending services have

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[6] David Chandrawan, Jenny Widjojo, and Abdul Munir, "Financial Technology Peer-To-Peer Lending Sebagai Salah Satu Solusi Pembiayaan Bagi UMKM," *Nilai* 1, no. 2 (2023): 61.
[7] Anita Khoirunisa, Agus Suwandono, and Helitha Novianty Muchtar, "Implementasi Besaran Bunga Peer to Peer Lending Berdasarkan Asas Itikad Baik dalam Pemanfaatan Teknologi Informasi Serta Pengawasannya," *Widya Yuridika* 3, no. 1 (2020): 32.
[8] Syafrinaldi, *Hukum Fintech di Indonesia,* (Jakarta: Prenadamedia Group, 2020), 6.

become a fast and easily accessible financing alternative; however, they often give rise to problems such as high interest rates. Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) Regulation Number 77/POJK.01/2016 is chosen as the basis of this study because it is the primary regulation governing the operation of P2P lending in Indonesia. The unit of analysis in this research includes the legal norms contained in POJK Number 77/2016, implementation practices by P2P lending providers, and the position of MSMEs as parties in need of legal certainty.[9] Thus, the scope and context of this research provide room to analyze the gap between regulation and its implementation in practice.

To examine the legal issues addressed in this study, the author employs a normative legal research method. Normative legal research is defined as a research method that examines statutory regulations both from the perspective of the hierarchy of laws and regulations (vertical) and the harmony between laws and regulations (horizontal).[10] This method applies a normative juridical approach, which is understood as an approach that refers to existing laws and regulations.[11]

The data sources in this study consist of secondary data, which include primary legal materials in the form of Financial Services Authority regulations, namely OJK Regulation Number 77/POJK.01/2016 and OJK Regulation Number 10/POJK.05/2022, as well as secondary legal materials such as books, scientific journals, articles, legal writings, and opinions of legal experts that have been officially published.[12]

The data collection technique used to support this research is library research, which focuses on books, journals, statutes, and applicable regulations in Indonesia as well as in other countries. The data analysis technique employed in this study uses deductive logic through a qualitative normative analysis method and integrates the Economic Analysis of Law theory in analyzing the data.

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[9] Putri Villa Amilia, Sofia Nur Is Safira, Siti Susilawati, and Rachmah Fauziah, "Kajian Hukum Terhadap Implementasi Layanan Fintech Berbasis Peer-to-Peer Lending dalam Perspektif Hukum Positif di Indonesia," *Media Hukum Indonesia (MHI)* 3, no. 3 (2025): 33.

[10] Peter Mahmud Marzuki, *Pengantar Ilmu Hukum Edisi Revisi*, (Jakarta: Kencana Prenada Media Group, 2008), 23. See too, Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: Citra Aditya Bakti, 2004), 12.

[11] Bambang Sunggono, *Metodologi penelitian hukum*, (Jakarta: PT. Raja, 2005), 12.

[12] Otoritas Jasa Keuangan, Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 10/POJK.05/2022 tentang Layanan Pendanaan Bersama Berbasis Teknologi Informasi, 2022.

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3. Research Results and Discussion

3.1. Legal Protection for MSMEs in Fintech P2P Lending according to POJK Number 77/POJK.01/2016

As a starting point, legal protection for Micro, Small, And Medium Enterprises (MSMEs) in fintech Peer-To-Peer (P2P) lending services under Financial Services Authority Regulations (*Peraturan Otoritas Jasa Keuangan*/POJK) Number 77/2016 can primarily be understood through preventive protection mechanisms designed to prevent disputes from arising before they occur.[13] This preventive protection is manifested through strict regulations on the licensing and registration requirements for platform operators, obligations to meet minimum paid-up capital, ownership structure requirements, and the obligation to have management bodies that meet certain standards of integrity and competence. Through this regulatory design, only business entities that meet specific prudential qualifications are permitted to operate P2P lending services, thereby indirectly providing an initial layer of protection for MSMEs as borrowers, as they do not engage with completely unregulated business actors. This view is consistent with the structure of POJK Number 77/2016, which requires P2P lending providers to be registered with and licensed by the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK), to maintain a minimum level of paid-up capital, and to comply with integrity requirements for corporate governance, ensuring that only entities that pass certain prudential standards are allowed to operate P2P lending platforms. A similar approach is also found in Indonesia's broader fintech regulatory framework, which integrates supervision by the OJK and Bank Indonesia as part of efforts to maintain financial system stability and public trust.[14]

In addition to licensing and capital requirements, POJK Number 77/2016 also imposes obligations on P2P lending providers to implement good corporate governance and effective risk management, including the management of information technology systems, the segregation of users' funds from the providers' own accounts, and the obligation to submit periodic reports to the OJK, as stipulated in POJK Number 77/2016. These provisions are aligned with scholarly perspectives emphasizing that fintech regulation functions not only as a legal framework for industry operations but also as a crucial instrument for managing systemic risk in response to the rapid growth of the

[13] Philipus M. Hajon, *Perlindungan hukum bagi rakyat di Indonesia*, (Surabaya: Bina Ilmu, 1987), 32.
[14] Nanda Andreas Octavini, and Ayudia Dwi Puspitasari, "Fintech dan Bank: P2P Lending Vs Bank Lending," *Ekombis Sains: Jurnal Ekonomi, Keuangan dan Bisnis* 8, no. 1 (2023): 51.

P2P lending sector.[15] David Tan[16] notes that the emergence of investor and consumer protection issues in the peer-to-peer lending industry has the potential to threaten the stability of the financial system as a whole. Therefore, governance regulation becomes a critical element in distinguishing regulated P2P lending platforms from illegal online lending practices.[17]

One of the most tangible preventive dimensions experienced by MSMEs as borrowing entities lies in the obligation of information disclosure. Regulations issued by the Financial Services Authority require P2P lending providers to deliver information that is accurate, truthful, and not misleading regarding product characteristics, including interest rates, fees, default risks, and the procedures used in collection models (OJK Regulation Number 77/POJK.01/2016, Article 17).[18] Literature on consumer protection in the financial services sector emphasizes that the principle of transparency serves as a fundamental mechanism for addressing information asymmetry between service providers and consumers.[19] This principle is particularly crucial in technology-based financial services, which tend to be complex, as it ensures that consumers receive clear and accurate information. Consequently, transparency plays an important role in building trust and preventing the misuse of information. In the context of P2P lending, empirical studies, such as those highlighted by Nathaniel[20] indicate that low levels of financial

[15] Vidya Purnamasari, Dwi Wulandari, Imam Mukhlis, and Linda Seprillina, "Penerapan Peer-to-Peer Lending: Mendorong Pengembangan Keuangan Inklusif UMKM," *Jurnal Karinov* 7, no. 1 (2024): 65.
[16] David Tan, "Demystifying the proliferation of online peer-to-peer lending in Indonesia: Decoding fintech as a regulatory challenge," *Asian Journal of Law and Society* 10, no. 3 (2023): 381. See too, Amos Sipahutar, and Muskibah Muskibah, "Perlindungan Hukum Debitur Dalam Penyelenggaraan Finansial Peer to Peer Lending: Perlindungan hukum terhadap debitur dalam penyelenggaraan finansial berbasis teknolongi dalam peer to peer lending," *Zaaken: Journal of Civil and Business Law* 2, no. 1 (2021): 173.
[17] Yuliana Indah Sari, Neni Ruhaeni, Neni Sri Imaniyati, and Ratna Januarita, "Dispute Over Non-Compliance of Online Lending Companies Based on Financial Services Authority Regulations," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 14, no. 3 (2025): 583. See too, Hendri Khuan, "The legal protection of personal data in fintech peer-to-peer (p2p) lending practices: Orientation and formulation," *Pena Justisia: Media Komunikasi dan Kajian Hukum* 22, no. 001 (2023): 444; Alifia Salvasani, and Munawar Kholil, "Penanganan terhadap financial technology peer-to-peer lending ilegal melalui otoritas jasa keuangan (studi pada OJK Jakarta Pusat)," *Jurnal Privat Law* 8, no. 2 (2020): 255; Endang Dwi Ari Surjaningsih, "Fintech peer-to-peer (P2P) lending dan potensi pemajakannya," *Direktoral Jenderal Pajak,* November 18, 2019. Retrieved in October 23, 2025 from https://www.pajak.go.id/id/artikel/fintech-peer-peer-p2p-lending-dan-potensi-pemajakannya.
[18] Laurentia Ayu Kartika Putri, Bismar Nasution, and Mahmul Siregar, "Tanggungjawab Penyelenggara Layanan Peer to Peer Lending Terhadap Resiko Kerugian Pengguna Layanan Peer to Peer Lending Berdasarkan POJK No. 77/POJK. 01/2016 Tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi," *Mahadi: Indonesia Journal of Law* 1, no. 2 (2022): 218.
[19] Trigaya Ahimsa, "Transparansi Informasi sebagai Bentuk Perlindungan Konsumen di Sektor Jasa Keuangan: Studi Komparasi di Indonesia, Singapura, dan Malaysia," *Dialogia Iuridica* 13, no. 2 (2022): 74.
[20] Nathaniel Bima Aditya, and Maria Rio Rita, "Inklusi Keuangan, P2P Lending dan Kinerja UMKM: Peran Moderasi Literasi Keuangan," *Ekonomis: Journal of Economics and Business* 8, no. 1 (2024): 588.

literacy among MSMEs are closely associated with an increased risk of over-indebtedness. Therefore, the obligation of transparency should be understood as a preventive legal protection instrument for this vulnerable group.

In the context of repressive legal protection, the regulatory framework for fintech peer-to-peer lending positions complaint-handling mechanisms as the primary entry point for the remediation of losses suffered by MSMEs.[21] This is reflected in the obligation imposed on P2P lending providers to establish internal complaint-handling procedures that are clear, simple, fast, and affordable, and to resolve complaints within a maximum period of 20 (twenty) working days, as stipulated in OJK Regulation Number 1/POJK.07/2013 and incorporated into OJK Regulation Number 77/POJK.01/2016 as part of the consumer protection principles in the financial services sector.[22] If complaints cannot be resolved at the internal level, MSME users may pursue dispute resolution through alternative dispute resolution institutions or through the courts, in line with the provisions of Law Number 8 of 1999, which grants consumers the right "to be treated or served properly, honestly, and without discrimination" and "to obtain appropriate legal remedies for consumer protection disputes."[23] A number of normative studies on online lending emphasize that consumer dispute resolution in fintech services should ideally combine internal complaint mechanisms, facilitation by supervisory authorities, and access to litigation in order to ensure effective restoration of rights.[24] These studies further highlight that the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) plays a central role in supervision, the imposition of administrative sanctions, and the guidance of fintech providers to ensure that consumer protection standards are consistently upheld.

Another repressive instrument can be found in the authority of the Financial Services Authority to impose administrative sanctions on P2P lending providers that violate regulatory provisions, ranging from written warnings and restrictions on business activities to the revocation of operating licenses (OJK Regulation Number 77/POJK.01/2016, Article 47). From a theoretical perspective, this authority strengthens OJK's supervisory function as

[21] Indah Permata Suryani, Atika Gando Suri, and Zahra Shafira, "How fintech peer to peer lending affected MSMEs financial access: Case study Amartha," *InFestasi* 19, no. 2 (2023): 170.
[22] Otoritas Jasa Keuangan, Peraturan Otoritas Jasa Keuangan Nomor 1/POJK.07/2013 tentang Perlindungan Konsumen Sektor Jasa Keuangan, 2013.
[23] Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.
[24] Titin Dwi Aryanti, Nugroho Saputra, and Tina Fepriyanti, "Digital Transformation of MSMEs through Online Lending: An Alternative Strategy for Inclusive Economic Growth in Indonesia," *Bulletin of Fintech and Digital Economy* 4, no. 2 (2023): 9.

stipulated in Law Number 21 of 2011, which affirms that OJK was established to ensure that all activities within the financial services sector are conducted in an orderly, fair, transparent, and accountable manner and are "capable of protecting the interests of consumers and the public.[25] However, empirical studies indicate that the effectiveness of this form of protection for MSMEs is often constrained in practice. In the context of fintech-related disputes, legal research notes that although regulatory frameworks are already in place, in reality "the legal resolution of thousands of fintech complaints remains unclear," and many cases remain unresolved due to the suboptimal performance or role of the financial services authority in supervision and law enforcement.[26] This situation creates a gap between legal norms and their practical implementation. The literature further suggests that legal protection for fintech users is frequently ineffective due to factors related to the substance of the law, the performance of law enforcement institutions, and limitations in supporting facilities or infrastructure.

When analyzed from the perspective of contractual relations, MSMEs as borrowers are in a weak bargaining position when dealing with P2P lending providers that unilaterally draft agreements in the form of standard contracts. Subekti[27] in the context of contract law, criticizes this condition as a situation in which the weaker party is faced only with a "take it or leave it" choice, resulting in the absence of genuine freedom of contract. In the context of fintech lending, Article 19 of OJK Regulation Number 77/2016 requires agreements to contain "a balanced arrangement of the rights and obligations of users." However, in practice, MSMEs often have no meaningful opportunity to negotiate the standard clauses that are digitally predetermined by the platform providers.

3.2. Regulation and Implementation of Interest Rate Limits for P2P Fintech Lending Based on OJK Regulation No. 77/POJK.01/2016 and Legal Protection for MSME Borrowers

The regulation and implementation of interest rate limits (interest caps) in fintech P2P lending initially rest on OJK Regulation Number 77/POJK.01/2016, which adopts a disclosure-based regulation model or

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[25] Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan, Pasal 4 huruf a dan c (UU OJK).
[26] Dzulfiqar Prakoso Nursukma, "Peran Otoritas Jasa Keuangan (Ojk) Dalam Pengawasan Good Corporate Governance Terhadap Financial Technology di Indonesia," *Jurnal Ilmiah Penelitian Mahasiswa* 2, no. 6 (2024): 89.
[27] Subekti, *Hukum perjanjian*, (Jakarta: Intermasa, 2005), 12.

paradigm.[28] Under this framework, the Financial Services Authority does not explicitly stipulate a maximum interest rate or total cost of borrowing. Instead, it merely requires P2P lending providers to determine interest rates by taking into account "reasonableness and the development of the national economy," as stipulated in POJK Number 77/2016, and to disclose interest rates, commissions, fees, and penalties in agreements with both lenders and borrowers. One analysis concludes that these provisions "do not expressly set upper or lower limits on the interest rates that may be charged by fintech P2P platforms, but rather leave such determinations to the discretion of the providers."[29]

From the perspective of Economic Analysis of Law as articulated by Posner, a regulatory design such as POJK Number 77/2016 reflects the view that the law need only provide a contractual framework and adequate information, while price determination including interest rates is left to market mechanisms that are assumed to reach efficiency when parties behave rationally and possess sufficient information. Posner emphasizes that the primary objective of economic analysis of law is efficiency, namely maximizing welfare through cost–benefit analysis, and that legal rules are considered sound insofar as they are able to minimize social costs and deadweight loss in the allocation of resources.[30] However, the assumption that all parties always act fully rationally and possess equal and complete information does not align with the actual conditions of the fintech P2P lending market for MSMEs.[31] Numerous studies demonstrate that financial and digital literacy among MSMEs remains low, that borrowers often face difficulties in distinguishing between daily and annual interest rates, and that complex fee structures further obscure the true

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[28] Putri Villa Amilia, Sofia Nur Is Safira, Siti Susilawati, and Rachmah Fauziah, "Kajian Hukum Terhadap Implementasi Layanan Fintech Berbasis Peer-to-Peer Lending dalam Perspektif Hukum Positif di Indonesia," *Media Hukum Indonesia (MHI)* 3, no. 3 (2025): 35; Laurentia Ayu Kartika Putri, Bismar Nasution, and Mahmul Siregar, "Tanggungjawab Penyelenggara Layanan Peer to Peer Lending Terhadap Resiko Kerugian Pengguna Layanan Peer to Peer Lending Berdasarkan POJK No. 77/POJK. 01/2016 Tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi," *Mahadi: Indonesia Journal of Law* 1, no. 2 (2022): 220.

[29] Indriana Pramesti, "Pengaturan mengenai suku bunga pinjaman Fintech P2P Lending," *ICOPI*, April 4, 2019. Retrieved in October 23, 2025 from https://icopi.or.id/pengaturan-mengenai-suku-bunga-pinjaman-fintech-p2p-lending/. See too, Sukarmi, Ranitya Ganindha, and Reka Dewantara, "Cartel Indications on Determination of Loan Interest Rate in Fintech Lending," *Yustisia* 11, no. 3 (2022): 185.

[30] Richard A. Posner, *Economic Analysis of Law, Seventh Edition*, (New York: Aspen Publishers, 2007), 22.

[31] Nathaniel Bima Aditya, and Maria Rio Rita, "Inklusi Keuangan, P2P Lending dan Kinerja UMKM: Peran Moderasi Literasi Keuangan," *Ekonomis: Journal of Economics and Business* 8, no. 1 (2024): 587. See too, David Chandrawan, Jenny Widjojo, and Abdul Munir, "Financial Technology Peer-To-Peer Lending Sebagai Salah Satu Solusi Pembiayaan Bagi UMKM," *Nilai* 1, no. 2 (2023): 59.

cost of borrowing. [32]As a result, the information received by market participants becomes asymmetrical, undermining the efficiency assumptions underlying a purely disclosure-based regulatory approach.

Empirically, the implementation of POJK Number 77/2016 without an explicit interest cap has been associated with average fintech lending interest rates of around 19% per year, which is significantly higher than the average bank lending rate for MSMEs of approximately 11% per year. In addition, there have been practices of daily interest rates of around 0.8% per day, equivalent to more than 290% per year on a flat basis for short-term loan products. In various public statements, the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) has even acknowledged the existence of "predatory pricing" and "excessively burdensome" interest rates in short-term consumer loans prior to the introduction of stricter interest rate limitations. In the terminology of Economic Analysis of Law (EAL), this phenomenon can be interpreted as an indication that market mechanisms failed to self-correct toward a socially efficient level of interest rates. This condition has led to over-indebtedness and deadweight loss, as many credit transactions continue to occur even though the marginal social cost of high interest rates has exceeded the marginal social benefit for MSMEs.

The mandatory association membership requirement under Article 48 of POJK Number 77/2016 creates space for self-regulation through the Indonesian Fintech Lending Association (*Asosiasi Fintech Pendanaan Bersama Indonesia*/AFPI), which subsequently issued a Code of Conduct establishing a maximum total loan cost of 0.8% per day, later reduced to 0.4% per day, with the accumulation of interest, fees, and penalties not exceeding 100% of the principal loan amount.[33] Journals comparing online lending regulations in Indonesia and other countries also note that a daily interest rate cap of 0.4% is imposed by the Indonesian Fintech Peer-to-Peer Lending Association and the Financial Services Authority.[34] Nevertheless, self-regulation has significant

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[32] Ignasia Tiffani, "Pengaruh Literasi Keuangan Dan Literasi Digital Terhadap Preferensi Bank Digital," *Mbia* 22, no. 1 (2023): 156.
[33] Asosiasi Fintech Pendanaan Bersama Indonesia (AFPI), "Penetapan batas maksimal biaya layanan fintech lending sebagai komitmen perlindungan konsumen," *AFPI.*Retrieved in October 23, 2025 from https://www.afpi.or.id/articles/detail/penetapan-batas-maksimal-biaya-layanan-fintech-lending-sebagai-komitmen-perlindungan-konsumen.
[34] Hasim Purba, Zulkarnain Sitompul, and Tengku Keizerina Devi Azwar, "Comparison of the Laws Governing Online Loans in England and Indonesia," *Journal of Lifestyle and SDGs Review* 5, no. 1 (2025): 3379. See too, Titin Dwi Aryanti, Nugroho Saputra, and Tina Fepriyanti, "Digital Transformation of MSMEs through Online Lending: An Alternative Strategy for Inclusive Economic Growth in Indonesia," *Bulletin of Fintech and Digital Economy* 4, no. 2 (2023): 10; Ikhsan, "AFPI batasi biaya pinjaman online tidak lebih dari 0,4 persen per hari," *IDX Channel,* Retrieved in October 23, 2025 from

weaknesses. As a form of soft law, self-regulation is not legally binding in a strict sense, meaning that sanctions imposed on members who violate the Code of Conduct apply only within the association's internal framework. Such rules cannot serve as a legal basis for dispute resolution before state courts. Consequently, self-regulation alone is insufficiently effective in changing business behavior or reducing public harm resulting from market failures. Moreover, there is a risk that associations may prioritize the interests of the industry over those of the public, a phenomenon commonly referred to as regulatory capture.

Recognizing the limitations of a disclosure-only model and self-regulation, the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) subsequently shifted toward a price-based regulation approach through Circular Letter Number 19/SEOJK.06/2023 and later OJK Regulation Number 40 of 2024, which explicitly regulate the maximum limits of "economic benefits" (interest, margins, fees, and certain other charges) in technology-based joint funding services. The Circular Letter stipulates that for productive financing, including financing for MSMEs, the maximum economic benefit is set at 0.1% per day starting from 1 January 2024 and will be reduced to 0.067% per day beginning on 1 January 2026. Meanwhile, for consumptive financing, the cap is set at 0.3% per day, to be gradually reduced to 0.2% and subsequently to 0.1% per day. In all cases, the total accumulation of economic benefits and penalties may not exceed 100% of the principal amount of financing. This policy on limiting economic benefits has been viewed by practitioners and academics as a paradigmatic shift from mere transparency toward a quantitative and binding price restriction, effectively establishing a formal interest cap applicable to all licensed P2P lending providers.

From an implementation perspective, OJK data indicate that following the enactment of SEOJK Number 19/2023, fintech P2P lending interest rates declined in accordance with the scheduled adjustments for example, consumptive interest rates decreased from 0.4% to 0.3% per day, while productive financing rates were set at 0.1% per day. This downward trend is expected to continue, with further reductions to 0.2% and 0.1% per day for consumptive financing and to 0.067% per day for productive financing. Regulatory impact assessments on the maximum economic benefit policy suggest that although fintech financing disbursement continues to grow, its

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https://www.idxchannel.com/banking/afpi-batasi-biaya-pinjaman-online-tidak-lebih-dari-04-persen-per-hari.

growth rate has slowed as the industry adjusts its business models and cost structures to comply with the new interest cap. Thus, if viewed as a continuum, interest rate limitation regulations in Indonesia have evolved from no explicit limitations in POJK 77/2016 (only the principles of fairness and transparency), then there are soft restrictions on associations through the AFPI Code of Ethics, and hard restrictions at the level of SEOJK 19/2023 and POJK 40/2024, which are legally binding and apply to all LPBBTI organizers.

From the perspective of legal protection, the initial framework of POJK Number 77/2016 tended to provide MSMEs as borrowers with protection that was predominantly formal and preventive in nature. This preventive protection is reflected in the mandatory registration and licensing of P2P lending providers, the obligation to apply consumer protection principles, and the requirement of transparency regarding interest rates, fees, and risks.[35] However, in the absence of an explicit interest rate cap, as long as clauses concerning interest and costs are disclosed and agreed upon in the contract, the space for MSMEs to challenge the "fairness" or reasonableness of the financial burden becomes relatively narrow. In practice, such challenges depend heavily on judicial discretion on a case-by-case basis and the use of general legal instruments, such as Articles 1320 and 1338 of the Indonesian Civil Code or the Consumer Protection Law.

Research on legal protection for consumers in fintech-based business capital lending for MSMEs emphasizes that OJK implements legal protection through two main mechanisms: preventive protection, through the issuance of POJK Number 77/2016 and its implementing regulations including obligations for providers to comply with consumer protection standards and repressive protection, through administrative sanctions such as written warnings, fines, restrictions on business activities, and revocation of licenses. Nevertheless, from the borrowers' perspective, this repressive protection tends to focus more on disciplining providers' behavior and does not always translate directly into concrete remedies for individual MSMEs, particularly in the absence of clear numerical standards regarding permissible interest rates.

The implementation of interest caps under SEOJK Number 19/2023 and POJK Number 40/2024 has provided a tangible strengthening of legal protection for

[35] Trigaya Ahimsa, "Transparansi Informasi sebagai Bentuk Perlindungan Konsumen di Sektor Jasa Keuangan: Studi Komparasi di Indonesia, Singapura, dan Malaysia," *Dialogia Iuridica* 13, no. 2 (2022): 77.

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MSMEs as borrowers, as reflected in two main aspects.[36] From a preventive perspective, the establishment of a maximum limit on economic benefits and total costs (capped at 100% of the loan principal) restricts fintech providers from imposing excessive interest rates and fees. This policy helps minimize the risk of over-indebtedness and curbs the potential for predatory practices that previously occurred frequently within the industry. From a repressive perspective, if contractual clauses stipulate interest rates or fees that exceed the prescribed thresholds, such clauses may be deemed contrary to mandatory legal provisions (*dwingend recht*). As a consequence, these clauses may be declared null and void or unenforceable, thereby strengthening the legal position of MSME borrowers in asserting their rights and providing a clear basis for OJK to impose administrative sanctions on non-compliant providers.[37]

With the introduction of clear and firm interest rate caps, the benchmark for assessing the reasonableness of costs is no longer determined by subjective interpretation or negotiation between the parties, but instead can be measured against numerical standards set by the regulatory authority. This shift reduces transaction costs for MSMEs when enforcing their legal rights, as the evidentiary burden can focus primarily on whether providers comply with the prescribed limits on economic benefits and total cost caps. [38] Nevertheless, it should be noted that although the interest cap for productive loans set at 0.1% per day, or approximately 36.5% per year remains higher than average bank lending rates, it may still pose a financial burden for MSMEs with narrow profit margins. Even so, existing empirical studies indicate that the imposition of an economic benefit cap has not significantly reduced the overall volume of P2P lending financing. Accordingly, it can be concluded that, at a systemic level, a balance between consumer protection and access to financing has largely been maintained.

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[36] Anita Khoirunisa, Agus Suwandono, and Helitha Novianty Muchtar, "Implementasi Besaran Bunga Peer to Peer Lending Berdasarkan Asas Itikad Baik dalam Pemanfaatan Teknologi Informasi Serta Pengawasannya," *Widya Yuridika* 3, no. 1 (2020): 34. See too, Ady Thea DA, "Menyoal batasan manfaat ekonomi dalam SEOJK 19/2023," *Hukumonline,* March 23, 2024. Retrieved in October 23, 2025 from https://www.hukumonline.com/berita/a/menyoal-batasan-manfaat-ekonomi-dalam-seojk-19-2023-lt65fe5bb73587e/.

[37] Siti Balqis Alayya, Syifa Maura Adinda, and Fenny Rahma Sari, "Dampak hukum dari klausula baku dalam perjanjian kredit: Tinjauan terhadap Putusan No. 317/Pdt.G/2019/PA.Bjm," *Jurnal Dimensi Hukum*, 9, no. 3 (2025):12.

[38] Richard A. Posner, *Economic Analysis of Law, Seventh Edition*, (New York: Aspen Publishers, 2007), 23.

4. Closing

4.1.**Conclusions** Based on the results of the discussion and analysis that have been described previously, there are 2 conclusions, First, POJK 77/2016 provides a preventive and repressive protection framework for MSMEs through registration and licensing obligations, minimum capital, good corporate governance, transparency of interest rate and fee information, as well as complaint mechanisms and administrative sanctions by the OJK, but the bargaining position of MSMEs remains weak because they are bound by standard contracts and limited financial literacy. Second, the disclosure-based regulation model that does not set an interest cap has been proven to open up space for excessive interest rate and total fee practices, triggering over-indebtedness, and creating an imbalance in legal position between organizers and MSMEs as borrowers.

Interest cap regulations have evolved gradually, from the absence of an explicit limit in POJK 77/2016, to a soft cap through the AFPI Code of Conduct (a daily limit and a maximum total cost of 100% of the principal), to a binding hard cap in SEOJK 19/2023 and POJK 40/2024, which stipulate a maximum daily limit on "economic benefits" for productive and consumptive funding. This shift from disclosure-only and self-regulation to price-based regulation reflects a correction of the failure of pure market mechanisms, while also establishing the interest cap as a stronger legal protection instrument for MSMEs.

With a formal interest cap, the benchmark for reasonable interest rates and fees becomes clearer and more measurable, making it easier for MSMEs to challenge clauses that exceed the limits and strengthening the basis for the OJK to impose sanctions on providers who violate them. Although capped productive interest rates (e.g., 0.1% per day) are still higher than average bank interest rates and potentially burden MSMEs, empirical evidence from the study shows that access to P2P lending funding continues to grow, thus maintaining a balance between consumer protection and financial inclusion.

Overall, this study concludes that legal protection for MSMEs in P2P lending fintech is insufficient if it relies solely on transparency principles and complaint mechanisms without clear interest parameters, as the market structure and MSME literacy preclude the assumption of full rationality. Strengthening protection through a clear, measurable, and legally binding interest cap is seen as a crucial step to curb predatory practices, reduce the risk of over-indebtedness, reduce transaction costs for enforcing rights, and ultimately create a fairer and more efficient P2P lending fintech ecosystem for MSMEs.

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