

OVERSEEING GROWTH OF FINTECH IN INDONESIA

THE RISE OF THE FINANCIAL TECHNOLOGY SECTOR HAS
REACHED A NEW LEVEL SINCE THE FIRST SPARK OF
INDONESIA'S DIGITAL REVOLUTION IN 2016



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The scope of financial technology (fintech) in Indonesia offers a broad variety of financial services such as transaction settlement, capital raising, investment management, fund raising and distribution insurance, market support, equity crowdfunding, and other digital financial supporter and service activities.

However, one of the prominent hot seats for Indonesia's fintech is the business of peer-to-peer (P2P) lending companies. The OJK (Indonesia's financial services authority) has registered 99 licensed fintech lending companies as of early this year, and this number is expected to grow throughout the year.

REGULATORY FRAMEWORK

There are a few fintech regulations in Indonesia regulated by the OJK and the Central Bank of Indonesia (BI), as the main regulators for fintech industries.

OJK regulation. One of the first regulations issued by the OJK, which started the new era in fintech services, is Regulation POJK 77 on Information Technology-based Money Lending Services. This regulation sets the scope of P2P lending practice, from its business activities, registration and licensing procedures, the relationship between the P2P lending providers and users, risk mitigation, information technology system maintenance, to prohibitions in P2P lending and the minimum requirements regarding agreements between lender-borrower and lender-service provider.

To supplement this regulation, the OJK issued Circular Letter SEOJK 18 regarding Governance and Management of Information Technology Risks in Information and Technology-Based Money Lending Services. SEOJK 18 regulates more technical aspects regarding the governance of a P2P company as well as the mitigation of risk, including security measures for the system of a P2P company.

As a result of constant innovation in the fintech sector, there are some fintech business models that are not yet covered by POJK 77 or other regulations. To deal with this problem, the OJK issued Regulation POJK 13 on Digital Financial Innovation in the Financial Services Sector. POJK 13 introduces the conceptual regulatory sandbox, i.e., the mechanism that allows the testing of innovation made by fintech start-ups in a controlled environment, operating under a special exemption, allowance or other limited time-bound exception under OJK supervision.

Bank of Indonesia. BI also plays an important role in regulating the implementation of fintech business in Indonesia. BI has issued several regulations relevant to the practice of fintech, including: (1) Bank Indonesia Regulation No. 20 on Electronic Money; (2) Bank Indonesia Regulation No. 19 on the Organization of Financial Technologies; and (3) Bank Indonesia Regulation No. 18 on Payment Transaction Processing Operations.

Regulation No. 20 sets the scope of the issuance and usage of electronic money, which is a fundamental feature offered by most fintech companies in Indonesia. Electronic money is a payment instrument issued based on the value of money that has been deposited in advance to the electronic money provider, its value is stored electronically in a server or chip-based storage media, and the value of electronic money does not count as bank savings based on the current banking laws.

Besides the practical implementation and specific obligations and compliances, this regulation sets the correlation between the bank, electronic money provider, users, and payment transaction operators in relation to the usage of electronic money as payment instrument in electronic transactions.

Regulation No. 19 governs the implementation of specific fintech companies under BI jurisdiction. It implements the mandatory registration of fintech companies in Indonesia with BI and as

well as specific compliances for specific fintech industry players such as the payment services providers. This regulation also uses the concept of a regulatory sandbox and implements the monitoring and supervision of fintech companies in Indonesia.

Finally, regulation No. 18 regulates the electronic payment facilities and procedures provided by payment services providers such as payment gateway providers, electronic wallet providers, switching providers, clearing and settlement organizers, and digital fund transfer providers. This regulation brings guidance to each phase of the payment transaction processing, from pre-transaction phase, authorization, clearing, settlements, and post-transaction.

NEWLY REGULATED SECTORS

Due to the bloom of technology-related services and the variation of fintech business made by the entrepreneurs, the regulators recently issued new regulations to adapt with these business opportunities.

Multi finance companies. Multi finance companies (MFCs) have been regulated for some time, and the regulations regarding MFCs have also been amended several times to adapt to business development in the market. The latest update is Regulation POJK No. 35 on the Organization of The Business Activities of Financing Companies. A few of the differences of this regulation compared to previous regulations are related to the possibility of an MFC to: (1) operate its business by using information technology; and (2) extend cash loans.

These were not regulated in previous regulations. It is believed that this opportunity has opened due to the bloom of P2P business, and to accommodate the interest of companies in doing on-balance sheet funding, as the P2P business only provides an opportunity for entrepreneurs to conduct off-balance sheet funding.

The cash lending itself is divided into: (1) consumer cash loans; and (2) working-capital cash loans. It can only be extended to the borrower upon observing some requirements as set out under POJK 35.

Equity Crowdfunding. Another newly

regulated fintech business in Indonesia is equity crowdfunding, i.e., crowdfunding services via public offerings, which is regulated under Regulation POJK No. 37 on Information Technology-based Crowdfunding Services via Public Offerings. Equity Crowdfunding implements the activity of shares offering services conducted by issuers to sell shares directly to investors through an open electronic system network.

Despite sharing some of the same fundamental principles, equity crowdfunding differs from classic public offerings that are undertaken through the Indonesian Stock Exchange. Equity crowdfunding typically involves the offering of small amounts of shares or non-share equity securities by the relevant issuers to retail investors.

In addition, POJK No. 37 stipulates that the public offering of shares via equity crowdfunding can only be done if the share offering is conducted through an organizer that has been licensed by OJK, the shares offering is conducted within a maximum period of 12 months, and the total funds collected through the shares offering is no more than IDR10 billion (US\$710,000). The issuers must also not be public companies, and therefore may not have a total number of shareholders that amounts to more than 300 parties, and be in possession of paid-up capital that amounts to more than IDR30 billion. The practice on the implementation of equity crowdfunding related to negative list issues, withholding tax mechanism as well as reporting to the MOLHR are not yet clear.

Cryptocurrencies. Another key technology that is now shaping the digital

business industry in Indonesia is the rising trend of the use of cryptocurrencies as crypto assets.

Even though cryptocurrencies are still considered unauthorized payment instruments under BI regulations, cryptocurrencies in Indonesia are finally being acknowledged by the government as digital assets that can be used for investment purposes, and are determined to be commodities that can be traded in the Indonesian futures exchange.

This digital business is regulated under the Minister of Trade Regulation No. 99 of 2018 on the General Policy of the Implementation of Futures Trading in Crypto Assets, which is implemented in further detail by the Commodity Futures Trading Regulatory Agency (BAPPEBTI) Regulation No. 5 of 2019 on the Technical Provisions for the Implementation of the Physical Market for Crypto Assets on the Futures Exchange.

As the largest economy in South-east Asia, Indonesia has the upside to attract investors. The relentless rise of fintech popularity may give birth to new fintech-related business models such as financial protection services.

With new innovations constantly appearing in Indonesia, it can be expected that new OJK regulations will be issued to prepare for new fintech business activities in the Indonesian market. The Indonesian government also has a big responsibility in protecting its consumers and fintech users.

The authors thank Bhirawa J Arifi for his support in the preparation of this article



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