



# Legal Protection for Paylater Organizers in Bad Credit Using the Peer To Peer (P2p) Lending System

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**Abstract:** *Peer to Peer*(p2p) lending is an online loan system in the financial services sector between loan recipients and lenders so that this system presents a pay later method which is the result of financial technology (fintech) in the financial services sector. The peer to peer (P2P) lending and borrowing process using the paylater method, even though it is done online, may result in legal consequences. The aim of this research is to find out how paylater credit is regulated using the to peer (p2p) lending system in society and to understand the legal protection that occurs if face default or bad credit. The method used in this research is normative legal research using a statutory approach and a conceptual approach. The results of this research are that the legal protection that can be obtained by debtors is by using preventive and repressive legal protection, where later in this protection there are several stages of resolution that can be taken.

**Keywords:** *Paylater, bad credit, Peer to Peer*(P2P) Lending

## 1. Introduction

In the era of globalization where technology is increasingly developing rapidly, marked by technological progress that cannot be separated from the social environment, the emergence of technology is expected to be able to provide easy access in various circles of society. Technological progress is also inseparable from digitalization.(Sariani et al., 2023),(Magfiroh, 2019). *Digitalization*namely an online service that is guided by digital institutions, can transfer all owned systems to various platforms by creating digital technology and data(Fauzi et al., 2023),(Yudha et al., 2020).

The impact of the rapid development of technology and information is increasingly touching the trade industry sector, but the Indonesian financial industry is based on the existence of these 2 aspects, namely the presence of the newest companies or what are known as start up companies.(Millenia, nd). The start-up company is the latest breakthrough which is considered to be growing rapidly as a result of digitalization which will provide repeatability and scale for the community.(Erdisna, Andini, & Suryana, 2023),(Sudibyoy, 2023). However, not for all business fields, this start-up company is divided into 2, namely E-commerce and financial technology (fintech), where the 2 companies are mutually sustainable or mutually beneficial, where e-commerce is an online buying and selling business, while fintech is a renewable company. in the financial services sector with a modern version(Nasution, Aminy, & Ramadani, 2019),(Fattah et al., 2022). Supported by a peer to peer (P2P) lending system, which is a meeting between borrowers and lenders that provides the financial services sector online. With the existence of fintech and peer to peer (P2P) lending, this has given birth to a new breakthrough in collaboration between technology and the financial services sector called paylater.paylater, namely credit payments with an advance payment system without using cards or what is called online payment delays(Ayu, 2023),(PANJAITAN, 2021).

The online loan process using the peer to peer (P2P) lending system with the paylater method is carried out online, there may be losses that will occur(Novendra & Aulianisa, 2020),(Faradila, 2023). The review and testing process is carried out by the

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authorized agency so that it can produce a paylater credit system that can function with the goals of the system, starting from reviewing registration to obtaining a letter regarding the suitability of the platform. (DITYA, 2022), (Safitri, 2022). Paylater has risks where the interest rates are quite high and fines must be paid if payments are late. This is due to a lack of understanding at the beginning of the lending and borrowing process, as well as because consumers have more than one payment platform which causes bad credit. (Prastiwi & Fitria, 2021), (Elysia & Achmad, 2023).

Prevention of bad credit due to risks that occur requires the implementation of a paylater credit system which must protect its users from losses resulting from the paylater credit system in accordance with the provisions of Law Number 8 of 1999 concerning Consumer Protection (Syarofah, nd) (Syarofah, nd), in order to prevent losses arising from irresponsible actions of the borrower or lender. Consumers as debtors must also receive legal protection due to online payments (Nurhapsari R, 2022), (Saputra, 2023). In this way, this paper is interested in conducting an analysis related to paylater credit arrangements using a peer to peer (P2P) lending system as well as legal protection for debtors in the event of bad credit. (HAMAMI, 2022), (Harriss, Fauzia, & Saruya, 2023).

## 2. Materials and Methods

The type of legal research for this writing is normative legal research, a legal research method which aims to find results from legal issues and the problems therein, so that the results that will be sought later are to provide an explanation of the legal problems being researched. Legal research is the process of finding legal rules, legal principles and legal doctrines in order to respond to legal problems faced. (Peter Mahmud Marzuki, 2005 There are several approaches used in research four, namely the statutory approach), case approach, historical approach and conceptual approach. Based on these approaches, this research uses a problem approach method using a statutory approach and a conceptual approach. approach).

This type of research with a statutory approach (Statute Approach) is to look at all regulations or provisions that are related to the legal issues being handled. (Peter Mahmud Marzuki, 2008) The conceptual approach is an approach that uses views and concepts from several experts and doctrines that have developed in legal science as a guide for this research in order to answer a legal opinion in resolving the legal problems studied. As well as data analysis using qualitative descriptive analysis where the data obtained is presented in the form of descriptions.

## 3. Results and Discussion

### 3.1 Paylater Credit Arrangements Using Peer To Peer (p2p) Lending System

Peer to Peer (P2P) lending is a form of online lending in the financial services sector for loan recipients and lenders. The emergence of this system, the Government through the Financial Services Authority (OJK) created Financial Services Authority Regulation Number 10 /POJK.05/2022 concerning Information Technology-Based Joint Funding Services to improve previous regulations and monitor the development of peer to peer (P2P) lending, which means the system gave birth to paylater. Pay later Each platform is different according to its own rules and regulations, where each company has different regulations. There are several platforms that have been registered with the Financial Services Authority (OJK), for example Atome, Ovo Paylater, Shopee Paylater, Lazada Paylater, Gopay Paylater, Kredivo Paylater, Traveloka Paylater, Indodana Paylater, and Akulaku Paylater, which are applications that have become a trend in society. related to the paylater process.

The registration process for all platforms is the same as submitting personal documents or electronic documents which can later be recorded by the platform as proof that there has been an online agreement between the loan recipient and the lender in accordance with the provisions of Law No. 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as Law NO. 11/2008). In accordance with OJK regulation Number 10 /POJK.05/2022 concerning Information Technology-Based Joint

Funding Services that article 1 number 9 Fund Recipients are individuals, legal entities, and/or business entities that receive Funding and Article 1 number 8 Fund Providers are individuals, legal entity, and/or business entity that provides funding. If a credit transaction occurs, the recipient of the loan is called the debtor, while the lender is the creditor and there is fintech or as an intermediary in the credit process in the form of an application whose position is as a facilitator in the lending and borrowing process which will later have their respective rights and obligations as legal subjects when credit occurs using the peer to peer (P2P) lending system.

In terms of credit provisions, each platform has different policies and regulations, for example in the Lazada Paylater and Shopee Paylater applications where everyone who registers must use an ID card as proof that those making the credit must be 18 years old or deemed capable of carrying out a loan or credit, in Article 330 of the Civil Code says "adult" in the Civil Code that someone who has reached the age of 21 years and/or is married even though they have not yet reached that age, is considered an adult. (Michael Agustin, 2023) However, some platforms apply this to those who already have a KTP, so in this case age 18 year olds can do paylater credit, but there are also platforms that have a policy of having to be 21 years or older, the most important thing is that in making an agreement, the party must be able to carry out these rights and obligations.

Paylater users also have a tenor policy, the tenor is the time period determined by the lender (creditor) to the loan recipient (debtor) regarding installments for the credit that has been lent. For example, for Lazada Paylater and Shopee Paylater the tenor is given up to 12 months, but for Lazada there is a difference in interest for each month selected, where each tenor term is different, some are 0% to 2.6%. Meanwhile, for Shopee paylater there is an interest of 2.95% and there will be an additional credit limit given after paying off the bill that has been given.

### 3.2 *PLegal protection for debtors in the event of bad credit*

The development of peer to peer (p2p) lending systems in fintech is increasingly controlling the capital market, especially Indonesia, where online credit users or now the public are familiar with Paylater, resulting in an increase in the use of Paylater. It can be seen from the increase in paylater users from 2022 to only 27%, experiencing an increase in 2023 of 39.9%. For E-commerce users with paylater it reaches 45.9%, even though in 2022 it will only be 28.2%. (Mega Rizky Purnama, 2023) So it is impossible for something to happen that should have been avoided, namely the risk of default or what is called bad credit. The trend of paylater bad credit in the first semester experienced an increase in January 2023, the total incoming debt, namely (DPD90+) amounting to IDR 2.15 trillion in June 2023. This dominates the paylater bad credit of debtors under 30 years old but there are also those from 30-50 years old up to over the age of 50 years. In the first semester of 2023, the total amount of paylater debt will reach IDR 25.16 trillion or 29.8 percent on an annual basis or reach 3.52 percent on an mtm basis. Paylater credit business contributes 0.35 percent to the national credit book. (Rika Anggraini, 2023) Apart from that, the application of the precautionary principle is in accordance with the provisions of article 29 paragraph 2 of Law Number 10 of 1998 concerning banking (hereinafter Law 10/1998), namely:

"Banks are obliged to maintain the bank's soundness level in accordance with the provisions on capital adequacy, asset quality, management quality, liquidity, profitability, solvency and other aspects related to bank business, and are obliged to carry out business activities in accordance with the principle of prudence." It is hoped that these 8 principles will be able to provide pay later credit in accordance with the provisions that have been determined. With the existence of these principles, credit will be in accordance with the regulations or regulations that have been set by the government through the financial services authority (OJK) institution that can run properly and the regulations that have been established. With these changes they can complement each other without any overlap with the existing regulations or regulations.

These principles are mutually sustainable which can be explained that every credit requires capital and good and good management so that later the credit system can run as desired without any errors from this function. Apart from that there are several other principles which will later become components. supports the existence of a peer to peer (P2P) system by referring to the precautionary principle as stated clearly in article 29 paragraph 2. Apart from the above precautionary principle, there are also prudential principles which equally regulate banking or known as the 5Cs, namely: (a) Personality assessment, namely an assessment of the personality of a loan recipient to determine the ability and obligation to repay the credit that has been made. (b) Capacity assessment, namely assessing individual abilities in the business field and its management implementation system. (c) Capital assessment, namely the Bank directly reviews the analysis regarding the funding capacity of loan recipients in covering business financing for loan recipients. (d) Collateral assessment, which is related to the form of guarantee for credit payments, the loan recipient is required to provide collateral in the form of goods with a value of 1 and can be cashed out at the same value as the credit value. (e) Assessment of business prospects (Condition of economy), namely the assessment of the business prospects of loan recipient customers always paying attention to the condition of domestic and foreign market shares.

Of the 5 principles, only numbers 1, 2, 3, and 5 can be applied in the pay later credit system. Number 3 cannot be used because in its implementation it does not use collateral or collateral. In terms of the process of granting credit, there are also 4P principles, namely: Personality, namely the personality of the individual loan recipient, which is reviewed using the data entered at the beginning of the agreement, so it is very important regarding the terms of credit granting, so it is necessary to collect data on the loan recipient. Purpose, namely categorizing individuals with a purpose. regarding taking paylater credit to be used in consumptive, productive or speculative forms but usually a lot of it is used for consumptive purposes, the Prospect, namely the future of the activity by borrowing to obtain credit financing, whether there are benefits or not; Payment, that is, the payment process must be in accordance with the flow of funds (cashflow) of personal income so that using the payment installment system can run smoothly in accordance with the tenor determined at the beginning of the agreement without a system of default, as well as parties, profitability and protection.

The application of the Precautionary Principle to the provision of credit, hereinafter the 3-R principle, is: (a) Return, which is an acquisition from the loan recipient's paylater credit, in this case when the credit has been utilized and can be avoided by the loan recipient. (b) Repayment is an obligation to pay on the part of the loan recipient which must always be taken into account towards the payment obligation in accordance with the loan agreement. (c) Risk Bearing Ability, which is related to the loan recipient's ability to bear risks. if there is a dispute related to bad credit. (Anisa Rahma Dita Dwinanda, 2019)

These three principles are interrelated in that the data can be obtained at the beginning of the agreement process, where there is some electronic data such as ID cards and selfies which will later be recorded by the paylater credit platform system in accordance with the provisions of Law No. 11 of 2008 concerning Information and Electronic Transactions ( hereinafter No. Law 11/2008) which can later become evidence when an event of default or bad credit occurs in the future. From this there is definitely something that makes it possible that in the future there will be a risk of bad credit which cannot be avoided by the debtor due to non-fulfillment of its obligations. already covered when the loan agreement is entered into.

This is because there are triggering factors, including differences in knowledge between loan recipients and lenders in the financial services sector regarding the financial service platforms offered. Problems also arise or arise due to errors by recipients or lenders when carrying out their rights and obligations regarding an agreement on a fi-

financial services sector platform. This problem arises when there are several things that become the focus of a matter, namely there are 2 elements intentionally and unintentionally, namely:

1. There is an element of intent.

Because the loan recipient deliberately does not carry out his obligations to the financial services sector causing bad credit or there is an element of deliberate responsibility for not paying the credit.

2. There is an unintentional element.

The fact is that the recipient of the loan wants to carry out the credit obligation but is usually unable to because there are other factors, for example due to lack of finances. (Ismail, 2010)

These two elements are things that cause consumers or debtors to fail to pay later credit payments. Apart from that, due to failure to pay or bad credit, there is a need for legal protection for debtors which is regulated in OJK regulation Number 6/PJOK.07/2022 concerning Consumer and Community Protection in the Financial Services Sector in article 1 numbers 4 and 5 which explains that "Protection for consumers or debtors is by providing knowledge and understanding regarding payments with financial services and providing legal certainty towards all consumers" for the settlement itself to be carried out with the Alternative Financial Services Sector Dispute Resolution Institute or (LAPS JK) for settlement using non-litigation methods, namely outside the court. Apart from that, article 1 number 1 of Law Number 8 of 1999 concerning consumer protection (hereinafter Law 8/1999) states that "Consumer protection is all efforts that ensure legal certainty to provide protection to consumers".

There are 5 principles of protection carried out by the OJK in accordance with article 2 of OJK Regulation No 6/PJOK.07/2022 concerning Consumer Protection in the Financial Services Sector, namely: (a) Adequate education (b) Openness and transparency of information; (b) Fair treatment and responsible business conduct (c) Protection of consumer assets, privacy and data; (d) Effective and efficient handling of complaints and dispute resolution.

In terms of protection for loan recipients (debtors), there is repressive and preventive legal protection. Repressive legal protection aims to resolve problems that have already occurred, for example a dispute over default or bad credit first. Problems in online-based money lending and borrowing services can occur between the loan recipient and the lender who is the service provider. Meanwhile, preventive legal protection aims to prevent disputes over default or bad credit by loan recipients. So that legal protection for users of the peer to peer (P2P) lending system, especially paylater credit loans, to minimize bad credit, preventive measures can be taken by the government through the financial services authority (OJK). The organizer's efforts before a dispute occurs are to apply the basic principles of legal protection for service users. These principles are regulated in Article 29 POJK Number 77/POJK.01/2016 concerning Online Money Lending and Borrowing Services, including the principles of transparency, fair treatment, reliability, success and data security, and resolving user disputes simply, quickly and at a cost. economically or by using the provisions of article 2 of OJK Regulation No. 6/PJOK.07/2022 concerning Consumer Protection in the Financial Services Sector. This article is the result of changes to OJK Number 77/POJK.01/2016 concerning Online Money Lending and Borrowing Services. (Basrowi, 2019 )

The principle of transparency requires the financial services authority (OJK) to provide specific information so that loan recipients understand and comprehend the paylater credit platform they manage. The principle of fair treatment is a principle that prioritizes the financial services authority (OJK) being able to act fairly and not discriminate between recipients or lenders regarding the services provided. The principle of reliability, the meaning of 'reliability' is something that provides clear services starting from procedures, modern infrastructure and expert human resources because it is supported by increasingly advanced technological advances. The principle of confidentiality and security of data and information for users is that they must maintain and keep con-

confidential the security of loan recipient data, regarding accessing data and information there must be clear aims and objectives so that it can be agreed upon by both parties, except for other provisions by statutory regulations. This can reduce the leakage of loan recipient data to the detriment of all parties. The principle of complaint action and dispute resolution is carried out simply, quickly and at an affordable cost. (Dharu Triasih et al, 2021) The Alternative Institution for Financial Services Dispute Resolution (LAPS JK) is a way out for recipients or collateral givers in resolving disputes outside of court because it is considered more practical and efficient. Dispute resolution (LAPS JK) in accordance with the provisions of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. (Iswi Hariyani, 2010)

Case resolution in the peer to peer (P2P) lending system uses the Alternative Financial Services Dispute Resolution Institution (LAPS JK) or the Online Dispute Resolution (ODR) model. ODR exists because of the existence of SquareTrade, which is an institution that provides ODR services in the field of online mediation, negotiation and arbitration for business disputes. (Iswi Hariyani, 2017) Online dispute resolution uses applications such as e-mail, meeting applications, and video conferencing and other supporting media. The ODR concept has been reviewed so that it is useful when serving peer to peer (P2P) lending systems, because the agreement at the beginning of paylater credit registration has been recorded on the platform from the start of the agreement. With ODR, it is hoped that it will be able to resolve disputes more practically and effectively. (Sarwin Kiko Napitupulu, 2017) So that with preventive and repressive protection with various kinds of resolutions, loan recipients can make safe pay later credit and have clear legal protection.

#### 4. Conclusion

*Peer to Peer* (P2P) lending is an online lending system in the financial services sector between recipients and lenders. The government through (OJK) made Regulation no. 10 /POJK.05/2022 concerning Information Technology-Based Joint Funding Services, the development of P2P lending gave birth to paylater. Paylater registration for all platforms is the same as electronically submitting personal documents recorded by the platform as proof of an online agreement in accordance with the provisions of Law No. 11 of 2008 concerning Information and Electronic Transactions. Each paylater platform has a different policy regarding the age of the loan recipient, some platforms require 21 years of age but some only require an ID card. Apart from that, the tenor and interest policy for each paylater credit is different from low to high interest. Consumer protection is to ensure legal certainty and protection for consumers. by using repressive and preventive legal protection which each has its own role in protecting it, apart from that there is a solution if problems such as bad credit occur, if protection is not achieved then there is the option of choosing a solution from LAPS JK with Online Dispute Resolution (ODR) which is an online resolution in the field of finance which provides solutions effectively and efficiently. If the mediation or negotiation route with ODR is not achieved then use Arbitration and Alternative Dispute Resolution in accordance with the provisions of Law No.30 of 1999.

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