

Comparative Analysis of Regulations on IT-Based Money Lending and Borrowing Services in Indonesia and Vietnam

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Abstract: - Providing information technology-based money lending and borrowing services offers convenience and benefits for users to access fresh funds quickly and safely. However, debtors often misuse their situation, leading to financial losses and potential intimidation. The research problem in this study revolves around several key aspects, including defining existing information technology-based money lending and borrowing services, comparing the regulatory implementations for these services in Indonesia and Vietnam, and exploring potential legal measures to counter illegal fintech activities. The objective of this research is to assess and analyze the implementation of information technology-based credit service regulations, commonly known as FinTech, in both Indonesia and Vietnam. This research adopts an empirical normative legal approach, involving legal, conceptual, and qualitative analyses. The findings reveal that both countries have taken proactive measures by enacting regulations to govern the rapidly expanding fintech industry. However, they continue to face challenges posed by widespread illegal fintech operations, which pose risks to the privacy of individuals' personal data. Additionally, both nations encounter a shortage of skilled professionals capable of effectively detecting and combating illicit fintech activities. Therefore, it is imperative to enhance regulations and invest in professional training to eliminate illegal fintech practices.

Key-Words: - Fintech, Finansial, Financial Services, Information Technology, Technology, Regulation, Lending, Loan, Borrowing.

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1 Introduction

Global transactions through information technology have become a necessity in today's world trade. In addition, information technology has also been used to develop the financial industry as an alternative to public financing. To meet the needs of human life and business ventures, various financial institutions are offered, both through conventional banks and online loans. Online loans are known as Fintech (Financial Technology Peer to Peer). Fintech

(Financial Technology Peer to Peer) is an information technology-based loan agreement, [1]

Indonesia has a large population, and the demographics of the population spread across various corners. For this reason, Indonesia has become a market for the fintech industry. Indonesia has significant capital to support fintech development, with a middle-class population of 45 million and a total of 150 million Internet users. On that basis, the development of Fintech is necessary to be utilized to benefit the national economy, [2].

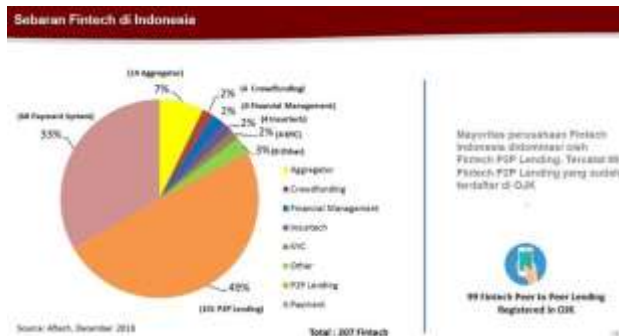


Fig. 1: Distribution of Fintech in Indonesia

Based on the data contained in Figure 1, it can be concluded that the majority of Fintech companies in Indonesia are dominated by the Fintech P2P Lending sector. This shows that technology-based lending and borrowing services (peer-to-peer lending) have a very significant role in the Fintech ecosystem in Indonesia. The legality of lending and borrowing of information technology is regulated by Regulation No. 77/POJK.01/2016 of the Financial Services Authority 2016 on lending based on information technology, [3]. The development of peer-to-peer lending financial technology in Indonesia is growing very rapidly. In February 2021, it was recorded that the total fund distribution reached Rp.169.5 trillion. The number of borrowers has surged by 899% from 4.36 million customers in 2018 to 43.56 million customers as of December 2020. In addition to those regulations, fintech protection is also addressed in Law Number 11 of 2008 on Electronic Information and Transactions; Law Number 8 of 1999 on Consumer Protection; Law Number 7 of 2014 on Trade; Civil Code; Government Regulations on the Implementation of Electronic Systems and Transactions. FinTech plays a vital role in the development of Indonesian SMEs, [4]. Fintech can provide convenience and efficiency in technology-based financial management, including digitalization, financial reports, payment technology, and online-based loans. Fintech can also increase access to new customers through market expansion for the unbanked with practical and easy digital financial transaction services, [5].

As stated in Article 18 of the Financial Services Authority Regulation Number 77/POJKK.01/2016 of 2016, the regulations governing Fintech have provided indicators to protect the public. The agreement on implementing information technology credits and credit services contains a contract between the provider and the lender, as well as a contract between the lender and the borrower, according to the document, [6]. Contracts for the performance of information technology credits and credit services between providers and lenders and

between lenders and borrowers are electronic documents, party identities, loans, loan interest rates, amount of fees, several installments, duration, and disputes. Provisions regarding fines for resolution mechanisms, [7]. The emergence of financial companies in the field of technology-based peer-to-peer lending services has been gaining public and regulatory attention, particularly from the Financial Services Authority, known as Otoritas Jasa Keuangan (OJK), and Bank Indonesia. P2P Lending-based Fintech services have become one of the solutions to address the limited access to financial services in the country and promote financial inclusion through their synergy with other financial institutions and technology companies. Peer-to-peer lending provides benefits, especially for the younger millennial generation, due to its digitally-supported products that are accessible through digital technology, [8].

However, empirical evidence shows that there are many cases of online loans in Indonesia and in other countries, namely Vietnam, and there have been legal violations among victims of online loan applications. These problems mostly arise due to the lack of protection for personal data of online loan application users, [9]. This is proven by the ease with which online loan application providers can obtain a photo of the borrower's ID card and self-image. The formulation of the problem in this research is: What is the relationship between today's information technology and the concept of establishing money lending and borrowing services? How are information technology-based lending and borrowing services regulated in Indonesia and Vietnam? and How to build a legal structure and community culture to anticipate illegal Fintech.

Law enforcement against Fintech and supervision must be more structured to protect the public from the existence of illegal FinTech through changes in attitudes and behavior when accepting loan offers (online loans). It is important for society to build a culture of obeying the law and being careful in using fintech.

2 Methodology

The aim of this study is to thoroughly examine and analyze the implementation of regulations pertaining to information technology-based credit services, commonly referred to as FinTech. This research is characterized by a combination of conceptual and qualitative empirical legal research methodologies, utilizing a comprehensive legal approach. The conceptual aspect involves a thorough analysis of legal principles, doctrines, and

frameworks that underpin the regulation of financial technologies (Fintech) and online lending practices. It delves into theoretical perspectives to understand the legal constructs and normative standards that should govern these emerging financial services. [10], the qualitative empirical component of the research involves collecting and analyzing non-numerical data to gain insights into the real-world implications and societal impacts of illegal online loans. This includes conducting interviews, surveys, and case studies with stakeholders such as victims of illegal lending, legal experts, financial regulators, and representatives from legitimate Fintech companies. The qualitative data helps illustrate the practical challenges and experiences individuals and institutions face in dealing with illegal Fintech activities. Data collection techniques encompass both secondary data gathered through literature research and primary data. [11], the theoretical framework used in this research refers to legal system theory which covers various aspects of legal substance, legal structure and legal culture. In this research the focus is specifically on aspects related to legal structure and legal culture.

3 Results & Discussion

This section may be divided by subheadings. It should provide a concise and precise description of the experimental results, their interpretation, as well as the experimental conclusions that can be drawn.

3.1 The Concept of Information Technology-based Loan Services in Various Laws and Regulations (Existing)

Various regulations are used to provide information technology credits and credit services. In the Indonesian legal system, the civil code (KUHPerdata) remains a primary source of law for other aspects of civil law. Conceptually, an agreement, as defined in Article 1313 of the Civil Code, is a commitment made by one or more parties to one or more others. An agreement is formed between two parties who have rights and/or responsibilities towards each other and who commit themselves based on a shared concept as implied in Article 1313 of the Civil Code, [12]. After the agreement is signed, the parties engage in negotiations. The agreement includes terms that specify the rights and obligations of each party, which must be met by complying with the legal criteria outlined in Article 1320 of the Civil Code.

A rule or norm essentially has a philosophical basis and a principle as its spirit. The position of the

principle of law in all legal systems plays an important role in regulating the system of legal norms, [13]. The concept of consensus generally encompasses several principles, including the principles of contract freedom, binding consensus (the Pacta Sun Servanda principle), and consensus itself. The concept of contract freedom, as outlined in Article 1338(1) of the Civil Code, allows parties to enter into agreements with anyone, provided they comply with Article 1320 of the Civil Code. In other words, a legally valid agreement is binding on the parties who enter into it, [14]. In Volume 3 of the Civil Code, the open system is embodied through the principle of consensus, which pertains to the formation of a contract. Contract Law, a part of the framework in Civil Code Volume 3, equips parties with all the necessary tools to create legally binding agreements. The underlying premise of a contract's binding nature is that the parties are obligated to uphold the promises outlined in the contract, [15].

Credit agreement by borrowing rules from the Civil Code is one form of agreement that is grouped in a loan agreement as regulated in Article 1754 of the Civil Code to Article 1769 of the Civil Code so that the basic rules used in making credit agreements certainly cannot escape the existing provisions on the Civil Code. Furthermore, the credit agreement material is found in Article 1 point 11 of Law Number 10 of 1998 concerning Banking. A credit agreement is a primary or basic agreement that can stand alone with or without an additional agreement (accessory). Additional agreement (accessory) is a form of conditional agreement whose implementation depends on the main agreement (debt agreement). Judging from its form, bank credit agreements generally use the standard form of agreement.

The agreement can be completed on paper, or verbally and electronically, depending on the parties' agreement. Article 5 (3) of the ITE Law mandates the validity of electronic contracts/agreements, which is also reinforced in Article 47 (2) of PP Number 82 of 2012 concerning Electronic Transactions, which specifies that electronic agreements/transactions are considered valid if:

- a. The parties have reached an agreement.
- b. Carried out by a legally competent subject
- c. There are a few factors to consider
- d. The transaction's purpose must not be in violation of the law, morality, or public order.

According to Article 18(1) of the ITE Act, 'electronic transactions/contracts' are binding on the parties as they have consented to them. Article 46 of

PP No. 82 of 2012 on Electronic Transactions states that 'electronic transactions/contracts' occur when the parties enter into a contract. When does the contract become legally binding? It is when the transaction offer sent by the sender is received and approved by the recipient. In addition, Article 46 of PP No. 82 of 2012 on Electronic Transactions requires parties to respect the principles of integrity, prudence, transparency, accountability, and fairness.

Regulations on online loans or Fintech (financial technology) also refer to the ITE Law, where this rule serves as a macro setting regulating all online business transactions. The fintech agreement, of course, is preceded by an offer in the form of an information technology-based loan service application. An agreement is reached between the parties online, as evidenced by clicking the 'sign' button to accept the loan application offered.

According to Article 4 of the Financial Services Authority (OJK) Act, the objectives, functions, obligations, and authority of The Financial Services Authority in the financial services sector must be conducted in a manner that is regular, fair, transparent, and responsible, with the aim of achieving a sustainable financial system and delivering stable services. The interests of consumers and the general public must be safeguarded. The Financial Services Authority Act describes the supervisory authority of the Financial Services Authority, which is referred to as the Financial Services Authority. The Financial Services Supervision Act outlines the organization and oversight of regulatory bodies and institutions within the financial services sector. Additionally, it sets requirements for types of financial services products, the scope and limitations of financial services institutions' activities, qualifications and standards for financial services institutions, the reliability and effectiveness of regulation, as well as support services for the financial services industry and requirements for financial services transactions. Various laws and regulations related to different financial services sectors, including banking, capital markets, insurance, pension funds, and others, are encompassed in the laws and regulations governing these respective sectors.

The Financial Services Authority is responsible for ensuring that the financial system is fair, transparent, responsible, and capable of sustainable growth. All financial activities within this sector impact consumers and the general public. The aim of the Financial Services Authority is to safeguard their interests and enhance the competitiveness of the country's financial services sector. Additionally,

the Financial Services Authority must protect national interests, including human resources, management, and oversight of the financial services sector, while considering the positive aspects of globalization.

Regulations regarding information technology lending and borrowing are incorporated into the regulations of the Financial Services Authority, which clearly govern lending and borrowing activities facilitated by information technology. In order to prevent the existence of illegal FinTech operations, the governance of information technology-based lending and borrowing is effectively regulated by Article 44, requiring licensed FinTech operators to electronically publish regular monthly and annual reports, which they are obligated to submit to the Financial Services Authority. Article 45 of the Monthly Implementation Report PPOJK must include at least one financial performance report on the implementation of technology-based credit and credit services, presented in both physical and electronic document formats. Additionally, Article 47 of PPOJK No. 77/POJK.01/2016 contains references to sanctions in the event of a breach of Financial Services Authority regulatory obligations and prohibitions. These sanctions may include warnings, penalties, payment requirements, limitations on company operations, and license revocation, all of which are administrative measures that the Financial Services Authority can enforce.

In addition to the ever-increasing development of FinTech, this needs to be balanced between precise regulation and supervision. Under Article 21-5 of the 2011 Act on the Financial Services Authority, the Financial Services Authority is responsible for organizing an integrated regulatory and supervisory system for all activities of the Financial Services Authority. Article 6 makes it clear that the Financial Services Authority is responsible for regulation and oversight:

- a) Banking-related financial services activities;
- b) Capital market-related financial services activities; and
- c) Insurance, pension funds, financial institutions, and other financial services institutions' financial services activities.

According to the two articles, the Financial Services Authority is the organization that oversees and regulates the growth and development of Fintech. The Financial Services Authority regulates fintech firms as part of the financial services sector, which includes the Bank Financial Industry (IKB) and the Non-Bank Financial Industry (NBFI)

(IKNB). Fintech’s long-term viability in Indonesia depends on regulation and oversight. Because the development of Fintech includes potential dangers in its execution, including those connected to consumer protection, financial system stability, payment systems, and economic stability, this is related to the legality of the business being operated. The goal of The Financial Services Authority regulation and oversight is to reduce these hazards.

The Financial Services Authority regulates and supervises online lending primarily to mitigate its adverse consequences. While providing convenient and accessible financial solutions, online lending often carries significant risks such as high interest rates, predatory lending practices, and inadequate borrower protections. By implementing stringent regulatory measures and maintaining vigilant oversight, the Financial Services Authority ensures that online lending platforms operate transparently and ethically, safeguarding consumers from exploitation and financial distress.

The Financial Services Authority's efforts in regulating and supervising online loans are crucial for maintaining overall financial stability and consumer trust in the financial system. Effective supervision helps to prevent fraudulent activities and ensures that lenders adhere to fair lending practices, contributing to a more stable and secure financial environment. Through continuous monitoring and enforcement of regulations, the FSA aims to foster a balanced and fair online lending market, where the benefits of accessible credit are maximized while minimizing potential harm to borrowers.

3.2 Implementation of IT-Based Lending and Borrowing Service Regulations (Comparative Study between Indonesia and Vietnam)

3.2.1 Regulation of Fintech Implementation in Indonesia

The number of fintech businesses in Indonesia grows year after year, starting with 40 in 2013-2014 and rising to 165 in 2015-2016. Payments (43%) and loans (17%) are still dominated by Indonesian fintech companies, with the balance consisting of aggregators, crowdfunding, and other services, [16]. Fintech must be given room to thrive because of its enormous potential. Given the potential dangers, adequate regulation is required. As a result, the Financial Services Authority plays a critical role in providing oversight, [17]. Fintech’s continued development will aid in the attainment of the three

goals outlined in the Indonesian Financial Services Sector Master Plan for 2015-2019: Contributive - maximizing The Financial Services Authority's contribution to national economic growth acceleration; Maintaining the stability of the financial system as the cornerstone for long-term development. Inclusive - Increasing access to capital in order to promote the community’s well-being. The role of Fintech in Indonesia, among others, [18]:

- a. Encouraging an even distribution of the level of welfare of the population
- b. Helping to fulfill domestic financing needs, which are still very large
- c. Facilitating the distribution of national financing that is still unequal in 17,000 islands
- d. Increasing national financial inclusion
- e. Encouraging the export capability of SMEs, which is currently still low.

Data on the types of Fintech in Indonesia in 2020 can be seen in Table 1. Peer dominates the category of Fintech types in 2020 to peer (P2P) lending as many as 158 entities with a percentage of 44.63%, then followed by Risk and Investment Management as many as 123 entities with a percentage of 34.75%. Payment, Settlement, and Clearing and Market Aggregators are at the bottom of the list with 37 entities and 36 entities with 10.45% and 10.17%, respectively, [19].

Table 1. Data Types of Fintech in Indonesia in 2020

Type of Fintech	Number of Entities	Percentage (%)
Peer to peer (P2P) lending	158	44,63
Market Aggregator	36	10,17
Risk and Investment Management	123	34,75
Payment, Settlement, and Clearing	37	10,45
Total	354	100

The Chief Executive of the Non-Bank Financial Industry Supervision of the Indonesian Financial Services Authority explained that up to December 2020, during the pandemic, the number of new loan disbursements from the fintech lending industry grew 26.47% year on year. Furthermore, the number of lenders and borrowers increased by 18.32% and 134.59% year on year, [20]. However, what is really concerning is the increasing desire of the public to borrow through an online loan, which is also in line with the rising number of Illegal online loan applications. This is based on data from the

Investment Alert Task Force from January to March 2020. The Investment Alert Task Force discovered 508 unregistered fintech peer-to-peer lending or illegal online loans (pinjol) by the Financial Services Authority. Between 2018 and 2020, a total of 2406 unlawful online loans were discovered. The existence of this illegal loan is alarming to the public. The main problem is the complaint data from the Indonesian Consumer Organization (YLKI), which notes that 39.5% of complaints against billing methods are not following the rules, one of which is using a third party as a debt collector. Some cases are even concerning, such as the February 2019 incident in, a taxi driver hanged himself because he was in debt and was being chased by debt collectors. Another case was where a housewife attempted suicide because of a debt problem of IDR 500,000 through a loan. Another violation is the loss of user privacy because the loan company improperly takes users' personal data intending to misuse it. Personal data breaches occur in various Illegal online loan applications, namely Merdeka Rupiah and Loan Warehouse (Harta Modal). Many Illegal online loan applications retrieve user data via Smartphones such as storage, call logs, contact lists, and locations. They use this to threaten customers by disseminating personal data. This is done by sending messages to all telephone contacts owned by the borrower. The message contains the borrower's personal data, and the amount of debt borrowed and notifies the person concerned to pay the debt from the borrower, [21].

On the other hand, there is a transaction involving the purchase and sale of data from online loan customers who have defaulted (Failed to Pay). This was discovered directly by the researcher through the Facebook group and Telegram channel 'Online Loan Application Information,' where many individuals trade customer data, including ID cards, selfie photos with ID cards, Taxpayer Identification Numbers (NPWP), Family Register photocopies (KK), contact lists, and more. The data is being traded at prices ranging from 80 thousand to 200 thousand. This is undeniably concerning because it is evident that this data is being traded with the intent of being reused for fraudulent online loan applications, [22].

The Financial Services Authority has taken measures to block illegal loans, but new ones continue to emerge, [23]. One of the reasons for this is the ease of technology, which facilitates the development of illegal loan applications, [24]. On the other hand, there are still many people who are easily enticed by offers of illegal loans. Illegal loans typically promise easy, fast, and convenient

solutions, despite the significant risks hidden behind such promises.

3.2.2 Fintech Implementation Regulations in Vietnam

The Fintech industry is currently thriving in Indonesia and other Asian countries, with a particular focus on Vietnam in this study. Fintech, short for financial technology, has revolutionized financial services and unlocked a plethora of new possibilities for economic growth, [25]. In the ASEAN region, Vietnam's share of fintech investment surged from 0.4 percent in 2018 to 36 percent in 2019 and further increased to 51 percent. Despite these achievements, Fintech has had a relatively modest impact on the country's financial ecosystem, with 98 percent of investments directed towards the payments industry and only 1 percent towards blockchain technology. Moreover, fintech operations in Vietnam are still considered small-scale, with payments Fintech accounting for 31 percent of the market, P2P lending for 17 percent, and blockchain/crypto for 13 percent. [26], one of the major hindrances to the growth and development of Fintech is the lack of a well-established regulatory framework specific to financial technology. The majority of existing legislation primarily focuses on fintech activities within the payments industry, [27].

Fintech development is recognized as a crucial strategy to achieve the aforementioned objectives. [28], government initiatives for regulatory reform, expansion of the financial supply chain, diversification of essential financial services, enhancement of economic infrastructure, and protection of financial consumers all incorporate fintech. Fintech companies are encouraged to collaborate with credit institutions, particularly microfinance organizations and programs, and actively participate in the financial service supply chains. As a result, Vietnam remains an untapped market for fintech investors, boasting a desirable client base and favorable government incentives. However, the government's ambition to leverage Fintech to achieve financial inclusion goals faces a significant barrier due to this untapped sector, [29].

Fintech enterprises and technology developers supporting fintech in Vietnam may face compliance requirements related to data privacy, data protection, and cybersecurity when engaging in data-related activities. Vietnam currently lacks a comprehensive data privacy law that covers both individual and organizational privacy rights. [30], instead, various legal instruments, such as the Civil Code, Information Technology Law, Consumer Rights

Protection Law, Criminal Code, and Cyber Information Security Law, contain similar regulations. The most recent development is the government's February 2021 Draft Decision on Personal Data Protection, which includes several key recommendations, such as a broad definition of personal data and processing limits for sensitive personal data.

According to the Draft PDPD, cross-border data transfers, including data localization in some cases, became effective on December 1, 2021, without a grace period. Concerning data localization, the Cyber Security Act mandates that both local and foreign companies offering services on telecommunications networks, the Internet, and value-added services in cyberspace (Cyberspace Service Providers) must store personal information, data related to user relationships, and user-generated data in Vietnam. Offshore corporations are required to establish a branch or representative office in Vietnam to conduct business in compliance with these regulations.

Fintech, a fusion of finance and technology, is subject to a variety of regulations enforced by different regulatory authorities. The State Bank of Vietnam (SBV) oversees financial matters, while data privacy and cybersecurity are under the purview of the Ministry of Public Security (MPS). Both SBV and MPS possess the authority to enforce regulations directly through circulars, submit draft regulations to the government for approval and issuance as decrees (which have a higher level of authority), or propose legislation to the National Assembly.

Table 2. Data Types of Fintech in Vietnam in 2020

Type of Fintech	Percentage (%)
Digital Payment	31%
P2P Lending	17%
Point of Sales	7.5%
Investment & Wealth Management	7.5%
Comparison	6%
Crowdfunding	4%
Insurtech	4%
Digital Banking	3%
Others	20%

As shown in Table 2, the research results show that in 2020, the fintech landscape in Vietnam was dominated by various types of financial technologies, with digital payment services leading the sector at 31%. Peer-to-peer (P2P) lending followed as the second most prevalent type, accounting for 17% of the market. Both Point of

Sales (POS) services and investment and wealth management platforms each held a 7.5% share, [31]. Comparison platforms, which assist users in evaluating financial products, constituted 6% of the market. Crowdfunding and insurtech, which focuses on leveraging technology for insurance services, each made up 4% of the fintech ecosystem. Digital banking services, representing 3%, offered online and mobile banking solutions to consumers. The remaining 20% of the market was composed of various other fintech innovations, reflecting a diverse and rapidly evolving industry. This distribution highlights Vietnam's strong emphasis on digital payments and lending, alongside a broad spectrum of emerging financial technologies that cater to different aspects of financial services, from insurance to investment. The data underscores the dynamic and multifaceted nature of the fintech sector in Vietnam, indicating significant growth potential and a diverse array of opportunities for businesses and consumers alike.

In Vietnam, the core activities of the fintech sector revolve around intermediary payment services, which include online payment gateways, e-wallets, and payment processing systems. The regulatory framework governing this sector ensures that IPS providers adhere to stringent standards. The regulations cover the establishment and operations of these providers, mandating compliance with anti-money laundering (AML) and Know-your-customer (KYC) laws to prevent fraud and illicit financial activities. Oversight of these aspects is managed by the State Bank of Vietnam (SBV), which ensures adherence to these regulations.

Providers handling personal information are also subject to data protection and cybersecurity obligations, supervised by the Ministry of Public Security. This dual layer of oversight ensures that personal data is safeguarded and electronic transactions are secure. To enhance the management of fintech at a national level, the SBV established the Financial Technology Steering Committee in March 2017. This centralized entity is tasked with implementing and overseeing fintech management across the country. The SBV Payments Department serves as a special unit within the SBV, dedicated to executing the Committee's directives.

The primary mission of the Financial Technology Steering Committee is to strengthen and expand the fintech ecosystem in Vietnam. This involves improving regulations to keep pace with technological advancements and facilitating compliance among fintech companies with government policies and strategies. The Committee has identified five key areas for fintech research:

electronic payments, electronic Know Your Customer (e-KYC), peer-to-peer lending, open APIs, and blockchain applications. Additionally, the Committee maintains direct communication channels with fintech companies to address issues promptly and encourage collaboration. This structured approach and oversight provided by the SBV and the Financial Technology Steering Committee ensure a regulated environment that fosters innovation while maintaining financial stability and security. By focusing on critical areas like electronic payments and blockchain, Vietnam aims to lead in fintech innovation, ensuring that regulations support growth and compliance in tandem.

3.3 Building a Legal Structure and Community Legal Culture Efforts to Prevent Illegal Fintech

The goal of creating laws in society is to make people happy and to provide order to the world. The legal system is constructed to enforce the law in society, [32], which states that the legal system will be composed of three components: legal content, legal structure, and legal culture. Based on information technology and legal culture, the researcher limits the legal form of loan and borrowing services in this study. To prevent unlawful Fintech, it is critical to build legal institutions and cultivate a legal culture. The structural components are institutions established by the legal system to perform various functions in order to support the legal system's operation. Legal culture, on the other hand, is characterized as a person's or society's perspectives, such as their opinions and attitudes toward enacting the law.

3.3.1 Ideal Fintech Regulatory Legal Structure

The components of the legal structure in fintech regulation have been regulated both in the ITE Law the Financial Services Authority Law and The Financial Services Authority PP, especially in dealing with illegal Fintech. Still, because oversight isn't perfect, there's a need for collaboration amongst institutions that deal with illegal fintech cases that hurt the public. The Financial Services Authority, in collaboration with the Ministry of Trade, the Ministry of Communication and Information Technology, the Ministry of Cooperatives and Small and Medium Enterprises, the Attorney General's Office, the Indonesian Police, and the Investment Coordinating Board (BKPM), has agreed to strengthen cooperation in the Task Force/Investigation Alert Task Force to

prevent and deal with rampant illegal investment practices, one of which includes this illegal loan.

This Investigation Alert Task Force has the function of preventing and handling unlawful acts in raising public funds and managing investments. In general, prevention activities are carried out utilizing education and socialization as well as monitoring the potential for alleged unlawful acts. In general, handling activities are carried out by taking inventory, analyzing, stopping/inhibiting illegal actions in collecting public funds and managing investment, examining suspected violations, browsing sites that have the potential to harm, and compiling recommendations for follow-up handling.

From August 2018 to the end of 2019, there have been 4,020 illegal financial technology, including illegal loans blocked by members of the Investment Alert Task Force, namely the Ministry of Communication and Information. Even though there have been many blockings, new illegal loans still appear. This is possible because technologically, it is not difficult. Practically, the online loan application developer who has been blocked can easily develop the online loan application again concerning the same application source code, doing a little customization at the end by providing a new online loan name/brand.

To optimize Fintech's role in Indonesia, fostering synergy with incumbent industries (Banks and Non-Bank Financial Institutions) is crucial. This can be achieved through various means, including:

- a. Enhancing collaboration between fintech and established financial institutions by leveraging extensive customer data and distribution channels. This cooperation aims to enhance the operational efficiency of banks and financial institutions.
- b. Developing collaborative product offerings that benefit both consumers and fintech players, requiring joint design efforts between fintech companies and banks or financial institutions.

3.3.2 Fintech Regulatory Legal Culture

The values and attitudes of society that can influence the operation of the law are referred to as legal culture. Will they follow orders or rebel? Legal culture, can be defined as a pattern of knowledge, attitudes, and behavior toward a legal system. The level of integration of the community with the corresponding legal process can be seen from these patterns. Simply defined, their amount of knowledge, acceptance, trust, and reliance on the legal system characterizes this level of integration.

The same general response of certain people to legal occurrences is referred to as legal culture. A unified vision of legal ideals and behavior is the solution. As a result, a legal culture depicts a pattern of individual behavior among community members that expresses the same reaction (orientation) to legal life as the community in question.

Legal culture can be defined as a group's pattern of knowledge, attitudes, and conduct toward a legal system. These patterns reveal how far a society is willing to accept the existence of a legal system. This legal culture can also be defined as an atmosphere of social thought and social power that shapes how the law is applied, avoided, or misapplied, as well as attitudes and beliefs that impact law-related conduct positively or negatively.

Likewise, in the phenomenon of people who are enthusiastic about using information technology-based loan services known as Fintech, it provides convenience in online transactions, no need to face to face, no need to come to the bank to get a loan facility. The convenience of fintech facilities circulating in the community forms a new pattern of knowledge, attitudes, and behavior of a group of people who use Fintech in a legal system. Not only for the public as recipients but also for providers who have obtained permission from the Financial Services Authority and lenders. Anticipating the development of illegal online loans, which are detrimental to society, requires a multifaceted approach centered on building a robust legal culture. A legal culture is essential to educate and empower individuals to recognize and resist the allure of illegal Fintech operations. By fostering a deep understanding of financial laws and the potential risks associated with unregulated online lending, communities can develop a proactive stance against these predatory practices. Educational initiatives, public awareness campaigns, and easy access to reliable financial information are critical components in cultivating a legal culture prioritizing legal and ethical financial behavior.

Furthermore, individuals' attitudes and behaviors play a crucial role in combating the spread of illegal online loans. People with the knowledge and tools to identify and avoid fraudulent financial schemes are less likely to fall victim to them. This shift in behavior can be encouraged through continuous education on financial literacy, highlighting the legal recourses available to those affected by illegal FinTech activities. Encouraging a culture of vigilance and skepticism towards suspicious financial offers will significantly diminish the demand for unlawful online loans, thereby reducing their prevalence.

Community engagement and collaboration with law enforcement are pivotal in addressing the issue of illegal Fintech. Individuals can contribute to a broader societal resistance against illegal online lending by reporting suspicious activities and supporting regulatory efforts. Strengthening the relationship between the public and authorities through transparent communication and cooperation can lead to more effective enforcement of financial laws and regulations. This collective effort protects individuals and fortifies the financial system against the threats posed by illegal Fintech operations.

4 Conclusion

The comparative study on the implementation of Information Technology-Based Lending and Borrowing Service Regulations in Indonesia and Vietnam yields several key conclusions. First, both nations have taken proactive measures by enacting regulatory frameworks to govern the rapidly evolving fintech industry. However, these frameworks encounter persistent challenges, notably the prevalence of illegal fintech operations that jeopardize the personal data privacy of citizens. Additionally, both countries face a shortage of skilled professionals capable of effectively detecting and combating such illicit fintech activities. To address these issues, there is a pressing need for educational initiatives and training programs aimed at enhancing the expertise of information technology professionals in the field of fintech regulation and enforcement. Moreover, fostering a shift in societal attitudes and behaviors toward fintech services is essential to cultivate a culture of legal compliance within the community. In summary, while both Indonesia and Vietnam have made commendable strides in regulating fintech, the study highlights the imperative of addressing the persisting challenges for a more robust and secure fintech landscape in both nations.

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Declaration of Generative AI and AI-assisted Technologies in the Writing Process

During the preparation of this work, the authors used Grammarly in order to assist with editing and improving the grammar and style of the manuscript. After using this tool, the authors reviewed and edited the content as needed and take full responsibility for the content of the publication.

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Contribution of Individual Authors to the Creation of a Scientific Article (Ghostwriting Policy)

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Conflict of Interest

The authors have no conflict of interest to declare.

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