

# Non-Performing Loan Settlement by Fintech Lending in Unsecured Credit Sale and Purchase Transactions: To Do or Not to Do

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## Abstract

*PT Shopee International Indonesia is a company that focuses on digital applications, especially e-commerce, and is one of the largest online marketplaces in Indonesia. This online shopping system offers the latest innovations in credit-based payment methods without collateral, such as pay later, along with the advancement of the digital world. This research seeks to find out the procedures for implementing transactions, resolving non-performing loans, and legal protection provided to Fintech Lending (financial technology) organizers in Shopee Pay-Later. This includes identifying the rights and obligations of the parties involved, as well as the legal consequences of the Shopee Pay-later credit financing agreement. The research uses an empirical legal research method, which uses a problem-solving approach to data collected from observations and study findings. The research findings show that in order to finance a Shopee Pay-later unsecured credit agreement, buyers must electronically sign an agreement confirming that they accept its terms. The parties are obligated by the terms of the agreement, under which they must not contravene the relevant laws and regulations and must fulfil their rights and obligations according to the financing agreement. The district court or arbitration can be used to sue either party if they commit a default, as specified in Article 1243 of the Civil Code, or violate the law, as specified in Article 1365 of the Civil Code.*

**Keywords:** *Financing Agreement; Legal Relation; Fintech Lending.*

## Abstrak

PT. Shopee International Indonesia adalah perusahaan yang fokus pada aplikasi digital, terutama e-commerce, dan merupakan salah satu pasar online terbesar di Indonesia. Sistem belanja online ini menawarkan inovasi terbaru dalam metode pembayaran berbasis kredit tanpa agunan, seperti bayar di belakangan, seiring dengan kemajuan dunia digital. Tujuan dari penelitian ini adalah untuk mengetahui tata cara pelaksanaan transaksi, penyelesaian kredit macet, dan perlindungan hukum yang diberikan kepada penyelenggara Fintech Lending (financial technology) di Shopee Pay-later. Hal ini termasuk mengidentifikasi hak dan kewajiban para pihak yang terlibat, serta akibat hukum dari adanya perjanjian pembiayaan kredit Shopee Pay-later. Penelitian menggunakan metode penelitian hukum empiris, yaitu dengan menggunakan pendekatan pemecahan masalah terhadap data yang dikumpulkan melalui pengamatan dan temuan studi. Temuan penelitian menunjukkan bahwa untuk membiayai perjanjian kredit tanpa jaminan Shopee Pay-later, pembeli harus menandatangani perjanjian secara elektronik yang mengonfirmasi bahwa mereka menerima persyaratannya. Para pihak diwajibkan oleh ketentuan perjanjian, yang berarti mereka tidak boleh bertentangan dengan hukum dan peraturan yang relevan dan harus memenuhi hak dan kewajiban mereka

sesuai dengan perjanjian pembiayaan. Pengadilan negeri atau arbitrase dapat digunakan untuk menuntut salah satu pihak jika mereka melakukan wanprestasi, seperti yang ditentukan dalam Pasal 1243 KUH Perdata, atau melanggar hukum, seperti yang ditentukan dalam Pasal 1365 KUH Perdata.

**Keywords:** *Perjanjian Pembiayaan; Hubungan Hukum; Fintech Lending*



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## A. INTRODUCTION

As a state of law, Indonesia is protected by the laws governing its people.<sup>1</sup> Amidst the economic improvement and the growth of technology, people must immediately adapt to the acceleration of this change. Education, economy, and the social environment have evolved. Tools from this increasingly sophisticated technology, such as computers, smartphones, televisions, and others<sup>2</sup> will continue to be updated to create easy access to educational, economic, and social activities.<sup>3</sup>

Trade in this digital form serves as a forum for buying and selling through a web portal or application called a marketplace. This marketplace is a website or application that becomes a container and facilitates the buying and selling of various products. The concept in this marketplace is the same as in a market that sells various goods; these products are sold online, so buyers no longer need to come to the market to buy. By opening the marketplace application, consumers can choose products at varied prices. Then, the process will also make it easier for consumers and sellers. The Marketplace is still trying to make innovations to ensure that consumers continue to buy goods from the marketplace. One of the latest innovations today is instalment without collateral so that consumers can buy the wanted items without thinking about paying money in a lump sum. Instead, they can be on monthly credit. Instalment in sale and purchase transactions on the Shopee application is often called Shopee Pay-Later—a product of PT. Commerce Finance as a legal entity which utilizes financial technology and provides lending services (often referred to as Fintech). Fintech is an innovation in financial services with technology that changes the conventional business model to a modern one<sup>4</sup>.

The Regulation of Bank Indonesia No. 19/12/PBI/2017 concerning the Implementation of Financial Technology is expected to ensure that financial technology can run effectively and properly. Article 2 of the Bank Indonesia regulation states, "Bank Indonesia regulates financial technology providers to encourage innovation in the financial sector by applying the principles of consumer protection as well as risk management and prudence to maintain monetary

<sup>1</sup> Imam Subechi, "Mewujudkan Negara Hukum Indonesia," *Jurnal Hukum Dan Peradilan* 1, No. 3 (November 30, 2012): 339–58, <https://doi.org/10.25216/Jhp.1.3.2012.339-358>.

<sup>2</sup> Farhan Adani And Salma Salsabil, "Internet Of Things: Sejarah Teknologi Dan Penerapannya," *Jurnal Online Sekolah Tinggi Teknologi Mandala* 14, No. 2 (2019): 92–99, <https://www.ejournal.sttmandalabdg.ac.id/index.php/jit/article/view/162>.

<sup>3</sup> Seri Megawati And Ansarullah Lawi, "Pengembangan Sistem Teknologi Internet Of Things Yang Perlu Dikembangkan Negara Indonesia," *Jieet (Journal Of Information Engineering And Educational Technology)* 5, No. 1 (June 16, 2021): 19–26, <https://doi.org/10.26740/jieet.v5n1.p19-26>.

<sup>4</sup> Gerarita Sitompul Meline, "Urgensi Legalitas Financial Technology (Fintech): Peer To Peer (P2p) Lending Di Indonesia," *Jurnal Yuridis Unaja* 1, No. 2 (2018): 68–79, <https://doi.org/10.5281/jyu.v1i2.428>.

stability, financial system stability, and an efficient, smooth, safe, and reliable payment system." Bank Indonesia categorizes financial technology as a payment system, market support, investment management, risk management, lending, financing and capital provision, and other financial services.<sup>5</sup> Financial technology must have the following criteria: "a. being innovative; b. affecting existing financial products, services, technologies, and/or business models; c. benefitting the community; d. being widely used, and e. others set by Bank Indonesia". Initially, direct or face-to-face payments would involve cash, but now electronic payment transactions can be done on smartphone applications.

Bank Indonesia organizes a Regulatory Sandbox (SR), a limited and safe test room to test a financial technology provider system accompanied by products service systems, technology systems, and models for running its business.<sup>6</sup> This RS is used to create an excellent financial technology provider service by the law, can manage risk, and is suitable for users. Based on the provisions of Article 12 paragraph (1) of the Bank Indonesia Regulation, it sets a period for the financial technology provider to conduct a trial in the Regulatory Sandbox. The agreement for lending and borrowing money using this financial technology system is called an electronic contract which is regulated in Law Number 19 of 2016 concerning Electronic Information and Transactions. Article 17 of the ITE law mentions "an electronic contract is an agreement between parties".

However, implementing Fintech Landing in the community still causes terrible credit problems, including loan services at Shopee to purchase goods. Service providers Shopee-Pay and Shopee Pay-Later recorded non-performing loans of 2%.<sup>7</sup> Included in the category highly monitored by the Financial Services Authority (OJK) is a financial technology platform or fintech lending. OJK closely monitors thirty-three fintech lending startups or online loans because the default rate of non-performing loans or loan payments for more than 90 days (TWP90) is more than 5%.<sup>8</sup> The data reveals that the level of non-performing loans is relatively small, so it has yet to be included in the OJK's monitoring category. This attracts the author to explore further and examine the settlement of bad credit at Shopee and the form of legal protection for PT. Commerce Finance as a Fintech Lending organizer in purchasing products at Shopee through Shopee Pay later payments. This paper distinguishes and expands on previous studies on the resolution of non-performing loans in financial technology companies<sup>9</sup>

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<sup>5</sup> Ratnawaty Marginingsih, "Financial Technology (Fintech) Dalam Inklusi Keuangan Nasional Di Masa Pandemi Covid-19," *Moneter - Jurnal Akuntansi Dan Keuangan* 8, No. 1 (April 1, 2021): 56–64, <https://doi.org/10.31294/Moneter.V8i1.9903>.

<sup>6</sup> Fitriah Hayati And Dan Cut Malinda, "Analisis Dampak Tayangan Televisi Terhadap Perilaku Bullying Di Tk Al-Mawaddah Kecamatan Suka Makmur Aceh Besar," *Jurnal Buah Hati* 7, No. 2 (September 16, 2020): 138–51, <https://doi.org/10.46244/Buahhati.V7i2.1188>.

<sup>7</sup> Desy Setyowati, "Kredit Bermasalah Shopee Paylater 2%, Dipantau Ojk?," <https://katadata.co.id/>, 2023, <https://katadata.co.id/Desysetyowati/Digital/64637f3a908e7/Kredit-Bermasalah-Shopee-Paylater-2-Dipantau-Ojk>.

<sup>8</sup> Setyowati.

<sup>9</sup> Hayati And Malinda, "Analisis Dampak Tayangan Televisi Terhadap Perilaku Bullying Di Tk Al-Mawaddah Kecamatan Suka Makmur Aceh Besar."

and the Efficiency of Implementation of Alternative Dispute Settlement for Fintech Lending Users<sup>10</sup>.

## **B. METHOD**

This research employed an empirical-juridical method which involved direct observation of applicable legal provisions and what happens in society.<sup>11,12</sup> Studying Shopee Application, this research focuses on the problems that arise from non-performing loans following the purchase of products at Shopee through Shopee Pay later payments and measures taken to give legal protection to PT Commerce Finance as a fintech lending organizer. This paper analyzes and describes descriptive-qualitative data comprehensively and with quality in organized, logical, and practical sentences.<sup>13,14</sup> The legal data were organized and processed to provide solutions to the problems discussed.<sup>15</sup> The primary data were sourced from interviews with Shopee Pay Later users and observations in the Shopee application.

## **C. RESULTS AND DISCUSSIONS**

### **1. Implementation of Purchase Transactions Using Shopee Pay Later: Unsecured Credit Transactions**

Shopping services at a marketplace like Shopee allow customers to use the Shopee Paylater payment feature which provides them a credit limit for purchase of items. Buying and selling on the Shopee platform requires electronic transactions with funds provided by a fund-lending facility. This Shopee Pay-later feature is the product of PT Commerce Finance, a financial lending service provider.

This sale and purchase transaction that uses the Shopee Pay-Later credit payment method enables buyers to buy goods as they wish without paying cash upfront, and they can pay under the terms of the applicable contract, known as the maturity that can be selected. PT Commerce Finance, as a lender, is tasked with funding the total bill for the marketplace. Therefore, the connection between the buyer and seller will be limited if something unwanted happens to the product purchased.

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<sup>10</sup> Zalna Tiara And Kukuh Tejomurti, "Efficiency Of Implementation Of Alternative Dispute Settlement For Fintech Lending Users," *Jurnal Scientia Indonesia* 8, No. 1 (April 30, 2022): 37–52, <https://doi.org/10.15294/jsi.v8i1.35951>.

<sup>11</sup> Jonaedi Efendi And Johny Ibrahim, *Metode Penelitian Hukum: Normatif Dan Empiris*, 2nd Ed. (Depok: Prenadamedia Group, 2018).

<sup>12</sup> Isdian Anggraeny And Wardah Dinnar Rahmadanti, "The Legality Issue Of The Financing Contract At The Sharia Rural Banks (Bprs) And The Solution In Sharia Agreement Law Perspective," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 9, No. 3 (November 19, 2020): 646–63, <https://doi.org/10.24843/jmhu.2020.V09.I03.P14>.

<sup>13</sup> Depri Liber Sonata, "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum," *Fiat Justisia: Jurnal Ilmu Hukum* 8, No. 1 (November 5, 2014), <https://doi.org/10.25041/fiatjustisia.v8no1.283>.

<sup>14</sup> Sajipto Raharjo, *Penegakan Hukum Suatu Tinjauan Sosiologis* (Yogyakarta: Genta Publishing, 2009).

<sup>15</sup> Mukti Fajar And Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2013).

In the role of electronic transactions, there are parties involved in online transactions bound to the Secure Electronic Transaction (SET) protocol standards in e-commerce:

- a. Cardholder (buyer);
- b. Issuer;
- c. Merchant;
- d. Acquirer;
- e. Payment Gateway; and
- f. Certificate Authority.

E-commerce is transacting goods or services through an information system that utilizes information technology, while e-commerce involves the distribution, purchase, sale, and marketing of goods and services through electronic systems. E-commerce can involve electronic funds transfer, electronic data exchange, automated inventory systems, and automated data collection systems.<sup>16</sup> Three payment methods commonly used in transactions using e-commerce are (1) Online Processing Credit Card, (2) Money Transfer, and (3) Cash on Delivery.

Purchasing goods at Shopee using the Shopee Paylater payment method enables consumers to pay on credit. The credit applied for this purchase does not require property guarantees but Special Guarantees.<sup>17</sup> A personal Guarantee (borgtoch /personal guarantee) is a statement of ability given by a third party to guarantee the fulfilment of the debtor's obligations to the creditor if the debtor breaches the contract. This issue is regulated in Articles 1820–1850 of the Civil Code. Regarding the personal Guarantee that has been agreed upon by the creditor and the third party, this is a relative right that can only be held by the person bound to an agreement.<sup>18</sup> In this case, the third party is the guarantor and performs the debtor's obligations.

The system provides this unique Guarantee with an agreement set by PT Commerce Finance as a fund provider to pay off the loan that the buyer or debtor is entitled to. The agreement between the parties that creates a credit financing agreement between PT Commerce Finance and the buyer as a party receiving the loan arises from a purchase transaction performed by the buyer at Shopee as the marketplace using the Shopee pay-later. This agreement must comply with a legal requirement specified for the parties using the Shopee Pay-later payment method under Article 1320 of the Civil Code which regulates the validity of the agreement<sup>19</sup>.

## 2. Non-Performing Loan Settlement in Credit Purchases with Shopee Pay-Later

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<sup>16</sup> Monica Djie, Vina Victor Lie, And Marselinus Asri, "An Overview Of Electronic Commerce," *Ssrn Electronic Journal*, December 11, 2018, <https://doi.org/10.2139/ssrn.3299134>.

<sup>17</sup> Tongat And Isdian Anggraeny, "Exploring Pawn And Its Legal Practices In Indonesia: A Study Of Challenges And Solution," *Journal Of Law, Policy And Globalization* 73, No. 0 (2018): 134–38, [www.iiste.org](http://www.iiste.org).

<sup>18</sup> Efektivitas Jaminan Perorangan Personal, Nur Intan Yuniarti, And Ambar Budhisulistyawati, "Efektivitas Jaminan Perorangan (Personal Guarantee) Dalam Menunjang Penyelesaian Kredit Bermasalah Di Bank Bri Cabang Surakarta Dan Bank Bni Syariah Cabang Surakarta," *Jurnal Privat Law* 8, No. 1 (February 2, 2020): 111–16, <https://doi.org/10.20961/privat.v8i1.40383>.

<sup>19</sup> Isdian Anggraeny, "Kata Sepakat Dalam Perjanjian Dan Relevansinya Sebagai Upaya Pencegahan Wanprestasi," *De Lega Lata: Jurnal Ilmu Hukum* 5, No. 1 (January 30, 2020): 57–66, <https://doi.org/10.30596/dil.v5i1.3446>.

The definition of credit is set out in Article 1 Number 11 of Law Number 7 of 1992, as amended by Law Number 10 of 1998 (hereinafter referred to as the Banking Law), stating that credit is the provision of money or bills that can be equated with it based on an agreement or borrowing and lending agreement between a bank and another party that requires the borrower to repay his debt after some time with interest.<sup>20</sup> The description above implies that credit involves the following elements:

- a. Trust;
- b. Agreement;
- c. Period;
- d. Risk.

Legal consequences are automatically born and bind the parties to an agreement. The two kinds of legal consequences of an agreement based on the Civil Code involve: "1) nullification or expiration of the agreement; and 2) breach of contract". An agreement ends if the parties involved have fulfilled the responsibilities. In the case of Shopee Pay later, an agreement ends when a loan is paid off as agreed upon. Furthermore, the responsibilities contained in the agreement have been fulfilled. In that case, the agreement ends, and the legal relationship between PT Commerce Finance and the buyer is said to have ended, as in Article 1754 of the Civil Code. Failing to fulfil obligations may result in a loss affecting one of the parties, and the party causing the loss must accept the legal consequences of his actions. In agreement, according to the applicable law, some matters become an absolute requirement. Under Article 1320 of the Civil Code, for the validity of agreements, four conditions are required<sup>21,22</sup>:

- a. Agreement of those bound to the agreement;
- b. Capacity to agree;
- c. A sure thing;
- d. A halal cause.

The above conditions allow for easier agreement for both parties. Implementing this agreement will minimize problems regarding the parties involved, thereby leaving it consistent with applicable laws. Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions also explains that electronic contracts are considered valid if<sup>23</sup>:

- a. There is an agreement between the parties;
- b. Performed by a legal subject who is capable or authorized to represent them under the provisions of laws and regulations;

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<sup>20</sup> Nur Putri Hidayah, Isdian Anggraeny, And Dwi Ratna Indri Hapsari, "Credit Dispute Resolution With Mortgage Right Warranties On Conventional Banking" 121, No. Inclar 2019 (2020): 24–28, <https://doi.org/10.2991/Aebmr.K.200226.005>.

<sup>21</sup> Anggraeny And Rahmadanti, "The Legality Issue Of The Financing Contract At The Sharia Rural Banks (Bprs) And The Solution In Sharia Agreement Law Perspective."

<sup>22</sup> Zora Febriena H.P Dwithia, "Penyuluhan Hukum Masyarakat Tentang Perjanjian Pengikatan Jual Beli," *Jurnal Dedikasi Hukum* 1, No. 2 (August 30, 2021): 135–43, <https://doi.org/10.2229/Jdh.V1i2.17356>.

<sup>23</sup> Kompas, "Peran Umkm Dalam Perekonomian Indonesia Halaman All - Kompas.Com," Kompas.Com, December 20, 2019, <https://www.kompas.com/skola/read/2019/12/20/120000469/Peran-Umkm-Dalam-Perekonomian-Indonesia?Page=All>.

- c. There is a particular matter; and
- d. The object of the transaction does not contravene the laws, decency, or public order.

The existence of laws and regulations must guarantee legal certainty to consumers so that their rights can be fulfilled and prevent the actions of business actors that have the potential to cause harm to consumers.<sup>24</sup> Regarding the agreement that has been mutually agreed upon, Article 1338 of the Civil Code states that all agreements that PT Commerce Finance and fund users have arranged are recognized as valid as those who have made their laws. Of course, this will cause a legal consequence: bad credit, default, or unlawful acts. Satrio argues that the following are forms of action that are deemed default<sup>25,26</sup>:

- a. Being able to fulfil their responsibilities in carrying out an obligation only if the implementation differs from the time that has been set.
- b. Being able to make payments but not by the agreement.
- c. Complete failure of the debtor to fulfil his obligations.

When a fund user fails to pay the monthly debt on the designated dates of the 5<sup>th</sup> and 11<sup>th</sup> of each month, the fund user will be declared committing a breach of contract. If a default takes place, a deliberation is held first between the parties. The form of deliberation is using the fund provider issuing a summons. PT Commerce Finance issues legal notice to the borrower of funds five days before the due date in the following forms:

- a. The first notification is in the form of a notification from the Shopee application to check the Shopee Paylater bill and a warning of immediate payment;
- b. If the monthly payment is one day late, PT Commerce Finance will make a phone call to the fund borrower and continue to provide Shopee Paylater bill warning notifications on an ongoing basis until the user pays the bill;
- c. If the bill has not been paid, PT Commerce Finance through the Shopee platform can take action not to allow buyers and users of funds to use the Shopee Pay later payment method until the bill is paid in full".

Disputes between the parties are settled through arbitration if measures taken for deliberation are not fruitful and payment is not made. The arbitration is held by BANI or the "Indonesian National Arbitration Board", or it can be submitted to the District Court. In this case, the arbitrator acts as the party leading the arbitration based on the credit financing agreement. The funded parties are responsible for bearing all costs incurred when legal action is taken.

In addition to the legal consequences above, unlawful conduct is one of the legal consequences arising from the legal relationship between a buyer and a funded party and PT Commerce Finance. This unlawful act will occur if the funder misuses the data of the funded party with the aim to "a) sell personal data and b) leak personal secrets of fund users." In this

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<sup>24</sup> Nurul Fibrianti, "Konsumen Indonesia: Dilindungi Dan Melindungi," *Jurnal Hukum Progresif* 11, No. 1 (April 30, 2023): 71–81, <https://doi.org/10.14710/Jhp.11.1.71-81>.

<sup>25</sup> Shelila Minati Karima, "Konsekuensi Hukum Wanprestasi Dalam Jual Beli Cengkeh," *Jurnal De Jure* 13, No. 1 (April 21, 2021), <https://doi.org/10.36277/Jurnaldejure.V13i1.530>.

<sup>26</sup> Isdiyana Kusuma Ayu, "Peningkatan Kesadaran Hukum Tentang Konsep Dan Problematika Pelaksanaan Hukum Gadai," *Jurnal Dedikasi Hukum* 1, No. 1 (April 27, 2021): 58–72, <https://doi.org/10.2229/Jdh.V1i1.16344>.

case, Article 26 of OJK Regulation No. 77/POJK.01/201 protects the data of fund users because it is confidential, and the funder must maintain its confidentiality. Fund users can make a report if they feel the funder is misusing their data. The report can be submitted to OJK, AFPI, or the "Indonesian Joint Funding Fintechs Association."

Unlawful conduct can also arise from fund users if their data are manipulated, likely to cause harm to the funder and other parties. Such actions done by fund users can be categorized as unlawful conduct according to Article 1365 of the Civil Code if the actions fulfil the following elements: "the existence of a legal act, the fault of one of the parties, the existence of unlawful acts, the existence of losses in one of the parties, the existence of a causal relationship between an agreement."

Debtors who do not make payments on the Shopee Pay Later bill are said to have defaulted. They are declared default under the following conditions: "failing to pay according to the specified due date and not paying the bill at all." As a consequence, such payment delay is likely to lead to a non-performing loan on Shopee Pay later.

Up to the time this paper is written, no decision has been made regarding the default dispute that Shopee Pay later users have committed. However, there have been many cases of default that the users of the financing features on credit at Shopee Pay Later have committed. Delayed bill payment by debtors is the common case. The research at PT Commerce Finance and the information obtained from the distribution of Google forms reveal that the following various factors have caused delayed payment by funded parties:

- a. Debtors forget the payment due date set by Shopee Pay later.
- b. Debtors are in a state of force majeure, such as the COVID-19 pandemic, which causes economic difficulties to meet their needs.
- c. The debtors lose jobs with sudden termination of employment, stopping them from duly paying instalments.

The above issues indicate that the default in the Shopee Paylater feature can have consequences affecting the application and the Shopee Paylater payment method users; in this context, the defaulting debtors on the Shopee Paylater organizer or PT. Commerce Finance decided not to take litigation or non-litigation measures to settle the dispute under applicable regulations in Indonesia. PT. Commerce Finance, as the organizer of Shopee Pay-later, only took steps to resolve this dispute internally and imposed fines restrictions on the use of Shopee. users cannot use the Shopee Pay-later payment method if they fail to pay off the debt.

To realize legal objectives, regulations are provided regarding how to solve legal problems to provide legal certainty to the public. This legal protection aims to protect society so that it can align with the objectives of the law, namely creating a sense of security and orderly conditions.

### **3. Legal Protection for PT. Commerce Finance as Fintech Lending organizer for purchasing products on Shopee via Shopee Pay later payments**

PT. Commerce Finance is a multi-finance company with business fields including consumer financing, leasing and factoring. Shopee Pay-later is a product initiated by PT



Commerce Finance, a financial technology service that provides loans. This financial technology is more often known as Fintech, resulting from a combination of financial services and technology, which ultimately changed the business model from conventional to modern, a transition from the conditions initially involving face-to-face and cash payments to the current conditions where transactions can be performed electronically.<sup>27</sup>

Electronic transaction activities and financial services are regulated by law through the policies required for implementation.

- a. Information technology-based money lending and borrowing service providers are called organizers according to Article 1 number 6 of the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning information technology-based money lending and borrowing services. The organizer is an Indonesian legal entity that provides, manages and operates information technology-based money lending and borrowing services.
- b. Meanwhile, according to article 1 point 7 of Financial Services Authority Regulation Number 77/PJOK.01/2016 concerning information technology-based money lending and borrowing services, loan recipients are people and legal entities with debts due to money lending and borrowing service agreements.

The financial technology or Fintech applied to Shopee Pay later is included in Peer-to-Peer Lending (P2P), bringing together lenders and borrowers via the Internet. Peer-to-peer lending can generally be interpreted as a transaction of lending and borrowing money through an online site by matching creditors and debtors without the usual conventional institutional processes and structures. Peer-to-peer lending involves funding that directly uses technology as a transaction site, potential borrowers, funders, and investors. Lending and borrowing through Peer-to-Peer lending can reduce operational costs and be more efficient.<sup>28</sup>

Parties carrying out transactions according to the ITE Law must use a mutually agreed electronic system. In this case, a legal consequence arises or is also called an "engagement" in the Civil Code as an implication of an agreement, a mutual agreement between the parties. The legal position and consequences between the parties when agreeing must be the same even though the Civil Code stipulates that contract law adheres to an open system.<sup>29</sup>

Article 18/40/PBI/2016 concerning the implementation of payment transaction processing was created to support the implementation of Fintech and e-commerce in Indonesia. This Bank Indonesia regulation regulates several matters regarding the accommodation of Fintech and E-Commerce innovation, consumer security and comfort, and maintenance of the equality of Fintech industry players in Indonesia.

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<sup>27</sup> Hayati And Malinda, "Analisis Dampak Tayangan Televisi Terhadap Perilaku Bullying Di Tk Al-Mawaddah Kecamatan Suka Makmur Aceh Besar."

<sup>28</sup> Sri Wahyuningsih, "Implementasi Peer To Peer Lending Di Indonesia, Layanan Pembiayaan Berbasis Financial Technology," *Jurnal Ilmiah Mahasiswa Feb* 8, No. 1 (September 30, 2019), <https://jimfeb.Ub.Ac.Id/Index.Php/Jimfeb/Article/View/6115>.

<sup>29</sup> Isdian Anggraeny And Nur Putri Hidayah, "Keabsahan Perjanjian Kerja Waktu Tertentu Dengan Konsep Remote Working Dalam Prespektif Undang-Undang Cipta Kerja," *Jurnal Hukum Dan Kenotariatan* 5, No. 1 (February 7, 2021): 52–73, <https://doi.org/10.33474/Hukeno.V5i1.9262>.

PT. Commerce Finance and Shopee are companies that collaborate in the digital sector. Shopee is a company that organizes online buying and selling transactions, commonly dubbed a marketplace. Meanwhile, PT. Commerce Finance is a fintech lending company that provides financial loans to Shopee users to purchase a product using the Shopee Pay-later payment system. This credit payment benefits both the company and the users, allowing buyers to purchase goods without a down payment and make instalments according to their abilities and the agreed maturity date. Meanwhile, companies can continue to increase spending on the place. Of course, the profit for the company is obtained from the interest percentage borrowed by users.

The legal protection of PT. Commerce Finance as the organizer of Fintech Lending in purchasing products or goods on Shopee through Shopee Pay-later payments is specified in the contract after the recipient of funds and the lender have agreed to make purchases using the Shopee Pay-later payment feature. The financing Agreement with contract No. 202109201551064293167080448 signed electronically on November 20, 2021, at 09.55.45 WIB by and between PT. Commerce Finance and Sintia Rahmah with the issuance of this contract agreement also sets out the rights and obligations of the parties, interest charged on delayed payment, dispute resolution, loan facilities, as well as notification on debt collection.

Based on the ITE Law, a money lending and borrowing agreement in financial technology is in the form of an electronic contract. This answers doubts regarding the validity of electronic contracts, often used in financial technology. Article 1 point 17 of the ITE Law states, "An electronic contract is an agreement between parties made through an electronic system". In this financing agreement contract, the rights and obligations of the parties and dispute resolution<sup>30</sup> are mentioned.

Legal protection for fintech lending through Shopee Pay later financing is protected by law from various implementation mechanisms. If non-performing loans take place, the following measures are taken by Shopee:

- a. Providing late payment notifications regarding debtor bills;
- b. Communicating via WhatsApp and SMS regarding payment delays;
- c. Allowing users to only purchase using the Shopee Pay-later method if the bill has been paid in full;
- d. Automatically reducing Shopee Pay later limits;
- e. Freezing Shopee's user accounts;
- f. PT. Commerce Finance, as the organizing party, can also report late payments to the Financial Information Services System (SLIK) and also to the Financial Services Authority (OJK);

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<sup>30</sup> Isdian Anggraeny et al., "Pendampingan Hukum Pengusaha UMKM Dalam Penyelesaian Sengketa Kontrak Bisnis," *CARADDE: Jurnal Pengabdian Kepada Masyarakat* 3, no. 3 (May 5, 2021): 527–36, <https://doi.org/10.31960/CARADDE.V3I3.731>.

- g. In carrying out a billing that cannot be responded to by users, PT. Commerce will also carry out billing in the field.

#### D. CONCLUSION

Several steps can be taken to purchase items using Shopee PayLater without providing collateral. First, for selected users, Shopee PayLater registration must be activated. When purchasing goods on Shopee using the Shopee Pay Later payment method, payments are made on credit with three-, six- and twelve-month payments pertaining to the selection made by users. PT. Commerce Finance, as a provider of funds through purchasing products from Shopee Pay later, determines the contents of a standard agreement where the agreement is only made by the party providing the funds. The resolution of non-performing loans at Shopee Pay later is by issuing a legal notice by PT Commerce Finance to borrowers before the due date, namely 5 days beforehand. Summons can be given as follows: "1) in the form of a notification from the Shopee application to check the Shopee Paylater bill and a warning of immediate bill payment; 2) If the party concerned is one day late making the monthly payment, PT Commerce Finance will make a telephone call to the borrower and continue to provide Shopee Paylater bill warning notifications continuously until the user pays the bill; 3) If the bill has not been paid, PT Commerce Finance through the Shopee platform can take action not to allow buyers and fund users to use the Shopee Pay later payment method until the bill is paid in full." Legal protection for PT. Commerce Finance as the organizer of fintech lending in purchasing products on Shopee via Shopee Pay later payments is seen from the beginning of the transaction process. This transaction uses an electronic signature system previously agreed in the electronic contract.

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