



# LEGAL FORCE OF ILLEGAL ONLINE LENDING AGREEMENTS AND CONSUMER PROTECTION IN INDONESIA

Dita Indah Sari<sup>1</sup>, Arief Budiono<sup>2</sup>

<sup>1,2</sup>Department of Law, Faculty of Law, Universitas Muhammadiyah Surakarta

## Article Info

### Keywords:

Consumer Protection;  
Contract Validity;  
Fintech Regulation;  
Illegal Online Lending;  
Standard Clauses.

## ABSTRACT

This study analyzes the legal validity and binding force of agreements in illegal online lending services and their implications for consumer protection in Indonesia. The rapid growth of fintech lending has increased the prevalence of illegal providers that operate outside the supervision of the Financial Services Authority (OJK). This research employs a normative juridical method using statutory and conceptual approaches. The study examines the Indonesian Civil Code, consumer protection regulations, and relevant financial service regulations. The findings show that agreements in illegal online lending services do not fulfill the lawful cause requirement under Article 1320 of the Indonesian Civil Code and may also involve defects of consent, rendering them legally defective or void. In addition, prohibited standard clauses weaken the binding force of such agreements against consumers. The study concludes that stronger regulatory enforcement and consumer protection mechanisms are necessary to ensure legal certainty in digital financial transactions.

*This is an open access article under the [CC BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) license.*



## Corresponding Author:

Dita Indah Sari  
Department of Law  
Universitas Muhammadiyah Surakarta  
[C100200283@student.ums.ac.id](mailto:C100200283@student.ums.ac.id)

## 1. INTRODUCTION

The rapid development of information and communication technology has significantly transformed the financial services sector through the emergence of financial technology (fintech). One of the most rapidly growing fintech services in Indonesia is online lending, particularly peer-to-peer lending, which provides easier public access to financing without conventional banking procedures [1], [2]. However, alongside this development, the proliferation of illegal online lending providers operating without registration or supervision from the Financial Services Authority (OJK) has created various legal problems.

Illegal online lending practices frequently harm consumers through unfair contractual mechanisms, non-transparent charges, misuse of personal data, and abusive collection practices [3]. Beyond administrative and criminal issues, the growth of illegal online lending also creates important civil law problems concerning the validity and binding force of agreements formed between providers and consumers. In practice, the legal relationship between the parties is primarily based on electronic agreements drafted unilaterally by providers, often placing consumers in a weaker bargaining position and potentially violating principles of fairness and balance in contract law [4].

Under Indonesian civil law, the validity of agreements is regulated under Article 1320 of the Indonesian Civil Code, which requires consent, legal capacity, a specific object, and a lawful cause. Agreements that fail to satisfy these requirements may be declared void or voidable. In the context of illegal online lending, the absence of business legality and the use of harmful standard clauses raise questions regarding whether such agreements

possess binding legal force against consumers [5]. Furthermore, Law Number 8 of 1999 concerning Consumer Protection guarantees protection against unfair business practices, including those arising in digital financial transactions [6]. These conditions demonstrate that illegal online lending is not merely a regulatory issue but also a contractual and consumer protection issue requiring deeper legal analysis [7].

Previous studies have mainly focused on OJK supervision, criminal law enforcement, and personal data protection in illegal online lending practices. Yulianto (2024), for example, emphasizes corporate criminal liability and institutional coordination in combating digital economic crimes [8]. Similarly, Fauzi and Hidayati (2024) analyze criminal sanctions related to the misuse of consumer data under electronic information and personal data protection laws [9]. Although these studies contribute to the discussion of illegal online lending, they generally do not position agreements as the primary object of legal analysis.

In fact, agreements constitute the main legal instrument underlying the relationship between consumers and online lending providers. Nevertheless, limited studies specifically examine whether agreements made by illegal online lending providers possess legal validity and binding force from the perspective of civil law and consumer protection law [10], [11]. This gap is important because illegal providers frequently rely on contractual agreements to legitimize practices that may harm consumers. Therefore, a comprehensive analysis of the validity and enforceability of such agreements is necessary to strengthen consumer protection and provide legal certainty in digital financial transactions.

Based on the foregoing discussion, this study aims to analyze the legal force of agreements in illegal online lending services and their implications for consumer protection in Indonesia. This study contributes theoretically to the development of contract law and consumer protection law in digital financial services, particularly regarding the validity of agreements involving illegal business actors. Practically, this study is expected to provide considerations for policymakers, law enforcement authorities, and financial regulators in strengthening legal protection mechanisms against illegal online lending practices.

## 2. RESEARCH METHODS

This study employs normative legal research with a descriptive-analytical approach. Normative legal research is used to examine legal norms governing agreements and consumer protection in illegal online lending services that operate without registration or supervision from the Financial Services Authority (OJK). The research focuses on the analysis of legal principles, statutory regulations, and the synchronization of legal norms related to contract validity and consumer protection in digital financial transactions [12]. This study is limited to the perspective of civil law and consumer protection law and does not examine criminal liability, empirical case studies, or specific court decisions.

The approaches applied in this research are the statutory approach and the conceptual approach. The statutory approach is conducted by examining relevant laws and regulations, including the Indonesian Civil Code, Law Number 8 of 1999 concerning Consumer Protection, Law Number 21 of 2011 concerning the Financial Services Authority, Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services, and regulations related to personal data protection and consumer complaints in the financial services sector [13]. Meanwhile, the conceptual approach is used to analyze legal concepts concerning the validity and binding force of agreements, standard clauses, consumer rights, and the responsibility of business actors in digital financial services [14].

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations directly related to online lending services and consumer protection. Secondary legal materials consist of legal textbooks, peer-reviewed journal articles, previous research, and scholarly publications discussing fintech lending, contract law, consumer protection, and digital financial regulation. These secondary materials were selected based on their relevance to the research topic, academic credibility, and contribution to the discussion of agreement validity and consumer protection issues. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting references used to clarify legal terminology and concepts.

The collection of legal materials was conducted through library research by identifying, inventorying, and reviewing relevant legal sources. The collected legal materials were then analyzed qualitatively using deductive reasoning methods, namely by drawing conclusions from general legal norms to specific legal issues concerning illegal online lending agreements. The analysis was carried out through legal interpretation methods, including grammatical, systematic, and teleological interpretation, as well as norm synchronization to assess the validity and binding force of agreements under prevailing laws and regulations. The results of the analysis are presented systematically to explain the legal status of agreements in illegal online lending services and their implications for consumer protection in Indonesia.

### 3. RESULT AND ANALYSIS

#### **Validity of Agreements in Illegal Online Lending Services under Article 1320 of the Indonesian Civil Code**

An agreement is the main legal basis for the relationship between online lending providers and consumers. Under Article 1320 of the Indonesian Civil Code, a valid agreement must fulfill four requirements: consent of the parties, legal capacity, a specific object, and a lawful cause [15]. These requirements must be analyzed cumulatively because each has different legal consequences. The requirements of consent and capacity are subjective requirements, while a specific object and lawful cause are objective requirements. Failure to fulfill subjective requirements may cause an agreement to be voidable, whereas failure to fulfill objective requirements may cause an agreement to be null and void.

In the context of illegal online lending services, the most important issue concerns the requirement of a lawful cause. The lawful cause requirement does not merely refer to the existence of a loan object or the transfer of money from provider to consumer. It must also be understood in relation to whether the legal relationship arises from activities permitted by law. Online lending providers that operate without registration or license from the Financial Services Authority (OJK) conduct financial service activities outside the legal framework established by the state. Therefore, the illegality of the provider is directly relevant to assessing whether the agreement has a lawful cause.

The relationship between Article 1320 of the Indonesian Civil Code and OJK regulations can be understood through systematic interpretation. Article 1320 establishes the general validity requirements of agreements, while financial service regulations determine whether an online lending business activity is legally permitted. If a provider conducts online lending activities without the required authorization, the agreement is not merely a private arrangement between two parties, but a contract arising from an unlawful business activity. In this situation, the unlawful nature of the provider's activity may affect the objective validity of the agreement, particularly the lawful cause requirement.

However, the conclusion that an agreement is null and void must be formulated carefully. Not every defect in an illegal online lending transaction automatically invalidates the entire agreement in the same way. If the agreement is considered to arise from an unlawful cause because the provider operates without legal authorization, then the agreement may be classified as null and void. By contrast, if the issue concerns the consumer's consent, such as consent obtained through misleading information, economic pressure, or lack of transparency, the agreement may be categorized as voidable. This distinction is important because null and void agreements are deemed to have no legal force from the outset, whereas voidable agreements remain valid until annulled by the entitled party.

In practice, consumers often agree to online lending contracts without adequate knowledge of the legal consequences. For example, illegal providers may display simplified loan approval information while hiding the actual interest rate, total repayment amount, administrative fees, or penalty structure. Such practices may affect the quality of consumer consent. If consent is obtained through mistake, fraud, or coercion, Article 1321 of the Indonesian Civil Code may become relevant as a basis for arguing that the agreement is voidable. Therefore, illegal online lending agreements must be examined not only from the legality of the provider but also from the process through which consumer consent is obtained.

#### **Prohibited Standard Clauses and Their Legal Consequences for Consumers**

Illegal online lending agreements are generally formed through electronic standard contracts prepared unilaterally by the provider. Consumers are not given a meaningful opportunity to negotiate the content of the agreement. They are only required to click approval or consent before obtaining access to funds. This contractual structure creates an imbalance of bargaining power between the provider and the consumer, particularly when the consumer is in urgent financial need.

The use of standard agreements is not prohibited in itself. However, standard clauses become legally problematic when they eliminate consumer rights, transfer responsibility to consumers, or give unilateral authority to business actors. Article 18 of Law Number 8 of 1999 concerning Consumer Protection prohibits standard clauses that transfer the responsibility of business actors, authorize unilateral actions, or bind consumers to rules made later by the business actor. In illegal online lending practices, these prohibited clauses may appear in clauses that allow the provider to determine interest rates unilaterally, impose excessive penalties, access consumers' contact lists, disclose personal data, or use aggressive debt collection methods.

For instance, a clause allowing the provider to access all personal contacts on the consumer's mobile phone cannot be viewed as an ordinary contractual term. Such a clause places consumers and third parties in a vulnerable position because their personal data may be used for intimidation or public shaming during debt collection. Similarly, clauses that allow the provider to change interest rates or penalties unilaterally conflict with the principle of transparency and fairness in consumer transactions. These practices show that the problem of

illegal online lending is not limited to administrative illegality but also involves substantive unfairness in contractual relations.

The legal consequence of prohibited standard clauses must also be distinguished from the invalidity of the entire agreement. Under consumer protection law, prohibited standard clauses are declared null and void by law. This means that the specific clauses detrimental to consumers do not have binding force. However, this does not always mean that the entire agreement is automatically null and void. If the defect lies only in certain standard clauses, then the legal consequence may be limited to the non-binding nature of those clauses against consumers. Therefore, the analysis must separate three possibilities: the agreement may be null and void due to unlawful cause, voidable due to defects of consent, or partially unenforceable because it contains prohibited standard clauses.

This distinction strengthens consumer protection because illegal providers cannot use formal consumer consent as a justification for enforcing unfair terms. Even if consumers have clicked “agree” in an electronic agreement, such consent does not validate clauses that are prohibited by law. The binding force of an agreement depends not only on the existence of consent but also on the legality, fairness, and compliance of the agreement with mandatory legal norms.

### **Reconsidering the Binding Force of Illegal Online Lending Agreements**

The principle of *pacta sunt servanda* states that legally made agreements bind the parties as law. However, this principle does not apply absolutely. It only applies to agreements that are validly formed and do not conflict with statutory regulations, public order, or morality. In illegal online lending, the application of *pacta sunt servanda* must therefore be limited by the legality of the provider, the validity of consumer consent, and the fairness of contractual clauses.

Illegal providers may attempt to rely on the agreement to demand repayment, impose penalties, or justify debt collection practices. However, such reliance is legally problematic when the agreement is formed within an unlawful business activity or contains clauses prohibited by consumer protection law. The principle of contractual freedom cannot be used to legitimize illegal financial services or harmful contractual terms. Contractual freedom must operate within the limits of legality, good faith, fairness, and consumer protection.

From the consumer’s perspective, the absence of complete binding force means that consumers should not be burdened with obligations arising from unlawful or unfair clauses. For example, consumers should not be legally bound by clauses allowing excessive interest, arbitrary penalties, unauthorized access to personal data, or intimidation-based collection practices. These clauses may be excluded from enforcement because they violate the protective function of consumer law.

Nevertheless, the legal analysis must also address the issue of funds already received by consumers. If an agreement is declared null and void due to unlawful cause, further legal questions may arise regarding restitution or the return of benefits already received. This issue shows that consumer protection does not necessarily mean eliminating all consumer obligations, but preventing illegal providers from enforcing unlawful profits, excessive charges, or abusive mechanisms. The core protection lies in ensuring that illegal providers cannot use defective agreements as instruments to legitimize practices that violate statutory norms.

Thus, the binding force of illegal online lending agreements should be assessed proportionally. The principal agreement may be challenged if it lacks lawful cause. The agreement may be annulled if consumer consent is defective. Certain clauses may be deemed non-binding if they violate the prohibition of standard clauses. This layered analysis provides a more precise legal framework than a general statement that all illegal online lending agreements are automatically null and void.

### **Legal Implications for Consumers, Illegal Providers, Regulators, and Law Enforcement Authorities**

The findings of this study have several legal implications. For consumers, the analysis confirms that they are not automatically bound by all terms imposed by illegal online lending providers. Consumers may challenge the validity of agreements based on unlawful cause, defects of consent, or prohibited standard clauses. This provides a legal basis for rejecting excessive interest, unreasonable penalties, unauthorized data access, and abusive collection mechanisms.

For illegal providers, the absence of registration or license from OJK weakens their legal position in enforcing agreements against consumers. They cannot rely on private agreements to justify business activities conducted outside the regulatory framework. In addition, prohibited standard clauses cannot be used as a basis to impose obligations on consumers. This means that contractual documents, electronic consent, or digital approval mechanisms do not automatically create enforceable rights if the underlying transaction violates mandatory legal norms.

For regulators, particularly OJK and related institutions, this analysis shows the need to strengthen preventive supervision and public legal literacy. The publication of legal provider lists, consumer warnings, complaint channels, and coordination with digital platforms are necessary to prevent illegal providers from using

electronic contracts as instruments of exploitation. Regulatory protection should not focus only on licensing but also on the substance of contractual terms used in online lending transactions.

For law enforcement authorities, the civil law dimension of illegal online lending should be considered alongside administrative and criminal enforcement. Enforcement should not only target the illegality of the provider but also examine whether the agreements used by illegal providers contain unlawful causes, defective consent, or prohibited clauses. This approach can prevent illegal providers from shifting responsibility to consumers by arguing that consumers had already agreed to the loan terms.

Therefore, consumer protection in illegal online lending requires an integrated legal approach. Contract law provides the basis for assessing the validity and binding force of agreements. Consumer protection law limits the use of unfair standard clauses. Financial service regulations determine the legality of providers. When these legal frameworks are read together, illegal online lending agreements cannot be treated as ordinary private contracts. They must be examined as legal instruments that may be used to legitimize unlawful and harmful practices.

#### **4. CONCLUSION**

This study concludes that agreements in illegal online lending services cannot automatically be regarded as legally binding contracts, particularly when they fail to satisfy the validity requirements under Indonesian contract law and contain prohibited standard clauses detrimental to consumers. The illegality of online lending providers operating without OJK authorization may affect the lawful cause requirement of agreements, while misleading practices and unequal bargaining positions may also create defects of consent. In addition, contractual clauses that authorize unilateral actions, excessive charges, unauthorized access to personal data, or abusive collection methods do not possess binding force against consumers under consumer protection law.

The findings of this study demonstrate that agreements used by illegal online lending providers cannot be relied upon as legal justification for practices that harm consumers. In this regard, the analysis of agreement validity and binding force provides an important legal framework for strengthening consumer protection in digital financial transactions. This study contributes to the development of contract law and consumer protection law by placing the validity and enforceability of agreements as the central analytical instrument in assessing illegal online lending practices.

Nevertheless, this study is limited to normative legal analysis and does not examine empirical consumer experiences or specific court decisions concerning illegal online lending disputes. Therefore, further research is recommended to explore the practical implementation of consumer protection mechanisms, judicial approaches to illegal online lending agreements, and the effectiveness of regulatory enforcement in protecting consumers in digital financial services.

## 5. REFERENCES

- [1] I. I. Afdania, "Tanggung Jawab Pidana Pelaku Usaha Pinjaman Online Ilegal," *Dinamika*, vol. 28, no. 9, pp. 4389-4412, 2022.
- [2] A. A. Agung and E. Erlina, "Perlindungan Hukum Terhadap Konsumen Pengguna Jasa Pinjaman Online," *Alauddin Law Development Journal*, vol. 2, no. 3, pp. 432-444, 2020.
- [3] R. Akyuwen, M. Nanere, and V. Ratten, "Technology Entrepreneurship: Fintech Lending in Indonesia," in *Entrepreneurial Innovation: Strategy and Competition Aspects*, Singapore: Springer Nature Singapore, 2021, pp. 151-176.
- [4] I. Atikah, "Consumer Protection and Fintech Companies in Indonesia: Innovations and Challenges of the Financial Services Authority," *Jurnal Hukum dan Peradilan*, vol. 9, no. 1, pp. 132-153, 2020.
- [5] S. L. Poernomo, "Perlindungan Hukum Konsumen terhadap Praktik Teknologi Finansial Ilegal dalam Bentuk Pinjaman Online Ilegal," *Mimbar Keadilan*, vol. 15, no. 1, pp. 134-148, 2022.
- [6] E. Chen et al., "Perlindungan Hukum Terhadap Konsumen Pengguna Pinjaman Online Ilegal," *Prosiding Serina*, vol. 1, no. 1, pp. 2045-2052, 2021.
- [7] H. S. Disemadi, M. A. Yusro, and W. G. Balqis, "The Problems of Consumer Protection in Fintech Peer to Peer Lending Business Activities in Indonesia," *Sociological Jurisprudence Journal*, vol. 3, no. 2, pp. 91-97, 2020.
- [8] Yulianto, "Kebijakan Hukum Pidana Terhadap Fenomena Pinjaman Online Ilegal," *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, no. 1, p. 710, 2024.
- [9] F. Rifa and M. N. Hidayati, "Kebijakan Penal dalam Perlindungan Data Pribadi Nasabah Fintech Lending di Indonesia," *Binamulia Hukum*, no. 2, pp. 461-481, 2024.
- [10] I. Febriansyah and N. A. Sinaga, "Legal Protection of Parties in Information Technology-Based Money Lending and Borrowing Service Contracts or Peer-to-Peer Lending," *JILPR Journal Indonesia Law and Policy Review*, vol. 6, no. 3, pp. 397-409, 2025.
- [11] F. Firmansyah et al., "Peran Otoritas Jasa Keuangan dalam Pencegahan Fintech Ilegal di Masyarakat," *Permana: Jurnal Perpajakan, Manajemen, dan Akuntansi*, vol. 14, no. 1, pp. 168-179, 2022.
- [12] A. Fritiana and S. A. Wiraguna, "Penyalahgunaan Data Pribadi pada Layanan Pinjaman Online: Analisis Perlindungan dan Sanksi Hukum," *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, vol. 3, no. 2, pp. 523-529, 2025.
- [13] Republik Indonesia, Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, 1999.
- [14] D. Indrawan, *Perlindungan Hukum terhadap Konsumen Pinjaman Online di Indonesia*, Disertasi, 2021.
- [15] Republik Indonesia, Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan, 2011.
- [16] Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 77/POJK.01/2016 tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi*, 2016.
- [17] Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 18/POJK.07/2018 tentang Pelayanan Pengaduan Konsumen Sektor Jasa Keuangan*, 2018.
- [18] I. Imanuddin and R. D. Anggraeni, "Construction of Consumer Protection Against Illegal Online Loan Transactions as a Means of Ius Constituendum in Indonesia," *Jurnal IUS Kajian Hukum dan Keadilan*, vol. 11, no. 3, pp. 539-556, 2023.
- [19] H. T. Sasmita, S. Kamilah, R. I. Wardodo, and T. D. S. W. Wicaksana, "Analisis Faktor Perlindungan Konsumen dalam Urgensi Pembentukan Undang-Undang Pinjaman Online (Peer-to-Peer Lending)," *Media Iuris*, vol. 5, no. 1, p. 39, 2022.
- [20] Y. Istanto, Z. I. E. Ramadhani, and S. M. Rohmah, "Legal Protection of Online Loan Consumers in the Perspective of Law Number 8/1999 on Consumer Protection and Law Number 27/2022 on Personal Data Protection," *ICCCM Journal of Social Sciences and Humanities*, vol. 3, no. 3, pp. 27-34, 2024.
- [21] R. Kusumaningsih and D. Yulianingsih, "Tantangan Regulasi dan Perlindungan Hukum dalam Pinjaman Online," *Jurnal Ilmu Sosial dan Humaniora*, vol. 2, no. 2, pp. 163-178, 2023.
- [22] M. A. Lubis and M. F. M. Putra, "Peer to Peer (P2P) Lending: Hubungan Hukum Para Pihak, Gagal Bayar, dan Legalitas," *Jurnal USM Law Review*, vol. 5, no. 1, pp. 188-204, 2022.
- [23] A. D. Martadikusuma, "Perlindungan Hukum bagi Konsumen dalam Transaksi Buy Now Pay Later (BNPL) di Indonesia: Tinjauan Regulasi dan Praktik Bisnis," *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, vol. 3, no. 2, pp. 489-504, 2025.
- [24] R. T. Mayrendra and A. Suryono, "Analisis Yuridis Peran OJK dalam Melakukan Perlindungan Hukum Korban Pinjaman Online Berdasarkan Peraturan Otoritas Jasa Keuangan Nomor 77/POJK.01/2016," *Journal of Contemporary Law Studies*, vol. 1, no. 1, 2023.
- [25] C. W. Muliani, "Perlindungan Hukum terhadap Nasabah Pengguna Layanan Pinjaman Online Ilegal Menurut Peraturan OJK No. 77/POJK.01/2016 tentang Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi," *Dinamika*, vol. 28, no. 9, pp. 4372-4388, 2022.
- [26] S. Nida, "Pengaturan Perlindungan Konsumen serta Mitigasi Risiko Pinjaman Online di Indonesia," *ADIL: Jurnal Hukum*, vol. 14, no. 2, pp. 68-89, 2023.

- 
- [27] A. Nurhaliza and I. Haryanto, "Implementasi Kebijakan Moratorium Fintech Peer-to-Peer Lending terhadap Perlindungan Konsumen," *Jurnal USM Law Review*, vol. 7, no. 3, pp. 1193-1210, 2024.
- [28] Y. Pebriansyah et al., "Perlindungan Hukum terhadap Konsumen Fintech Pinjaman Online," *Syntax Literate: Jurnal Ilmiah Indonesia*, vol. 7, no. 9, pp. 15196-15211, 2022.
- [29] I. D. S. Saimima and V. G. Patria, "The Fintech Phenomenon: Protection of Consumer Privacy Data in Online Lending," *Jurnal Kajian Ilmiah*, vol. 21, no. 2, pp. 185-194, 2021