

**JURIDICAL STUDY OF FINANCIAL TECHNOLOGY
CUSTOMER PERSONAL DATA PROTECTION**

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Abstract

Financial technology or what is often called fintech, is an innovation in technology combined with finance so that it can make it easier for people to make transactions anywhere and anytime without having to leave the house. The presence of fintech provides various conveniences for society, but with various conveniences there is a risk that lurks in the community, namely the personal data of fintech users which is prone to being leaked and misused by irresponsible parties. To protect personal data, a legal umbrella or personal data protection is needed to provide a sense of security in fintech transactions.

With the enactment of Law Number 27 of 2022 concerning Protection of Personal Data and Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector and other regulations related to the protection of personal data, especially in the field of financial technology, which complement each other can be implemented well so as to provide protection and sanctions for misuse of personal data.

Keywords: Protection, Personal Data, Financial Technology

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INTRODUCTION

In its development, fintech is able to compete with conventional banking, which encourages banks to innovate so as not to be left out of the market. In fact, according to the 2021 edition of the State of Finance Marketing report released by AppsFlyer (the world's leading analysis and attribution company/platform) states that Indonesia is in third place as the country with the most financial application installations.¹The rapid development of Fintech in Indonesia brings quite big challenges regarding the protection of fintechcustomers' personal data.

One of the fintech services that is familiar to the public is fintech-peer to peer lending (p2pl) or online loans. Fintech-p2pl or online loans is a type of fintech circulating in society. Fintech-p2pl is a platform that provides a forum for bringing together funders and borrowers which is carried out by making agreements via the internet (online). Based on the Financial Services Authority Regulations, fintech-p2pl or Information Technology Based Money Lending and Borrowing Services (LPMUBTI) is the provision of financial services to bring together lenders and loan recipients in order to carry out lending and borrowing agreements in rupiah currency directly through an electronic system using the internet network. ²Information technology-based money lending and borrowing services (online loans) can increase service coverage even to remote areas. This makes fintech peer to peer lending or online loans a favorite in the world of fintech.

The positive impact that fintech provides cannot be denied in the Indonesian economy, which encourages the growth of MSMEs (Micro, Small and Medium Enterprises), but apart from its advantages, fintech also has risks. Risks in the world of fintech include eavesdropping, hacking, dissemination of personal data and cyber crime, which make customers worried and reluctant to make transactions in the world of fintech. One of the risks that has occurred in the world of fintech is personal data breaches, such as the case of leaking Rupiah Plus customer data, Line Pay as a gateway payment which is a small part of personal data breaches in the world of fintech. According to the Jakarta Legal Aid Institute (LBH), it received 1,330 complaints regarding fintech lending applications as of November 25 2018, indicating that there were 14 violations of law and human rights and 89 platforms were reported, 25 of which were legal platforms known to have the initials DR, RP, PY, TK, KP , DC, DI, RC, PG, UM, EC, CW, KV, DB, CC, UT, PD, PG, DK, FM, ID, MC, RO, PD, and KC.³

¹Intan Nurmala Sari, "Indonesia is the Third Highest Fintech User in the World" (Jakarta, 2021), <https://katadata.co.id/intannirmala/digital/60d1c95ea19bb/indonesia-user-fintech-tertinggi-ketiga-di-dunia>.

²Financial Services Authority, "Financial Services Authority Regulation Number 77/PJOK.041/2016" (2016), <https://www.ojk.go.id/id/regulation/otoritas-jasa-keuangan/peraturan-ojk/Pages/POJK-Number-77-POJK.01-2016.aspx>.

³Pingit Aria, "LBH Records 14 Alleged Fintech Violations, Including Legal ones - Katadata.Co.Id," [katadata.com](https://katadata.co.id/pingitaria/digital/5e9a558d29c45/lbh-buat-14-alleged-fintech-violations-including-legal-ones), December 2018, <https://katadata.co.id/pingitaria/digital/5e9a558d29c45/lbh-buat-14-alleged-fintech-violations-including-legal-ones>.

The European Charter of Human Rights (ECHR, 2000) and the ASEAN Human Rights Declaration (AHRD, 2012) have recognized the right to personal data protection as a type of human right. The right to protection of personal data is a right resulting from the integration of the right to information and the right to privacy which has gone through a long evolution since the recognition of human rights in the Universal Declaration of Human Rights (UDHR, 1948).⁴

Personal data is true and real information that is attached to a person, so that it can identify that person. The importance of protecting personal data is to ensure that a person's personal data collected is used in accordance with the purpose of collection, so that data misuse does not occur.⁵

Privacy is not directly included in the 1945 Constitution. However, indirectly the right to privacy is contained in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

There are many cases of dissemination and access of personal data by fintech providers, especially peer-to-peer lending (p2pl) without access permission from the owner. Fintech does provide attractive and easy services, but this business has potential risks, there are at least two potential risks in Fintech that were revealed by the OJK, namely; First, consumer data security, with consumer information in the Fintech company's database, there are potential risks related to consumer data privacy and transaction data which can be misused by irresponsible parties. The second risk is transaction errors. Fintech digital payments require very strong information technology infrastructure system management so that it can support the entire transaction process well. This infrastructure system includes software management, network & connectivity management, and security management.⁶

The state makes various regulations in order to protect customers/consumers from bad things that might happen in the world of fintech. This form of consumer legal protection is to guarantee the confidentiality of consumers' personal data, which must be protected and if not protected, it can be bought and sold by other parties for personal gain.⁷

Before entering the world of fintech, customers are asked to read the applicable terms and conditions. However, in reality, many customers are not wise and simply pass by, which creates the potential for fintech providers to misuse consumer data. When a fintech operator obtains permission to access customer data, the fintech operator does not maintain the confidentiality of customer data as stipulated by law and other regulations in the interests of the fintech operator.

Based on the description above, this research further discusses legal protection for financial technology customers' personal data.

⁴Ayu Ananthia, Titis Anindyajati, and Abdul Ghoffar, "Protection of Privacy Rights for Personal Data in the Digital Economy Era," Center for Research and Study of Cases and Library Management of the Registrar's Office of the Secretariat General of the Constitutional Court, 2019, p. 9.

⁵Ananthia, Anindyajati, and Ghoffar, p. 10.

⁶Financial Services Authority, Study of Consumer Protection in the Financial Services Sector: Consumer Protection in Fintech (Indonesia: Financial Services Authority, 2017), p. 28, <https://lms.ojk.go.id/OJK/FrontendLibrary/DetailCatalog/Detail/2/10282>.

⁷Arfian Setiantoro et al., "The Urgency of Consumer Legal Protection and E-Commerce Dispute Resolution in the Era of the ASEAN Economic Community," *Rechtsvinding Journal* 7, No. 1 (2018).

DISCUSSION

A. Financial Technology Legal Regulations in Indonesia

Progress and innovation are changing people's habits from traditional transactions to digital transactions which make transactions easier. Digital transactions are something that cannot be separated from financial technology (fintech). However, until now there is no standard word for financial technology (fintech).

Fintech is an innovation due to the sharp development of information in the field of technology and information. Fintech consists of products which are usually systems that are built in such a way for the purpose of carrying out specific financial transaction mechanisms. Fintech is a general matter, and is not limited to one financial services industry.

According to Bank Indonesia Regulation Number 19/12/PBI/2017 concerning the Implementation of Financial Technology, financial technology is the use of technology in financial systems that produce products, services, technology, and/or efficiency, smoothness, security and payment system constraints.⁸ Meanwhile, Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector does not mention fintech clearly but instead calls it Financial Sector Technological Innovation (ITSK) which is a technology-based innovation that has an impact on products, activities, services and business models in the digital financial ecosystem.⁹ Both the meanings of fintech and financial sector technological innovation (ITSK) are the same even though they used different terms.

In the world of fintech, there are various sectors and services, such as crowdfunding or fundraising, microfinancing, peer to peer lending (p2p lending), market comparison, digital payment systems, to digital banking or digital banking, all of which are supervised by Bank Indonesia and Financial Services Authority.

Based on data from the Institute for Development of Economics and Finance or INDEF in 2018, it shows that the p2p lending/pindar fintech industry has made contributions in the following forms:¹⁰

1. Labor absorption was 215,433 people;
2. Stimulating banking growth by 0.8%, finance companies by 0.6%, and information & communication technologies by 0.2%;
3. Increase gross domestic product by IDR 25.97 trillion;
4. Increase income (wages and salaries) by IDR 4.56 trillion.

The government has created various rules and regulations to provide legal protection and certainty to both fintech service providers and fintech users or

⁸Bank Indonesia, "Bank Indonesia Regulation no. 19/12/PBI/2017 of 2017 concerning the Implementation of Financial Technology," Bank Indonesia, 2017, <https://peraturan.bpk.go.id/Home/Details/135776/peraturan-bi-no-1912pbi2017-tahun-2017>.

⁹Republic of Indonesia, "Law of the Republic of Indonesia Number 4 of 2023 concerning Development and Strengthening of the Financial Sector," Pub. L.No. 4, JDIH Ministry of Finance (2023), article 1 paragraph (34), <https://jdih.kemenkeu.go.id/download/58fac07c-7165-4c55-882d-965687f8090b/UU4TAHUN2023.pdf>.

¹⁰Financial Services Authority, Book 7-Other Financial Services Institutions, Higher Education Level Financial Literacy Series, Financial Services Authority, 2019, p. 243, <https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/DetailMateri/206>.

customers. One of the regulations regarding fintech is Bank Indonesia Regulation Number 19/12/PBI/2017 concerning the Implementation of Financial Technology and Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector.

In BI regulations, financial technology is categorized into:¹¹

- a. Payment system;
- b. Market support;
- c. Investment management and risk management;
- d. Loans, financing and providing capital; And
- e. Other financial services.

If the BI regulations only mention 5 (five) scopes of financial technology (fintech) but in the Law on the Development and Strengthening of the Financial Sector Chapter other:¹²

- a. Payment system;
- b. Settlement of securities transactions;
- c. Capital raising;
- d. Investment management;
- e. Risk management;
- f. Collection and/or distribution of funds;
- g. Market support;
- h. activities related to digital financial assets, including crypto assets; And;
- i. Other financial services activities.

ITSK organizers must apply the principles below in carrying out their business activities;¹³

- a. Governance;
- b. Risk management;
- c. Information system security and reliability including cyber resilience;
- d. Consumer protection and personal data protection; And
- e. Fulfillment of statutory provisions.

The Law on the Development and Strengthening of the Financial Sector which also regulates Financial Sector Technological Innovation or abbreviated as ITSK, another term for fintech.

In its implementation, there are regulations and the role of institutions, as follows:

- a. *Regulatory Sandbox*

Regulatory Sandbox is a space for conducting limited trials on products, services, technology and/or business models of Financial Technology Operators. In the Regulatory Sandbox, Financial Technology Providers and Bank Indonesia

¹¹Bank Indonesia, "Bank Indonesia Regulation No.19/12/PBI/2017 concerning the Implementation of Financial Technology," Pub. L.No. 19/12/PBI/2017 (2017), article 3 paragraph (1), https://www.bi.go.id/id/publikasi/peraturan/Pages/pbi_191217.aspx.

¹²Republic of Indonesia, Law of the Republic of Indonesia Number 4 of 2023 concerning Development and Strengthening of the Financial Sector, article 213.

¹³Republic of Indonesia, article 215 paragraph (3).

jointly monitor and evaluate innovations in financial technology products, services, technology and/or business models.¹⁴

Based on Article 1 number 4 of Financial Services Authority Regulation no. 13/PJOK.02/2018 concerning Digital Financial Innovation in the Financial Services Sector, the regulatory sandbox is a testing mechanism carried out by the Financial Services Authority to assess the reliability of the Organizer's business processes, business models, financial instruments and governance.¹⁵ SEOJK Number 21/ SEOJK.02/2019 which specifically explainstheregulatorysandbox.

The implementation of the Regulatory Sandbox is carried out using the following mechanism, namely:¹⁶

1. determination of the Organizer as a Prototype; Determination of the Regulatory Sandbox object prototype is determined based on the agreement of the Panel Forum.
2. evaluation and experimentation.

The Regulatory Sandbox is implemented for a maximum period of 1 (one) year and can be extended for 6 (six) months if necessary and during the implementation of the Regulatory Sandbox.¹⁷

The results of the implementation of the Regulatory Sandbox for the Organizer are stated with the status:¹⁸

- 1) recommended;

If a Provider has recommended status, the Financial Services Authority will provide registration recommendations in accordance with the Organizer's business activities.

- 2) repair; or

If the Operator has repair status, the Financial Services Authority can grant a maximum extension of 6 (six) months from the date of status determination to the Operator to make the necessary improvements as long as the Regulatory Sandbox process period remains.

- 3) not recommended.

The organizer has the status of not being recommended, the organizer cannot reapply for the same IKD and is removed from the registration as an organizer.

If business actors or financial technology providers are determined to carry out their business without permission from the Financial Services Authority, then

¹⁴ME Dewi Sartika Nasution, M.Ec Muhammad Muhajir Aminy, ME Lalu Ahmad Ramadani and M.SI : Dr. Muhamad Yusup, Digital Economy, Researchgate.Net, 2019, p. 69, www.sanabil.web.id.

¹⁵Financial Services Authority, "Financial Services Authority Regulation no. 13 /POJK.02/2018 of 2018 concerning Digital Financial Innovation in the Financial Services Sector," JDIH BPK RI § (2018), article 4 paragraph (1), <https://peraturan.bpk.go.id/Home/Details/128618/peraturan-ojk-no-13-pojk022018-tahun-2018>.

¹⁶Financial Services Authority, "Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 21/SEOJK.02/2019 Concerning Regulatory Sandbox," Pub. L.No. 21/SEOJK.02/2019, Financial Services Authority (2016), <https://www.ojk.go.id/id/regulation/otoritas-jasa-keuangan/surat-edaran-ojk-dan-dewan-komisioner/Documents/Pages/Regulatory-Sandbox/seojk-21-2019.pdf>.

¹⁷Financial Services Authority, Financial Services Authority Regulation no. 13 /POJK.02/2018 of 2018 concerning Digital Financial Innovation in the Financial Services Sector, articles 9-10.

¹⁸Financial Services Authority, Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 21/SEOJK.02/2019 concerning Regulatory Sandbox.

this constitutes cyber crime. Crimes that use computers/cellphones and the internet and attack electronic systems, human dignity, personal data and material/immaterial assets of a person or legal entity.¹⁹

b. Bank Indonesia Regulates Financial Technology Traffic

The transfer of banking authority which was initially supervised by Bank Indonesia (BI) since 2012 has transferred banking supervision to the Financial Services Authority (OJK). The transfer of banking supervision duties to the OJK has made BI focus on regulating payment transactions, including fintech payment systems.

BI regulates fintech through two main regulations. PBI Regulation No. 19/12/PBI/2017 concerning Financial Technology Behavior and Regulation of Members of the Board of Governors Number 19/14/PADG/2017 concerning Regulatory Sandbox.

BI becomes a facilitator in providing land for payment traffic and becomes an analyst for business actors related to fintech in providing views and direction on how to create a safe and orderly payment system. Apart from that, BI has the initiative to carry out monitoring and assessment of every business activity involving fintech and payments systems using technology.

Regarding its role in maintaining orderly fintech payment traffic, the presence of BI is important to ensure protection for consumers, especially regarding guaranteeing the confidentiality of consumer data and information via cyber security networks. The emphasis is on business actors. Furthermore, in terms of savings, loans and capital investments, BI requires every business actor to comply with macroprudential regulations, deepening of financial markets, payment systems to support operations and cyber security to protect consumer data and information.²⁰

Bank Indonesia also took the initiative to ensure the security and order of payment traffic by:²¹

1. Facilitator

Bank Indonesia is a facilitator in providing land for payment traffic

2. Intelligent business analyst

Through collaboration with international authorities and agents, Bank Indonesia becomes an analyst for business actors related to FinTech to provide views and direction on how to create a safe and orderly payments system.

3. Assessment

Bank Indonesia carries out monitoring and assessment of every business activity involving FinTech and payments systems using technology.

4. Coordination and Communication

¹⁹Rizky PP Karo Karo and Laurenzia Luna, "Supervision of Financial Technology Through a Regulatory Sandbox by Bank Indonesia or the Financial Services Authority Based on a Dignified Justice Perspective," *Scientific Journal of Administrative Sciences* 2, no. 2 (2019): p. 123, <http://ojs.stiami.ac.id>.

²⁰Ilya Avianti and Triyono, *Fintech Ecosystem in Indonesia* (Jakarta: PT. Kaptain Communications Indonesia, 2021), p. 144, <http://repository.unsada.ac.id/cgi/oai2>.

²¹Diah Ayu Fauji and Moch. Wahyu Widodo, *Financial Technology*, ed. Diah Ayu Fauji, Publisher of the Faculty of Economics, Nusantara University PGRI Kediri (Kediri: Publisher of the Faculty of Economics, Nusantara University PGRI Kediri, 2020), p. 12, http://repository.unpkediri.ac.id/2949/3/62401_0711098703_SIMILARITYFINTECH.pdf.

Bank Indonesia maintains relations with the relevant authorities to continue to support the existence of FinTech payment systems in Indonesia. Bank Indonesia is also committed to supporting business actors in Indonesia by providing regular guidance regarding fintech.

c. Financial Services Authority as Financial Technology Aggregator for Finance, Peer-to-peer Lending, and Financial Consulting

The Financial Services Authority is an independent state institution formed based on Law Number 21 of 2011, its role in managing finances in Indonesia is very important. Based on the law, the main function of the OJK is to organize an integrated regulatory and supervisory system for all activities in the financial services sector, both in the banking sector, capital markets, and the non-bank financial services sector such as insurance, pension funds, financial institutions, and other financial services institutions.

In Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector in conjunction with Law Number 21 of 2011 concerning the Financial Services Authority, it is stated that the OJK's task is to carry out regulatory and supervisory duties over activities in the ITSK sector as well as digital financial assets and crypto assets.

In general, OJK is tasked with reviewing and studying fintech developments occurring in the country. On the other hand, the Financial Services Authority is also required to be able to prepare regulations and development strategies. On the other hand, the Financial Services Authority also has the authority to protect consumers' interests regarding the security of funds and data as well as national interests related to preventing money laundering and terrorism financing, as well as financial system stability.²²

OJK's authority relating to financial technology based on Law Number 21 of 2011 on the Financial Services Authority is:

1. determine OJK regulations and decisions (Article 8 letter c);
2. establish regulations regarding supervision in the financial services sector (Article 8 letter d);
3. determine regulations regarding procedures for imposing sanctions in accordance with the provisions of laws and regulations in the financial services sector (Article 8 letter i);
4. establish operational policies for supervision of financial services activities (Article 9 letter a);
5. determine administrative sanctions against parties who violate laws and regulations in the financial services sector (Article 8 letter g);
6. grant and/or revoke:
 - a. business permit;
 - b. individual permission;
 - c. the effectiveness of the registration statement;
 - d. registered certificate;
 - e. approval to carry out business activities;
 - f. validation;
 - g. approval or determination of dissolution; And
 - h. other determination.

²²Avianti and Triyono, Fintech Ecosystem in Indonesia, p. 127.

d. Investment Alert Task Force (SWI)

With the proliferation of various fintechs circulating among the public, including illegal or fraudulent fintechs, the Financial Services Authority took the initiative together with law enforcers and other authorities to form an Investment Alert Task Force (SWI) where customers or fintech users who experience problems using fintech can report and complain about their problems.

The Investment Alert Task Force was established through the Decree of the Chairman of Bapepam and LK Number: Kep-208/BL/2007 dated 20 June 2007 for the 2007 term of office which is renewed every year. After the transfer of duties and functions of Bapepam and LK to become the Financial Services Authority (OJK), the Investment Alert Task Force Decree was updated through the Decree of the OJK Board of Commissioners Number: 01/KDK.04/2013 dated 26 June 2013.²³

The investment alert task force carries out prevention efforts by actively educating and outreaching, with the aim of targeting financial services industry players and the public. Focus on preventing the emergence of practices of collecting public funds and managing investments by parties who do not have permits or abuse permits. Furthermore, the investment alert task force also monitors potential unlawful acts in the field of collecting public funds and managing investments.²⁴

Article 284 paragraph (1) explains that if the ITSK organizer have obtained permission from the relevant financial sector authorities who carry out activities that are not in accordance with their regulations and/or violate the provisions in article 220 paragraph (1) and article 221 paragraph (1) will be subject to administrative sanctions by the Financial Services Authority in accordance with their respective authorities.²⁵

Apart from being subject to administrative sanctions, violating licensing provisions can also be punished with a minimum imprisonment of 5 (five) years and a maximum of 10 (ten) years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 1,000,000,000,000.00 (one trillion rupiah).) article 304 of the PPSK Law.

Differences in fintech regulations before and after Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector.

No	Difference	Previous Regulations	UU no. 4 of 2023
1.	Term	Financial Technology, Digital Financial Innovation	Financial Sector Technology Innovation
2.	Scope	5 (five) categories	9 (Nine) categories
3.	Principle	Consumer protection	Consumer protection

²³Financial Services Authority, "OJK Strengthens Investment Alert Task Force," Financial Services Authority, 2016, <https://www.ojk.go.id/waspada-investasi/id/berita/Pages/OJK-Perkuat-Satgas-Waspada-Investasi.aspx>.

²⁴Avianti and Triyono, Fintech Ecosystem in Indonesia, 139.

²⁵Republic of Indonesia, Law of the Republic of Indonesia Number 4 of 2023 concerning Development and Strengthening of the Financial Sector, article 284 paragraph (1).

			and personal data protection
4	Fintech establishment requirements	There is	There isn't any
5.	Fintech Association	There isn't any	There is

Table1. Differences in Regulations before Law no. 4 in 2023

B. Legal Protection of Personal Data of Financial Technology Customers in Indonesia

Opinions regarding the protection of personal data are driven by increasingly developing technological developments, with various benefits that can be received by crime following and increasingly developing technology.

Personal data is classified into a person's right to privacy, which is a right inherent in the individual. The 1945 NRI Constitution indirectly regulates the right to privacy in article 28G paragraph (1) as follows: "Every person has the right to protection of himself, his family, honor, dignity and property under his control, as well as the right to a sense of security. and protection from the threat of fear of doing or not doing something that constitutes a human right."

According to Holvast, privacy is synonymous with freedom, control and self-determination.²⁶ The concept of privacy as a human right is protected and recognized in article 12 of the UDHR (General Declaration of Human Rights) or UDHR (Universal Declaration of Human Rights).

Dutch Government Law Literature, the term "rechtsbescherming van de burgers tegen de overheid" is used in the term legal protection for the people. This concept is interpreted to mean that people's rights are guaranteed from government legal actions (bestuursrechtshandelingen) which conflict with statutory regulations and "general principles of good government" (AAUPB) in enforcement. The General Principals of Good Governance.²⁷

According to Philipus M. Hadjon, legal protection is the protection of honor and dignity, as well as the recognition of human rights possessed by legal subjects based on legal provisions against arbitrariness.²⁸

Anastasia E. Semyonovkh states that legal protection is one of the elements of legal impact, along with legal institutions, legal management and legal

²⁶Jan Holvast, "History Of Privacy In The Future Of Identity In The Information Society," IFIP Advances in Information and Communication Technology, 2008, https://link.springer.com/content/pdf/10.1007/978-3-642-03315-5_2.pdf.

²⁷I Dewa Gede Atmadja and I Nyoman Putu Budiarta, Legal Theories (Setara Press, 2018), p. 165.

²⁸Philipus M Hadjon, "Legal Protection for the People in Indonesia: A Study of the Principles of... - Philipus M. Hadjon - Google Books," Bina Ilmu, 1987, p. 25, https://books.google.co.id/books/about/Perlindungan_Hukum_bagi_rakyat_di_Indone.html?id=zzjaGwAACAAJ&redir_esc=y.

regulation. ²⁹R. La Porta in the Journal of Financial Economics, the form of legal protection provided by a State has two characteristics, namely preventive and punitive. The most obvious form of legal protection is the existence of law enforcement institutions such as courts, prosecutors, police and non-litigation dispute resolution institutions. ³⁰The protection referred to is of a preventive nature (prohibited), namely making regulations, while the protection referred to is punitive (sanction), namely enforcing regulations). ³¹

The right to privacy through data protection is not only important but also a key element for individual freedom and dignity. Data protection is a strong driver for the realization of political, spiritual, religious and even sexual freedom. The right to self-determination, freedom of expression and privacy are rights that are important to make us human. ³²

Problems regarding personal data start from the leaking of customer/consumer personal data on various fintech platforms (applications) and being sold on Raidforums (dark web) sites, making consumers/customers suffer losses and the leaked data is vulnerable to misuse. The public encourages the government to protect personal data so that people are not harmed when using financial technology as fintechcustomers.

The government's efforts to protect personal data are by passing Law Number 27 of 2022 concerning Personal Data Protection. Prior to the Personal Data Protection Law Number 27 of 2022, personal data protection was regulated in the Minister of Communication and Information Regulation Number 20 of 2016 concerning the Need for Protection of Personal Data in Electronic Systems. Meanwhile, in consumer protection in Law Number 8 of 1999 article 4 letter a states consumer rights, namely the right to comfort, security and safety in consuming goods and/or services.

In Law Number 27 of 2022 concerning Protection of Personal Data, article 1 paragraph (2) states that Personal Data Protection is the overall effort to protect Personal Data in the process of processing personal data in order to guarantee the constitutional rights of Personal Data subjects, article 1 paragraph (6) of the Law - Law Number 27 of 2022 concerning Protection of Personal Data explains that the subject of personal data is an individual to whom personal data is attached. ³³

In the explanation of Law Number 27 of 2022 concerning the Protection of Personal Data, the principle of protection is used, where the "principle of protection" is that every processing of Personal Data is carried out by providing protection to the Personal Data Subject over his Personal Data and that Personal

²⁹Anastasia E Semyonovkh, "Legal Protection and Legal Defense: Approaches to the Study of Concepts," EURO-ASIAN LAW CONGRESS 2021, 2022, <https://doi.org/10.1051/shsconf/202213400122>.

³⁰Wahyu Wahyu Sasongko, Basic Provisions of Consumer Protection Law (Lampung University, 2007), p. 31.

³¹Rizal Yanuar, "Implementation of Four-Wheeled Motor Vehicle Financing Agreements with Fiduciary Guarantees at PT. Armada Finance Cirebon Branch," 2008, 93.

³²Sinta Dewi, "The Concept of Legal Protection of Privacy and Personal Data Linked to the Use of Cloud Computing in Indonesia," Yustisia Jurnal Hukum 5, no. 1 (April 1, 2016): 35-53, <https://jurnal.uns.ac.id/yustisia/article/view/8712>.

³³Republic of Indonesia, "Law of the Republic of Indonesia Number 27 of 2022 concerning Protection of Personal Data," Pub. L.No. 27, JDIH BPK RI (2022), [https://peraturan.bpk.go.id/Home/Download/224884/UU Number 27 of 2022.pdf](https://peraturan.bpk.go.id/Home/Download/224884/UU%20Number%2027%20of%202022.pdf).

Data so that it is not misused. Misuse of personal data that often occurs in Indonesia is, using other people's personal data, distributing personal data for negative purposes and buying and selling personal data.

The Personal Data Protection Principles that must be applied include:³⁴

Principle	Explanation
Collection Limitation Principles <i>Collection Limitation Principle</i>	There must be limits to the collection of personal data and such data must be obtained by lawful and fair means and with the knowledge or consent of the data subject.
Data Quality Principles <i>Data Quality Principle</i>	Personal data must be relevant to the purposes for which it is used, and to the extent necessary for those purposes, must be accurate, complete and kept up to date.
Goal Specification Principle <i>Purpose Specification Principle</i>	The purpose of collecting personal data must be determined no later than at the time of data collection and subsequent use is limited to the fulfillment of that purpose or any other incompatible purpose and is determined for each change of purpose.
Principles of Limitation of Use <i>Use Limitation Principle</i>	Personal data must not be disclosed, made available or used for purposes other than those specified except: (a)

³⁴Siti Yuniarti, "Legal Protection of Personal Data in Indonesia," Business Economic, Communication, and Social Sciences Journal (BECOSS) 1, no. 1 (September 30, 2019): 147-54, <https://doi.org/10.21512/BECOSSJOURNAL.V1I1.6030>.

	with the consent of the data subject; or (b) by legal authority
Security Protection Principles <i>Security Safeguards Principle</i>	Personal data must be protected by reasonable security safeguards against risks such as loss or unauthorized access, destruction, use, modification or disclosure of data
Principle of Openness <i>Openness Principle</i>	There is an openness policy regarding developments, practices and policies regarding personal data. Such means must be available to establish the existence and nature of personal data, and the main purposes for which it is used, as well as the identity and location of the data controller.
Principle of Individual Participation <i>Participation Principle</i>	Individuals have the right: a. to obtain from the data controller, or confirm, whether the data controller has the relevant data or not; b. to communicate with them, data relating to them: (i) within a reasonable time; (ii) for a fee, if any; (iii) sufficient grounds; and (iv) provided in an understandable

	form. c. Give reasons if the request made based on letters (a) and (b) is rejected, and the rejection can be argued; d. To combat their related data, and should such opposition be valid, to delete the data, correct, supplement or modify it.
Principle of Accountability <i>Accountability Principle</i>	The data controller must be responsible for complying with measures that impact the principles mentioned above.

Table 1. Principles of Personal Data Protection

Misuse of personal data that often occurs in Indonesia is, using other people's personal data, distributing personal data for negative purposes and buying and selling personal data.

1. Law Number 27 of 2022 concerning Protection of Personal Data

In Law Number 27 of 2022 concerning Protection of Personal Data, processing of personal data includes:³⁵ a. Acquisition and collection; b. Processing and analysis; c. Storage; d. Improvements and updates; e. Appearance, announcement, transfer, distribution or disclosure; and/or f. Removal and destruction.

The processing of personal data as intended in paragraph (1) is carried out in accordance with the principles of personal data protection including:³⁶

- a. Collection of personal data is carried out in a limited and specific manner, is legally valid and transparent;
- b. The processing of personal data is carried out in accordance with its purpose;
- c. The processing of personal data is carried out by guaranteeing the rights of the personal data subject;
- d. The processing of personal data is carried out accurately, completely, not misleadingly, up to date and responsibly;
- e. Processing of personal data is carried out by protecting the security of personal data from unauthorized access, unauthorized disclosure, unauthorized modification, misuse, destruction and/or deletion of personal data;

³⁵Republic of Indonesia, Law of the Republic of Indonesia Number 27 of 2022 concerning Protection of Personal Data, article 1 paragraph (4).

³⁶Republic of Indonesia, article 16 paragraph (2).

- f. The processing of personal data is carried out by notifying the purposes and activities of the processing, as well as the failure to protect personal data;
- g. Personal data is destroyed and/or deleted after the retention period ends at the request of the personal data subject, unless otherwise determined by statutory regulations; And
- h. Processing of personal data is carried out responsibly and can be clearly proven.

Previously there was a law relating to the protection of personal data, related matters were regulated in Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which regulates the implementation of electronic systems which are required to implement the principles of personal data protection in processing personal data.³⁷

Personal data controllers must be responsible for the processing of Personal Data and demonstrate responsibility in implementing the principles of Personal Data Protection. If the personal data controller is found to have violated the principles of personal data protection, he will be subject to administrative sanctions in accordance with the provisions of article 57 paragraph (2).

Where the administrative sanction is in the form of an administrative fine as intended in paragraph (2) letter d at a maximum of 2 (two) percent of the annual income or annual receipts for the violation variable.

Where the Personal Data Controller is obliged to submit information regarding:³⁸

- a. legality of the processing of Personal Data;
- b. purposes of processing Personal Data;
- c. the type and relevance of Personal Data to be processed;
- d. retention period for documents containing Personal Data;
- e. details regarding the information collected;
- f. period of processing of Personal Data; And
- g. rights of Personal Data Subjects.

In Law Number 27 of 2022 concerning Personal Data Protection, processing of personal data, controllers are required to have proof of approval that has been given by:

- 1. personal data subjects (article 24), if the processing of children's personal data is carried out specifically;
- 2. must obtain consent from the child's parents and/or guardians (article 25 of Law Number 27 of 2022 concerning Protection of Personal Data).
- 3. Likewise, processing of personal data of persons with disabilities is carried out specifically, namely through certain communications and must obtain approval from persons with disabilities and/or guardians of persons with disabilities (article 26 of Law Number 27 of 2022 concerning Protection of Personal Data).

³⁷Republic of Indonesia, "Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions" (2019), article 14 paragraph (1), [https://peraturan.bpk.go.id/Home/Download/112816/PP Number 71 of 2019.pdf](https://peraturan.bpk.go.id/Home/Download/112816/PP%20Number%2071%20of%202019.pdf).

³⁸Republic of Indonesia, Law of the Republic of Indonesia Number 27 of 2022 concerning Protection of Personal Data, article 21 paragraph (1).

However, apart from being obliged to provide information regarding personal data in Law Number 27 of 2022 concerning Protection of Personal Data, personal data controllers are obliged to refuse to provide access to changes to personal data to personal data subjects in the event that:³⁹

- a. endanger the security, physical health or mental health of Personal Data Subjects and/or other people;
- b. impact on the disclosure of Personal Data belonging to other people; and/or
- c. contrary to the interests of national defense and security.

In addition to the obligations above in Law Number 27 of 2022 concerning Protection of Personal Data, personal data controllers are required to: 1) maintain the confidentiality of personal data, article 36; 2) carry out against any party involved in the processing of personal data, article 37; 3) protect personal data, article 38; 4) prevent personal data from being accessed unlawfully, article 39; 5) stop processing Personal Data in the event that the Personal Data Subject withdraws consent to the processing of Personal Data, article 40; 6) suspend and limit the processing of personal data, article 41; 7) terminate the processing of Personal Data; article 42; 8) delete Personal Data; article 43; 9) destroy Personal Data; Article 44; 10. notify the Personal Data Subject of the deletion and/or destruction of Personal Data, article 45.

Article 39 of Financial Services Authority Regulation 77/PJOK.1/2016 concerning Information Technology-Based Money Lending and Borrowing Services regulates that providers are prohibited from providing data and/or information regarding Users to third parties in anyway.

However, the above is excluded for:⁴⁰

- a. national defense and security interests;
- b. interests of the law enforcement process;
- c. public interest in the context of state administration; or
- d. the interests of supervising the financial services sector, monetary, payment systems and financial system stability carried out in the context of state administration.

In Law Number 27 of 2022 concerning Protection of Personal Data, prohibitions on the use of personal data which can be punished according to articles 65 and 66, namely:

1. Obtaining or collecting Personal Data that does not belong to you (article 65 paragraph (1)), is punishable by imprisonment for a maximum of 5 (five) years and/or a fine of a maximum of IDR 5,000,000,000.00 (five billion rupiah) (article 67 paragraph (1)).
2. Disclosing Personal Data that does not belong to him (article 65 paragraph (2)), a maximum prison sentence of 4 (four) years and/or a maximum fine of IDR 4,000,000,000.00 (four billion rupiah) (article 67 paragraph (2)).
3. Using Personal Data that does not belong to him (article 65 paragraph (3)), a maximum prison sentence of 5 (five) years and/or a maximum fine of IDR 5,000,000,000.00 (five billion rupiah) (article 67 paragraph (3)).

³⁹Republic of Indonesia, article 33.

⁴⁰Republic of Indonesia, article 50 paragraph (1).

4. Creating false personal data or falsifying personal data (Article 66), is punishable by imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of IDR 6,000. 000,000.00 (six billion rupiah) (article 68).

Article 69 of Law Number 27 of 2022 concerning Protection of Personal Data regulates that apart from criminal sanctions, additional penalties can also be imposed in the form of confiscation of profits and/or assets obtained or from the proceeds of criminal acts and payment of compensation.

If carried out by a corporation, according to article 70 paragraph (1) the penalty will be imposed on: 1. Management; 2. Holder of control; 3. Giver of orders; 4. Beneficial owner; and/or 5. Corporation.

The only punishment imposed on corporations is a fine, a maximum of 10 (ten) times the maximum fine threatened.

Apart from being sentenced to a fine as intended in article 70 paragraph (2) of Law Number 27 of 2022 concerning Protection of Personal Data, Corporations can be sentenced to additional penalties in the form of:

- a. confiscation of profits and/or assets obtained or proceeds from criminal acts;
- b. freezing all or part of the Corporation's business;
- c. permanent prohibition on carrying out certain acts;
- d. closure of all or part of the Company's business premises and/or activities;
- e. carry out obligations that have been neglected;
- f. payment of compensation;
- g. revocation of permits; and/ata
- h. dissolution of the Corporation.

In the government's efforts to protect personal data, article 58 of Law Number 27 of 2022 concerning Personal Data Protection contains an institution for administering Personal Data Protection in Indonesia, where this institution is determined by the president who is directly responsible to the president as regulated by a Presidential Regulation.

2. Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector

In Law Number 4 of 2023, article 239 paragraph (1) and (2) regulates the protection of consumer data, which states that, "PUSK is obliged to maintain the confidentiality and security of consumer data/or information, carried out with the basic principles of processing personal data protection."⁴¹ Where PUSK (Financial Sector Business Actors) includes ITSK (Financial Sector Technology Innovation).

Objects in implementing Consumer Protection in the financial sector include PUSK's behavior in:⁴²

1. designing, compiling and conveying information, and offering products and/or services in the financial sector;
2. make agreements and provide services for the use of products and/or services in the financial sector; And
3. handle complaints.

⁴¹Republic of Indonesia, Law of the Republic of Indonesia Number 4 of 2023 concerning Development and Strengthening of the Financial Sector, article 239 paragraph (1).

⁴²Republic of Indonesia, article 231.

In the Law on the Development and Strengthening of the Financial Sector, article 235 paragraph (2) letter a states that consumer rights are obtain security in using products and/or utilizing services as stipulated in the provisions of laws and/or agreements.

If you violate the provisions above, you may be subject to administrative sanctions and criminal sanctions in the form of imprisonment for a minimum of 5 (five) years and 10 (ten) years, a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 1,000,000. ,000,000.00 (onetrillion rupiah).

PUSK that violates the provisions of article 239 paragraph (1) will be subject to sanctions in the form of: 1. written warning; 2. restrictions on products and/or services and/or business activities in part or in whole; 3. freezing of products and/or services and/or business activities in whole or in part; 4. dismissal of management; 5. administrative fines; 6. revocation of product and/or service permits; and/or 7. revocation of business license.

3. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions

Protection of personal data in an electronic system in the ITE Law includes protection from unauthorized use, protection by electronic system operators, and protection from illegal access and interference.⁴³ Where in fintech there is often a dissemination of personal data or personal information, which is also regulated by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, article 26 clearly states that personal data must be carried out on relevant permission and/or approval.

Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions article 28 paragraph (2) confirm that:⁴⁴

"Any person intentionally and without right disseminates information aimed at creating feelings of hatred or hostility towards certain individuals and/or groups of society based on ethnicity, religion, race and intergroup (SARA)."

Where if the regulations are violated, they will be punished with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of IDR 1,000,000,000.00 (one billion rupiah).⁴⁵

4. Law Number 1 of 2023 concerning the Criminal Code

In Law Number 1 of 2023 concerning the Criminal Code article 332 states:⁴⁶

1. Every person who intentionally and without authority or unlawfully accesses another person's computer and/or electronic system in any way, shall be

⁴³Lia Sautunnida, "The Urgency of Personal Data Protection Laws in Indonesia: A Comparative Study of British and Malaysian Laws," *Kanun Journal of Legal Studies* 20, No. 2 (August 18, 2018): 369–84, <https://doi.org/10.24815/kanun.v20i2.11159>.

⁴⁴Republic of Indonesia, "Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions [JDIH BPK RI]" (2016), article 28 paragraph (2), <https://peraturan.bpk.go.id/Home/Details/37582/uu-no-19-tahun-2016>.

⁴⁵Republic of Indonesia, 45 paragraph (3).

⁴⁶Republic of Indonesia, "Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code," Pub. L.No. 1, JDIH BPK RI (2023), <https://peraturan.bpk.go.id/Home/Details/234935/uu-no-1-tahun-2023>.

punished with a maximum imprisonment of 6 (six) years or a maximum fine of category V.

2. Every person who intentionally and without right or against the law accesses a computer and/or electronic system in any way with the aim of obtaining electronic information and/or electronic documents, shall be punished by imprisonment for a maximum of 7 (seven) years or a fine of a maximum category. V.
3. Every person who intentionally and without authority or unlawfully accesses a computer and/or electronic system in any way by violating, breaching, surpassing, or breaching the security system, shall be punished by imprisonment for a maximum of 8 (eight) years or a fine of a maximum category. VI.

Article 333 letter h of the Criminal Code Law states that distributing, trading or exploiting Access Codes or information similar to this, which can be used to break into a computer or electronic system with the aim of abusing the computer or electronic system used or protected The government can receive a maximum prison sentence of 7 (seven) years or a maximum fine of category VI.⁴⁷

Even though the four regulations above touch on each other, the regulations regarding personal data protection have been specifically regulated in Law Number 4 of 2022 concerning Personal Data Protection and other regulations support this law so that they can provide legal protection to consumers/customers, especially in the financial sector. technology.

Prior to the Personal Data Protection Law, legal protection for personal data was contained in Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, Minister of Communication and Information Regulation Number 20 of 2016 concerning Protection of Personal Data in Electronic Transactions and there were also sectoral regulations such as Financial Services Authority Circular Letter Number 014/SEOJK.07/2014 concerning Confidentiality and Security of Consumer Data and/or Personal Data.

Indonesia is a rule of law country⁴⁸, of course there is a hierarchy of statutory regulations, this is regulated in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Legislative Regulations article 7 paragraph (1):⁴⁹

⁴⁷Republic of Indonesia, article 332.

⁴⁸Republic of Indonesia, "1945 Constitution of the Republic of Indonesia," JDIH BPK RI, 1945, article 1 paragraph (3), <https://peraturan.bpk.go.id/Home/Details/101646/uud-no-> .

⁴⁹Republic of Indonesia, "Law no. 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations [JDIH BPK RI]," JDIH BPK RI, 2022, article 7 paragraph (1), [https://peraturan.bpk.go. id/Home/Details/212810/uu-no-13-tahun-2022](https://peraturan.bpk.go.id/Home/Details/212810/uu-no-13-tahun-2022).

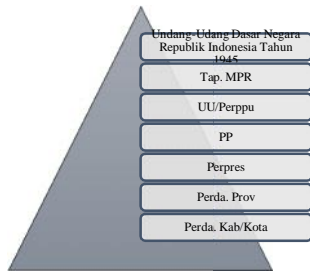


Table2. Hierarchy of Legislative Regulations in Indonesia

Regulations regarding the protection of personal data currently in force are prepared in accordance with Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Legislative Regulations, including:

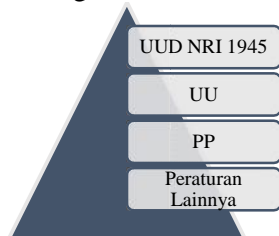


Table3. Hierarchy of Personal Data Protection Regulations in Indonesia

Note:

- a) 1945 Constitution of the Republic of Indonesia
- b) Constitution
 - 1. Law Number 27 of 2022 concerning Protection of Personal Data.
 - 2. Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector.
- c) Government regulations
 - Government Regulation Number 71 of 2019 concerning Implementation of Electronic Systems and Transactions
- d) Other Regulations
 - 1. Minister of Communication and Information Regulation Number 20 of 2016 concerning Protection of Personal Data in Electronic Systems.
 - 2. Bank Indonesia Regulation Number 19/12/PBI/2017 concerning the Implementation of Financial Technology.
 - 3. Financial Services Authority Regulation no. 13/PJOK.02/2018 concerning Digital Financial Innovation in the Financial Services Sector.

Indonesia recognizes that protecting personal data as part of privacy is a human right. This recognition is reflected both in the constitution and various regulations at the legal level. However, there are no regulations that specifically regulate the protection of personal data at the statutory level. To fill the legal vacuum, detailed regulations regarding the protection of personal data are accommodated in regulations at the ministerial level and sectoral technical regulations.⁵⁰

⁵⁰Yuniarti, "Legal Protection of Personal Data in Indonesia," p. 147–154.

Harmonization of Law Number 27 of 2022 concerning Personal Data Protection is also a determinant of the implementation of personal data protection, where harmonization is an effort to harmonize statutory regulations with other regulations, where harmonization can occur between laws, not only statutory regulations against regulations below. Harmonization of the Personal Data Protection Law can be seen in Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector.

CONCLUSION

The presence of Financial Technology or fintech certainly brings good news for the economic growth of Indonesia, especially for MSMEs who really welcome the presence of fintech in Indonesia. In the world of fintech, there are various sectors and services, such as crowdfunding or fundraising, microfinancing, peer to peer lending (p2p lending), market comparison, digital payment systems, to digital banking or digital banking, all of which are supervised by Bank Indonesia and Financial Services Authority. Of the various sectors, the peer to peer lending (p2p lending) or online lending sector is the sector that has received the most attention from both the public and legal and economic experts.

The government has created various rules and regulations to provide legal protection and certainty to both fintech service providers and fintech users or customers. One of the regulations regarding fintech is Bank Indonesia Regulation Number 19/12/PBI/2017 concerning the Implementation of Financial Technology and Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector (RUU PPSK).

Personal data is classified into a person's right to privacy, which is a right inherent in the individual. The 1945 NRI Constitution indirectly regulates the right to privacy in article 28G paragraph (1). Prior to the Personal Data Protection Law Number 27 of 2022, personal data protection was regulated in the Minister of Communication and Information Regulation Number 20 of 2016 concerning the Need for Protection of Personal Data in Electronic Systems. Meanwhile, consumer protection in Law Number 8 of 1999 states consumer rights, namely the right to comfort, security and safety in consuming goods and/or services.

In Law Number 27 of 2022 concerning Personal Data Protection, article 1 paragraph (2) states that Personal Data Protection is the overall effort to protect Personal Data in the process of processing personal data in order to guarantee the constitutional rights of Personal Data subjects.

Misuse of personal data that often occurs in Indonesia is, using other people's personal data, distributing personal data for negative purposes and buying and selling personal data. In the government's efforts to protect personal data, article 58 of Law Number 27 of 2022 concerning Personal Data Protection contains an institution for administering Personal Data Protection in Indonesia, where this institution is determined by the president who is directly responsible to the president as regulated by a Presidential Regulation.

Laws that regulate Personal Data, especially in the field of Financial Technology, include:

1. Law Number 27 of 2022 concerning Protection of Personal Data

2. Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector
3. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions
4. Law Number 1 of 2023 concerning the Criminal Code

Harmonization of Law Number 27 of 2022 concerning Personal Data Protection is also a determinant of the implementation of personal data protection, where harmonization is an effort to harmonize statutory regulations with other regulations, where harmonization can occur between laws, not only statutory regulations against regulations below. Harmonization of the Personal Data Protection Law can be seen in Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector.

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