**Verdict: Journal of Law Science**

5(1) (2026): 173-189
Online version available in:
https://www.ojs.wahanapublikasi.com/index.php/vjlaws
DOI: https://doi.org/10.59011/vjlaws.5.1.2026.173-189

# The Validity of Terms and Conditions in Online Loan Applications Under the Indonesian Civil Code

**Raroza Amanda[1]*, Nur Annisa[2], Zita Gus Laura[3], Elsa Antoni[4], Debby Fitrianti[5]**

[1-5] Law Study Program, Faculty of Law, Universitas Merangin, Merangin, Jambi, 37313, Indonesia
Email: rarozaamanda@gmail.com

**Article info**

Received:
27 Nov 2025

Accepted:
21 Jan 2026

Published:
07 Feb 2026

**Keywords**:

Online lending,
Contract validity,
Electronic contract,
Good faith,
Standard clauses

**Abstract**

Online loan applications use standard-form Terms and Conditions to form credit relationships, obtain borrower consent, allocate risk, regulate data access, and define repayment consequences. This article examines whether such Terms and Conditions are valid under the Indonesian Civil Code, particularly Articles 1320 and 1338, through doctrinal legal analysis based on statutory interpretation, systematic interpretation, conceptual construction, and clause-based legal reasoning. The study assesses electronic assent, standard-form clauses, data authorization, and repayment obligations against the Civil Code requirements of consent, capacity, definite object, lawful cause, good faith, and contractual fairness. The analysis finds that Terms and Conditions may be valid when the borrower receives conspicuous notice, gives affirmative consent, has legal capacity, and agrees to a determinable loan object and lawful cause. Validity becomes vulnerable when clauses obscure economic costs, authorize excessive unilateral changes, impose disproportionate penalties, transfer all platform liability, or collect personal data beyond the financing purpose. The theoretical contribution of this article is a layered Civil Code validity framework that connects formal electronic consent with substantive good faith, proportionality, transparency, and consumer protection. The article proposes a six-part validity test: conspicuous notice, active consent, accessible language, determinable object, lawful data processing, and proportional risk allocation.

**Doi**: https://doi.org/10.59011/vjlaws.5.1.2026.173-189

## 1. Introduction

Online lending has altered the practical architecture of credit contracting. In a conventional loan, the parties usually encounter a written agreement, supporting documents, and a relatively visible negotiation process. In an online loan application, by

* Corresponding Author
E-mail address: rarozaamanda@gmail.com

contrast, the contractual relationship is often formed through a sequence of screens: registration, identity verification, disclosure of loan amount, selection of tenor, consent to data processing, and acceptance of Terms and Conditions. The legal significance of this sequence is substantial because the Terms and Conditions are not merely administrative text; they operate as the platform's standard-form agreement, determine the borrower's rights and obligations, and become the foundation for repayment, default, penalties, collection, dispute settlement, and data use. Indonesian fintech lending regulation has become more detailed after the replacement of POJK 77/2016 by POJK 10/POJK.05/2022, yet contract validity remains rooted in the Indonesian Civil Code, especially Article 1320 and the good-faith principle in Article 1338.[2]

The central legal problem is therefore not whether an online loan application may use electronic documents. Indonesian positive law recognizes electronic transactions and electronic contracts. The sharper problem is whether the borrower's click, tap, scroll, or checkbox acceptance can satisfy the Civil Code requirements for a valid agreement when the Terms and Conditions are pre-drafted, lengthy, written in technical language, and often embedded in an interface designed by the platform. Prior Indonesian fintech studies have emphasized consumer protection, data misuse, illegal platforms, lender risk, and the adequacy of OJK regulation.[3] However, fewer studies build a focused doctrinal bridge between the formal validity of electronic Terms and Conditions and the deeper Civil Code requirements of consent, lawful cause, good faith, and proportionality. This article addresses that gap by treating online loan Terms and Conditions as electronic standard-form contracts that must be tested not only by their digital format but also by their substantive compatibility with contract law principles.[4]

The urgency of the issue is strengthened by empirical literature on standard-form contracts. Consumer-contract studies have repeatedly shown that users rarely read lengthy digital terms, even when the legal system presumes that acceptance binds them.[5] Research on privacy policies and Terms of Service similarly finds that users tend to skip or under-read online documents despite their legal consequences.[6] Readability scholarship further shows that digital wrap contracts can be formally available yet functionally unreadable for ordinary users.[7] These findings matter for Indonesian online lending because a loan agreement is not a low-stakes digital registration. It creates a monetary obligation, authorizes data processing, exposes borrowers to default consequences, and may affect personal and economic dignity. If validity analysis stops at

[2] Noor, Wulandari, and Muhammad Afif, "Regulating Fintech Lending in Indonesia: A Study of Regulation of Financial Services Authority No. 10/POJK.05/2022."
[3] Sasmita et al., "Analisis Faktor Perlindungan Konsumen Dalam Urgensi Pembentukan Undang-Undang Pinjaman Online (Peer To Peer Lending)."
[4] Disemadi, Yusro, and Balqis, "The Problems of Consumer Protection in Fintech Peer To Peer Lending Business Activities in Indonesia."
[5] Bakos, Marotta-Wurgler, and Trossen, "Does Anyone Read the Fine Print? Consumer Attention to Standard-Form Contracts."
[6] Obar and Oeldorf-Hirsch, "The Biggest Lie on the Internet: Ignoring the Privacy Policies and Terms of Service Policies of Social Networking Services."
[7] Benoliel and Becher, "The Duty to Read the Unreadable."

the existence of an "I agree" button, contract law risks validating consent that is procedurally recorded but substantively weak.

The Indonesian fintech lending ecosystem also produces a triangular contractual setting. The platform facilitates the meeting between lenders and borrowers, while the legal relationship may involve platform service agreements, lender-borrower funding agreements, privacy and data processing clauses, and risk-disclosure documents. Studies of peer-to-peer lending in Indonesia indicate that the agreement mechanism has developed in line with OJK regulation but still leaves private-law protection issues, especially for parties who rely on platform-designed standard documents.[8] More recent work on lender risk after POJK 10/2022 emphasizes that regulatory reform increases compliance obligations, yet the allocation of risk continues to depend on the contractual architecture used by platforms.[9] For borrowers, the issue is even more acute because they are usually the weaker party, face information asymmetry, and often accept terms under urgent financial pressure.

Illegal and harmful online loan practices have made the validity question more than a theoretical issue. Research on illegal online loans in Indonesia describes consumer losses, weak supervision problems, and the need for preventive and repressive legal protection.[10] Personal data protection studies also show that fintech lending may expose consumers to excessive data collection, third-party disclosure, and collection practices that go beyond legitimate financing purposes.[11] These problems do not automatically invalidate every online loan agreement, but they show that Terms and Conditions can become the point where private autonomy, regulatory compliance, and consumer vulnerability collide. Thus, a doctrinal validity test must ask whether the contract is lawfully formed and whether its clauses are compatible with mandatory norms, public order, decency, good faith, and the legitimate expectations of the borrower.[12]

The novelty of this article lies in its integrated validity framework. Rather than analyzing fintech lending only from financial regulation, data protection, or general consumer protection, the article places the Civil Code at the center of the analysis and uses supporting fintech scholarship to identify the points at which electronic Terms and Conditions may fail. The research argues that Article 1320 should be understood as a layered test: first, procedural validity through consent and capacity; second, objective validity through a definite loan object and lawful cause; third, normative validity through good faith, proportionality, and the prohibition of abusive standard clauses. This framework is intended to help courts, regulators, platforms, and legal scholars evaluate whether online loan Terms and Conditions are enforceable, partially unenforceable,

[8] Budiharto, Lestari, and Hartanto, "The Legal Protection of Lenders in Peer to Peer Lending System."
[9] Shalmont, Darmawan, and Dominica, "Manajemen Dan Mitigasi Risiko Lender Peer-To-Peer Lending Pasca Diundangkan POJK 10/2022."
[10] Imanuddin et al., "Construction of Consumer Protection Against Illegal Online Loan Transactions As a Means of IUS Constituendum in Indonesia."
[11] Antari and Triwulandari, "Legal Protection of Consumer Personal Data Peer to Peer Lending through Financial Technology in Indonesia: An Approached of Comparative Study."
[12] Fiorentina et al., "Legal Protection of Consumer Personal Data in Indonesia Fintech Peer-To-Peer Lending Pioneers."

voidable, or null and void.

Accordingly, this article asks two research questions. First, how should the validity of Terms and Conditions in online loan applications be assessed under the Indonesian Civil Code? Second, what clauses or interface practices may weaken or defeat validity even when the borrower has electronically clicked “agree”? These questions are directly tied to the conceptual contribution of the article: a layered validity model that moves Article 1320 from a formal checklist into an operational test for digital lending contracts. The objective of the study is therefore not only to describe the validity requirements of electronic contracts, but also to formulate criteria that can be used by courts, regulators, platforms, and consumers to distinguish enforceable clauses from clauses that are voidable, unenforceable, or contrary to good faith.

The research gap can be clarified through the following synthesis of previous studies and the position of this article.

| Previous research stream | Main contribution | Remaining gap | Position of this article |
|---|---|---|---|
| OJK/fintech regulation studies | Explain licensing, platform supervision, and POJK 10/2022 compliance. | Often assess regulation without testing clauses against Article 1320 and Article 1338. | Uses the Civil Code as the primary validity lens and treats fintech regulation as supporting norms. |
| Consumer protection and illegal loan studies | Identify borrower vulnerability, data misuse, illegal collection, and preventive protection. | Do not always distinguish between invalid contracts and partially unenforceable clauses. | Formulates legal consequences: voidability, partial unenforceability, clause nullity, or broader invalidity. |
| Digital consent and unread-contract literature | Shows that users often skip, under-read, or misunderstand online terms. | Usually discusses online consent generally, not the special risk of debt-creating loan applications. | Adapts notice, active consent, and accessible language into a six-part validity test for online loans. |
| Electronic contract and clickwrap/browsewrap scholarship | Distinguishes stronger affirmative assent from weaker passive assent. | Needs localization into Indonesian civil-law concepts of consensus, lawful cause, and good faith. | Translates clickwrap/browsewrap insights into Indonesian Civil Code doctrine. |

Terms and Conditions in an online loan application are conceptually different from ordinary informational notices. They are standard-form contractual instruments drafted before the borrower enters the transaction. They usually contain definitions, eligibility rules, disbursement procedures, interest or benefit charges, service fees, late penalties, repayment obligations, data authorization, collection policy, limitation of liability, amendment clauses, dispute settlement, and termination provisions. The borrower's role is typically limited to accepting or rejecting the entire package. This makes the document a contract of adhesion in functional terms, even if Indonesian statutes use different terminology.

The digital form changes the evidentiary and psychological dimensions of assent. In offline contracting, a signature is usually placed on a document that physically resembles a contract. In application-based lending, the manifestation of assent may be embedded in interface design. Comparative online-contract scholarship distinguishes between clearer clickwrap or scrollwrap models, where the user must actively indicate consent, and weaker browsewrap models, where the user is assumed to accept terms merely by using a service. The Indonesian Civil Code does not use these labels, but the labels are analytically useful because they help determine whether consent is express, informed, and attributable to the borrower.[13]

Comparative electronic-contract literature is relevant because it shows that enforceability depends not only on the existence of a hyperlink but also on reasonable notice, affirmative manifestation of assent, and the visibility of legally significant terms.[14] Clickwrap studies also warn that an "agree" button can manufacture rapid consent when interface design pushes users away from reading legal materials.[15] These insights strengthen the Indonesian doctrinal point that Article 1320 requires a real meeting of wills, not merely a technical record of navigation inside an application.

For online loan agreements, the strongest model is a layered consent mechanism: the borrower is presented with a summary of essential economic terms, given a direct link to the full Terms and Conditions, required to open or scroll the document, and then asked to give affirmative consent through a checkbox or button that clearly states the legal consequence of acceptance. The weakest model is passive consent: the Terms and Conditions are hidden behind a small hyperlink, the application allows the borrower to proceed without reviewing essential costs, and acceptance is inferred from continued use. Under a Civil Code analysis, the first model better supports the existence of consent; the second model raises doubts regarding the quality of consensus, especially when clauses are burdensome or unexpected.

The standard-form nature of the contract does not automatically make it invalid. Contract law permits efficiency and mass contracting, and fintech lending depends on scalable documents because it processes many small-value credit transactions. Yet standardization does not remove the requirement that consent must be legally meaningful and that contractual content must not contradict mandatory norms. Scholarship on peer-to-peer lending shows that platform efficiency, automated matching, and digital credit assessment can reduce transaction costs and broaden access to financing.[16] At the same

[13] Arbel and Becher, "Contracts in the Age of Smart Readers."
[14] Manwaring, "Enforceability of Clickwrap and Browsewrap Terms in Australia: Lessons from the U.S. and the U.K."
[15] Obar and Oeldorf-Hirsch, "The Clickwrap: A Political Economic Mechanism for Manufacturing Consent on Social Media."
[16] Kohardinata, Soewarno, and Tjahjadi, "Indonesian Peer to Peer Lending (P2P) at Entrant's Disruptive

time, the same efficiency can intensify informational imbalance if borrowers are asked to accept complex terms without adequate explanation.

## 2. Method and Legal Material

This research uses normative legal research, also known as doctrinal legal research. The object of the research is not the behavior of borrowers in the field, but the legal norms governing contract validity and the legal concepts required to interpret electronic Terms and Conditions. Normative legal research is appropriate because the main question concerns the validity, enforceability, and legal consequence of contractual clauses under the Indonesian Civil Code and related regulations.[17] Doctrinal research is also suitable because it requires systematic identification of legal rules, interpretation of legal concepts, reconciliation between general contract law and sectoral fintech rules, and construction of a prescriptive legal argument.[18]

The study applies three approaches. The statutory approach examines the Indonesian Civil Code, the Electronic Information and Transactions framework, the Consumer Protection Law, the Personal Data Protection Law, POJK 10/POJK.05/2022 on Information Technology-Based Collective Funding Services, and financial consumer-protection regulation. The conceptual approach examines consent, standard-form contracts, good faith, proportionality, transparency, data authorization, and lawful cause. The analytical approach evaluates whether specific Terms and Conditions clauses can satisfy or defeat the requirements of Article 1320. Although the research is doctrinal, it also draws on empirical and socio-legal literature concerning digital consent and unread contracts to understand why formal assent may be insufficient in high-risk online consumer transactions.[19]

The legal analysis is conducted in four stages. First, grammatical interpretation is used to read the wording of Article 1320, Article 1338, and related statutory provisions on electronic contracts, financial consumer protection, and personal data. Second, systematic interpretation is used to connect the Civil Code with the Electronic Information and Transactions framework, Consumer Protection Law, Personal Data Protection Law, and OJK fintech lending regulations. Third, conceptual legal reasoning is used to classify clickwrap, scrollwrap, and browsewrap mechanisms as different forms of manifestation of will. Fourth, prescriptive reasoning is used to test hypothetical clauses and derive practical criteria for validity, voidability, partial unenforceability, and nullity. Primary legal materials are selected because they directly govern contract validity and regulated online lending, while secondary materials are selected because they explain digital consent, unread contracts, standard clauses, consumer vulnerability, and comparative electronic contract doctrine.

Trajectory."
[17] Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches."
[18] Hutchinson and Duncan, "Defining and Describing What We Do: Doctrinal Legal Research."
[19] Davies, "The Relationship between Empirical Legal Studies and Doctrinal Legal Research."

## 3. Results and Discussion

### *3.1 The Legal Position of Application-Based Terms and Conditions*

Application-based Terms and Conditions can be treated as an agreement under Indonesian private law when they contain an offer, acceptance, and identifiable obligations. The platform offers access to a loan or funding facility based on specified conditions; the borrower accepts by taking an affirmative electronic act; the loan amount, tenor, cost, repayment schedule, and consequences of default become the object of the obligation. In this sense, the electronic medium does not negate contractual character. The more important issue is whether the electronic process can prove that the borrower knowingly accepted the terms that the platform seeks to enforce.

Under the Civil Code, consent must be understood as a meeting of wills. In online lending, that meeting is mediated by code, interface, and standard text. Consent can be presumed from clicking only when the interface reasonably communicates that the click creates legal obligations. If an application places the acceptance button near a statement such as "I have read and agree to the Terms and Conditions and understand the loan costs," the evidentiary value of the click is stronger. If the button merely says "Continue," "Next," or "Get Cash" while legal terms are concealed behind inconspicuous links, the evidentiary value is weaker. The law should not treat all interface acts as equal because the Civil Code requires agreement, not mere navigation.

The distinction is critical for online loans because the borrower's need for immediate funds may reduce careful reading. Studies on P2P lending adoption in Indonesia show that digital lending can attract users and small businesses because of perceived convenience and accessibility.[20] This benefit should not be dismissed. However, convenience also creates a risk that borrowers accept obligations faster than they understand them. Therefore, the platform must design the contractual process to make essential obligations visible before acceptance. The legal quality of assent depends not only on the borrower's click but also on how the platform presents material terms.

A valid Terms and Conditions framework should contain at least five elements. First, the identity and legal status of the platform must be clear. Second, the loan object must be definite or determinable: amount, tenor, fees, interest or benefit rate, repayment schedule, and consequences of default. Third, the borrower must actively accept the full contract and specific high-impact clauses. Fourth, the platform must record electronic evidence of acceptance. Fifth, the contract must not shift all risk to the borrower or eliminate mandatory rights. These elements translate Article 1320 into the operational reality of application-based lending.

The practical difference between a legally safer clause and a problematic clause can be illustrated as follows.

[20] Rosavina et al., "P2P Lending Adoption by SMEs in Indonesia."

| Clause issue | Example of legally safer clause | Example of problematic/illegal clause | Validity implication |
|---|---|---|---|
| Loan cost disclosure | "Borrower will receive Rp1,000,000 and repay Rp1,080,000 on 30 June 2026; all service fees are included in this amount." | "Fees may be deducted and recalculated according to platform policy without prior notice." | Hidden or variable costs may weaken consent and certainty of object. |
| Data authorization | "Platform collects identity, bank-account, and employment data only for verification, scoring, disbursement, repayment, and lawful reporting." | "Borrower authorizes access to all contacts, photos, files, location, and communications for collection or other purposes." | Excessive data access may lack lawful cause and violate good faith. |
| Unilateral amendment | "Material changes to cost, tenor, data use, or dispute forum apply only after prior notice and renewed consent." | "Platform may change all terms at any time and borrower is deemed to agree by continuing to use the application." | Material unilateral amendment threatens agreement and contractual certainty. |
| Liability limitation | "Platform is not liable for force majeure but remains responsible for its own system error, unlawful disclosure, or misleading information." | "Platform has no responsibility for any loss arising from the application, data processing, collection, or third parties." | Blanket exoneration may be unenforceable as an abusive standard clause. |

### *3.2 Civil Code Validity Requirements, Good Faith, Transparency, and Data Authorization*

Article 1320 of the Indonesian Civil Code requires four validity elements: agreement of the parties, capacity to make an agreement, a certain subject matter, and a lawful cause. In online lending, the first two elements are subjective requirements, while the third and fourth are objective requirements. Failure of subjective requirements generally makes the agreement voidable, while failure of objective requirements may make it null and void. The distinction is important because not every defect in Terms and Conditions destroys the entire loan agreement; some defects may affect particular clauses, while others may affect the agreement as a whole.

The first requirement, agreement, is the most contested in digital Terms and Conditions. A borrower's assent may be defective if obtained through error, coercion, fraud, or a misleading interface. Error may occur when the borrower is led to misunderstand essential economic terms. Coercion may appear not only as physical pressure but also as illegitimate pressure connected to urgent disbursement, aggressive reminders, or the inability to access funds unless broad data permissions are granted. Fraud may occur if the platform misrepresents costs, hides penalties, or displays promotional loan amounts that differ materially from contractual obligations.

The second requirement, capacity, requires the platform to ensure that the borrower is legally competent. Application-based lending usually verifies identity through identity card data, phone number, facial recognition, bank account, or other electronic verification. These mechanisms support capacity analysis but do not fully replace legal responsibility. If a minor, person under guardianship, or unauthorized user enters a loan using another person's identity, the platform must show that it applied reasonable verification procedures. Credit scoring and digital risk assessment may improve efficiency, but they also require governance so that automated approval does not ignore legal capacity and fairness.[21]

The third requirement, a certain object, requires clarity of the prestation. In online loans, the object is not merely "money." It includes the amount disbursed, amount to be repaid, service fee, interest or benefit charge, late fee, tenor, repayment channel, and consequences of default. If these elements are vague, hidden, or subject to unilateral alteration, the object becomes legally problematic. A Terms and Conditions clause that says the platform may change fees at any time without prior notice threatens the certainty of the object. A lawful online loan contract should display the total cost of credit before acceptance and ensure that the borrower can save or download the agreement.

The fourth requirement, lawful cause, connects the agreement to legality, public order, and morality. A loan agreement for a lawful financing purpose is generally valid. However, a clause may lack lawful cause if it authorizes unlawful data processing, abusive collection, excessive penalties contrary to fairness, or waiver of mandatory consumer rights. Legal cause should therefore be assessed not only at the level of the loan transaction but also at the level of particular clauses. A platform cannot rely on contractual freedom to validate provisions that contradict mandatory statutory norms or exploit the borrower's vulnerability.

Article 1338 of the Civil Code provides that valid agreements bind the parties as law, but the same provision requires agreements to be performed in good faith. This means the binding force of Terms and Conditions is not absolute. Good faith functions as a corrective principle that prevents a platform from relying on formal assent to enforce unfair or unexpected terms. In online lending, good faith requires transparent disclosure, consistent calculation of costs, fair collection mechanisms, reasonable amendment procedures, and respect for borrower data.

[21] Ahelegbey and Giudici, "Credit Scoring for Peer-to-Peer Lending."

Proportionality complements good faith. A loan contract allocates risk, but risk allocation must remain proportionate to each party's role and capacity. The platform controls the interface, drafts the Terms and Conditions, verifies borrowers, chooses the credit scoring method, determines collection procedures, and manages user data. The borrower usually controls only the decision to apply and repay. Therefore, clauses that transfer all operational, data, system, and third-party risks to the borrower are inconsistent with proportionality. The platform should bear risks arising from its own system failures, misleading disclosure, unlawful data processing, or collection agents.

Standard clauses that deserve heightened scrutiny include unilateral amendment clauses, blanket exoneration clauses, automatic consent to all data access, excessive penalty clauses, unclear dispute-resolution clauses, and clauses that permit collection practices beyond lawful communication. Such clauses may not invalidate the entire loan, but they may be unenforceable or require judicial modification. Indonesian consumer-protection scholarship has criticized online lending problems involving interest transparency, misuse of personal data, and collection methods that do not comply with legal rules. This criticism supports the argument that Terms and Conditions should be assessed not only by formal acceptance but also by substantive fairness.

A lawful unilateral amendment clause should be limited to future transactions or non-material operational adjustments. If the amendment affects loan cost, tenor, penalties, dispute forum, or data use, it should require prior notice and renewed consent. The platform should not be allowed to change material terms after disbursement and bind the borrower merely because the borrower continues to use the application. Such a practice undermines certainty of object and weakens consensus.

A lawful limitation-of-liability clause should distinguish between risks outside the platform's control and risks caused by the platform's own fault. It may be reasonable to state that the platform is not responsible for force majeure or banking network disruption beyond its control. It is not reasonable to exclude liability for negligence, unlawful data disclosure, inaccurate cost disclosure, or abusive collection. Contractual freedom cannot be used to erase accountability for conduct that the law specifically regulates.

Transparency is the most practical indicator of good faith in online lending Terms and Conditions. Borrowers must know how much they receive, how much they repay, when they must repay, what happens if they default, and what data the platform collects. If a platform discloses only the nominal loan but hides administrative fees, insurance charges, service fees, daily penalties, or deduction at disbursement, consent is materially compromised. The borrower may have agreed to borrow money but not to the actual economic burden imposed by the hidden terms.

The transparency problem is intensified by the economics of P2P lending. P2P lending platforms process large volumes of small and medium transactions, use automated procedures, and rely on information mechanisms to assess borrowers and match funding.[22] Market-mechanism studies show that P2P lending depends heavily on

[22] Wang et al., "A Process Model on P2P Lending."

information structure, pricing mechanisms, and risk signals. These features make disclosure central to validity. If the platform has superior information and control over pricing, it must present essential economic terms in a format that borrowers can reasonably understand before acceptance.

Data authorization is another validity-sensitive element. Online loan applications may request access to identity data, contact information, device data, location, photos, bank account data, employment data, and emergency contacts. Some data may be necessary for identity verification and credit assessment. However, blanket clauses authorizing access to all phone contacts, media files, or third-party communication for collection purposes are legally dangerous. The lawful cause of a data clause depends on necessity, purpose limitation, transparency, and consent that is separate from general contract acceptance.

Indonesian studies on personal data protection in fintech lending show that consumer data misuse remains a recurring risk. Other scholarship specifically highlights the need for legal protection of personal data in fintech peer-to-peer lending. Therefore, a Terms and Conditions clause should not combine loan consent and data consent in a single vague statement. The borrower should be informed what data are collected, why they are collected, how long they are stored, who receives them, and how consent can be withdrawn when legally possible.

The use of dark interface patterns also threatens meaningful consent. Interface design that nudges borrowers toward acceptance, hides refusal options, uses confusing colors, pre-ticks boxes, or makes rejection difficult can undermine the voluntariness of consent. Studies of dark patterns show that digital interfaces can steer users toward decisions that benefit the service provider rather than the user.[23] In online lending, such patterns are especially problematic because the consequence is not merely disclosure of browsing data or purchase of a product but creation of a debt.

### *3.3 Legal Consequences and Proposed Civil Code-Based Validity Test*

Defects in Terms and Conditions may produce different legal consequences. If the defect concerns consent or capacity, the agreement may be voidable by the protected party. For example, if the borrower accepted terms because of misleading disclosure about the total cost of credit, the borrower may argue that consent was defective. If the defect concerns an unlawful object or unlawful cause, the relevant clause or agreement may be null and void. For instance, a clause authorizing unlawful data dissemination for collection purposes may be void because its cause contradicts mandatory legal norms.

Partial invalidity should be used carefully. A loan agreement may remain valid for the principal obligation to repay money that was lawfully received, while abusive clauses on penalties, liability waiver, data access, or collection may be declared unenforceable. This approach preserves legitimate credit obligations but prevents platforms from benefiting from unlawful or disproportionate clauses. The Civil Code allows

[23] Mathur et al., "Dark Patterns at Scale."

interpretation of agreements in light of fairness and the nature of the contract. Thus, courts should identify whether the defect attacks the core of the loan or only a detachable provision.

For legal platforms, the validity framework should encourage preventive compliance. A platform should implement contract screens that display essential loan information, require active consent, provide downloadable Terms and Conditions, preserve electronic evidence, separate data consent, avoid pre-ticked boxes, and provide plain-language summaries of high-impact clauses. It should also use audit trails that record the version of Terms and Conditions accepted by the borrower. Without version control, a platform may struggle to prove which terms governed the loan at the time of acceptance.

For illegal platforms, the issue is more severe. If the provider lacks authorization, uses unlawful collection, hides identity, or manipulates borrowers, the Terms and Conditions cannot be treated as ordinary private agreements insulated by freedom of contract. Research on illegal online loans emphasizes preventive regulation, public education, and repressive sanctions. A Civil Code analysis reinforces this regulatory approach: illegality may affect lawful cause and public order, while abusive conduct may also trigger civil, administrative, or criminal consequences.

For borrowers, the framework clarifies that clicking “agree” is legally significant but not always conclusive. Borrowers remain bound by valid obligations, but they may challenge clauses that were not properly disclosed, contradict mandatory law, or impose disproportionate burdens. For lenders, the framework clarifies that enforceability depends on the platform’s legal and contractual infrastructure. Lender protection cannot be separated from borrower protection because both rely on the validity and integrity of platform-designed agreements.

Based on the foregoing analysis, this article proposes a six-part validity test for online loan Terms and Conditions. First, the conspicuous-notice test: essential terms must be visible before acceptance, not hidden behind obscure links. Second, the active-consent test: borrowers must perform an affirmative act that clearly indicates agreement to contractual obligations. Third, the accessible-language test: high-impact clauses must be drafted in language understandable to ordinary users. Fourth, the determinable-object test: loan amount, fees, interest or benefit, penalties, tenor, and repayment schedule must be definite or objectively calculable. Fifth, the lawful-purpose and data-limitation test: data clauses must be necessary, transparent, and consistent with the financing purpose. Sixth, the proportionality test: clauses must not transfer all risks to the borrower or eliminate mandatory platform responsibility.

The proposed Civil Code-based validity test can be structured in the following framework.

| **Validity test** | **Civil Code basis** | **Operational indicator in online loan application** | **Legal consequence if not satisfied** |
|---|---|---|---|
| Conspicuous notice | Article 1320: agreement | Essential terms, costs, penalties, data | Consent may be defective if material |

| | | | |
|---|---|---|---|
| | | use, and dispute forum are visible before acceptance. | terms are hidden. |
| Active consent | Article 1320: agreement | Borrower checks an unticked box or clicks a button clearly stating legal acceptance. | Passive browsewrap or vague “continue” button weakens enforceability. |
| Accessible language | Article 1338: good faith | High-impact clauses are written in plain language and summarized before disbursement. | Unexpected or unreadable clauses may be interpreted against the drafter. |
| Determinable object | Article 1320: certain object | Loan amount, total repayment, fees, tenor, and penalties are objectively calculable. | Unclear or changeable costs may affect certainty of object. |
| Lawful data processing | Article 1320: lawful cause | Data collection is necessary, purpose-limited, transparent, and separable from general loan consent. | Excessive data clauses may be void or unenforceable. |
| Proportional risk allocation | Article 1338: good faith | The platform does not transfer system, data, collection-agent, and operational risks entirely to the borrower. | Abusive standard clauses may be modified, disregarded, or declared unenforceable. |

This test operationalizes Article 1320 and Article 1338 in digital lending. Consent is assessed through notice and active acceptance. Capacity is supported by identity verification and legal eligibility. Certain object is assessed through clear economic disclosure. Lawful cause is assessed through compliance with mandatory rules and legitimate data processing. Good faith and proportionality operate as cross-cutting principles that prevent the formal validity test from becoming a mechanical checklist.

The test is also consistent with the broader direction of technology-law scholarship. Socio-legal approaches to technology emphasize that law should examine not only rules but also the norms, values, and technical structures that shape conduct.[24] Governance scholarship on emerging technologies similarly stresses accountability, transparency, and legal oversight when automated or platform-based systems affect society.[25] In online

[24] Dizon, “Socio-Legal Study of Technology: A Norms and Values Approach to Hacking and Encryption Law and Policy.”
[25] Qian, Siau, and Nah, “Societal Impacts of Artificial Intelligence: Ethical, Legal, and Governance Issues.”

lending, the technical structure of the application is part of the legal environment. Contract law must therefore evaluate the interface through which consent is obtained, not merely the text that appears after consent is recorded.

## 4. Conclusion

Terms and Conditions in online loan applications can be valid under the Indonesian Civil Code when they satisfy the requirements of Article 1320: genuine agreement, legal capacity, a definite object, and lawful cause. The electronic form of acceptance does not by itself defeat validity. A click, checkbox, or digital signature can represent consent when the borrower receives clear notice, understands the legal consequence of acceptance, and has access to essential loan information before agreeing.

However, validity is not guaranteed merely because the borrower clicked “agree.” Online loan Terms and Conditions become legally vulnerable when the interface hides material terms, the language is unreadable, fees and penalties are unclear, data permissions are excessive, amendments are unilateral, liability is unfairly shifted, or collection practices are authorized beyond lawful limits. In such cases, the defect may affect consent, certainty of object, lawful cause, good faith, or proportionality. The legal consequence may be voidability, partial unenforceability, nullity of particular clauses, or broader invalidity where illegality affects the core of the transaction.

This article contributes to electronic contract law theory by showing that digital consent in online lending must be understood as a layered legal event: the interface records assent, the Civil Code tests the quality of that assent, and good faith controls the fairness of standard clauses. The proposed six-part test - conspicuous notice, active consent, accessible language, determinable object, lawful data processing, and proportional risk allocation - provides a doctrinal bridge between traditional Indonesian contract law and contemporary application-based lending. Its policy implication is that OJK, consumer-protection bodies, and platform operators should develop minimum standards for contract screens, version control, cost disclosure, separate data consent, downloadable contracts, complaint records, and prohibition of dark patterns before loan disbursement.

The limitation of this research is its doctrinal character. Future empirical research should examine actual Terms and Conditions from several licensed fintech lending platforms and alleged illegal loan applications, compare their clauses with the six-part test, and measure borrower comprehension of cost, data-use, penalty, and collection clauses. Future judicial research should also map court decisions, consumer dispute settlement decisions, OJK enforcement records, and police or administrative actions related to online loan agreements. Such studies would test whether the proposed validity framework improves borrower protection and legal certainty in practice.

**Acknowledgments**

The authors highly appreciate the support and contributions of the lecturers at the Law Study Program, Faculty of Law, Universitas Merangin, who provided essential guidance and academic assistance during this research.

**Funding**
This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

**Conflict of interest**
The authors declare no conflict of interest.

**Authors' contribution**
The contributions of each author to this study are as follows. Raroza Amanda contributed to the conceptualization of the study, methodology development, formal analysis, and preparation of the original manuscript draft. Nur Annisa was responsible for conducting the investigation, data curation, and formal analysis. Zita Gus Laura contributed to the provision of resources, validation of the research findings, and data curation. Elsa Antoni was involved in visualization, validation, and critical review and editing of the manuscript. Debby Fitrianti contributed through supervision, project administration, validation, and critical review and editing of the manuscript. All authors have read and approved the final version of the manuscript and agree to be accountable for all aspects of the work.

**Statement of the use of AI**
The authors declare that AI-assisted technology was used only to support drafting structure, language refinement, and formatting. All legal arguments, references, and research content are reviewed and verified by the authors before submission.

**References**
Ahelegbey, Daniel Felix, and Paolo Giudici. "Credit Scoring for Peer-to-Peer Lending." *Risks* 11, no. 7 (July 7, 2023): 123. https://doi.org/10.3390/risks11070123.

Antari, Putu Eva Ditayani, and Ni Gusti Agung Ayu Mas Triwulandari. "Legal Protection of Consumer Personal Data Peer to Peer Lending Through Financial Technology in Indonesia: An Approached of Comparative Study." *Jurnal Komunikasi Hukum (JKH)* 10, no. 2 (September 4, 2024): 93–115. https://doi.org/10.23887/jkh.v10i2.83167.

Arbel, Yonathan A., and Shmuel I. Becher. "Contracts in the Age of Smart Readers." *SSRN Electronic Journal*, 2020. https://doi.org/10.2139/ssrn.3740356.

Bakos, Yannis, Florencia Marotta-Wurgler, and David R. Trossen. "Does Anyone Read the Fine Print? Consumer Attention to Standard-Form Contracts." *The Journal of Legal Studies* 43, no. 1 (January 2014): 1–35. https://doi.org/10.1086/674424.

Benoliel, Uri, and Shmuel I. Becher. "The Duty to Read the Unreadable." *SSRN Electronic Journal*, 2019. https://doi.org/10.2139/ssrn.3313837.

Budiharto, Budiharto, Sartika Nanda Lestari, and Gusto Hartanto. "The Legal Protection of Lenders in Peer to Peer Lending System." *Law Reform* 15, no. 2 (September 30, 2019): 275–89. https://doi.org/10.14710/lr.v15i2.26186.

Davies, Gareth. "The Relationship between Empirical Legal Studies and Doctrinal Legal Research." *Erasmus Law Review* 13, no. 2 (September 2020): 3–12. https://doi.org/10.5553/ELR.000141.

Disemadi, Hari Sutra, Mochammad Abizar Yusro, and Wizna Gania Balqis. "The Problems of Consumer Protection in Fintech Peer To Peer Lending Business Activities in Indonesia." *Sociological Jurisprudence Journal* 3, no. 2 (August 7, 2020): 91–97. https://doi.org/10.22225/scj.3.2.1798.91-97.

Dizon, Michael Anthony C. "Socio-Legal Study of Technology: A Norms and Values Approach to Hacking and Encryption Law and Policy." *Computer Law & Security Review* 52 (April 2024): 105958. https://doi.org/10.1016/j.clsr.2024.105958.

Fiorentina, Prita, Dewi Sulistianingsih, Aprila Niravita, and Ayup Suran Ningsih. "Legal Protection of Consumer Personal Data in Indonesia Fintech Peer-To-Peer Lending Pioneers." *Pandecta Research Law Journal* 17, no. 2 (December 30, 2022): 307–12. https://doi.org/10.15294/pandecta.v17i2.40235.

Hutchinson, Terry, and Nigel Duncan. "Defining and Describing What We Do: Doctrinal Legal Research." *Deakin Law Review* 17, no. 1 (October 1, 2012): 83. https://doi.org/10.21153/dlr2012vol17no1art70.

Imanuddin, Iman, RR. Dewi Anggraeni, Fridayani, and Susanto. "Construction of Consumer Protection Against Illegal Online Loan Transactions As a Means of IUS Constituendum in Indonesia." *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (December 28, 2023): 539–56. https://doi.org/10.29303/ius.v11i3.1312.

Kohardinata, Cliff, Noorlailie Soewarno, and Bambang Tjahjadi. "Indonesian Peer to Peer Lending (P2P) at Entrant's Disruptive Trajectory." *Business: Theory and Practice* 21, no. 1 (February 17, 2020): 104–14. https://doi.org/10.3846/btp.2020.11171.

Manwaring, Kayleen. "Enforceability of Clickwrap and Browsewrap Terms in Australia: Lessons from the U.S. and the U.K." *Studies in Ethics, Law, and Technology* 5, no. 1 (January 28, 2011). https://doi.org/10.2202/1941-6008.1102.

Mathur, Arunesh, Gunes Acar, Michael J. Friedman, Eli Lucherini, Jonathan Mayer, Marshini Chetty, and Arvind Narayanan. "Dark Patterns at Scale." *Proceedings of the ACM on Human-Computer Interaction* 3, no. CSCW (November 7, 2019): 1–32. https://doi.org/10.1145/3359183.

Negara, Tunggul Ansari Setia. "Normative Legal Research in Indonesia: Its Originis and Approaches." *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1–9. https://doi.org/10.22219/aclj.v4i1.24855.

Noor, Afif, Dwi Wulandari, and Aqila-Syarief Muhammad Afif. "Regulating Fintech Lending in Indonesia: A Study of Regulation of Financial Services Authority No. 10/POJK.05/2022." *Qubahan Academic Journal* 3, no. 4 (October 18, 2023): 42–50. https://doi.org/10.48161/qaj.v3n4a156.

Obar, Jonathan A., and Anne Oeldorf-Hirsch. "The Biggest Lie on the Internet: Ignoring the Privacy Policies and Terms of Service Policies of Social Networking Services." *Information, Communication & Society* 23, no. 1 (January 2, 2020): 128–47. https://doi.org/10.1080/1369118X.2018.1486870.

———. "The Clickwrap: A Political Economic Mechanism for Manufacturing Consent on Social Media." *Social Media + Society* 4, no. 3 (July 19, 2018). https://doi.org/10.1177/2056305118784770.

Qian, Yuzhou, Keng L. Siau, and Fiona F. Nah. "Societal Impacts of Artificial Intelligence: Ethical, Legal, and Governance Issues." *Societal Impacts* 3 (June 2024): 100040. https://doi.org/10.1016/j.socimp.2024.100040.

Rosavina, Monica, Raden Aswin Rahadi, Mandra Lazuardi Kitri, Shimaditya Nuraeni, and Lidia Mayangsari. "P2P Lending Adoption by SMEs in Indonesia." *Qualitative Research in Financial Markets* 11, no. 2 (May 7, 2019): 260–79. https://doi.org/10.1108/QRFM-09-2018-0103.

Sasmita, Helena Toshely, Suci Kamilah, Rina Irsni Wardodo, and Thody Daniel Satya Wira Wicaksana. "Analisis Faktor Perlindungan Konsumen Dalam Urgensi Pembentukan Undang-Undang Pinjaman Online (Peer To Peer Lending)." *Media Iuris* 5, no. 1 (February 18, 2022): 39. https://doi.org/10.20473/mi.v5i1.27733.

Shalmont, Jerry, Grace Darmawan, and Dora Dominica. "Manajemen Dan Mitigasi Risiko Lender Peer-To-Peer Lending Pasca Diundangkan POJK 10/2022." *Jurnal Hukum & Pembangunan* 53, no. 1 (March 31, 2023). https://doi.org/10.21143/jhp.vol53.no1.1527.

Wang, Huaiqing, Kun Chen, Wei Zhu, and Zhenxia Song. "A Process Model on P2P Lending." *Financial Innovation* 1, no. 1 (December 9, 2015): 3. https://doi.org/10.1186/s40854-015-0002-9.