

Regulatory Sandbox Analysis To Prevent Money Laundering Crime Of Financial Technology In Indonesia

By Recca Ayu Hapsari, Maroni, Indah Satria

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Abstract: The presence of fintech which rely on Internet of Thing has made the industry operates accross different juridicial boudaries. A sandbox regulatory is a safe limited-assessment-scheme to asses the Fintech organizer include its product, service, technology, and/or business model. Both Regulatory Sanbox's concept and implementation are expected to encourage digital financial-in its bound on the development model of regulatory sandbox-toward the prevention of money laundering through financial technology in Indonesia. Researchers will be looking at how the implementation of this model could be used as an effort in preventing the case on money laundering, as well as ways to integrate the regulatory sandbox for the financial technology in indonesia.

Index Terms: Regulatory Sandbox, Financial Technology, Money Laundering, Preventing Model, Prevention of Money Laundering Crimes

1 INTRODUCTION

It is essentially started from society needs which can no longer rely to the traditional finance industry, in a means of the existence of super tight regulation regulated by banking industry as well as the limitation of banking industry in servicing society in particular area. By the end of the day, society began to find funding alternatives outside the traditional finance service. Society requires a more transparent and democratic finance service, as well as a service that are more efficient and reaching wider society. As a consequence, this pressure pushes an innovative phenomenon in the global finance industry, from its industrial structure, intermedium technology, until its marketing model to consumers. This hollistic changes has encouraged the new phenomenon called financial technology (fintech). The key issue that Indonesia face is how to balance the desire to encourage new businesses so as to intensify competition and provide better customer services in the sector, while protecting the system and consumers from excessively risky behavior and potential disruption. For Indonesia the opportunity is very large given the uneven availability of finance and low levels of financial inclusion. Within Bank of Indonesia regulation Number 19/12/PBI/2017 regarding financial technology implementation, financial technology is the use of technology within the financing system which produce product, service, technology, and/or new business model and finally impacted to monetary stability, financial stability system, and/or efficiency, fluency, and the reliability of payment system. The Indonesia Fintech Association annual report notes that as per December 2017, there are 235 fintech company which currently worked in Indonesia. Out of four available systems in Indonesia; payment system, investment management, peer to peer (P2P) lending, and crowdfunding, the payments system dominates by 39%. However, the P2P experienced fastest growth from 15% by the early 2017 to 32% at the end of last year. In the other hand, OJK notes that by early this year, the channelling funds through P2P lending has reached to 3 trillion rupiahs. The unavailability of fintech regulation in superintendent financial sector -Bank of Indonesia and Financial Service authority- has emphasis no regulation especially in payment standardization system. In the other hand, there is no obligation for the fintech industry as service provider to report suspicious payment transaction, especially when the transaction is conducted through PayPal and bitcoin. The existing windows licensing requirements and regulations imposed on the system of services based on information and technology has made money laundering actors become freer in utilizing fintech for money laundering. The director of inspections and research of PPATK Ivan Yustianandan unveiled the money laundering via fintech is considered as non conventional money laundering pattern. Hence, within its practical pattern, the layers of funding source tend to involve numerous people and institutions. As described by Bank of Indonesia regulations Number 19/14/PADG/2017 regarding Sandbox Regulatory within Financial Technology to support innovation development, there

is a need of limited assessment for the fintech factory include its product, service, technology, and/or business model by implementing consumer protection principle as well as risk management and carefulness. The trial process of Sandbox Regulatory impose creatia-based process, transparency, proportionality, fairness, equality, and forward looking principle. Indonesia digital maps is develop rapidly, the country of more than 260 million populations with increasing number of internet users continues to grow over 130 million, reached 40 percent social media penetration, and the significant increase on smartphone selling to 75 million units; a rise of avaregly 10 million units per year. Better economic growth, digital literacy, and growing urbanization, has left a potential for the future nest of world digital creativity. In addition, having been the ASEAN Largest youth population, Indonesia with productive age of 15-65 years is at 67,5 million which are the e-commerce and e-shopper with continuous increase in online selling total by 2017 at 79 trillion rupiah. Therefore, it can be concluded that per-person in Indonesia is able to spend their money online by 1.170.000 rupiah per year or 97.500 rupiah per month. But, however, Indonesia occupies the first rank of cyber crime in the world and world second rank for hacking activities. Special criminal directorate of Polda Metro Jaya reported there were about 1.627 criminal cases during 2016 and cyber crime lead to be the highest cases (1.207 cases), where malware (virus , cyber crime ransomware) is most commoncrime founded in indonesia. On the other side, growing fintech will support three targets of Indonesia Finance Service Authorize master plan 2015-2019. First, optimizing Finance Service Sectors (SJK - Indonesia's abbv) role in supporting the acceleration of economic growth. Second, managing financial stability system as the basis for sustainable development. Third, opening financial access so that it can improve the welfare of the society. In relation to how the Regulatory Sandbox development model toward the prevention of money laundering within Financial Technology in Indonesia. Researchers are examining how the implementation of Regulatory Sandbox can be referred as an effort to prevent money laundering activity, as well as integrating the Regulatory Sandbox toward Indonesia's financial technology development. Currently a reasearch is conducted in the used of Regulatory Sandbox to prevent money laundering issue through financial technology in Indonesia. It is due to the fact that novelty in this research is integrated with the implementation of regulatory sandbox development in preventing crimes of money laundering. As seen on state of the art technology applied that deals with financial technology and regulatory sandbox implementation, no one has examined their relations in solving money laundering crimes in Indonesia. Ivo Jenik and Kate Lauer through Regulatory Sandboxes and Financial Inclusion shows a drawing issues which is a reference to arrange Regulatory Sandbox in other countri. As research conducted by daniel adriana, 2018 regarding P2P lending in indonesia: lessons learned from the case of china and india. It can be said that research on model of regulatory sandbox to prevent criminal

money laundering in the use of financial technology in Indonesia has not been examined before.

2 Discussion

(1) Regulatory Sandbox intergration toward the implementation of financial technology industry in Indonesia.

Based on the rules by board of governors members Numbers 19/14/PADG/2017 about limited trial (regulatory the sandbox) on financial technology, Regulatory Sandbox is a safe limited-assessment scheme to asses Financial technology actors includes its product, service, technology, and/or business model. Sandbox by itself means as the temporary space for fintech to explore prior to being fully operated. Its temporary procedure is considered success or failed by the end of trial period support considered to mark around marginal roles and fail to drive the innovation. The Sandbox model development is pioneered by England under the name of Regulatory Sandbox or trial program for fintech startup. What is mean by Sandbox is to allow fintech actors to asses it system and business within 6 up to 12 months prior the business being fully operated. Within this trial phase, the Fintech company will be assisted by government in terms of law administrative and operational system, therefore there is no rule being disobeyed by the fintech company. The main key of this successful system lies on government assistance. Hence, sandbox is only the name of program purposes to develop fintech company. After accompanying, government then set permission for both operation and service procedure. The aim of this sandbox program is to gain public trust that the soon-operating fintech will have a secure operation. Through society trust, the willingness to uses the service will enhance, this has shown that England finance-law-enforcement is designed to be market oriented. As explained, the accompany flow is conducted by Financial Conduct Authority as an institution who are committed to promote effective competition in financial services which was regulated within the interests of consumers. The definition of regulatory sandbox according to FCA is; A regulatory sandbox is a 'safe space' in which businesses can test innovative products, services, business models and delivery mechanisms without immediately incurring all the normal regulatory consequences of engaging in the activity in question. The exact firm journey and the FCA's involvement will depend on the specific options used, the regulatory status of the firm, the solution being tested and the extent of consumer involvement. The below chart 1 is an outline of the 'firm journey' for options that can be implemented by the FCA.

Firm journey

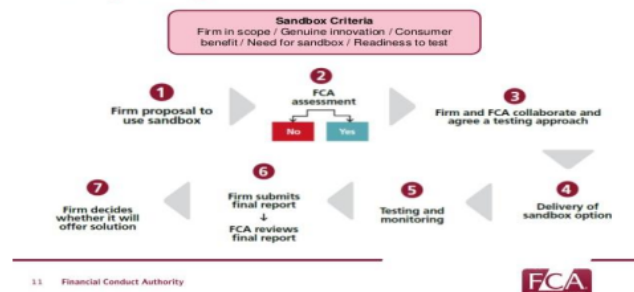


Figure 1 . Firm Journey

The concept and implementation of regulatory sandbox undergo development through different models, many refers FCA blue print as reference, as they have design as follows;

Despite the diversity, many regulatory sandboxes follow the FCA's blueprint, and therefore, they have the following design components:

- (1) Objectives of the sandbox.
- (2) Eligibility to apply to the sandbox.
- (3) Criteria (specified in the application) regarding risks, safeguards, and other restrictions.
- (4) Timing for applicants and sandbox entities tests.
- (5) Costs to the regulator and the sandbox entities.
- (6) Regulator's actions following sandbox test(s)

The implementation of Regulatory Sandbox development can be taken as preventing efforts toward money laundering activity. It can be found that within its development, money laundering has grown very complex, crossing the borders of juridical, and using varying methods taking advantages from institution outside finance, even spreading to various sectors. To anticipate, financial Action Task Force (FATF) on money laundering has issued international standard to prevent and eradicate both money laundering and terrorism funding in every country which known as Revised 40 Recommendations dan 9 Special Recommendations (Revised 40+9) FATF include matters related to reporting parties expansion scope. In preventing and eradicating money laundering, there should be regional and international cooperation through multilateral and bilateral forum to minimize the intensity of crimes involving massive wealth amount. Money laundering have been long known, and since 1930 the term emerged as it has close relation to Laundry centerprise, happened when those laundry enterprise in the United States were brought by Stated mafia by using money from various illegal business which then being bleached from result of illegal transaction such as prostitution, liquor, and gamble. To reveal those crimes are extremely difficult, and it was made easier due to the suspect to laundry business. By the end, the actual crimes can be proven and therefore money laundering is categorized as crime activity. Money laundering, is one of organized crime which basically include a crime toward the development and social welfare, later became the center of attention for both nation internal concern and international external concern. This is perfectly reasonable, considering the very wide scope and its dimensions within money laundering. Hence, the financial action task force (FATF) on money laundering was raised, as an institution established by the countries that recently joined the G-7 in Paris by 1989 which aim to build international cooperation in dealing with this kind of evil. At that time, money laundering is considered as the process to disguise the origin of the crime. The process undergone under the interest of trail removal, to enable the culprit enjoying the benefits without revealing the source of money. So, it is important to tackle money laundering, by at least, criminalizing the crime doers. United States, Canada, France, Germany, Italy, Japan and England, has set up a body called the Financial Action Task on Money Laundering (FATML), whose aim is to build international cooperation in dealing with the kind of evil. FATML, then implement the contents of recommended action arranged by United Nations, one of them is, on money laundering, namely the United Nations convention againsts illicit traffic in narcotic drugs and psychotropic substances (UNODS), 1988, within the recommendation, it is stated that each country should immediately take steps to ratify and implement the hollistic UNODS. Through an investment of money or transaction from organized crime, the illegal transaction in field of narcotics and other illegal sources aimS to legitimate the flow of money so the origin source of money will be untraceable. By a means of trail removals, if by chance, there is a tracking activity against the illegal money. In actual fact, money laundering practice is undergone through banking mechanism. Banks is indeed the most vulnerable financial institutions which is targeted by money laundering. It is due to the fact that among other things they have clear international correspondency system as well as the existing bank secret system. The role of financial industry in preventing and eradicating money laundering is considered very prominent. Banking and other financial service provides form the spearhead (pront line), within anti money laundering regime. Those financial institutions along with its staffs are in front to combat illegal financial activity. The role of banking in relation to money laundering crime is as trustable intitution and important body within state economics systems, and thus bank often referred as the heart of financial system. The bank existence as trust assets within society needs to be continuously maintained because the trust is strongly required to improve bank efficiency and function to prevent the probability of bank runs and panics. There are three purpose of money laundering. First, money laundering is a serious problem for the international world, it therefore needs to be criminalizes. Second, the anti money laundering regulation is seen as the most effective way to find the leaders of organize criminal enterprise. Third, the money launderers is easier to arrest than the predicate offence.

Integrating with financial technology industry in Indonesia, Bank of Indonesia then authorized policy in monetary, as well as authorized and undergo policy on finance stability system include macroprudential, also authorized and conduct the policy in payment system. Bank of Indonesia needs to assign the regulations and supervision where it is important in undergoing financial technology which are monitored and directed very well so that the benefits of this financial technology can be well enjoyed and any probability of shadow economy can be well mitigated. In the other hand, these regulation and supervision is important to support the development of fintech technology to reach wider society. By the adoption of financial technology in society, it is crucial for Bank of Indonesia to obligate the fintech actors to implement principle of consumer safety and risk management as well as carefulness. Bank of Indonesia responds to the development of this financial technology needs to stay synchronies, harmonious, integrated with other Bank of Indonesia policy such as in processing payment transaction and national payment gateway which needs to be coordinated with associated authority. Fintech Policy in Indonesia by the related forms was issued by financial services authority number 77/POJK01/2016 regarding the money lending on the basis of Information Technology. By the date of 30 November 2017, Bank of Indonesia issued governors members board regulation Number 19/14/PADG/2017 regarding the Regulatory Sandbox on financial technology, within regulatory sandbox, it is defined that it is safe trial assessment to assess the financial technology include its product, service, technology, and/or business model. The financial company which include in Regulatory Sandbox is obligated to ensure the consumer protection principle, risk management, and carefulness. It is based on regulation made by boards governors member Number 19/14/PADG/2017 about the Regulatory Sandbox Financial Technology, the enterprise is obligated to report the implementation trial both regularly or intensively according to Bank of Indonesia, as well as obeying the law and regulations. As for the responsibility to the BI, the fintech company is required provide the truth and accurate data regarding the information and document submitted. The security and reliability of system used to run products, services, technology, and/or business model tested in a regulatory sandbox. During the trial in a regulatory sandbox, BI conduct assistance and review as basis to set status the results of the trial of technology financial. A period of assessment time has been determined to pilot by six months, and an extension may occur by another six months when needed. soon as the trial assessment expire, BI will reach an agreement on fixing the status of the results of the tryouts based on the assessment set through the series of activities. The status of trial results is divided into three: successful, unsuccessful, and any other status maintained by the bank of Indonesia. when the result is successful, the enterprise can continue to the permission stage, when it is unsuccessful, the enterprise is prohibited to marketize the product. when any other companies are already registered by the Bank of Indonesia and already, it will be furtherly detected by radars of Bank of Indonesia in the next term. It is expected that the regulations can support health fintech ecosystem to build continuous and inclusive national economic growth, by also maintaining its monetary stability, financing system stability, as well as maintaining efficient, smooth, secure, and reliable payment system. The key success to Regulatory Sandbox system lies at government companion. Hence, regulatory sandbox is only a program-name aims at developing fintech enterprises. Along with law and practice guidance, the fintech will remained examined prior to being operated within society. After the guidance conducted, government can give operational permission and operational standard. The main objective of regulatory sandbox is to gain public trust that the newborn fintech is safe to run. The trust then is expected to engage more users, showing that England law of finance is design based on its market orientation. Even if it lies on market orientation, England value of nationalism is still maintained by keeping their financial industry solid to compete. Both the banking and fintech can make a synergy and collaboration in providing service to society at different layers. It is therefore, the establishment of bank and its banking services will remain required by society. In terms of regulation to add, government has managed them, by implementing

regulator sandbox prior having a license from the Bank of Indonesia. In this context, Regulatory Sandbox integration toward the implementation of financial technology in Indonesia will depend in the success of regulatory sandbox system and government guidance. Through law and technical guidance, the fintech will be reliable prior to operate in society. Along with further expectation that the fintech will remain health to support continuous and inclusive national economic growth, by managing it monetary stability, financing system stability, and an efficient, smooth, secure, reliable payment system.

- (2) The application of Regulatory Sandbox can be extended as an effort to prevent money laundering.

The Regulatory Sandbox implementation is one of the way for Bank of Indonesia to continue pushing innovation for financial technology by maintaining the principle of consumer protection as well as risk management and carefulness. Stated that the operation of financial technology needs to consider the principle of consumer protection as well as risk management and carefulness by also paying attention at expanding the access, nation interest, as well as the existing standard and practice. In conducting the registration, Bank of Indonesia considers the law related to the activity of Financial Technology enterprise. an example of relatable law can be seen in the context of peer to peer lending. The registration aims to allow the bank in supervising the activity of the financial technology enterprise for the purpose of running the duty in monetary, finance stability system, and payment system activity. In facing the rapidly dynamic Financial Technology, bank of Indonesia urges innovation in finance sector for economic development through Regulatory Sandbox. It is a follow up rules for the existing Bank of Indonesia regulation No.19/12/PBI/2017 on the implementation of financial technology. Regulatory sandbox is limited and secure trial scheme to assess the financial technology enterprise to furtherly ensure that the business model has fulfilled the standardized criteria for financial technology. There are some criteria which needs to be fulfilled by the fintech prior to getting asses such as: payment system, innovation, useful for consumer and economic, non exclusive, massively used, and already completing their risk of identification and mitigation, as well as being registered at Bank of Indonesia. In order to analyze the implementation of regulatory sandbox within financial technology activity, there is a need to understand the related law according to the authority of financial service sectors Number 77/POJK.01/2016 regarding money lending on the basis of technology (LPMUBTI; abbb in Indonesian). The legal relation is when one party stated a "right" while others state an "obligation" to the other party. The law relation within fintech transaction was born from one agreement. The online agreement at glance is an agreement which was born holistically or less by being facilitated with interconnected computers network. In which the agreement is stated within electronic document and other electronics media. Legal relations on fintech based on POJK Number 77/POJK.01/201 on money lending on the basis of technology was there due to the existence of money lending agreement. Loan according to article 1754 civil law is an agreement in which one party give other party certain goods which may lapse due to continuous usage, by the agreement that the other party will turn back the goods with the equal kind, amount, and quality. Online loan agreement is known as peer to peer lending (P2P lending) which essentially similar with conventional loan agreement, one thing that distinguish is the parties does not directly meet, the parties do not need to know each other because there is coordinator party which unifying them online. The issuance of bank of Indonesia regulation (PBI) Number 19/10/PBI/2017 on regards of anti money laundering implementation and prevention of terrorism funding for other payment system provider outside banking and other exchange foreign currencies providers outside bank. With the new regulation, both non-banking finance service aforementioned has already been integrated. The new regulation has been aligned with government efforts to fight for money laundering and terrorism funding, as well as recommendation and guidelines which was given by international organizations; Financial Action Task Force (FATF). The rejuvenation of regulations done in answer to various challenges in supporting anti money laundering and preventing terrorism funding, which among others, arises from

development of information system technology. Along with various innovation in payment system and foreign exchange currency system, hence the products, services, transaction and business model within payment systems and foreign exchange currency becomes a lot more complex. The regulatory sandbox implementation can be considered as an efforts to prevent money laundering because regulatory sandbox is one of Bank of Indonesia innovation to support innovation on financial technology by considering the principle of consumer protection, risk management, and carefulness. Regulatory Sandbox works by becoming the safe and limited trial scheme to assess both financial technology enterprise and its business model. The enterprise is required to have payment system, innovation, been useful for consumer and economic, been non exclusive, been massively used, and already been completing theirs of identification and mitigation, as well as been registered at Bank of Indonesia.

3 CONCLUSION

- (1) The integration of Regulatory Sandbox toward the implementation of financial technology industry in Indonesia relies a lot to the successful system of Regulatory Sandbox and government guidance. Through law and technical guidance, the finch will be proven prior to operating within society. Also, it is coming with the hope that the regulation can support the healthy fintech ecosystem to support nation economic growth which are continous and inclusive, by managing its monetary stability, financial system stability, as well as efficient, smooth, safe, and reliable payment system.
- (2) The implementation of this Regulatory Sandbox can be an effort to prevent money laundering, this is because the regulatory sandbox is an effort for the Bank of Indonesia to support innovation within financial technology by remaining the principle of consumer prevention, risk management, and carefulness.

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