

Online Loans Based On Usury: A Review Of Positive Law And Islamic Law And Its Impact On The Society's Economy

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Abstract: This study examines the practice of usury-based online lending from the perspective of positive Indonesian law and Islamic law, with the aim of providing an in-depth understanding of its implications for society and finding solutions that integrate the principles of social justice and economic sustainability. From a positive legal perspective, consumer protection regulations and financial sector supervision are considered ineffective in dealing with usury-based lending practices, which often harm vulnerable economic communities. In Islamic law, usury is prohibited because it contradicts the principles of social justice and the welfare of the people, thus encouraging a transparent and sharia-compliant financial system. This study uses qualitative methods to analyze the impact of usury-based lending, which is found to worsen individual debt burdens, reduce purchasing power, increase social inequality, and create macroeconomic instability. As a solution, the study recommends improved regulation, strict supervision, cost transparency, consumer protection, and financial literacy education to reduce the risk of usury. The integration of sharia principles is expected to create an inclusive, fair, and sustainable digital financial system in accordance with positive law and the religious values of Indonesian society.

Keywords: Online Loans, Positive Law, Islamic Law

Introduction

The development of information technology has had a tremendous impact on the lives of people in Indonesia, creating major transformations in various aspects of daily life. In 2020, around 73% of the total population of Indonesia, or around 196.71 million people, were connected to the internet, making it a vital tool in supporting the digital economy. The internet enables business actors, both large-scale and Micro, Small, and Medium Enterprises (MSMEs), to access wider markets, increase operational efficiency, and create new business models such as e-commerce that connect producers directly with consumers. In addition, digital technology also supports innovation in various sectors, from health to education. However, challenges such as the digital divide between regions, data security issues, and consumer and business actor protection against potential online fraud remain major concerns that need to be addressed. Therefore, collaboration between the government, private sector, and society is essential to build an inclusive, safe digital ecosystem that supports the sustainability of the digital economy in Indonesia. (Ni Luh Putu Puspita Dewi, 2021) This is what then contributed to the impact on the rapid development of financial technology (fintech) in recent years that has changed the way people access financial services. One form of this innovation is the emergence of online loan services (pinjol) which offer convenience in getting fast funds without complicated requirements as is usually found in conventional banks.

The existence of fintech simplifies the credit application process by simply accessing a website or application, filling in data, and uploading documents such as an ID card. This process allows loans to be disbursed directly to accounts in a short time, unlike banks which require more time and many requirements. This convenience has led to a rapid increase in online loan users. (Danyathi, 2022) This service is very attractive to the public, especially for those in the informal sector or who have difficulty accessing financing from formal financial institutions. This convenience, which includes a fast verification process and minimal administrative requirements, makes pinjol a widely relied upon solution. However, the convenience offered is not without problems, especially regarding very high interest rates. The interest charged often exceeds reasonable limits, which can trap borrowers in a cycle of debt that is difficult to overcome. This situation raises important questions about the legality of this online lending practice in the eyes of Islamic law, which prohibits usury because it is considered a form of injustice and economic exploitation.

The rapid development of online lending companies (pinjol) has attracted public attention, even though the interest rates charged are higher than those of banks. Pinjol, both legal and illegal, is now a fast and practical financial solution, especially through the Peer-to-Peer (P2P) Lending platform that allows loans to be made online without the need for complicated procedures. This service opens up more inclusive financial access for people who have difficulty accessing traditional financial institutions. However, despite providing convenience, pinjol also carries risks, especially illegal pinjol which can harm consumers. Therefore, stricter regulations and increased financial literacy are essential to ensure the safe use of online loans that comply with legal provisions. (Agusta, 2020)

Based on the perspective of positive Indonesian law, online lending practices are regulated within a regulatory framework that aims to protect consumers and ensure transparency. The Financial Services Authority (OJK) plays a key role in regulating and supervising officially registered pinjol operations. This regulation is intended to ensure that lending practices run according to the principle of fairness and in accordance with applicable laws. However, a major challenge arises with the presence of illegal online loans that do not follow regulations and often operate under the radar of OJK supervision. These illegal online loans often use practices that violate ethics, such as unreasonable interest rates, threatening collection methods, and violations of consumer data privacy. This shows that there are gaps in law enforcement and the need for stricter action from the relevant authorities to close these gaps and provide better protection for consumers.

In terms of Islam, the practice of usury-based online loans has an impact that is not only felt by individuals directly involved, but also spreads to broader economic aspects. People's dependence on high-interest loans can cause financial instability at the household level, which has the potential to reduce people's quality of life and purchasing power. This condition can create a domino effect where individual financial instability leads to a decrease in economic contributions in their communities. As a result, local economic growth slows down, poverty rates increase, and economic disparities widen. If left without adequate solutions, this can hinder inclusive and sustainable economic development, as well as damage public trust in the financial system in general.

This study examines the practice of usury-based online lending from the perspective of Indonesian positive law and Islamic law, with the aim of providing an in-depth understanding of its implications for society. From a positive law perspective, the focus is on consumer protection and regulation of the financial sector to ensure legitimate and non-harmful practices. Meanwhile, Islamic law highlights the prohibition of usury and its impact on social justice and the welfare of the people. This study aims to find solutions that integrate the principles of social justice and economic sustainability, while still accommodating the community's need for easy financial access. These solutions include recommendations for more effective regulation, strict supervision, transparency of loan costs, and consumer protection. An education-based preventive approach is also proposed to improve financial literacy and awareness of the risks of usury-based lending. The results of this study are expected to contribute to strengthening a digital financial system that is inclusive, fair, and in accordance with applicable laws and religious values adhered to by the Indonesian people.

As a comparison, the author found several previous studies, namely Sheila Wijayanti and Hartiningrum's research, revealing the significant impact of online loan applications on the needs and consumptive lifestyles of factory workers. This study shows that although it makes it easier to meet daily needs, online loans tend to encourage consumptive spending patterns and highlight their psychological and social impacts on the economic welfare of workers. (Hartiningrum, 2022) Then Hidayah's research, which focuses on students in Yogyakarta who use illegal P2P lending fintech. This study notes that ease of access is the main reason for using this service, although in the end it has a negative impact in the form of high interest, fines, and legal problems. This study emphasizes the importance of financial literacy as an effort to prevent students from long-term financial risks. (Hidayah, 2022) Furthermore, Raden Ani Eko Wahyuni and Bambang Eko Turisno's research discusses the risks posed by illegal fintech, especially in P2P lending practices. During the period January 2018 to April 2019, the Financial Services Authority (OJK) has blocked

hundreds of illegal entities that have the potential to harm consumers. This study highlights the importance of financial literacy and strong regulations to protect the public and ensure the sustainability of the fintech industry. (Turisno, 2019) The novelty of this research lies in its study of usury-based online lending practices (P2P lending) from the perspective of positive law and Islamic law and its impact on the stability of the community's economy. Unlike previous studies that tend to focus on short-term impacts, this study offers a comprehensive analysis that includes regulations by the OJK, Islamic law's view of usury practices, and its long-term social and economic implications. In addition, this study provides policy recommendations to prevent exploitation, improve financial literacy, and realize a fair and stable financial system.

Methods

This study uses a qualitative method, which is an investigative approach that aims to understand social phenomena and human behavior in depth. In this approach, data is collected, analyzed, and presented in the form of detailed narrative descriptions. Qualitative methods allow researchers to explore the meaning of the observed phenomena by interpreting information holistically and contextually. Thus, this method is very suitable for understanding complex issues involving social, legal, and religious aspects. (Creswell, 2010) states that qualitative methods provide space for researchers to describe and analyze data in depth by utilizing words as the main tool for documenting findings. This study uses a normative legal approach to evaluate the conformity of usury-based online lending practices with positive and sharia law. Data were obtained through documentation from legal sources, scientific journals, and official reports, then analyzed descriptively-analytically to understand the relationship between related legal and social aspects. The main objective of this study is to examine legal regulations in Indonesia, both in the context of positive law and Islamic law, in regulating usury-based online lending practices, and to evaluate their social and economic impacts on society, especially vulnerable groups. This study also provides policy recommendations to support fairer and more effective regulations in creating economic stability for the community. (Sondak, 2019)

Online Loan Practices (Pinjol) in Positive Law in Indonesia

Positive law refers to rules established and accepted by the state to maintain social order and uphold justice in society. In this study, positive legal theory is used to analyze regulations issued by the Financial Services Authority (OJK) in supervising online lending practices (pinjol). This regulation aims to protect consumers from detrimental practices, such as usury or unreasonable interest. Several OJK regulations, such as POJK number 31 / POJK.07 / 2020 and POJK number 6 / POJK.07 / 2022, provide a basis for protection for registered pinjol, while illegal pinjol is regulated by the Investment Alert Task Force (SWI). The state through positive law establishes regulations that govern aspects of online lending, such as transparency of information and the obligations of fintech organizers. OJK plays an important role in ensuring that fintech companies comply with the rules, by imposing sanctions on violators of the regulations. Thus, positive law functions to ensure fair, transparent online lending practices and protect consumers. (Fakhri Yulenrivo, 2023)

Online lending services (pinjol) have become an integral part of the financial system in Indonesia, providing easy access to financing for the wider community. However, this service also raises various challenges that require strict legal regulations. Within the framework of positive Indonesian law, pinjol is regulated through a number of regulations, including the Financial Services Authority Regulation (POJK) No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. This regulation is designed to ensure that pinjol services operate legally, transparently, and do not harm consumer interests.

In the online lending system, there are three main parties involved: the borrower, the lender, and the platform management company. The borrower is an individual or entity that needs funds for various needs, while the lender is the party that provides funds in the hope of getting a return. The platform management company acts as an intermediary that facilitates transactions between borrowers and lenders, including risk assessment and interest arrangements. Although it offers convenience, this transaction requires strict supervision and regulation to ensure transparency,

fairness, and protection for all parties involved. (Arin Setiyowati, 2023) Positive law in Indonesia pays great attention to consumer protection in regulating online loan services. Law Number 8 of 1999 concerning Consumer Protection guarantees basic consumer rights, such as the right to obtain clear and accurate information, the right to a sense of security, and the right to choose the right service. In the context of online loans, this protection is very important considering the high risks involved, such as non-transparent interest rates, hidden fees, and unethical collection practices. In addition, regulations from the Financial Services Authority (OJK) and Bank Indonesia also regulate the maximum interest rates and fines that can be imposed by online loan providers, although their implementation still faces various challenges.

Unfortunately, the rapid development of online loan services has also opened up opportunities for illegal online loan services to operate. The Financial Services Authority noted that there were hundreds of unlicensed online loan applications that often carried out exploitative practices, such as manipulating consumer data or imposing interest rates at very high rates. To overcome this problem, the OJK actively blocks illegal online loan applications while educating the public to choose services that are officially registered and supervised. However, the implementation of positive law still faces a number of obstacles, such as limited supervision of the increasing number of online loan services. In addition, the low level of financial literacy in the community makes it easy for consumers to get trapped in illegal online loan services, which ultimately harms them financially and socially. As a solution, strengthening regulations and supervision is the main agenda. The government together with the OJK continues to encourage increased financial literacy in the community, strengthen supervisory mechanisms, and apply strict sanctions to parties that run illegal online loan services. In addition, cooperation with technology platform providers and internet services is also needed to ensure that only official online loan applications can be accessed by the public. Through a comprehensive and integrated approach, online loan services are expected to make a positive contribution to the economy without neglecting consumer rights. Positive law in Indonesia has a strategic role in building an inclusive, safe, and sustainable digital financial ecosystem, so that the public can use online loan services intelligently and responsibly.

Islamic Law's View of Online Lending Practices in Society

The practice of online loans (pinjol) in modern society has given rise to various debates, especially when viewed from the perspective of Islamic law. In Islamic teachings, the practice of loans involving interest (riba) is strictly prohibited, because it is considered unfair and has the potential to harm one party. Riba, in this context, refers to the addition of a certain amount to the loan that must be repaid by the borrower, which is not comparable to the value of the goods or services provided. In pinjol, the high interest charged to the borrower, especially interest that continues to grow over time, is clearly contrary to sharia principles. The main principle applied in Islamic law is justice (al-adl) and balance in every transaction, including financial transactions. Islamic law teaches that every party involved in a contract or agreement, both the lender and the borrower, should be treated fairly and without any party being harmed. However, in the practice of interest-based online loans, practices are often found that burden borrowers, especially those who do not have adequate financial capabilities. High interest, additional costs that are not transparent, and unclear conditions often trap borrowers in a cycle of debt that is increasingly difficult to repay. This clearly contradicts the purpose of Islamic law to maintain the welfare of the people and avoid exploitation in financial transactions. In addition, Islam also teaches the principle of al-amanah (trust) in every transaction. In the practice of online loans, there is often abuse of trust given by borrowers, especially if the loan provider is not transparent in informing the interest, fees, and potential risks. In addition, in many cases, online loan providers do not clearly explain the rights and obligations of both parties in the agreement. This creates an imbalance that is detrimental to the borrower, which can ultimately lead to injustice, which is prohibited in Islamic law. Another aspect that is no less important is the issue of protecting the dignity and honor of individuals, which is also upheld in Islamic law. The collection practices carried out by most illegal online loan providers are often very aggressive and inhumane. Some online loans use threats, intimidation, and even blackmail to collect debts from borrowers. In

Islam, this kind of action is clearly prohibited, because it contradicts the principles of ihsan (doing good) and rahmah (compassion) in human relations. Islam teaches that any debt that needs to be paid must be done in an honorable manner, and there is no room for abuse or oppression in the debt repayment process.

Islamic legal theory provides an important perspective in assessing lending practices involving riba (interest). In Islam, riba is considered an unfair practice because it causes an imbalance between the borrower and the lender. Riba can trigger economic inequality that is detrimental to the borrower, who is trapped in increasing debt. Therefore, high-interest-based loans, as is often the case in online loans, are considered inconsistent with the principles of justice in Islamic law, which emphasize fair transactions and avoid exploitation of the weaker party. In Islam, financial transactions must be carried out with the principle of justice, where both parties benefit from each other without any party being harmed. Islam teaches that economic activities must be based on social solidarity, by preventing practices that can exploit or harm the more vulnerable. This principle is reflected in the teachings of the Qur'an, one of which is in Surah Al-Baqarah verse 275, which states:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ
الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ
قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ
الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ
فَأَنْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ
فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

People who eat (take) usury cannot stand but are like those who are possessed by the devil because of (the pressure of) insanity. Their situation is like that, because they say (opinion), actually buying and selling is the same as usury, even though Allah has permitted buying and selling and forbidden usury. Those who have received a prohibition from their Lord, and then continue to stop (from taking usury), will have for them what they have taken previously (before the prohibition came); and its affairs are (up to) Allah. Those who return (take usury), then those people are the inhabitants of hell; they will abide therein. (Tafsir Surat Al-Baqarah 275, n.d.)

This verse confirms that usury is a forbidden practice in Islam because it contradicts the principle of justice in economic transactions. Usury is considered unfair because it provides one-sided benefits that harm the weaker party, namely those who are forced to borrow at high interest rates. Islam teaches the importance of balance and justice in financial transactions, by avoiding exploitation. Online loans that are based on high interest rates contradict this principle. As an alternative, Islam encourages the use of interest-free loans (Qardhul Hasan), which aim to help meet needs without seeking personal gain, in accordance with the principles of justice and common welfare. Islamic law allows loans on condition that there is no element of usury, and the loan must be carried out based on a clear and fair contract. For example, the qard hasan-based loan model (goodwill loan) allows borrowers to obtain loans without interest or other additional fees, as long as the loan is used for good and beneficial purposes. The murabahah contract can also be applied, where financing is carried out with a mutually agreed sale and purchase system, where a reasonable profit margin is given by the lender. In this context, more and more Islamic financial institutions are developing fair and transparent sharia-based loan products, such as institutions that use qard hasan or murabahah contracts. These models provide a healthier alternative for the community, without involving usury practices that often harm consumers. Therefore, in Islamic law, online loans are acceptable if implemented with sharia principles that avoid usury and provide protection to consumers. For this reason, it is very important for the community to increase sharia financial literacy, so that they can fully understand the potential risks faced in

using interest-based online loans, as well as ways to protect themselves from exploitation that is not in accordance with Islamic principles. Good education about the importance of understanding the laws of financial transactions in Islam, as well as introducing alternative loans that are in accordance with sharia, will help the community make wiser and more financially sustainable decisions. In addition, the role of scholars and religious institutions in providing clear and in-depth fatwas regarding the law on online loans is also very important. These fatwas can provide guidelines for the community to understand which online loan practices are in accordance with Islamic law and which are not. Religious institutions can also play a role in educating the public about the importance of avoiding illegal online lending practices that are not only financially detrimental, but can also damage the morals and ethics of society.

Fatwas on usury emerged in response to modern banking that uses an interest-bearing loan system, which originated from economic practices during European colonization. In dealing with this issue, fatwa institutions such as Dar al-Ifta al-Mashriyah (DIM) in Egypt issued a fatwa that interest-bearing loans in conventional banks are not included in usury if the contract used is a financing contract with a profit-sharing system that has been agreed upon in advance. This fatwa indicates the flexibility of the application of Islamic law to modern financial practices, as well as encouraging the development of Islamic banking that is more in accordance with sharia principles. (Nurrohman, 2024) The Islamic legal view on online lending practices emphasizes the importance of avoiding usury, providing protection for consumer rights, and ensuring fairness in every transaction. With consistent application of sharia principles, it is hoped that online lending can develop into a service that not only meets the financial needs of the community, but also contributes to social welfare and justice.

The Impact of Usury-Based Online Loan Practices on the Stability of the Community Economy

The practice of usury-based online loans has become an increasingly prominent issue in recent years, along with the development of digital technology and the increasing ease of access to financial services. Online loans offer the convenience of getting funds quickly, but this practice also has a huge impact on the stability of the community's economy, both in social, economic, and cultural contexts. These impacts can be felt not only by the individuals directly involved, but also by the economy as a whole. One of the most obvious main impacts is the financial burden borne by the borrower. Many people are trapped in online lending practices because they do not fully understand the interest mechanisms and hidden fees charged by the service provider. Loans that initially seem profitable because the process is easy and fast can become an increasingly heavy burden when the interest charged is higher and cannot be controlled. In the end, borrowers often have difficulty paying off their debts, which leads to delays in payments or even taking out new loans to pay off old debts. This phenomenon creates a cycle of debt that is difficult to break, causing borrowers to become increasingly trapped in a bad financial situation.

This increasing financial burden not only affects the condition of individuals, but also has an impact on people's purchasing power. When a person or group of people has to allocate a large portion of their income to pay debts, spending on other basic needs, such as food, clothing, education, and health, becomes limited. This decrease in purchasing power results in a decrease in demand for goods and services, which in turn slows the rate of economic growth. In the long term, the decrease in public consumption will have an impact on the trade, industry, and services sectors, which as a whole will worsen the national economic condition. In addition, the practice of usury-based online loans can also reduce public trust in the formal financial system. When people feel that they have been harmed by online loan providers who are not transparent and burden them with high interest, they tend to avoid or even suspect formal financial institutions, such as banks, which can actually provide loans with fairer terms. This distrust of the formal financial system can hamper the development of a healthy financial sector, which plays an important role in supporting the stability of the country's economy.

The psychological impact caused by usury-based online lending practices is also quite significant. Borrowers who have difficulty paying their debts often experience prolonged stress and anxiety. This mental burden can affect the borrower's quality of life, reduce work productivity, and affect social relationships. When someone feels stressed by financial problems, they often lose their motivation to work well, leading to a general decline in quality of life. Not only that, these psychological problems can lead to more serious mental health disorders, which in turn can hinder an individual's ability to get out of the debt cycle.

In addition to the social and psychological impacts, social and economic inequality exacerbated by usury-based online lending practices is also a deep problem. Vulnerable groups in society, such as informal workers, micro, small, and medium enterprises (MSMEs), or those who do not have access to formal financial institutions, are more often the main targets of online lenders. This practice worsens existing inequality, because high interest rates and hidden fees make it increasingly difficult for them to escape financial difficulties. This creates a wider gap between the rich and the poor, worsens social injustice, and leads to potential social conflicts that can threaten the stability of society. Macroeconomically, usury-based online lending practices also affect the stability of the country's economy. If most people are trapped in debt that is difficult to repay, they cannot contribute optimally to the country's economy. Reduced purchasing power leads to a decrease in domestic consumption, which can slow economic growth and create imbalances in the production and distribution sectors. This instability, if not handled seriously, can affect vital sectors in the economy, such as banking, trade, and industry.

Regression Theory, described in Sigmund Freud's Psychodynamics, focuses on defense mechanisms and social changes that occur over time, affecting people's behavior. In the context of high-interest online loans, this theory helps explain how new habits such as dependence on loans can be detrimental to social and economic well-being. Easy access to loans often comes with high interest rates and non-transparent terms, resulting in ongoing financial hardship and creating a cycle of debt. This exacerbates social inequality, hinders social mobility, and creates a gap between rich and poor. In addition to individual impacts, this dependence on online loans leads to increased stress, depression, and family instability, which ultimately reduces productivity and the quality of social relationships. This theory emphasizes the need for policy interventions such as increasing financial literacy and strict regulations to improve the financial system of society. (Wina Nurdini Kodaruddin, 2019)

Political impacts also cannot be ignored. Public dissatisfaction with online lending providers who exploit legal loopholes to harm consumers can trigger broader social tensions. Protests against unfair financial systems or government policies that are considered less protective of the public from these detrimental practices can develop into political instability. Distrust of the government and financial institutions can exacerbate social tensions, even leading to riots or movements that undermine the stability of the country. Therefore, to overcome these impacts, a holistic approach is needed and based on stricter regulations against usury-based online lending practices. The government and financial supervisory institutions must strengthen supervision of online lending providers, ensure that their practices are in accordance with applicable regulations, and comply with the principles of fairness, transparency, and consumer protection. In addition, it is important to increase financial literacy among the public, so that they better understand the risks and consequences of online lending, and have the ability to manage their finances wisely.

Education about the dangers of usury and the importance of healthy financial management must also be an integral part of the strategy to reduce the negative impacts of online lending practices. The government, financial institutions, and the community need to work together to create an inclusive and safe economic ecosystem, where people can access useful financial services without being trapped in exploitative practices. The practice of usury-based online lending has a broad and complex impact on the stability of the community's economy. Therefore, solving this problem requires strict regulations, strict supervision, and increased financial awareness and literacy in the community. With these steps, it is hoped that online loans can be a

useful financial solution without causing ongoing losses to the community and the economy as a whole.

Conclusion

The practice of online loans (pinjol) in Indonesia, both from a positive legal perspective and from an Islamic legal perspective, has a significant impact on the stability of the community's economy. From a positive legal perspective in Indonesia, although there are policies issued by the Financial Services Authority (OJK) and the Consumer Protection Law to protect consumers, existing regulations are still not effective enough in dealing with online lending practices based on usury and high interest rates. This opens up opportunities for detrimental practices, especially for economically vulnerable groups in society. Meanwhile, from an Islamic legal perspective, loans based on usury are strictly prohibited because they contradict the principles of social justice and the welfare of the people. Usury is considered a form of practice that can harm the weaker party in economic relations, as well as create social inequality and injustice. Therefore, Islamic law encourages the use of a fair, transparent, and sharia-compliant financial system, and avoids exploitative practices. The impact of online lending practices based on usury on the stability of the community's economy is very large. At the individual level, online loans often result in a burdensome debt burden, which ultimately reduces people's purchasing power and quality of life. The social impact also worsens social inequality and reduces public trust in the formal financial system. On a macro level, this can hamper economic growth and create instability in the financial and industrial sectors. Although online loans provide easy access to fast finance, usury-based practices can harm the economy of society at large. Therefore, improvements in regulation and stricter supervision from the government are needed, as well as increasing financial literacy in the community about the dangers of usury. Integration of sharia principles into the Indonesian financial system can be a solution to creating a fairer, more transparent, and more sustainable financial system.

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