

# Criminal Legal Risks of P2P Online Loan and Preventive Measures

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**Abstract:** With the development of science and technology, the Internet and mobile terminals have become popular, which has played a very important role in the development of all aspects. Compared with traditional bank lending, the advantages of P2P online lending are low thresholds and convenient operation. The criminal legal risks presented are mainly illegal money laundering, credit fraud, and illegal fundraising. The main purpose of this article is to explore the criminal legal risks of P2P online lending from multiple perspectives and combine Our own practical experience puts forward corresponding preventive measures, hoping to have certain reference significance for the orderly and healthy development of P2P online lending in my country.

**Keywords:** P2P online loan; Criminal; Legal risk; Preventive measures

In recent years, the national economy has achieved leap-forward development, especially with the popularization of the Internet and mobile terminals, private lending has gradually adopted network platforms and has been rapidly spread, such as the emerging online lending service platform P2P lending platform. The platform is mainly an interactive platform built for lenders with financial needs and borrowers with capital needs. The platform obtains the lender's credit loan funds for self-holding after passing the credit evaluation. This method is relatively perfect in developed countries such as the United States and the United Kingdom. The development time in our country is relatively short, but the rapid development in recent years has also brought about many problems, and more and more potential risks have even caused a huge impact on social stability.

## 1. P2P network lending process

In the "Guiding Opinions on Promoting the Healthy Development of Internet Finance" released in 2015, the concept of Internet finance was defined, which is a new type of financial business model that combines information and communication technology with Internet technology. after passing the review, the loan information will be published on the website, and the borrower will automatically generate electronic vouchers through bidding for the relevant loan information, which forms a creditor's right and debt relationship, and finally repays the loan according to the set date.

## 2. Development status of P2P online loan

According to the 2016 P2P online lending industry annual report, there are more than 1,600 normal platforms in Genting, a year-on-year decrease of 15.4%. The cumulative transaction volume is 336 million yuan, with close to 10 million active investors and 5.72 million borrowers. This is also the current high point of illegal fundraising induced by online lending. For many small and medium-sized enterprises, the problem of financing difficulties is more serious, and some enterprises will choose P2P online lending platforms because P2P online lending is less difficult, convenient to operate, and quick to lend. However, in recent years, the phenomenon of runaway incidents and capital chain ruptures have occurred from time to time, such as the major risk incidents of Dajia Group and e-zubao, which have also caused the regulatory authorities to intensify the rectification of P2P online loans. With the widespread concern of the society, the criminal legal risks caused by P2P online lending platforms have also received more and more attention from all parties, and the formulation of effective preventive measures has reached an imminent moment.

## 3. Definition of the legal nature of P2P online lending

### 3.1 P2P belongs to private finance

P2P online lending is to provide borrowers with funding needs through the fundraising of social idle funds. In essence, P2P online lending belongs to online private financial lending. And private finance is not regulated by the government in financial behaviors and financial organizations, such as lending behavior between individual enterprises, between enterprises and between individuals.

### 3.2 Features of P2P online loan

P2P online lending uses the Internet platform to further innovate the form of private financial lending, and P2P online lending is not restricted by time and location, so it can hide the identity of the borrower. P2P online loan is a kind of usury to investors, which can obtain benefits through higher interest income. P2P online lending is a private lending behavior and is not subject to legal control. This is also the reason that P2P online lending has great flexibility and can borrow in diversified modes, such as the debt transfer model, the Bandai model that provides guarantees, and the information intermediary model.

## 4. Types of criminal legal risks in P2P online lending

### 4.1 Illegal fundraising

As a private financial platform, P2P online lending is not standardized and poorly managed during actual operation, which will trigger criminal legal risks. For example, the most common and typical is illegal fundraising. The borrower submits an application through the platform, and the investor pays the funds to the borrower after review. During the review period, the third-party payment platform will form a deposit of funds. For more convenience, some intermediary platforms did not establish a cooperative relationship with the third-party payment platform, and conducted illegal fund-raising on the platform, resulting in P2P online lending. The criminal legal risk of the country has increased significantly.

### 4.2 Risk of money laundering crime

Some P2P online loan platforms will set up an intermediate transfer account, which will control the stranded funds on the platform and realize the extracorporeal circulation of funds. P2P online loan platform operators can illegally cash out the deposited funds through virtual accounts, leading to the risk of money laundering crime.

### 4.3 Credit lack risk

P2P online lending lacks external supervision and legal constraints, leading to more and more crimes caused by lack of credit. The information supervision system of P2P online lending is imperfect, and the phenomenon of borrowers overdue or non-payment is very common, which will lead to criminal cases such as illegal detention and violent collection. This phenomenon is very common in our daily life. Many borrowers are students who have weak repayment ability. When defaults occur, the lender uses public nude photos and contacts with the borrower's parents to coerce the borrower to repay. On September 7, 2017, China Business Daily reported that Zhu Yudi, a 21-year-old sophomore in Shaanxi, took a loan of more than 200,000 yuan for classmate dinners and repayment of loans. When he was unable to repay, he committed suicide by jumping in the river.

## 5. Suggestions for perfecting P2P online lending laws

### 5.1 Reasonable use of criminal penalties

At present, the government and various localities have launched special operations against illegal fund-raising, especially P2P online lending financial criminal crimes. Although very significant results have been achieved in the past two years, they have also had a certain impact on financial freedom.

### 5.2 Improve the supervision system

P2P online lending should strengthen cooperation with banks, and learn from the bank's fund management system and depository system. Platform funds can also be directly deposited in the bank to avoid the occurrence of criminal offences such as absconding of funds and illegal fundraising, and also ensure the legitimate rights and interests of investors are not harmed. P2P online loans can be directly connected to the bank, and the bank is centrally supervised. The platform has no right to use the funds, so that the security of the funds can be effectively guaranteed. In addition, the P2P online loan platform must file the fund transaction contract with the bank, and reject the loan application that does not meet the loan requirements.

### 5.3 Improve judicial interpretations involving crimes

The criminal charges involved in P2P online lending mainly include the crime of illegally absorbing public deposits, the crime of misappropriating funds, the crime of fundraising fraud, and the crime of illegal business operations. In practice and theory, this type of crime is not included in the category of financial crimes and needs to be explained through judicial interpretation. It even introduced amendments to the Criminal Law to clarify Internet financial crimes.

## Concluding remarks

All in all, in the current new era, Internet finance has achieved rapid development, and it has also played a very important role in social development. However, in the process of the development of P2P online lending, crimes such as money laundering and illegal fund-raising are not uncommon. The government has also formulated a series of prevention and control measures for the prevention of risks in Internet finance, and clearly proposed measures to be taken at the Fifth Plenary Session of the 18th Central Committee. Internet finance is regulated. At present, the problem that needs to be solved urgently is the positioning of information intermediaries of online lending institutions, to prevent self-financing and self-insurance, setting up capital pools, and issuing loans, especially the thorough investigation and handling of the problem of "loan usury". Regulatory agencies should further strengthen the rectification of P2P online lending platforms, and integrate multiple forces to form a multi-in-one comprehensive governance system, covering a more scientific and complete governance system covering social supervision, government supervision, and legal regulation. Provide important support for the orderly and healthy development of our economy.

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