

Legal Analysis from Financial Services Authority in Legal Protection for Customers and Supervision from Banks

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Abstract

The Financial Services Authority is an institution that is free of interference from other institutions and is independent. This Financial Services Authority has various functions, various powers, and various tasks in the field from examination, regulation, supervision, and investigation of all financial institutions in Indonesia. One type of financial institution is a bank financial institution. The various functions, powers, and duties of the Financial Services Authority have been regulated and stipulated in Law Number 21 from the Year 2011 about the Financial Services Authority. Besides, the Financial Services Authority also has various functions, various powers, and various tasks in the field from legal protection for all customers owned by all banks in Indonesia. This is done to provide legal certainty and protection guarantees for all customers owned by all banks in Indonesia. In writing the scientific article, the writer uses a normative and juridical research method which means a research method that is carried out using various sources of library law or secondary sources of law to find various solutions to various existing legal problems.

KEYWORDS

Financial Services Authority; Legal Protection for Customers; Supervision of The Bank



Introduction

Financial Services Authority is a supervisory state institution for all financial institutions, especially all bank financial institutions in Indonesia. The Financial Services Authority was established by the Indonesian government in the year 2012 using a legal basis of Law Number 3 from the Year 2004 about Amendments to Law Number 23 from the Year 1999 about Bank Indonesia. Law Number 3 from the Year 2004 regulated that all bank financial institutions in Indonesia must be supervised by a state institution that is free from interference from other state institutions and independent. Besides, it is hoped that a state supervisory institution can replace the place and position of the Capital Market and Financial Institution Supervisory Agency which was originally a supervisory state institution for all bank financial institutions in Indonesia.¹

The process of establishing a Financial Services Authority by the Indonesian government has a purpose, such as to provide a supervisory state institution that has full power over all bank financial institutions in Indonesia. Besides, the process of establishing a Financial Services Authority by the Indonesian government also has another purpose, such as to carry out a supervisory process for a business activity carried out by a bank financial institution or a non-bank financial institution. Such a supervisory process needs to be carried out because it is to prevent a problem or a dispute from occurring in a bank financial institution. Besides, a supervisory process has a purpose, such as to form a bank financial institution system that can develop and grow well, form a healthy and profitable financial institution, and maintain the various interests owned by customers.²

¹ Wiwin Sri Haryani, *Institusi Otoritas Jasa Keuangan Menurut Undang-Undang Nomor 21 Tahun 2011 mengenai Otoritas Jasa Keuangan*, *Jurnal Legislatif Indonesia*, Vol. 9, No. 3, 2012, pp. 47-48.

² Hermansyah, *Hukum Perbankan di Indonesia*, Jakarta: Kencana, 2011, pp. 177-178.

Economic experts in Indonesia say that the Financial Services Authority was formed with a purpose, such as to deal with an increasingly complex world financial system. So, the establishment of the Financial Services Authority is expected to increase economic competitiveness and maintain national economic stability in Indonesia. Besides, the establishment of the Financial Services Authority is an expression of the desire of the Indonesian government to carry out a reform process in the financial sector. Thus, it can be explained that the Indonesian government has a high desire to increase economic competitiveness and national economic stability in Indonesia so that it is equal to economic competitiveness and national economic stability in all developed countries.

In carrying out various functions, various powers, and various tasks in the field from supervision from all financial institutions in Indonesia, the Financial Services Authority can carry out a collaborative process with Bank Indonesia and the Deposit Insurance Corporation. In a supervisory process, the Financial Services Authority can inform all information about various bank financial institutions that are experiencing a problem or a dispute to the Deposit Insurance Corporation. Furthermore, the Deposit Insurance Corporation can carry out a process of examining various bank financial institutions that are experiencing a problem or a dispute. Thus, it can be explained that Bank Indonesia, Deposit Insurance Corporation, and with Financial Services Authority must be able to carry out a good and healthy cooperation process to achieve effective, efficient, and increasing economic competitiveness and national economic stability.

A supervisory process for all financial institutions in Indonesia that was originally a function, an authority, and a task owned by Bank Indonesia has now been changed to a function, an authority, and a task owned by the Financial Services Authority. In the process of replacing a function, an authority, and a task, the World Bank advises the Indonesian state to do it carefully and gradually. This is because according to the World Bank, a process of replacing a function, an authority, and a task from Bank

Indonesia for Financial Services Authority is considered to be dangerous for the stability of the national economy in Indonesia.³

Article 4 Letter c of Law Number 21 from the Year 2011 regulated that the “Financial Services Authority was established by the Indonesian government to protect the various interests owned by customers in particular and society at large in the financial services sector.”⁴ A process from legal protection provided by the Financial Services Authority applies to all activities in the field from bank financial institutions and non-bank financial institutions. A bank financial institution is an institution that can carry out a process of cooperation with customers where on the one hand a bank financial institution has to store several funds owned by customers who act as owners of funds and on the other hand a bank financial institution has to channel several funds to customers who act as borrowers of funds. The number of funds deposited in a bank financial institution can be referred to as deposits or savings. Meanwhile, the number of funds distributed to customers who need it can be referred to as credits or loans.⁵

The Financial Services Authority has the authority to supervise, regulate, and train a bank. Apart from that, the Financial Services Authority also must protect customers or consumers. So this research article has the main objective of explaining the methods used by the Financial Services Authority in carrying out the supervisory process for a bank and the methods used by the Financial Services Authority in providing a legal protection process for bank customers

Two essential components of preserving stability and confidence in the financial services industry are bank oversight and consumer legal

³ Adrian Sutedi, *Berbagai Aspek dari Otoritas Jasa Keuangan*, Jakarta: Raih Asa Sukses, 2014, p. 125.

⁴ Indonesia, *Law about Financial Services Authority*, Law Number 21 from the Year 2011, State Gazette Number 64 from the Year 1995, Article 1 paragraph (22).

⁵ Chairil Susanto, “Tinjauan Hukum Tentang Pengawasan Bank Dan Perlindungan Nasabah Oleh Otoritas Jasa Keuangan,” *Ilmu Hukum Legal Opinion* 2, no. 1 (2014): 1–8.

protection. To achieve these two goals, the Financial Services Authority (*OJK*) is essential. *OJK* has a significant role in establishing a sound and just financial ecosystem as an independent organization with the authority to control and oversee all operations in the financial services industry. The primary goal of consumer legal protection is to give financial service consumers fairness and predictability. Consumers must feel secure and shielded from harmful activities like fraud, improper use of data, or misinformation. *OJK* contributes to the creation of laws that safeguard the rights of consumers and offers efficient channels for handling complaints and disputes.⁶

On the other side, the goal of bank supervision is to guarantee that banks function properly and in compliance with relevant laws. *OJK* oversees several banking-related areas, including regulatory compliance, risk management, and bank financial health. Preventing financial crises and preserving public confidence in the banking sector depends on this oversight. The legal ramifications of *OJK*'s involvement in bank regulation and consumer protection are extensive. Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking and Law Number 21 of The Year 2011 concerning the Financial Services Authority are a couple of them, along with several additional rules and directives from the *OJK*. These legal considerations serve as the foundation for the *OJK*'s performance of its responsibilities and powers, as well as offering legal assurance for all parties involved in the financial services sector.⁷

Based on the explanation of the descriptions that have been described, the authors make various formulations of problems that arise as a result of

⁶ Amir, M. F. (2020). Peran Dan Fungsi Otoritas Jasa Keuangan (Ojk) Dalam Sistem Keuangan Di Indonesia (Perspektif Hukum Islam). *Al-Amwal: Journal of Islamic Economic Law*, 5(1), 59-71.

⁷ Aisyah Ayu Musyafah, "Peran Otoritas Jasa Keuangan (OJK) Dalam Hal Perlindungan Nasabah Pada Lembaga Keuangan Mikro Syariah," *Law, Development and Justice Review* 2, no. 2 (2019): 194–211, <https://doi.org/10.14710/ldjr.v2i2.6316>.

the role from Financial Services Authority has in the field of legal protection for customers and supervision of banks, which are as follows:

- a) How are the methods taken by the Financial Services Authority in conducting a supervisory process from a bank?
- b) How do the methods taken by the Financial Services Authority in providing a process from legal protection for customers of a bank?

Methods

In writing this scientific article, the author uses a research method in the form of doctrinal and juridical means that research method carried out using various legal values, various legal norms, various laws and regulations, and various sources of library law in the field from bank financial institutions, especially in the field from roles owned by Financial Services Authority in the field from bank supervision and customer protection. Besides, the author also uses various primary legal sources and various secondary legal sources relating to the role that the Financial Services Authority has in the field of bank supervision and customer protection. Various primary legal sources are used, such as Law Number 21 from the Year 2011 about the Financial Services Authority and Regulation from Financial Services Authority Number: 1/POJK.07/2013 about Customer Protection in the Financial Services Sector. Meanwhile, various secondary legal sources are used, such as various books and various scientific articles related to the role that the Financial Services Authority has in the field of bank supervision and customer protection. The various legal sources used are then reviewed doctrinally-juridically to provide general descriptions and conclusions about various problems that will be resolved in this scientific article.⁸

⁸ Soerjono Soekanto, *Pengantar Dalam Penulisan Hukum*, Jakarta: Universitas Indonesia, 2006, p. 44.

This type of research is normative legal research. Normative legal research is a scientific activity based on certain methods, systematics, and thoughts that aim to study something or several certain legal phenomena, by analyzing them. Normative legal research is also called library research or document study because this research is conducted or aimed only at written regulations or other legal materials. The nature of this research is descriptive legal research. Descriptive legal research means that researchers in analyzing want to provide a description or explanation of the subject and object of research as the results of the research they have conducted and here the researcher does not justify the results of the research.⁹

Result and Discussion

1. The Methods Taken by Financial Services Authority in Conducting A Supervisory Process from A Bank

The Financial Services Authority was formed by the Indonesian government using various main legal principles that have been regulated and stipulated in Law Number 21 from the Year 2011: The principles of accountability, independence, integrity, legal certainty, public interest, transparency, and professionalism.¹⁰ Besides, Article 6 from Law Number 21 from the Year 2011 regulated that: “Financial Services Authority carries out tasks in the field from a supervisory process and a regulatory process consisting of:

- a) Activities of a financial service institution in fields from Pension Funds, Financing Institutions, Insurance, and other Financial Institutions.
- b) Activities of a financial service institution in the field of the capital market sector.

⁹ Soerjono Soekanto dan Sri Mamudji, 2007, *Penelitian Hukum Normatif*, PT Raja Grafindo Persada, Jakarta, hlm. 14.

¹⁰ Indonesia, *Op. Cit.*, Explanation from Law Number 21 from the Year 2011 about Financial Services Authority.

c) Activities of a financial service institution in the field from the banking sector.”¹¹

Article 2 paragraph (2) from Law Number 21 from the Year 2011 regulated that: “Financial Services Authority is an independent institution in the implementation process of an authority and a task it has and is free from interference from other state institutions, except for various matters that have been expressly regulated in this Law.”¹² This article means that the Financial Services Authority is an independent state institution in the non-financial sector that carries out its authority and tasks without the control of the Indonesian government.

Besides, Article 47 paragraph (1) from Law Number 21 from the Year 2011 regulated that: “Financial Services Authority can carry out a process of cooperation with a supervisory state institution from another country or with an international institution in various fields of activity, are as follows:

- a) This is an activity about cooperation in the investigation, prevention, and examination of a crime that occurred in the financial sector.
- b) Activity about the development of the capacity of a certain state institution, such as an example of a process of developing human resources owned by a particular state institution.
- c) Activity about the exchange of information owned by a certain state institution with another state institution.”¹³

In carrying out a supervisory process for a bank financial institution or a non-bank financial institution, the Financial Services Authority uses an integrated supervisory system so that the various information owned between a bank financial institution that exists today and in the past, a non-bank financial institution that exists today and in the past, and a state supervisory institution that exists today and in the past has not disappeared from the past. This was also done to prevent the occurrence of a case, such

¹¹ Indonesia, *Op. Cit.*, Article 6.

¹² Indonesia, *Op. Cit.*, Article 2 paragraph (2).

¹³ Indonesia, *Op. Cit.*, Article 2 paragraph (1).

as a case for Century Bank, that until now has not been resolved by the Indonesian government. A case about Century Bank could have occurred because of a misunderstanding between Bank Indonesia which at that time was a supervisory state institution in the field of bank financial institution and Capital Market and Financial Institution Supervisory Agency which at that time was a supervisory state institution in the field of non-bank financial institution. At the time, Bank Indonesia considered that Century Bank had been supervised by Capital Market and Financial Institution Supervisory Agency because Century Bank had a product in the form of mutual funds, but at that time, Capital Market and Financial Institution Supervisory Agency considered that Century Bank had been supervised by Bank Indonesia because Century Bank is a bank financial institution. So, at that time, neither Bank Indonesia nor Capital Market and Financial Institution Supervisory Agency did not carry out a supervisory process on a business activity carried out by Century Bank.¹⁴¹⁵

Data and information that demonstrate the function of *OJK* in bank supervision and consumer legal protection can be provided as empirical evidence. For instance, *OJK*'s annual customer complaint volume may serve as a gauge of how well legal protections are working. Furthermore, information on the penalties *OJK* has imposed on banks that breach its rules demonstrates how seriously it takes its oversight duties. *OJK*'s responsibility and transparency in performing its responsibilities are further demonstrated by the regular release of bank financial reports and data on bank health. A true picture of *OJK*'s role in ensuring that clients

¹⁴ Sigel Ratumbusang, "Peranan Otoritas Jasa Keuangan Dalam Pengawasan Bank," *Journal of Chemical Information and Modeling* 53, no. 9 (1981): 1689–99.

¹⁵ Sigel Ratumbusang, Peran Otoritas Jasa Keuangan Dalam Mengawasi Suatu Bank, *Jurnal Lex Privatum*, Vol. 4, No. 3, 2016, p. 76.

receive justice may also be obtained from case studies on customer-bank dispute resolution in which *OJK* served as a mediator or facilitator.¹⁶

One instance is when bank management flees the country with the public cash they have collected (as in the cases of *Bank Dwimanda*, *Bank Gunung Palasari*, and *Bank Global*). J. Satrio explained that breach of contract is a legal institution that plays an important role in civil law because it has very important legal consequences, which are typically associated with the problem of cancellation of agreements and/or compensation (Article 1243 in conjunction with Articles 1266 and 1267 of the Civil Code). This means that the case of a bank customer filing a civil lawsuit in court is closely related to a breach of contract lawsuit.¹⁷

An integrated supervisory system is considered to be able to reduce and even prevent misunderstandings and conflicts of interest between a supervisory state institution and a bank financial institution as well as between a supervisory state institution and a non-bank financial institution. If there is a problem in the field from a financial institution, then the financial institution concerned can carry out a coordination process with a supervisory state institution to determine who is responsible and resolve the problem that has occurred.¹⁸ However, in reality, a process of coordination between a state supervisory institution and a financial institution often fails. This happens because an integrated supervision system is contradicting a pre-existing supervisory system. So, this can be a major obstacle in an integrated supervisory system. One method used to solve this problem is by carrying out a process of forming a new rule in the field from an integrated supervision system and carrying out a process of revoking an old rule in the

¹⁶ Abdurrazaq Triansyah et al., "PERAN OTORITAS JASA KEUANGAN DALAM PERLINDUNGAN HUKUM BAGI PENGGUNA PINJAMAN ONLINE ILEGAL (Studi Kasus Pinjol Ilegal Di Yogyakarta)," *Cross-Border* 5, no. 2 (2022): 1090–1104.

¹⁷ Likuidasi Bank Dan, Perlindungan Nasabah, and Pustaka Sinar Harapan, "Kata Kunci : Pengawasan Bank, Perlindungan Nasabah, Otoritas Jasa Keuangan." 2, no. 1 (2014): 1–8.

¹⁸ Adrian Sutedi, *Op. Cit.*, p. 203.

field from a pre-existing supervision system. However, these two things must be done carefully and gradually so that the process of forming a new regulation in the field from an integrated supervision system is not exploited by various irresponsible parties.

Besides, in the process of transitioning from an old supervisory system to a new supervisory system, it is necessary to pay attention to the various obstacles that will occur and the system of governance that will be implemented. This is because, in a transitional process, an existing supervisory state institution has also undergone significant changes. First, a supervisory state institution is experiencing changes in the field from its employees.¹⁹ Employees in an old supervisory state institution will be transferred to a new supervisory state institution so that there will be a process of cooperation between the old employees who have been transferred and the new employees who have been there before. However, the process of transferring old employees to a new supervisory state institution must have received written approval from the old employees concerned. It has a purpose to prevent job competition between old employees and new employees.

Second, a supervisory state institution experiences changes in the field from work culture. This is because in an old supervisory state institution with a new supervisory state institution, each has a different work culture. This work culture consists of a supervisory process and a governance system implemented by a bank financial institution. So, with this transitional process, it is hoped that the entire work culture that exists in an old supervisory state institution with all existing work cultures in a new supervisory state institution can be combined into one and form a new and integrated work culture. One example of a supervisory state institution that has an integrated work culture is the Financial Services Authority. This is because the work culture of the Financial Services Authority is a

¹⁹ *Ibid*, p. 204.

combination of various work cultures previously owned by Bank Indonesia and various work cultures previously owned by the Capital Market and Financial Institution Supervisory Agency that have now been replaced by the Financial Services Authority.

A vital dynamic component of preserving the Financial Services Authority's (*OJK*) relevance and efficacy is the integration of regulatory changes. Regulations must be continuously adjusted to reflect changes in the economy, globalization, and technological advancements. It's critical to analyze recent regulatory developments, such as the introduction of new legislation or amendments to *OJK* regulations, to comprehend how they affect consumer protection and bank oversight.²⁰

Increasing financial institutions' accountability and openness, bolstering the security of consumer personal data, and adjusting to technology advancements in the financial industry are only a few of the current legal considerations in regulatory developments. A thorough examination of these regulatory developments necessitates a thorough comprehension of their goals, their effects on participants in the financial services sector, and their ramifications for the rights and responsibilities of customers. *OJK* can therefore guarantee that current laws continue to be applicable and efficient in accomplishing the goals of consumer protection under the law and the best possible bank supervision.

A supervisory process carried out by Bank Indonesia is different from a supervisory process carried out by the Capital Market and Financial Institution Supervisory Agency. Bank Indonesia only carries out a supervisory process for bank financial institutions, while the Capital Market and Financial Institution Supervisory Agency can carry out a supervisory process for non-bank financial institutions, such as, for example,

²⁰ Surti Yustianti, "Kewenangan Pengaturan Dan Pengawasan Perbankan Oleh Bank Indonesia Dan Otoritas Jasa Keuangan (Ojk)," *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Dan Ke-PPAT-An* 1, no. 1 (2017): 60, <https://doi.org/10.24198/acta.v1i1.66>.

investment financial institutions, capital market financial institutions, and financial institutions.²¹ A process of separation of the supervisory process authority is carried out to prevent the occurrence of a problem or a dispute between Bank Indonesia and the Capital Market and Financial Institution Supervisory Agency. Besides, with the existence of these two different state supervisory bodies, the Indonesian government has formed a new and independent state supervisory agency, such as the Financial Services Authority. The establishment of the Financial Services Authority by the Indonesian government has the purpose of carrying out a process of supervising bank financial institutions and non-bank financial institutions quickly and optimally.

In carrying out an integrated supervisory process, the Financial Services Authority faces various main obstacles. First, the Financial Services Authority must carry out a process of changes to existing governance to establish a new and integrated supervisory system. Second, the Financial Services Authority must resolve various problems that occur in the process of changing governance so that the Financial Services Authority can carry out a supervisory process in an effective, efficient, and optimal manner. A supervisory process is carried out for all activities that have not been carried out or that have been carried out in a bank financial institution or a non-bank financial institution. Besides, a supervisory process is carried out on all infrastructures, all facilities, and all human resources owned by a bank financial institution or a non-bank financial institution.²²

The following are the challenges faced by financial services authorities:

- a) The financial services sector continues to evolve with the emergence of new and increasingly complex products and services. This requires *OJK*

²¹ Tri Hendro and Conny Tjandra Rahardja, *Institusi Keuangan Bank dan Institusi Keuangan Non-Bank di Indonesia*, Jakarta: UPP STIM YKPN, 2014, p. 494.

²² Kasmir, *Institusi Keuangan Bank dan Institusi Keuangan Lainnya*, Jakarta: Raja Grafindo Persada Corporation, 2014, p. 319.

to have a deep understanding and the ability to adapt quickly to these changes.

- b) Technological innovations in the financial sector, such as fintech and cryptocurrency, present both opportunities and challenges. *OJK* needs to ensure that these innovations do not pose uncontrolled risks to customers and the stability of the financial system.
- c) The globalization of the financial sector increases the interconnectedness between financial institutions and countries. This requires *OJK* to work with regulators from other countries to supervise and address cross-border risks.

The theory about a supervisory process carried out by the Financial Services Authority on a bank financial institution consists of two theories. First, the theory about a supervisory process that has the purpose of increasing economic competitiveness and maintaining national economic stability in Indonesia or what is commonly referred to as a theory about a macroeconomic supervision process. Second, the theory about a supervisory process that has the purpose of maintaining the various interests of the customers and ensuring that an economic activity carried out by a bank financial institution can remain healthy or what is commonly referred to as a theory about prudent economic supervision process. A purpose to be achieved by the theory about a macroeconomic supervision process, such as supervising and encouraging a bank financial institution to be able to participate in increasing the balance of payments, increasing opportunities for employment, increasing economic growth, and maintaining economic stability in Indonesia. Meanwhile, a purpose to be achieved by the theory about a prudent economic supervision process, such as to keep a bank financial institution safe and healthy and increase the trust that customers in particular and the public at large in a bank financial institution.²³

²³ Adrian Sutedi, *Op. Cit.*, p. 148.

The theory about a prudent economic supervision process means that a bank's financial institution must be regulated by a law that prohibits them from carrying out an economic activity that has a large risk that could endanger a bank's financial institution. So, the two theories about a process of economic supervision regulate that a supervisory process carried out by the Financial Services Authority is considered to be able to form a system from bank financial institutions that are healthy, effective, and efficient.²⁴ Thus, the existence of a law that limits and regulates all economic activities carried out by a bank financial institution has a very important role in economic growth and national economic stability in Indonesia.

A supervisory process carried out by the Financial Services Authority on a bank financial institution also has a purpose, such as to prevent bankruptcy for an existing bank financial institution. So, the process of supervision of a bank financial institution requires the existence of various roles from all parties including the wider community, customers of the bank concerned, the Indonesian government, and the Financial Services Authority. Besides, a supervisory process carried out by the Financial Services Authority on a bank financial institution also has various purposes, such as establishing a climate of healthy economic competition, maintaining a process of channeling credit money to customers in need, and maintaining monetary stability that exists in Indonesia. A climate of healthy economic competition between one bank financial institution and another bank financial institution is needed to establish an effective and efficient bank financial institution system.²⁵

The primary framework governing *OJK*'s responsibilities and powers in overseeing the banking and financial services industries is Law Number 21 of the Year 2011 addressing *OJK*. Furthermore, rules about bank oversight and consumer protection are included in Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking.

²⁴ *Ibid*, p. 149.

²⁵ *Ibid*, p. 150.

Additional information about how *OJK* fulfills its responsibility to safeguard consumers and oversee banks can be found in its regulations, such as the *OJK* Regulation on Consumer Protection in the Financial Services Sector and the *OJK* Regulation on Bank Supervision. A more thorough understanding of *OJK*'s standards, the supervisory procedures put in place, and the initiatives taken to guarantee regulatory compliance will result from an analysis of these regulations.²⁶

Legal precedent is a significant factor in determining how the law is interpreted and applied in the financial services industry, in addition to rules and regulations. Court rulings involving customer-bank conflicts or rulings evaluating *OJK*'s supervision activities can offer insight into how the law is implemented. Analyzing these precedents will make it easier to understand the legal interactions between *OJK* and financial services industry participants, as well as the enforcement of bank duties and client rights, will be made easier with the analysis of these precedents.²⁷

A process of strict supervision of a bank financial institution is needed to protect the various interests owned by customers and establish a healthy system of a bank financial institution that is healthy. If the system of a bank financial institution can become healthy, then all economic activities in a bank financial institution can be carried out effectively, efficiently, and optimally. Besides, this is done because a bank financial institution itself has a very large role in economic activity in Indonesia.²⁸ Thus, it can be explained that the supervisory process of a bank financial institution is very important for the existing economic system in Indonesia. This is because a supervisory process of a bank financial institution is only carried out to prevent distortion or disruption to an existing economic system in Indonesia.

²⁶ Alna Aulin et al., "Peran Otoritas Jasa Keuangan (OJK) Dalam Pengawasan Dan Penegakan Hukum Di Sektor Perbankan" 2, no. 4 (2024): 90–93.

²⁷ Nasabah Bank, "PERLINDUNGAN HUKUM TERHADAP NASABAH BANK 1 Oleh : Mohammad Rheza Cahyadi Potabuga 2" VI, no. 10 (2018): 33–44.

²⁸ H. Zainal Asikin, *Dasar Hukum Perbankan yang Terdapat di Indonesia*, Jakarta: Raja Grafindo Persada Corporation, 2015, p. 18.

The challenges and opportunities faced by the Financial Services Authority (*OJK*) in carrying out its role are very diverse and dynamic, reflecting the complexity and changes in the financial services sector landscape. Some of the main challenges that need to be overcome include the complexity and dynamics of the financial services sector which continues to develop, requiring in-depth understanding and rapid adaptability from *OJK*. Technological innovations such as fintech and cryptocurrency also present their challenges, where *OJK* needs to ensure that these innovations do not pose uncontrolled risks to customers and the stability of the financial system as a whole. The globalization of the financial sector also requires strong international cooperation between regulators to monitor and address cross-border risks. In addition, efforts to continue to improve consumer protection are an ongoing challenge, where *OJK* needs to ensure that customers have sufficient and clear information about financial products and services and have access to effective dispute-resolution mechanisms.²⁹

However, behind these challenges, there are also opportunities that *OJK* can take advantage of to increase the effectiveness of its role. Strengthening regulations is one of the main opportunities, where *OJK* can continue to strengthen existing regulations, as well as develop new regulations that are by technological developments and market needs. Improving supervision is also an important opportunity, where *OJK* can utilize technology and data analytics to improve the effectiveness of supervision, as well as improve human resource capacity. Closer international cooperation with regulators from other countries can also help *OJK* address global challenges and improve consumer protection. In addition, increasing public financial literacy is also an opportunity for *OJK* to play an active role in providing education to the public so that customers

²⁹ Rustam Magun Pikhulan, "Implementasi Fungsi Pengaturan Serta Pengawasan Pada Bank Indonesia Dan Otoritas Jasa Keuangan (OJK) Terhadap Perbankan," *Jurnal Penegakan Hukum Dan Keadilan* 1, no. 1 (2020): 41–51, <https://doi.org/10.18196/jphk.1103>.

are smarter and more careful in choosing financial products and services. By overcoming challenges and utilizing existing opportunities, *OJK* can continue to improve its role in protecting customers and maintaining the stability of the financial system, which will ultimately make a positive contribution to economic growth and public welfare.³⁰

2. The Method Taken by Financial Services Authority in Providing A Process from Legal Protection for Customers of A Bank

Walker E. R., in his book entitled *From Economic Theory To Policy*, explains a theory that in rationalization in the economic sector, consumers always try to obtain maximum satisfaction for themselves.³¹ So, the Financial Services Authority as a state institution established on the legal basis of Law Number 21 of 2011 concerning the Financial Services Authority has the function of implementing an integrated supervisory and regulatory system for all activities in the financial services sector, both in the non-bank financial services sector, such as examples: insurance, pension funds, other financial service institutions, financing institutions, capital markets, and banking.

A solid basis for examining the Financial Services Authority's (*OJK*) involvement in bank supervision and consumer legal protection can be found in a pertinent theoretical framework. The relationship between customers as principals and banks as agents can be understood using agency theory, in which *OJK* serves as a third party that monitors and guarantees that banks behave in a way that serves the interests of customers. Because *OJK* safeguards not only the interests of its clients but also those of other

³⁰ Eko Pratama Sinaga and Abdurrakhman Alhakim, "Tinjauan Yuridis Terhadap Perlindungan Hukum Bagi Pengguna Jasa Pinjaman Online Ilegal Di Indonesia," *UNES Law Review* 4, no. 3 (2022): 283–96, <https://doi.org/10.31933/unesrev.v4i3.235>.

³¹ Lubis, Suhwardi K., and Farid Wajadi, 2012, *Hukum Ekonomi Islam*, Sinar Grafika: Jakarta.

parties involved in the financial services industry, including investors, industry participants, and the general public, stakeholder theory is equally pertinent.

The effectiveness of *OJK*'s regulations can also be examined using legal and economic theories. This idea highlights how crucial it is to strike a balance between market efficiency and consumer protection. *OJK* must make sure that the rules put in place protect consumers sufficiently while not impeding innovation and expansion in the financial services industry. Understanding governance theory is also crucial to comprehending how *OJK* exercises its powers and responsibilities. *OJK* must adhere to good governance concepts such as independence, accountability, and transparency to perform its duties efficiently and respectably. A more thorough and organized legal examination of *OJK*'s function in bank supervision and consumer protection can be achieved by employing a pertinent theoretical framework.³²

A process of legal protection provided to all customers owned by all banks in Indonesia has been regulated in Article 28 until Article 31 from Law Number 21 from the Year 2011. Law Number 21 from the Year 2011 regulated that a process of legal protection for all customers owned by all banks in Indonesia has a purpose, such as to prevent and avoid losses that can be experienced by customers at large. The various roles that the Financial Services Authority has in the field from legal protection to all customers of all banks in Indonesia are as follows:³³

a) Article 28 from Law Number 21 from the Year 2011 regulated that: "To protect customers, Financial Services Authority has various authorities

³² Hakam Ahmad, Sri Anggraini, and Gesang Iswahyudi, "Perlindungan Hukum Terhadap Keamanan Rahasia Bank Dalam Menjaga Kepentingan Nasabah Perbankan," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 2 (2022): 337–50, <https://doi.org/10.37680/almanhaj.v4i2.1800>.

³³ Chairil Susanto, *Op. Cit.*, pp. 4-5.

to carry out various preventive measures against losses that may be experienced by customers, consisting of:

- 1) Carrying out various other actions deemed necessary following the Statutory Regulations in the financial sector.
 - 2) Providing education and information to customers on the characteristics, services, and products that exist in the financial sector.
 - 3) Requesting a bank financial services institution to stop its activities if such activities create the potential for harm customers.”³⁴
- b) Article 29 from Law Number 21 from the Year 2011 regulated that: “Financial Services Authority has various authorities to provide services to the process of complaints from customers in the following areas:
- 1) Providing settlement facilities for the process of complaints from customers who have been harmed by a bank financial service institution following the Statutory Regulations in the financial sector.
 - 2) Establishing a mechanism for the process of complaints from customers who have been harmed by a bank financial service institution.
 - 3) Preparing various adequate tools needed in the process of complaints from customers who have been harmed by a bank financial service institution.”³⁵
- c) Article 30 from Law Number 21 from the Year 2011 regulated that: “(1) To protect customers, Financial Services Authority has various authorities to carry out various legal defense measures, consisting of:
- 1) Taking certain actions or ordering a bank financial service institution to complete the process of complaints from customers who have been harmed by the institution concerned.
 - 2) Submitting a lawsuit to get compensation from parties that have caused losses to customers or a bank financial service institution as a result of a violation of Statutory Regulations in the financial sector.

³⁴ Indonesia, *Op. Cit.*, Article 28.

³⁵ Indonesia, *Op. Cit.*, Article 29.

3) Submitting a lawsuit to get back the assets owned by the party who has previously suffered losses from the party that has caused the loss, whether under the control of the party that caused the loss or under the control of another party in good faith.

And (2) the compensation as referred to in paragraph (1) letter b number 1 applies only to payment from compensation for parties who have previously suffered losses.”³⁶

d) Article 31 of Law Number 21 from the Year 2011 states that “Further provisions about the legal protection process for all customers owned by all banks in Indonesia are regulated in Financial Services Authority Regulation.”³⁷

e) Article 4 from Law Number 21 from the Year 2011 explains that the *OJK* was formed to create a financial system that grows sustainably and stably while protecting the interests of consumers and the community.

The provisions governing a legal protection process for all customers owned by all banks in Indonesia have also been followed up by the Financial Services Authority with the establishment of Financial Services Authority Regulation Number: 1/POJK.07/2013 about Customer Protection in the Financial Services Sector. Financial Services Authority Regulation Number: 1/POJK.07/2013 regulated the various obligations a bank has to its customers in the field from a legal protection process for customers. Besides, Financial Services Authority Regulation Number: 1/POJK.07/2013 was established by the Financial Services Authority because so far the position owned by customers has always been below that of a bank financial service institution. This means that the position owned by customers is always a weak party, while the position owned by a bank financial service institution is always a strong party.

Besides, a process of legal protection provided to all customers owned by all banks in Indonesia has also been regulated in Article 21, Article 22,

³⁶ Indonesia, *Op. Cit.*, Article 30.

³⁷ Indonesia, *Op. Cit.*, Article 31.

and Article 29 from Financial Services Authority Regulation Number: 1/POJK.07/2013. Financial Services Authority Regulation Number: 1/POJK.07/2013 regulated that a process of legal protection for all customers owned by all banks in Indonesia has a purpose, such as to achieve justice, balance, and fairness between customers with a bank financial service institution that occurs in business activities carried out by a bank financial service institution. The various roles that the Financial Services Authority has in the field from legal protection to all customers of all banks in Indonesia are as follows: ³⁸

- a) Article 21 from Financial Services Authority Regulation Number: 1/POJK.07/2013 states that “Business actors in the financial services sector must meet requirements about justice, balance, and fairness in the process of making agreements with consumers, in this case, the customers.”³⁹
- b) Article 22 from Financial Services Authority Regulation Number: 1/POJK.07/2013 regulated that: “(1) If a business actor in the financial services sector uses a standard form agreement, then the agreement in the standard form must be prepared following the Statutory Regulations, (2) the standard form agreement as referred to in paragraph (1) can be in electronic or digital form that is then offered by business actors in the field from financial services sector through electronic media, and (3) the standard form agreement as referred to in paragraph (2) used by business actors in financial services sector are prohibited from being used for the following matters:
 - 1) Business actors are given various rights in the financial services sector to reduce the assets owned by consumers, in this case, the customers who are the objects of service agreements and product agreements, or to reduce the use of services and products that have been provided.

³⁸ Chairil Susanto, *Op. Cit.*, p. 5.

³⁹ Indonesia, *Financial Services Authority Regulation about Customer Protection in Field from Financial Services*, Financial Services Authority Regulation Number: 1/POJK.07/2013, State Gazette Number 118 from the Year 2013, Article 21.

- 2) Regulating the obligations of proof that consumers have, in this case, the customers if the business actor in the financial services sector has stated that the loss from service use and the usefulness from the product that has been purchased by consumers, in this case, the customers is not a responsibility that has by business actors in the financial services sector.
 - 3) Declaring that consumers, in this case, customers can authorize business actors in the financial services sector to charge for liens, security rights for services and products, and security rights that have been purchased by consumers, in this case, customers in installments.
 - 4) Declaring that consumers, in this case, customers can obey and comply with new regulations, follow-up regulations, additional regulations, and regulatory changes that have been made by business actors in the financial services sector unilaterally when consumers, in this case, customers use services and products that have been purchased.
 - 5) Declaring that business actors in the financial services sector have a right to refuse refunds of money that has been paid by consumers, in this case, the customers for a service and a product that has been purchased.
 - 6) Declaring that there has been a power of attorney from consumers, in this case, the customers to business actors in the financial services sector, either indirectly or directly to carry out all actions unilaterally on goods that have been pledged by consumers, in this case, the customers, except the unilateral action is carried out following the Statutory Regulations.
 - 7) Declaring that there has been a transfer of obligations or responsibilities from business actors in the financial services sector for consumers, in this case, the customers.”⁴⁰
- f) Article 29 from Financial Services Authority Regulation Number: 1/POJK.07/2013 regulated that: “Business actors in the financial services

⁴⁰ Indonesia, *Op. Cit.*, Article 22.

sector are obliged to have responsibility for losses suffered by consumers, in this case, the customers as a result of negligence or mistake made by employees from business actors in the financial services sector, managers from business actors in the financial services sector, or third parties working for the interests from business actors in the financial services sector.”⁴¹

g) *OJK* also conducts comprehensive supervision of banks to ensure their health and stability. *OJK* assesses the bank’s financial health, risk management, and compliance with regulations. *OJK* also supervises bank operational activities, including credit provision, fundraising, and other transactions. If violations or potential risks are found, *OJK* can provide corrective action or sanctions to the bank.

Conclusion

Financial Services Authority has a role to carry out a supervisory process on a business activity carried out by a bank financial institution. The method used by the Financial Services Authority in conducting a supervisory process on a business activity carried out by a particular bank, such as by using an integrated supervisory system so that the various information owned between a bank financial institution that exists today and in the past does not lose and does not just disappear. An integrated supervisory system is considered to be able to reduce and even prevent misunderstandings and conflicts of interest between the supervisory state institution and a bank financial institution. Besides, a supervisory process carried out by the Financial Services Authority on a business activity carried out by a bank has various purposes, as follows: protecting the various interests held by customers of a bank, establishing a system of a bank

⁴¹ Indonesia, *Op. Cit.*, Article 29.

financial institution is healthy, and preventing distortion or disruption to an existing economic system in Indonesia.

Besides, the Financial Services Authority also has a role to provide legal protection for all customers owned by all banks in Indonesia, especially legal protection for customers who have been harmed by a bank financial institution that does not reflect justice, balance, and fairness between customers and a bank financial institution that occurs in a business activity carried out by a bank financial institution. The method used by the Financial Services Authority in providing a process from legal protection for customers of a particular bank is as follows: carrying out various other actions deemed necessary following the Statutory Regulations in the financial sector, providing education and information to customers on the characteristics, services, and products that exist in the financial sector, and requesting a bank financial services institution for stop its activities if such activities create the potential for harm customers. Besides, the Financial Services Authority also has a role to provide services to the process of complaints from customers who have been harmed by a bank financial institution. The method used by Financial Services Authority in providing a service to the process of complaints from customers from a particular bank is as follows: providing settlement facilities for the process of complaints from customers who have been harmed by a bank financial service institution following the Statutory Regulations in the financial sector, establishing a mechanism for the process of complaints from customers who have been harmed by a bank financial service institution, and preparing various adequate tools needed in the process of complaints from customers who have been harmed by a bank financial service institution.

In this research article, the author makes various suggestions and recommendations to the Financial Services Authority as a state institution that has the function of implementing an integrated supervisory and regulatory system for all activities in the financial services sector regarding consumer or customer protection as follows:

- a) The Financial Services Authority must be active in carrying out outreach activities to the public regarding the duties, role, and existence of the Financial Services Authority as a bank supervisory institution.
- b) The Financial Services Authority must continue to innovate, either by improving consumer protection or strengthening cooperative relations between various related agencies.
- c) The Financial Services Authority provides a good response to the public by actively communicating with consumers or customers.
- d) *OJK* has made various efforts to improve customer protection, such as establishing clear information standards, complaint mechanisms, and dispute resolution. However, there are still challenges in implementing this, such as the community's lack of financial literacy in the community and the complexity of financial products.
- e) *OJK* actively monitors bank health and operations and takes action against violations. However, supervision needs to be continuously improved, especially in the face of increasingly sophisticated technological innovations and financial crime risks.

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