**THE ROLE OF SUPERVISORY AUTHORITY OF FINANCIAL SERVICES ON NON-BANK FINANCIAL INSTITUTIONS BASED ON SHARIA COOPERATION**Abstract

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The Financial Services Authority (Otoritas Jasa Keuangan - OJK) is an institution that carries out supervision of the banking and non-bank financial services sectors. Supervision is only carried out on Micro Finance Institutions (Lembaga Keuangan Mikro - LKM) registered with OJK. And OJK delegates its supervision to the local government. How is the supervision of MFIs based on Islamic cooperatives. The results of the study note that (1) if the Islamic cooperative is registered with the OJK, the supervision is carried out by the OJK by delegating its supervision to the local regional government. (2) If sharia cooperatives are registered with the Cooperative Office only, OJK cq Regional Government cannot supervise, and the supervisory agency is supervised by the cooperative. It is recommended that OJK cut the delegation of supervision by the local government, because the delegation is ineffective for several reasons. The need for socialization by OJK to Islamic microfinance institutions to register the business.

**Keywords: micro, authority, services, finance, cooperatives and sharia**

**1. Background**

The Financial Services Authority (hereinafter referred to as OJK) is an institution that carries out oversight of the recognized financial services sector. OJK is an institution that is independent and free from interference from other parties, which has the functions, duties and supervisory authority as referred to in Law Number 21 2011 About OJK (hereinafter referred to as OJK Law).

**2. Results and discussion**

OJK's supervision system is regulated in Act Number 21 of 2011 concerning OJK. This regulation states OJK is an independent institution in carrying out its duties and authorities, free from interference from other parties, except for matters stipulated in this OJK law.[[1]](#footnote-2) The objective of the OJK's independence is needed so that the ability to regulate and oversee the running of financial institutions in Indonesia can be carried out properly and decisively.[[2]](#footnote-3)

The establishment of the OJK in Indonesia was motivated by several reasons, namely the experience of the crisis that occurred in Indonesia in 1997-1998 and the BLBI fund embezzlement case continued with the Century Bank case which was the failure of Bank Indonesia as a banking supervisor, as well as the development of hybrid products in Indonesia that were increasingly complex.[[3]](#footnote-4) OJK was formed with the aim that all financial service activities in the financial services sector are carried out in an orderly, fair, transparent and accountable manner, and be able to realize a financial system that grows sustainably and stably, and is able to protect the interests of consumers and society.

With this goal, OJK is expected to be able to support the interests of the national financial services sector so that it can improve national competitiveness. In addition, OJK must be able to safeguard national interests, including, among others, human resources, management, control, and ownership in the financial services sector, while still considering the positive aspects of globalization.[[4]](#footnote-5)

Furthermore, because of this, there was a transition period which was previously under supervision and regulation of the Capital Market and Non-Bank Financial Industry and was still at the Capital Market and Financial Institution Supervisory Agency and the Ministry of Finance, then in the transitional provisions of Article 55 paragraph (1) of Law Number 21 Year 2011 about OJK.

Starting December 31, 2012, the functions, duties and authority of regulating and overseeing Financial Services activities in the Capital Market, Insurance, Pension Funds, Financing Institutions, and Other Financial Services Institutions shifted from the Minister of Finance and the Capital Market and Financial Institution Supervisory Agency to the OJK .  
Furthermore, the Capital Market and Financial Institution Supervisory Agency (Bapepam-LK) is an institution under the Ministry of Finance in charge of fostering, regulating, and overseeing day-to-day capital market activities as well as formulating and implementing technical policies and standards in the field of financial institutions ranging from the capital market sector , pension funds, insurance companies, financial institutions and guarantees.

The consequence of the issuance of the OJK Law is that the Capital Market Supervisory Agency and Financial Institutions are no longer under the Ministry of Finance, all authority in Bapepam-LK starting from the Capital Market, Insurance, Pension Funds, Financing Institutions, and Other Financial Services Institutions a switched to OJK and Bapepam-LK disappeared and joined OJK. However, there are some Bapepam-LK functions that are still being carried out by the Ministry of Finance (not moving to OJK), namely:[[5]](#footnote-6)

a. Regulatory Function Provides input to OJK ex officio officials from the Ministry of Finance of the substance of the draft OJK Regulations to ensure that OJK Regulations are in line with Government policy.

b. Secretariat Function of the Financial Sector Stability Coordination Forum In Article 44 paragraph (2) of the OJK Law it is stated that "The Financial Sector Coordination Forum is assisted by the Secretariat led by one of the first echelon officials in the Ministry of Finance", so that the function must be accommodated in the replacement unit of ex Bapepam-LK.

c. Function of International Relations This function is needed to accommodate the interests of OJK in international relations that are Government to Government.

d. Handling of documents and issues of the former UP3 (Government Guarantee Unit).

e. Actuary licensing and supervision Considering that the scope of actuary services is very broad, not limited to the financial services industry, it is not appropriate if licensing and supervision remain with the OJK. Acting and licensing of actuaries may be more appropriate if handled by the Ministry of Finance together with other professions namely Accountants and Appraisers.

f. Guidance on social security and pension funds for civil servants is currently one of the duties of the Pension Fund Bureau.

g. Implementation of Laws No. 33 and 34 of 1964 concerning Passenger Accident Liability Funds and Act Number 34 of 1964 concerning Road Traffic Accident Obligatory Liability Funds.

h. The task of Bank Indonesia after the issuance of the OJK Law, only has the task of establishing and implementing monetary policy and regulating and maintaining the smooth payment system while the task of Bank Indonesia to regulate and supervise banks is switching to OJK.

Arrangements regarding regulating and supervising banks are regulated in Article 7 of the OJK Law, that to carry out regulatory and supervisory tasks in the OJK Banking sector has the authority:

a. regulation and supervision of bank institutions which include:

1. licensing for the establishment of banks, opening bank offices, articles of association, work plans, ownership, management and human resources, mergers, consolidations and acquisitions of banks, and revocation of bank business licenses; and
2. bank business activities, including sources of funds, provision of funds, hybrid products, and activities in the service sector.

b. regulation and supervision of bank health including:

1. liquidity, profitability, solvency, asset quality, minimum capital adequacy ratio, maximum lending limit, the ratio of loans to deposits, and bank reserves;

2. bank statements related to bank health and performance;

3. debtor information system;

4. credit testing; and

5. bank accounting standards;

c. regulation and supervision regarding bank prudential aspects, including:  
1. risk management;

2. bank governance;

3. the principle of getting to know customers and anti money laundering; and

4. prevention of financing terrorism and banking crime; and

d. bank inspection.

In carrying out its functions, OJK organizes a system of regulation and supervision that is integrated to all activities in the financial services sector.[[6]](#footnote-7) Other financial service institutions declared to be overseen by OJK based on statutory regulations are microfinance institutions as stipulated in Law Number 1 of 2013 concerning Microfinance Institutions (hereinafter referred to as the MFI Law).  
The case of fraud that befell the Village Cash Fund and LKM funds of the Tuksono Village, Sentolo Subdistrict, Kulonprogo, in the 2010 media, has triggered a massive withdrawal of customer funds (rush).

Likewise in the case of the Syari'ah Ba'itul Maal Wattamwil (BMT) Prosperous Langkat Cooperative, Secanggang Village, Secanggang District, Langkat, there was a misappropriation of the 2008 State Budget funds in the public housing program managed by the LKM (BMT). If the credibility of this MFI is eroded, it is clear that the economic safety pads operating in the small and micro business sector as well as informal economic activities especially in rural areas will be lost. History records that MFIs, especially MFIs that are informal and based on local economic wisdom, have been proven able to stimulate the movement of the people's economy.[[7]](#footnote-8)

In addition to the above considerations the presence of the MFI Law is in an effort to encourage community empowerment, especially middle to lower income people and micro, small and medium enterprises (MSMEs), comprehensive support from financial institutions is needed. So far, MSMEs have been constrained by access to funding to formal financial institutions. To overcome these obstacles, many non-bank financial institutions that have undertaken business activities in business development services and community empowerment have developed and developed, both those established by the government or the community.

These institutions are known as microfinance institutions (MFIs). But many of these MFIs are not yet incorporated and have business licenses. In order to provide a strong legal basis for the operation of MFIs, on January 8, 2013 Law Number 1 of 2013 concerning Microfinance Institutions was enacted.[[8]](#footnote-9) Based on OJK data, there are 19,334 MFIs out of a total of 637,838 MFIs in Indonesia who are not yet statutory bodies. To note, MFIs are financial institutions specifically established to provide business development services and community empowerment through loans in micro-scale businesses to members and communities, savings management, and providing business development consulting services.[[9]](#footnote-10)

In addition, consumer protection is weak, so that if something unexpected happens, the consumer or the customer will be harmed a lot.[[10]](#footnote-11) Based on Article 28 of the MFI Law states that the development, regulation, and supervision of MFIs are carried out by OJK. In conducting coaching OJK coordinates with ministries that hold cooperative affairs and the Ministry of Home Affairs. Guidance and supervision are delegated to the Regency / City Government. In the case that the Regency / City Regional Government is not ready, OJK can delegate guidance and supervision to other designated parties.

Provisions regarding matters relating to guidance and supervision delegated to the Regency / City Regional Government and other appointed parties are regulated in OJK Regulations. However, up to now, since the enactment of the 2013 MFI Law and came into force 2 years after, namely 2015, other parties appointed by the OJK have not been available, even throughout Indonesia.

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2. Irham Fahmi, Banks and Other Financial Institutions Theory and Application, Alfabeta, Bandung, 2016, p. 16. [↑](#footnote-ref-3)
3. Moral Hazard is a condition that originates from a person's mental attitude which is negative and deliberate to cause harm to other parties and benefit himself. Moral Hazard can be done by people and legal entities (represented by people). [↑](#footnote-ref-4)
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