

The Financial Services Authority's Market Conduct Supervision and Consumer Protection within Non-Bank

Muhammad Joddy AT Hasan^{1*}, Muhamad Taufik La Ode²

^{1,2} Faculty of Law, Universitas Khairun, Ternate, Indonesia

* Corresponding author: muhammadjoddy0705@gmail.com

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Abstract: *This research aims to analyze the regulatory and supervisory role of the Financial Services Authority (OJK) concerning consumer protection in the Non-Bank Financial Institution (NBFi) sector. The rapid growth of NBFIs carries complex legal risks, particularly regarding unethical collection practices and the use of unbalanced standard agreements. Using a normative legal research method with statutory and conceptual approaches, this study examines the legal certainty and normative implications of the implementation of Law Number 21 of 2011 and OJK Regulation (POJK) Number 22 of 2023. The main findings indicate an operational ambiguity regarding the definition of consumer "bad faith" in Articles 6 and 99 of POJK No. 22 of 2023, which remains multi-interpretable despite the provided explanations. This vague norm creates legal uncertainty and provides excessive discretion to business actors, thereby weakening the consumer's bargaining position in financial service disputes. The results conclude that strengthening consumer protection requires the formulation of concrete behavioral indicators within the regulatory framework to close the gap of subjectivity for both regulators and business actors.*

Keywords: *Bad Faith; Consumer Protection; Financial Services Authority; Market Conduct; Non-Bank Financial Institutions.*

A. Introduction

Economic stability is a key requirement for improving people's welfare through high growth and improved quality of growth in order to achieve national goals. Financial system stability is an important component of economic stability. Financial system stability is a condition that enables the national financial system to operate effectively and efficiently and to withstand internal and external vulnerabilities, so that the allocation of funding or financing can contribute to national economic growth and stability. The system referred to as the "financial system" itself is a system consisting of financial institutions such as insurance companies, financial markets, financial infrastructure, as well as non-financial companies and households that work together to support and finance economic growth. The constitutional mandate to achieve a welfare state places a significant responsibility on the government to ensure legal certainty and protection for all citizens, including consumers in the financial



sector.¹ Following the 1998 financial crisis, the Indonesian legal landscape underwent a fundamental transformation with the establishment of the Financial Services Authority as an independent regulatory body.² While the transition from a sectoral to a unified supervisory system was intended to strengthen oversight, the rapid expansion of Non-Bank Financial Institutions (NBFIs) such as fintech and consumer finance has introduced new legal complexities that challenge the existing regulatory framework.

The idea arose to form an independent institution to oversee Indonesia's economic system at that time. Historically, the concept of forming an independent financial institution had emerged since Law No. 23 of 1999 concerning Bank Indonesia was enacted. According to Article 34 of Law No. 3 of 2004 concerning amendments to Law No. 23 of 1999 concerning Bank Indonesia, the government was required to establish an independent financial institution by the end of 2010 at the latest. The transfer of authority from BI to OJK aims to separate monetary functions and financial sector supervision, so that BI can focus more on monetary policy while OJK takes over the task of supervising the financial sector.³ This is expected to improve financial system stability and protect consumer interests, as well as strengthen financial governance in Indonesia. The OJK has supervised Non-Bank Financial Institutions since 2013, and starting in 2014, it expanded its authority to the banking sector. Replacing the state budget financing model, its operational funding comes from contributions from supervised institutions.⁴

The functions of the OJK, particularly in the financing sector, are in line with the definition of supervision itself, namely that they have the task of assessing, analyzing, providing recommendations, and submitting reports related to the work of the department and in the non-bank financial services sector. The financial services sector is an important part of the country's economy. In this sector, Non-Bank Financing Institutions (NBFI) such as consumer finance companies, venture capital, and other financing institutions have experienced rapid growth and play an important role as alternative sources of financing for the public and entrepreneurs. Although this growth has helped improve access to finance, it has also created new complexities and risks. NBFIs typically use products and systems that can carry high risks if not properly managed and supervised.

The high volume of financing transactions, coupled with the use of standard agreements that are often unbalanced and favorable to the seller, has led to many legal disputes. Issues such as unclear fees, excessively high interest rates, and illegal collection methods indicate that consumer protection in this sector is still inadequate. This situation shows that an active supervisory role is needed to ensure that all financial services activities are conducted in an orderly, fair, accountable, and transparent manner.⁵ The government responded to this need for supervision by establishing the Financial Services Authority (OJK) as mentioned above. Based on Law No. 21 of 2011, the OJK is given comprehensive duties, not only to regulate

¹ Oman Sukmana, "Konsep dan Desain Negara Kesejahteraan (Welfare State)," *Jurnal Sospol* 2, no. 1 (2016): 103-122, <https://doi.org/10.22219/sospol.v2i1.4759>

² Dadang Solihin, *Ekonomi Pembangunan: Overview Indonesia Masa krisis 1998* (Jakarta: P.T. Artifa Duta Prakarsa, 2007).

³ Yoseph Samuel, Henes Kardinata, dan Reymond Hutauruk, "Fungsi dan Kewenangan OJK dalam Pengawasan Kesehatan Bank," *Wajah Hukum* 8, no. 1 (2024): 363-71, <https://doi.org/10.33087/wjh.v8i1.1433>.

⁴ Hanisa Mafinik dan Abd. Karman, "Analisis Peran OJK dalam Penerapan Manajemen Risiko pada Lembaga Keuangan Non-Bank di Indonesia," *MAMEN (Jurnal Manajemen)* 4, no. 4 (2025): 890-97, <https://doi.org/10.55123/mamen.v4i4.4779>.

⁵ Indonesia, *Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan*, Pasal 4.

and supervise, but also to protect the rights of consumers and the public.⁶ Although the legal framework has been established, several studies show that OJK supervision still faces problems. These problems include the complexity of the industry, such as the rapid growth of fintech, the limitations of OJK's human resources and funds compared to the breadth of the industry, and the low level of public awareness of the law.⁷ This raises an academic question: are the OJK's authority and working methods effective enough to prevent risks to consumers in the NBFIs sector, or are there still legal loopholes and shortcomings in law enforcement that allow NBFIs to violate the principles of justice that are aspired to. Based on the current situation, there is an urgent need to conduct an in-depth analysis of the OJK's role from a legal perspective.

The primary legal issue lies not in the absence of regulation, but in the operational ambiguity of the norms governing market conduct. Specifically, Articles 6 and 99 of OJK Regulation (POJK) Number 22 of 2023 introduce the concept of "bad faith" as a basis for regulatory action, yet these provisions lack objective parameters. This creates a vague norm that grants excessive discretion to the regulator and leaves both consumers and business actors in a state of legal uncertainty. Consequently, the protection of consumers in the NBFIs sector often becomes illusory when the standards of "fair conduct" are subject to multiple interpretations. This article examines these normative implications and argues for a more precise legal framework to ensure that the Financial Services Authority's supervisory role effectively upholds the principle of consumer protection.

Previous studies have generally focused on the OJK's macro-level authority in financial stability or the effectiveness of administrative sanctions in general. However, since POJK No. 22 of 2023 came into effect, research has not yet covered specific parameters for market conduct supervision. In this study, different norms are used to define bad faith on the part of consumers, which can be interpreted in various ways. In practice, this often harms the legal position of consumers in disputes with NBFIs.

B. Methodology

This research is categorized as normative legal research, also known as doctrinal research, which focuses on the analysis of written regulations and legal materials. To ensure a robust legal analysis, this study employs a Statute Approach and a Conceptual Approach.⁸ The legal materials are systematically selected based on their hierarchical relevance to the supervision of financial services. Primary legal materials are derived from Law No. 21 of 2011 concerning the Financial Services Authority (OJK Law), Law No. 8 of 1999 concerning Consumer Protection, and Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law). The core regulatory focus is OJK Regulation (POJK) No. 22 of 2023 regarding Consumer and Public Protection., while secondary legal materials are derived from legal literature, academic journals, and official press statements from the Financial Services Authority that provide context to the current regulatory challenges. To

⁶ Ibid., Pasal 5

⁷ Forum Komunikasi Direktur Kepatuhan Perbankan (FKDKP), "Webinar: Menjaga Kepatuhan Pelaku Usaha Jasa Keuangan dalam Mendukung Ekonomi Inklusif melalui Pengawasan, Edukasi Keuangan dan Pelindungan Konsumen dalam Kompleksitas Produk Keuangan," *FKDKP Blog*, 17 April 2024, <https://fkdkp.org/blog/webinar-menjaga-kepatuhan-pelaku-usaha-jasa-keuangan-dalam-mendukung-ekonomi-inklusif-melalui-pengawasan-edukasi-keuangan-dan-pelindungan-konsumen-dalam-kompleksitas-produk-keuangan>.

⁸ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020)

address the issue of normative gaps in the supervision of financial service providers' conduct, all legal materials are analyzed using deductive qualitative methodology.

The analytical process involves rigorous systematic interpretation and legal harmonization both vertically and horizontally to pinpoint normative conflicts or vague stipulations that may hinder legal certainty. Although the article incorporates data regarding consumer complaints to illustrate the broader legal phenomena within the industry, such data is not intended to measure empirical effectiveness in a sociological sense. Instead, it serves as a foundation for prescriptive legal argumentation, aimed at evaluating the adequacy of current regulatory structures. Through this technique, the research seeks to offer normative solutions in the form of more rigid behavioral indicators, thereby mitigating the excessive discretionary space currently available to both regulators and business actors in the non-bank financial institution sector.

C. Results and Discussion

Legal Basis for OJK Supervisory Authority and Market Conduct Standards

The supervision carried out by the OJK on financial service institutions consists of two types, namely prudential supervision and market conduct supervision.⁹ Market conduct supervision is part of the rules and supervision of financial institutions that focus on behavioral deviations and abuse of power in the delivery of information. The aim is to ensure that financial institutions provide good and honest services to their customers. To maintain customer data confidentiality and prevent information leaks, the OJK needs to improve the market conduct supervision framework by strengthening the capabilities of special supervisors in the field of market conduct in all regional branches. By definition, market conduct refers to the entire spectrum of interactions and practices carried out by Financial Services Providers (PUJK), ranging from product design and marketing, provision of information, to handling complaints and resolving disputes with consumers. In the context of NBF, OJK supervision has shifted from merely prudential supervision (financial health) to a focus on Market Conduct supervision (ethical behavior), as mandated by POJK Number 6/POJK.07/2022. The main pillars of market conduct supervised by OJK include transparency (disclosure) and business ethics.

The OJK has the authority to take measures to prevent consumer and public losses in accordance with the provisions of Article 28 of Law Number 21 of 2011, which includes:¹⁰

1. Providing information and education to the public on the characteristics of the financial services sector, its services and products.
2. Requesting financial services institutions to cease their activities if such activities have the potential to harm the public.
3. Other actions deemed necessary in accordance with the provisions of laws and regulations in the financial services sector.

This law regulates various matters related to supervision carried out by the OJK, including how to supervise the actions or behavior of financial services companies (PUJK) in the market. The basis for this market behavior supervision is explained in Articles 4, 5, and 6 of the OJK

⁹ Aulia Anjani Nurdin, Rezky Fabyo Darussalam, dan Muh Rozi Asri, "Peran Otoritas Jasa Keuangan dalam Pengawasan dan Pengaturan Lembaga Keuangan di Indonesia," *Media Hukum Indonesia (MHI)* 2, no. 4 (Desember 2024): 816-821, <https://ojs.daarulhuda.or.id/index.php/MHI/article/view/985>.

¹⁰ Agustinus Samosir dan Sardiyo, *Kewenangan OJK untuk Optimalisasi Pengawasan Perbankan* (Yogyakarta: PT Penamuda Media, 2024)

Law. Article 4 states: "The OJK was established with the aim that all activities in the financial services sector: a. are carried out in an orderly, fair, transparent, and accountable manner; b. are capable of realizing a financial system that grows in a sustainable and stable manner; and c. are capable of protecting the interests of consumers and the public." This article explains the purpose of establishing the OJK, namely to ensure that all activities in the financial services sector are conducted in an orderly, fair, transparent, and accountable manner. This objective also includes the ability to build a financial system that grows in a sustainable and stable manner and is able to protect the interests of consumers and the public. One of the ways the OJK protects consumers is by supervising *market conduct*. Based on Article 4 of the OJK Law, it is stated that one of the duties of the OJK is to protect consumers and/or the public. This protection is based on the principle of balance. This means that the OJK provides protection while simultaneously developing the financial services sector in a sustainable manner and protecting consumers and the public as users of financial services. This aims to increase public trust in the financial services sector.¹¹ The theory of legal protection proposed by Satjipto Rahardjo states that legal protection is an effort to protect human rights so that they are not violated by others, as well as to create justice in social and state life.¹²

Based on the Theory of Legal Protection, this article provides a normative basis for legal protection for consumers and the public in the financial services sector. Elements of this theory include the protection of citizens rights, the authority of law enforcement agencies, the guarantee of legal certainty, and the fulfillment of laws and regulations in this article. In terms of legal certainty, this article explicitly affirms the purpose of establishing the OJK, so that the public and business actors have clarity regarding the direction of financial sector policy. Phrases such as orderly, transparent, and accountable indicate that the financial system must run systematically and predictably, which are the main characteristics of legal certainty. This legal certainty is achieved because the public can understand the objectives and limits of the OJK's legal intervention.

Article 5 of the OJK Law states that the OJK functions to organize an integrated regulatory and supervisory system for all activities in the financial services sector. Activities in the financial services sector refer to all activities related to financial services institutions or institutions that carry out activities in the Banking, Capital Market, Insurance, Pension Funds, Financing Institutions, and Other Financial Services Institutions sectors. Thus, it can be understood that the OJK has three main tasks or functions, namely regulation and supervision as stipulated in Article 5 of the OJK Law and the function of protection as stipulated in Article 4 paragraph (3) of the OJK Law.¹³ Article 5 of Law Number 21 of 2011 reads: "The OJK functions to organize an integrated regulatory and supervisory system for all activities within the financial services sector." This means that the OJK's activities are not limited to certain activities carried out by financial services companies, but cover all activities in the sector, including market behavior aspects. This article shows that the OJK's task is a form of legal

¹¹ Yulfasni, Wetria Fauzi, dan Yasniwati, "The Effectiveness of Bank Supervision Legal Concepts in Protecting Customer Interests in Indonesia," *Russian Law Journal* 11, no. 5s (2023): 474-481, <https://doi.org/10.52783/rj.v11i5s.966>.

¹² Satjipto Raharjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 2014).

¹³ Amanda Athasya dan Yudho Taruno Muryanto, "Tugas dan Fungsi Otoritas Jasa Keuangan dalam Sengketa Perdata Terkait Perlindungan Hukum bagi Konsumen," *Jurnal Privat Law* 7, no. 1 (2019): 164-169, <https://doi.org/10.20961/privat.v7i2.34403>

protection that prevents and strengthens the protection structure for the public in various financial activities.

The OJK's functions and duties include making regulations and supervising their implementation, thereby protecting consumers of financial services companies. From the perspective of legal certainty theory, this article demonstrates the application of the principle of legal certainty in the regulation of the financial services sector through the OJK, which has clear and sole authority. The OJK also has additional authority in that investigations into criminal acts in the financial services sector can only be carried out by Financial Services Authority investigators.¹⁴ The OJK's integrated supervisory function is part of the effort to uphold justice in the financial system by creating fair and balanced treatment between strong and weak parties. From an economic law perspective, this function also strengthens the role of law as a tool in economic development and financial sector stability.

Article 6 confirms: "The OJK shall carry out regulatory and supervisory duties over: a. financial services activities in the Banking sector; b. financial services activities in the Capital Market sector; and c. financial services activities in the Insurance, Pension Funds, Financing Institutions, and Other Financial Services Institutions sectors." The implementation of regulations as described in Article 6 of Law Number 21 of 2011 above can be executed under the following authorities:¹⁵

1. Regulation and supervision of banking institutions, including: a) Conducting the licensing process for opening bank offices, ownership rights, work plans, articles of association, bank acquisitions and consolidations, mergers, revocation of bank business licenses, and establishment of banks; and b) Bank business activities, including service sector activities, the process of providing funds, hybrid products, and sources of funds.
2. The process of supervising and regulating bank health, which includes: a) Liquidity, profitability, solvency, asset quality, minimum capital adequacy ratio, maximum limits on lending, loan-to-deposit ratio, and bank reserves; b) Bank reports related to bank health and performance; c) Debtor information systems; d) Credit testing; e) Bank accounting standards.
3. The process of regulating and supervising prudential aspects, which includes: a) Risk management; b) Bank governance; c) Know Your Customer (KYC) and anti-money laundering principles; d) Prevention of terrorism financing and banking crimes.
4. Bank examinations.

The integration of regulatory and supervisory functions within the Financial Services Authority (OJK) was intended to create a seamless protective structure for the financial sector. However, a deep normative analysis of Articles 4, 5, and 6 of the OJK Law reveals a fundamental tension. While these provisions establish the OJK as a "superbody" with legislative, executive, and even quasi-judicial powers, the broadness of this authority creates a risk of excessive discretion. The scope of the OJK's authority is not possessed by any other institution in this country, including the BI. The OJK has three spheres of authority at once,

¹⁴ Yohanes Don Bosco Watu et al., "Eksistensi Otoritas Jasa Keuangan pada Lembaga Keuangan di Indonesia," *Jurnal Kolaboratif Sains* 7, no. 8 (2024): 3116-3123, <https://doi.org/10.56338/jks.v7i8.5905>.

¹⁵ Fajar Tri Pamungkas dan Ahmad Arif Zulfikar, "Peran Otoritas Jasa Keuangan (OJK) dalam Mengawasi Adanya Fraud dalam Bisnis Investasi dalam Perspektif Hukum Ekonomi Islam," *Jurnal Penegakan Hukum dan Keadilan* 2, no. 1 (2021): 19-40, <https://doi.org/10.18196/jphk.v2i1.9507>.

namely legislative, executive, and judicial. Constitutionally, the existence of the OJK as a superbody financial institution and an independent state institution does not have a valid basis in the Indonesian constitution.¹⁶ To carry out these duties, the Financial Services Authority is expected to use the principle of checks and balances. This principle can enable the Financial Services Authority to monitor each other internally in every task so that it can gain public trust.¹⁷

The OJK's supervision of Non-Bank Financing Institutions (NBFIs) is currently undergoing a significant paradigm shift. Previously, the main focus was on prudential supervision (the financial health of institutions), but now, through POJK No. 22 of 2023, the aspect of market conduct (business behavior) has become a vital instrument in consumer protection. Market conduct supervision is designed to ensure that NBFIs operate with the principles of transparency, fair treatment, and service reliability. However, the effectiveness of this supervision is often hampered by its implementation in the field, especially in the debt collection process, which still often uses intimidation, which legally violates the principles of consumer protection but is difficult for regulators to monitor in real time.

Analysis of the Effectiveness of Supervision: Preventive and Deterrent Effect Weaknesses in Financial Service Business Operators and Consumers in Financial Service Authority Regulation Number 22 of 2023

The principle of responsibility is very important in consumer protection law. Efforts to provide adequate protection for consumer interests are important and urgent.¹⁸ Legal protection for consumers is essentially the fulfillment of consumer rights that should be given to consumers, which is identical to the protection provided by law for consumer rights. The Financial Services Authority provides legal protection for customers through consumer loss prevention strategies, complaint services, and consumer legal advocacy in the financial services industry.

This is done by providing information and education about the characteristics of the financial services sector, with the hope of preventing consumer losses.¹⁹ In cases where the Financial Services Authority provides legal advocacy for consumers, the aim is to recover the assets of consumers who have suffered losses and obtain compensation.²⁰ In addition, the fact that consumers of financial services are the weaker party has meant that disputes between consumers and financial service providers often do not end satisfactorily for consumers. Moreover, existing dispute resolution mechanisms (particularly the courts) are also not favorable to consumers, given that the existing dispute resolution procedures are very formal, time-consuming, and costly. This poses a unique challenge in providing comprehensive (legal) assistance to financial service consumers so that they have better

¹⁶ Icha Cahyaning Fitri, Dominikus Rato, dan Bayu Dwi Anggono, "Pungutan Otoritas Jasa Keuangan terhadap Industri Keuangan Dipandang dari Aliran Positivisme Hans Kelsen," *Jurnal Yustisiabel* 8, no. 1 (April 2024): 80-88, <https://doi.org/10.32529/yustisiabel.v8i1.2983>

¹⁷ Daniel Hagin Mamangkey, Dientje Rumimpunu, dan Vecky Y. Gosal, "Aspek Hukum Tanggung Jawab Otoritas Jasa Keuangan (OJK) dalam Memberikan Perlindungan Hukum terhadap Investor Bursa Efek Indonesia," *Lex Privatum* 9, no. 13 (2021): 60-67. <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/38495>

¹⁸ Yapiter Marpi, *Perlindungan Hukum terhadap Konsumen atas Keabsahan Kontrak Elektronik dalam Transaksi E-Commerce* (Tasikmalaya: PT. Zona Media Mandiri, 2020).

¹⁹ Agus Suwandono dan Deviana Yuanitasari, "Kedudukan Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan dalam Hukum Perlindungan Konsumen," *Jurnal Bina Mulia Hukum* 1, no. 1 (2016): 14-25, <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/39>.

²⁰ Indonesia, *Peraturan Otoritas Jasa Keuangan Nomor 6/POJK.07/2022 tentang Perlindungan Konsumen dan Masyarakat di Sektor Jasa Keuangan*, Pasal 52 ayat (3).

access to justice, especially for poor consumers or those with limited resources.²¹ To fulfill its responsibilities, the Financial Services Authority (OJK) issued Regulation of the Financial Services Authority of the Republic of Indonesia Number 6/POJK.07/2022 concerning Consumer and Community Protection in the Financial Services Sector on April 18, 2022. This regulation replaces Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, which was enacted on August 6, 2013.

Article 2 of POJK 6/2022 states that consumer and public protection in the financial services sector applies the following principles:²²

1. Adequate education;
2. Openness and transparency of information;
3. Fair treatment and responsible business conduct;
4. Protection of consumer assets, privacy, and data; and
5. Effective and efficient handling of complaints and dispute resolution

The amendments to strengthen consumer and public protection contained in Financial Services Authority Regulation Number 6/POJK.07/2022 concerning Consumer and Public Protection in the Financial Services Sector have been updated with POJK Number 22 of 2023 concerning Consumer and Public Protection in the Financial Sector and aim to strengthen consumer protection through a product life cycle approach, strengthening consumer education, improving information transparency, providing special support for vulnerable groups such as people with disabilities and the elderly, and the obligation to record face-to-face communications through voice and video, among others, in Article 2 has undergone significant changes and expansions, and its number has been changed to Article 3. It is hoped that these updates will strengthen consumer protection. In verse 3 confirms:²³

1. Financial Services Authority Regulation must apply the principle of Consumer Protection in conducting business activities.
2. Consumer Protection in the financial services sector applies the following principles:
 - a. adequate education;
 - b. openness and transparency of product and/or service information;
 - c. fair treatment and responsible business conduct;
 - d. protection of consumer assets, privacy, and data;
 - e. effective and efficient handling of complaints and dispute resolution;
 - f. enforcement of compliance; and
 - g. fair competition.
3. Financial Services Authority Regulations that violate the provisions referred to in verse (1) shall be subject to administrative sanctions in the form of:
 - a. written warning;
 - b. restriction of products and/or services and/or business activities in part or in whole;
 - c. freezing of products and/or services and/or business activities in part or in whole;
 - d. dismissal of management;

²¹ J. Widiantoro dkk., *Hukum Perlindungan Konsumen Jasa Keuangan di Era Otoritas Jasa Keuangan*, ed. rev. (Yogyakarta: Cahaya Atma Pustaka, 2019).

²² Indonesia, *Peraturan Otoritas Jasa Keuangan Nomor 6/POJK.07/2022 tentang Perlindungan Konsumen dan Masyarakat di Sektor Jasa Keuangan*, Pasal 2.

²³ Indonesia, *Peraturan Otoritas Jasa Keuangan Nomor 22 Tahun 2023 tentang Pelindungan Konsumen dan Masyarakat di Sektor Jasa Keuangan*, Pasal

- e. administrative fines;
 - f. revocation of product and/or service licenses; and/or
 - g. revocation of business licenses.
4. The sanctions referred to in verse (3) letters b to g shall be imposed with or without prior written warning as referred to in verse (3) letter a.
 5. The fines referred to in verse (3) letter e shall be imposed in an amount not exceeding Rp15,000,000,000.00 (fifteen billion rupiah).

Furthermore, the Chief Executive of Financial Services Authority (OJK) Supervision of Financial Services Business Conduct, Education, and Consumer Protection, Friderica Widyasari Dewi, explained in her press statement that the issuance of Financial Services Authority Regulation (POJK) No. 22 of 2023 is a follow-up to the mandate of Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law) and replaces POJK No. 6/POJK.07/2022 concerning Consumer and Community Protection in the Financial Services Sector and refines several other POJKs.²⁴ On the other hand, the Financial Services Authority (OJK) received 319,416 service requests throughout 2023, including 23,064 complaints, 115 complaints indicating violations, and 2,326 disputes, which were submitted to the Alternative Dispute Resolution Institution for the Financial Services Sector.²⁵

The high volume of consumer service requests in 2023 reaching 319,416 instances should not be viewed simply as a sign of supervisory failure, but rather as a symptom of a systemic normative challenge. A high number of complaints may indeed reflect increased consumer awareness and improved access to complaint mechanisms. However, the real concern regarding the deterrent effect lies in the proportionality and predictability of sanctions. Although the OJK has the power to impose substantial administrative fines of up to IDR 15 billion, the effectiveness of such a "heavy-handed" sanction is diluted by the ambiguity of its triggers. In a normative framework where "bad faith" remains multi-interpretable, the imposition of sanctions becomes vulnerable to legal challenges and inconsistent application.

This creates a situation where business actors (PUJK): The lack of rigid indicators allows for the potential exploitation of consumer "bad faith" to justify aggressive collection practices. For Consumer, the subjective nature of the "bad faith" assessment may discourage legitimate complaints if consumers fear being counter-labeled as acting in bad faith without clear defense parameters.

Legally, OJK has the authority to impose administrative sanctions, including fines of up to IDR 15 billion, based on POJK Number 22 of 2023. However, the enforcement of sanctions faces a normative dilemma that also contributes to repressive failure. In the POJK, there is a legal loophole that plays a role in increasing violations of consumer rights with the phrase "bad faith". The phrase "bad faith" in POJK No. 22 of 2023 can give rise to various interpretations, which in turn creates legal uncertainty for Financial Services Providers (PUJK). Without an operational and clear definition, this phrase allows various parties, both consumers and FSBs, to interpret the meaning of bad faith differently. This causes uncertainty in the application of these regulations in the field, especially in terms of whether a complaint from a consumer can

²⁴ M Agus Yozami, "Perkuat Perlindungan Konsumen, Ini 11 Substansi POJK 22/2023," *Hukumonline*, 13 Januari 2024, <http://www.hukumonline.com/berita/a/perkuat-perlindungan-konsumen--ini-11-substansi-pojk-22-2023-lt65a2863f13fda?page=all>.

²⁵ M Agus Yozami, "Pengaduan Konsumen ke OJK Sepanjang 2023 Didominasi Sektor Perbankan," *Hukumonline*, 12 Januari 2024, <http://www.hukumonline.com/berita/a/pengaduan-konsumen-ke-ojk-sepanjang-2023-didominasi-sektor-perbankan-lt65a0e6761d664/?page=1>.

be accepted or rejected. The principle of good faith has two meanings: a subjective meaning, which is interpreted as honesty in a person's inner attitude, and an objective meaning, which means that an agreement made must comply with the norms contained in the agreement.²⁶ The phrase "bad faith" is found in Article 6 and Article 99 of Financial Services Authority Regulation No. 22 of 2023.

Article 6 states: "PUJK is entitled to legal protection from actions by Consumers acting in bad faith." Then, Article 99 states:

1. The filing of a lawsuit as referred to in Article 98 verse (1) letter b is carried out:
 - a. to recover the assets belonging to the aggrieved party from the party that caused the loss, whether under the control of the party that caused the loss or under the control of another party acting in bad faith; and/or
 - b. to obtain compensation from the party that caused the loss to the Consumer and/or LJK as a result of a violation of the provisions of laws and regulations in the financial services sector.
2. The compensation referred to in verse (1) letter b shall only be used for the payment of compensation to the aggrieved party.
3. Civil lawsuits for Consumer and public protection as referred to in verse (1) shall be filed based on the assessment of the Financial Services Authority, not at the request of the Consumer.

According to the Explanation of the Financial Services Authority of the Republic of Indonesia Regulation Number 22 of 2023 concerning Consumer and Public Protection in the Financial Services Sector, examples of bad faith as referred to in Articles 6 and 99 are as follows: Article 6, examples of bad faith by consumers:

1. The consumer provides unclear, inaccurate, false, and misleading information and/or documents;
2. The consumer refuses to fulfill obligations as stated in the agreement and uses threats or violence;
3. The consumer transfers collateral for credit or financing products without the consent of the Financial Services Authority (OJK); and
4. The consumer submits collateral that is derived from criminal activity.

Article 99 verse (1) letter a "The term bad faith refers to bad faith as assessed by the Financial Services Authority". Explanation of Article 6 and Article 99 verse (1) letter a of POJK Number 22 of 2023 concerning the definition of bad faith by consumers is an effort by the Financial Services Authority (OJK) to create the Principle of Balance in consumer protection, but it actually adds to the complexity of OJK supervision. Article 6 provides concrete examples of bad faith on the part of consumers, such as providing misleading information or refusing to fulfill contractual obligations through threats or violence. This article legally grants legal defense rights to NBF (Financial Services Providers/PUJK) from the risk of moral hazard on the part of consumers, which reinforces the principle of responsible business conduct.

Instead, the legal problem lies in operational ambiguity. The explanation of Article 99 paragraph (1) letter a explicitly states that "bad faith" is ultimately "assessed by the Financial Services Authority". This phrase transforms a legal standard into a subjective administrative

²⁶ Miftah Arifin, "Membangun Konsep Ideal Penerapan Asas Iktikad Baik dalam Hukum Perjanjian," *Miftah: Jurnal Ekonomi dan Hukum Islam* 5, no.1 (2020), 66-82, <https://doi.org/10.26623/jic.v5i1.2119>.

assessment. By centering the definition on the OJK's casuistic assessment rather than objective, self-executing criteria, the regulation creates a vague that undermines the principle of legal certainty. Therefore, the OJK faces a dilemma: enforcing consumer protection (taking action against debt collectors who violate Article 7 of POJK No. 6/2022) without appearing to protect consumers who clearly have bad faith (violating Article 6 of POJK No. 22/2023), and failure to balance the two will continue to weaken the effectiveness of OJK supervision in the field. PUJK finds it difficult to assess whether consumer actions meet the criteria of bad faith or not, given that this regulation does not provide clear guidelines. Even if there is insufficient evidence to prove the consumer's malicious intent, this reaction often arises before an objective legal process has begun, damaging the reputation of the PUJK. Thus, the existing structural injustice is exacerbated because ambiguous regulations provide greater protection to consumers who do not have good intentions, while the PUJK must struggle to prove that they have fulfilled their obligations in accordance with applicable regulations.

The ambiguity of this norm significantly undermines the principle of legal certainty and has the potential to create an imbalance in the legal relationship between consumers and Financial Services Providers (PUJK). This uncertainty can be exploited by both consumers with bad intentions (moral hazard) and by PUJK themselves. Thus, the OJK is not only faced with the problem of the severity of sanctions (low deterrent effect), but also with the problem of the validity of the norm, because unclear norms make it difficult for the OJK to determine when an PUJK's behavior is truly categorized as a violation that must be subject to sanctions. This failure makes it difficult for the OJK to be consistent in its law enforcement. Overall, OJK sanctions fail to create an adequate deterrent effect due to the low proportionality of sanctions and the weak legal certainty in the regulations themselves. The provision on good faith in POJK No. 22 of 2023, on the one hand, provides protection for PUJK, but on the other hand, creates a *vague norm* due to the absence of measurable behavioral indicators. This results in the interpretation of bad faith becoming highly subjective and potentially abused by NBF to justify unethical collection practices.

From the perspective of the Consumer Protection Law, the explanation of Articles 6 and 99 of POJK No. 22 of 2023 regarding bad faith of consumers should be seen as a legitimate effort to achieve the principle of balance in legal relations, but it should not shift the main focus of the Consumer Protection Law, which is based on the Protection Principle paradigm, places consumers in a more vulnerable position and aims primarily to curb the abuse of power by business actors. In the financial services sector, consumer protection consists of two components: protection against the possibility of consumers receiving goods and services that do not comply with what has been agreed upon or violate legal provisions; and protection against the imposition of unfair terms on consumers.²⁷

Therefore, the Consumer Protection Law emphasizes that the existence of bad faith on the part of consumers (such as refusal to pay or providing misleading information) does not negate the absolute obligation of NBF to act in good faith, especially in two crucial matters: First, NBF cannot use the bad faith of consumers as justification to continue to include clauses that are null and void under the Consumer Protection Law in agreements.²⁸ Second, NBF must still guarantee consumers' rights to security and fair treatment (Article 4 of the Consumer

²⁷ Riad Abdillah, dkk., "Legal Protection in Consumer Dispute Resolution: Independence of the Financial Services Authority (OJK)," *International Asia of Law and Money Laundering* 3, no. 2 (2024): 53-61, <https://doi.org/10.59712/iaml.v3i2.87>.

²⁸ Indonesia, *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen*, Pasal 18.

Protection Law) by prohibiting illegal collection practices, threats, or violence. Hence, although POJK recognizes NBF's right to claim its rights from consumers acting in bad faith, the Consumer Protection Law argues that such claims may only be made through lawful means and must not violate OJK's market conduct standards, so that OJK must be able to balance the enforcement of Articles 6 and 18 of the Consumer Protection Law proportionally. Without operational definitions and clear guidelines, this ambiguity creates various legal problems that are detrimental not only to PUJK but also to consumers acting in good faith.

D. Conclusion

This research demonstrates that while the Financial Services Authority operates under a comprehensive legal mandate provided by Law Number 21 of 2011 and Regulation Number 22 of 2023, its role in protecting consumers within the non-bank financial sector is significantly challenged by normative inconsistencies. The core finding of this study identifies a shift from a normative vacuum to operational ambiguity, particularly regarding the interpretation of consumer bad faith in Articles 6 and 99 of Regulation Number 22 of 2023. Because the current framework relies on the Authority's subjective and casuistic assessment to define such conduct, it creates a vague norm that undermines the principle of legal certainty. This ambiguity not only grants excessive discretion to the regulator but also leaves both consumers and business actors in a state of unpredictability regarding the application of sanctions and the resolution of disputes.

To resolve these legal tensions, this study proposes a transition toward a more prescriptive regulatory framework that prioritizes objective parameters over subjective interpretation. It is recommended that the Financial Services Authority formulate and implement concrete, self-executing indicators to define bad faith and unethical market conduct. These indicators should include verifiable behavioral benchmarks such as documented document manipulation, proven false reporting, or specific procedural violations to minimize administrative subjectivity. By establishing standardized criteria, the regulatory framework can effectively balance the enforcement of sanctions with the protection of consumer rights, thereby ensuring a more stable and equitable legal relationship in the non-bank financial institution sector.

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