



# Phenomenological Study: The Role Of The Financial Services Authority In Resolving Islamic Banking Customer Problems

Masdaliana Putri Assalam <sup>1)</sup>; Jelita <sup>2)</sup>; Haidi Hajar Widagdo <sup>3)</sup>

<sup>1,2,3)</sup> *Institut Agama Islam Negeri Palangka Raya, Indonesia*

Email: <sup>1)</sup> [masdalianaptri10@gmail.com](mailto:masdalianaptri10@gmail.com) ;<sup>2)</sup> [jelitamuslimah@iain-palangkaraya.ac.id](mailto:jelitamuslimah@iain-palangkaraya.ac.id) ;<sup>3)</sup> [haidihajarw@iain-palangkaraya.ac.id](mailto:haidihajarw@iain-palangkaraya.ac.id)

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## ABSTRACT

Problems in the banking world often make customers as disadvantaged parties both materially and immaterially. This certainly encourages customers to make efforts that can avoid losses both in litigation and non-litigation. The purpose of this study is to determine the role of the financial services authority in solving problems experienced by Islamic bank customers. The method used in this study is a qualitative method with a phenomenological approach. Phenomenological studies with data collection methods, namely by observation and interviews. The results of this study show that the financial services authority has an important role in solving customer problems and customer legal protection. The manifestation of the role of the financial services authority can be seen from its authority in terms of taking actions both legally and reprimands to the banking industry to respond and resolve Problems experienced by customers, in addition to their authority in terms of filing claims for compensation or return of customer assets lost due to the bank's fault.

## INTRODUCTION

Technological advances have a significant impact on human life. Communication and information technology such as the internet, smartphones and computers have played an active role in facilitating various aspects of life, including access to information, communication and practical task completion. (Saputra et al., 2023). However, it cannot be denied that in addition to having a positive impact, technological developments also have a negative impact that must be watched out for. Technological advances in the financial sector have led to a complex, constantly changing and interconnected financial system involving various sectors and institutions. Technological advances have an impact on public trust in the fintech industry in general,

hindering the growth of the traditional financial sector and increasing the risk of data security and privacy. (Kristianti & Tulenan, 2021).

In addition to the negative impacts above, technological advances are also a factor in the occurrence of moral hazard in banking. Moral hazard in banking is caused by weak regulation. This can occur due to asymmetry between the parties involved which then triggers dishonest behavior in providing information or actions to maximize personal gain without regard to other parties (Hidayati, 2009). (Hidayati, 2009). Therefore, increasing regulation and supervision is very important to prevent moral hazard in banking.

The Financial Services Authority or commonly abbreviated as OJK, is one of the supervisory institutions in the financial services sector whose establishment was motivated by the need to reorganize institutions that carry out regulatory and supervisory functions in the financial services sector. The need as mentioned earlier is based on the mandate of the law, the development of the financial industry, consumer protection and cross-sectoral coordination. (Soetiono, 2014). Prior to the establishment of the OJK in Indonesia, regulation and supervision of the financial services sector was carried out separately by Bank Indonesia (BI) for banking, the Ministry of Finance and the Capital Market and Financial Institutions Supervisory Agency (Bapepam-LK) for the capital market and non-bank financial institutions. (Achmad Fauzi et al., 2023).

As an institution that was formed, OJK has the aim of supervising financial institutions and has a major contribution to preventing and overcoming problems experienced by customers in the financial services sector, especially in Islamic banking. In addition, OJK can also function in providing protection to the interests of consumers and the community, which is implemented by providing a system that supports each other with all activities in the financial services sector to supervise and regulate. (Sutedi, 2014).

The rule of law related to consumer protection that applies in Indonesia has a juridical basis that has been established by the Indonesian government based on the principle of legal certainty, legal protection in this case is the legal protection of consumers which is carried out with full optimism and seriousness. Law Number 8 Year 1999 as a legal umbrella for consumers which based on Article 1 number 1 of this Law states that, Consumer protection is all efforts made by ensuring the protection and legal certainty for consumers. Legal certainty for consumers can be realized by protecting consumer rights that are strengthened by the existence of a legal umbrella that specifically regulates consumer protection.

However, what needs to be considered is that in the implementation of a rule of law there is what is known as the executor. The executor is a person or institution authorized to carry out a judge's order or decision if this is in the realm of criminal or civil law. In terms of implementing consumer protection laws, OJK is an institution authorized to implement consumer protection, including in terms of resolving disputes or problems experienced by consumers in both conventional and Islamic banks. In this article study, the author will focus on the discussion related to the role of the OJK in resolving problems experienced by Islamic bank customers. The purpose of this research is to provide understanding to the general public regarding the role of the OJK in resolving problems experienced by Islamic bank customers. By conducting this research, it is hoped that it can later become an illustration for the public, especially Islamic bank customers, regarding the actions that must be taken if they experience problems when they become consumers or customers of Islamic banks.

## LITERATURE REVIEW

### Financial Services Authority

The financial services authority is a state institution established under Law Number 21 of 2011 which has the function of organizing an integrated system of regulation and supervision of all activities in the financial services sector both in the banking sector, capital markets, and non-

bank financial services sectors such as insurance, pension funds, financing institutions and other financial services institutions. OJK is an independent institution free from the intervention or influence of other parties that has the functions and duties as well as the authority to supervise, examine and investigate as referred to in Law Number 21 of 2011. (Financial Services Authority, 2017). In addition to this authority, OJK also has the authority to impose administrative sanctions on parties who violate laws and regulations in the financial services sector. (Lestari, 2012).

### **Islamic Bank**

Banks are generally institutions or entities that collect funds from the public in the form of financing or in other words carry out the function of financial intermediation. (Wilardjo, 2005). In the banking system in Indonesia, two systems are known, namely the conventional banking system and Islamic banking. Based on Law Number 21 of 2008 concerning Islamic Banking as contained in Chapter 1 Article 1 paragraph (7) which explains that, Islamic banks are banks that carry out their business activities based on the principles of the rules of Islamic law contained in the Qur'an and hadith.

The principles of sharia as referred to above are the principles of Islamic law in banking activities that are realized by obeying and carrying out the rules of Islamic law carried out by banks and other parties in terms of depositing funds and financing business activities or other activities. The principles of Islamic law that must be applied in Islamic banks are the principles of Islamic law on financing based on the principle of profit sharing (*mudharabah*), financing based on equity participation (*musyarakah*), the principle of buying and selling goods with profit (*mudharabah*), financing capital goods based on the principle of pure lease without choice (*ijarah*) and / or with the transfer of ownership of goods leased from the bank by other parties (*ijarah wa iqtina*). (Marimin & Romdhoni, 2017).

### **METHODS**

This research is a qualitative study using a phenomenological approach. The phenomenological research approach is an approach taken to try to understand human life events within the framework of people's thoughts and behaviors as understood and thought by the individuals themselves. Phenomenological research provides answers to ontological problems. (Fitriana, 2018). The research subject taken by the researcher is the Central Kalimantan Branch Office of the Financial Services Authority. The reason the researcher chose the subject was because according to the researcher, the Financial Services Authority is one of the supervisory institutions in the banking sector in terms of consumer protection. Researchers use a very important procedure, namely related to determining informants, where researchers choose informants who have experienced problems related to the problem under study. The informants in this study are:

1. Head of the Central Kalimantan Financial Services Authority.
2. Banking customers who make complaints directly to the Central Kalimantan Financial Services Authority.

In this study, the data collection procedures used by researchers are as follows:

#### **a. Observation**

Observation is carried out by making observations by going directly to the field with the aim of obtaining information related to the problem under study, in this case it is related to how the role of the financial services authority in resolving customer problems.

#### **b. Interview**

In this study, researchers tried to extract information through interviews with informants. In this case, the researcher used an unstructured interview with the intention of not overly

controlling the information provided by the informant so that the interview ran like a normal conversation so that the informant could provide information as it is.

After the data required by the researcher has been obtained, the next steps taken by the researcher in analyzing the data are as follows:

1. Researchers organize all data or an overview of the issues to be discussed.
2. Read the data as a whole and make a note of the most important data.
3. Selecting and grouping the meaning of statements by horizontalizing, namely each statement that is initially required has the same value. Furthermore, statements that are irrelevant or not related to the role of OJK in resolving customer problems are eliminated so that there are only relevant statements.
4. Researchers concluded the extent of the OJK's role in resolving banking customer problems.

## RESULTS

This research explores the role of the financial services authority in resolving problems experienced by Islamic bank customers. The data obtained is data from interviews conducted in Palangka Raya, precisely at the office of the Financial Services Authority of Palangka Raya City Branch. In addition to interviews, data is also obtained by searching the literature to enrich the material and to provide a deep understanding related to the role of the financial services authority in solving the problems of Islamic bank customers.

## DISCUSSION

Problems in the banking sector involving customers are not new. Problems that arise and have direct implications for customers can often cause both material and immaterial losses. One example of a problem that was widely discussed was the problem related to the leakage of Bank Syariah Indonesia (BSI) customer data. This data leak raises concerns among the public, especially customers of the bank. Not to mention the threat of hackers who will sell customer data to the black market, this adds to the concerns of customers regarding their personal data which can be misused in various ways. This is experienced by almost all BSI bank customers, one of which is the informant chosen to provide information in this study.

Based on the information conveyed by the informant, he faced enormous worries after the news of the hacking of the Islamic bank system emerged. The informant was afraid that his personal data would be misused and other fears related to his deposits at the bank. At the same time, the informant and several other customers complained about this problem to the OJK branch of Palangka Raya in order to obtain justice and legal protection. It should be noted that OJK is an independent state institution formed with the function of organizing supervision of the financial services sector to ensure regularity, prudence and compliance in financial services activities. (Huda, 2022).

Before discussing the role of the OJK in resolving the problems of Islamic bank customers, it will first explain the history of the establishment of the OJK until it has the authority to supervise financial institutions. The economic crisis in 1998 became the background for the formation of the OJK in Indonesia. Many ideas or proposals related to the formation of an independent institution that is tasked with being an integrated financial services sector supervisory institution overseeing the banking industry, non-bank financial industry and capital markets while adding the task of consumer education and protection which is considered very necessary in Indonesia. In addition, in 2004 during the presidential era of Megawati, there were pros and cons related to the supervision of Bank Indonesia (BI), where at that time the government wanted the supervisory and regulatory functions to be united in an independent institution, while on the other hand there were parties who insisted on the supervisory function remaining with BI. In the same year, 2004, a revision of Law No. 23/1999 on Bank Indonesia was

carried out related to the substance of "regulation and supervision" which was still a pro and con. After the revision of the BI Law, which became Law Number 3 of 2004, Article 34 paragraph (2) reads "The establishment of the supervisory institution as referred to in paragraph (1) will be implemented no later than December 31, 2010." (Budisusilo et al., 2022).

Along with the passage of time and leadership, in 2011 in the era of the leadership of President Susilo Bambang Yudhoyono, Law Number 21 of 2011 concerning the Financial Services Authority was passed as an implementation of Article 34 paragraph (1) of Law Number 3 of 2004 concerning Bank Indonesia. The passing of Law Number 21 of 2011 became the basis for the establishment of an independent institution that has the authority and regulation related to banking and other financial institutions. (Prastita, 2018). Then on July 16, 2012 the OJK was officially established while taking over the regulatory and supervisory functions in banking, which previously belonged to Bank Indonesia, which turned into the authority of the OJK. Meanwhile, for the supervision of non-bank financial institutions, OJK took over the role previously carried out by the Ministry of Finance and the Capital Market and Financial Institutions Supervisory Agency (Bappepam LK). (Idris, 2023).

Regarding the role of the OJK in resolving problems experienced by Islamic and conventional banking customers, there are several guidelines that are used as a basis for taking action, these guidelines include Law Number 21 of 2008 concerning Islamic Banking, Law Number 21 of 2011 concerning the Financial Services Authority, Financial Services Authority Regulation Number 1 of 2013 concerning consumer protection in the financial services sector and Financial Services Authority Regulation Number 1 of 2014 concerning Alternative Financial Services Institutions in the Financial Services Sector and Circular Letter of the Financial Services Authority Number 2/SEOJK.07/2014 concerning Services and Settlement of Consumer Complaints on Financial Services Actors. (Musjtari et al., 2020).

Regarding the role of the OJK in resolving the problems of Islamic bank customers, it can be seen by referring to Law Number 21 of 2011 concerning the Financial Services Authority. In the event that there are complaints from customers related to problems with banks, then based on Article 29 of the OJK Law, OJK provides services to customer complaints including:

1. Prepare sufficient tools to service customer complaints who feel aggrieved by actors in financial services institutions.
2. Organizing a complaint mechanism for customers who feel aggrieved by actors in financial services institutions.
3. Facilitate the resolution of complaints from aggrieved customers.

In terms of consumer or customer and community protection, Article 30 paragraph (1) states that OJK is authorized to order or take legal action against financial service institutions to resolve complaints of consumers harmed by financial institutions, file a lawsuit to recover property belonging to the party harmed by the party causing the loss and file a lawsuit to obtain compensation from the party causing the loss.

However, what needs to be understood first is that disputes or problems between customers and banks are problems that are resolved by the bank itself. Only then, if in a condition where the problems faced do not get an agreement, then the customer or bank can use the court mechanism or report to the OJK and OJK will facilitate the resolution of these problems using alternative dispute resolution with a facilitation model and OJK will act as a facilitator. (Umiyati & Syaima, 2018). So related to complaints and problems experienced by customers, customers must first submit complaints and problems to the bank, in this case Islamic banking. This is a mechanism that must be done first before submitting a report to the OJK.

If the customer has carried out the mechanism as described above and does not find an agreement between the customer and the Islamic bank, then the customer can report the problem to the OJK. OJK, which gets the customer's problem report, will act and act as a

facilitator in solving the problem. OJK's role as a facilitator is legally logical because OJK is an independent institution that is free from intervention and has no interest in the problems that occur between customers and Islamic banks. The purpose of conducting alternative dispute resolution with OJK as a facilitator is to obtain the results of problem solving with a win win solution between the parties. (Huda, 2022).

In terms of the implementation of facilitation, there is a specificity where the facilitator does not find both parties in one forum. The facilitator will receive one of the parties with a problem, in this case an Islamic banking customer, and then the customer will tell or explain the problems experienced to the facilitator. The facilitator will collect data and make notes on the problems conveyed by the customer and will convey the problem to the Islamic banking party to communicate with the customer. Within 20 working days the Islamic banking must report the results of its communication with the customer and it is hoped that the results of the communication will end with the resolution of the problems experienced.

The results of the facilitation carried out will be stated in the Deed of Agreement signed by the customer and the Islamic banking party. If no agreement is found, it will be stated in the minutes of the OJK facilitation results signed by the customer and the Islamic banking party. The implementation of the deed of agreement that has been signed by both parties will be supervised by the OJK and if there is an act of default on the agreement, the party in default will be subject to sanctions in accordance with Article 53 POJK Number 1 of 2013 including written warnings, fines, restrictions on business activities, suspension of business activities and revocation of business activity licenses. (Musjtari et al., 2020).

If we observe, there are different things done by the OJK in resolving problems or disputes of Islamic banking customers, where the resolution of this problem uses alternative dispute resolution, but what distinguishes it is that in dispute resolution in the OJK does not use a mediation mechanism in general but uses a dispute resolution mechanism or model in the form of facilitation where the OJK will act as a facilitator not as a mediator as found in alternative dispute resolution in general. This facilitation model began to be implemented after the Financial Services Authority Regulation No. 1 of 2013.

## **CONCLUSION**

Based on the research that has been conducted, it can be concluded that the Financial Services Authority (OJK) has a very important role in resolving problems experienced by Islamic bank customers. This role is reflected in the authority possessed by the OJK, namely the authority to order or take legal action against financial services, in this case Islamic banking, to respond to and resolve complaints of problems submitted by customers, besides that the OJK also has the authority to sue financial services to compensate or return assets owned by customers in the event of problems that are caused by banking errors based on data and facts in the field. In addition, OJK also plays a role in resolving problems experienced by customers by means of alternative dispute resolution through facilitation.

However, what must be understood by the customer is that, in terms of reporting problems that occur between him and the bank to OJK, the customer must first resolve the problem internally with the bank. If this effort does not find a bright spot or result, the customer can report the problem to the OJK and the OJK will take action in the form of summoning both parties or if it is not possible to summon both parties, it can be done by only calling one of the parties to get facilitation of resolving the dispute or problem experienced. Facilitation is carried out with the hope of obtaining a win win solution agreement.

## **SUGGESTION**

To increase effectiveness and results with the principle of win win solutions, it is better if in the facilitation process both parties involved in a problem are found directly in one forum. By

finding both parties in one forum, it will be easier to analyze the wishes of both parties and possible solutions that can be applied by directly exchanging arguments. In addition, finding the parties in one forum will save time because in principle the facilitator will provide notes related to customer complaints and instruct the bank to communicate with customers in another forum. This will certainly be more time-consuming and may lead to the intervention of one of the parties because there is no one to mediate in the discussion process.

## REFERENCES

- Achmad Fauzi, Ahmad Nurdin Hasibuan, Angellina Merry Susetyawan, Attisha Azhira Sangaji, Hatkasum Ratu Mony, Jhani, N. S., Rulyannas Tasya Istiqomah, & Sekararum Sherlenadya Purba. (2023). Peranan Bank Indonesia dalam Mengatur dan Mengawasi Perbankan serta Mengalihkan Tugas ke Otoritas Jasa Keuangan. *Jurnal Akuntansi dan Manajemen Bisnis*, 3(1), 56–62. <https://doi.org/10.56127/jaman.v3i1.641>
- Budisusilo, A., Agustaman, & Hilmi, Y. (2022). Perjalanan Satu Dasawarsa Bakto OJK bagi Negeri: Kiprah dan Perjuangan Pemimpin OJK. Departemen Sekretariat Dewan Komisioner dan Hubungan Masyarakat.
- Fitriana, N. (2018). Komunikasi Ritual Seniman dalam Memproduksi Karya Seninya (Studi Fenomenologi mengenai Komunikasi Ritual Seniman Rizki Luthfi Wiguna dalam memproduksi Karya Seni Patung dan Lukisan di ISBI Bandung) [Tesis]. Universitas Komputer Indonesia.
- Hidayati, S. (2009). Analisis Hubungan Kinerja Sistem Keuangan (Perbankan dan Pasarr Modal) terhadap Pertumbuhan Ekonomi Indonesia Periode 1990-2008 [Tesis]. Fakultas Ekonomi dan Bisnis Universitas Indonesia.
- Huda, K. (2022). Fungsi dan Tugas Otoritas Jasa Keuangan (OJK) dalam Penyelesaian Sengketa Nasabah Perbankan Syariah di Indonesia. *Malia; Jurnal Ekonomi Islam*, 14(1), 1–18.
- Idris, M. (2023, Januari 23). Mengenal OJK, Sejarah Berdiri, Tugas Fungsi dan Wewenangnya. *Kompas.com*. <https://money.kompas.com/read/2021/11/27/144336726/mengenal-ojk-sejarah-berdiri-tugas-fungsi-dan-wewenangnya?page=all>
- Kristianti, I., & Tulenan, M. V. (2021). Dampak financial technology terhadap kinerja keuangan perbankan. *KINERJA: Jurnal Ekonomi dan Manajemen*, 18(1), 57–65. <https://doi.org/10.30872/jkin.v18i1.8254>
- Lestari, H. (2012). Otoritas Jasa Keuangan: Sistem Baru dalam Pengaturan dan Pengawasan Sektor Jasa Keuangan. *Jurnal Dinamika Hukum*, 12(3). <https://doi.org/10.20884/1.jdh.2012.12.3.127>
- Marimin, A., & Romdhoni, A. H. (2017). Perkembangan Bank Syariah di Indonesia. *Jurnal Ilmiah Ekonomi Islam*, 1(02). <https://doi.org/10.29040/jiei.v1i02.30>
- Musjtari, D. N., Yunita, A., & Hamsin, M. K. (2020). Efektivitas Penyelesaian Sengketa Perbankan Syariah Melalui Mekanisme Fasilitasi Oleh Otoritas Jasa Keuangan (OJK). *Masalah-Masalah Hukum*, 49(1), 1. <https://doi.org/10.14710/mmh.49.1.2020.1-13>
- Otoritas Jasa Keuangan. (2017). FAQ Otoritas Jasa Keuangan. <https://ojk.go.id/id/pages/faq-otoritas-jasa-keuangan.aspx>
- Prastita, R. M. (2018). Peran Ojk Dalam Proses Pengembalian Dana Nasabah Bank Yang Hilang Dan Keseuaiannya Dalam Perspektif Islam. *Al-Irfan : Journal of Arabic Literature and Islamic Studies*, 1(1), 121–140. <https://doi.org/10.36835/al-irfan.v1i1.3224>

- Saputra, A. M. A., Kharisma, L. P. I., Rizal, A. A., Burhan, M. I., & Purnawati, N. W. (2023). *Teknologi Informasi: Peranan TI dalam Berbagai Bidang*. PT. Sonpedia Publishing Indonesia.
- Soetiono, K. S. (2014). *Mengenal Otoritas Jasa Keuangan dan Industri Jasa Keuangan Tingkat SMP*. Otoritas Jasa Keuangan.
- Sutedi, A. (2014). *Aspek hukum otoritas jasa keuangan (Cetakan I)*. Raih Asa Sukses.
- Umiyati, U., & Syaima, N. (2018). Pengaruh Merek, Reputasi, Kualitas Pelayanan dan Lokasi terhadap Proses Keputusan Nasabah Menggunakan Produk Tabungan di BJB Syariah, *Ciputat. Liquidity*, 7(2), 108–123. <https://doi.org/10.32546/lq.v7i2.217>
- Wilardjo, S. B. (2005). Pengertian, Peranan dan Perkembangan Bank Syariah di Indonesia. *Value Added*, 2(1), 1–10.