

Regulation And Supervision Of Financial Services Authorities For Banking Institutions And Insurance Institutions In Indonesia

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Abstract

The Financial Services Authority has the task of regulating and supervising financial institutions in Indonesia. Legal facts show that there is Law No. 21 of 2011 concerning the Financial Services Authority. The research purposes This study aims to find and analyze what factors cause differences in the implementation of the duties and authorities of the Financial Services Authority in the banking sector and the insurance sector carried out in Indonesia. This research is normative research type, research that uses secondary data. The data analysis technique was carried out using qualitative techniques and concluded using a deductive conclusion technique. The results showed that based on the theory of the legal system, the factors that caused differences in the implementation of the duties and authorities of the Financial Services Authority A in the banking sector and the insurance sector carried out in Indonesia were caused by the legal system structure and legal culture.

Keywords: culture, legal, normative, system, substance.

Introduction

The spread of Covid-19 affects the state of the economy in Indonesia. Data shows that in quarter III-2021 it slowed to 3.51% (yoy), general inflation rose 1.60%, the manufacturing sector declined in quarter III-2021, and manufacturing PMI fell to 52.2. (OJK, 2021) . This situation affects policies in the financial institution sector. Banking institutions and insurance institutions are two institutions among other financial institutions under the regulation and supervision of the Financial Services Authority. The existence of the Financial Services Authority (FSA) is

based on Law No. 21 of 2011 concerning the FSA. Legal facts show that there is Law No. 21 of 2011 concerning the Financial Services Authority is the legal basis for the FSA in carrying out its duties in achieving the goal of establishing the FSA. Other legal facts show that there are differences in regulations issued by the FSA to existing financial institutions.

The difference that can be seen is that during this Covid-19 period, FSA Regulation of the Financial Services Authority of the Republic of Indonesia Number 11/POJK.03/2020 Concerning National Economic Stimulus as a

Countercyclical Policy Impact of the spread of Coronavarius Disease 2019 as amended by the Regulation of the Financial Services Authority of the Republic of Indonesia Number 48/POJK.03/2020 and as amended again by the Regulation of the Financial Services Authority Number 17/POJK.03/2021 concerning the Second Amendment to the Regulation of the Financial Services Authority Number 11/POJK.03/2020 concerning the National Economic Stimulus as a Countercyclical Policy Impact on the spread of Coronavarius Disease 2019 (hereinafter referred to as the Financial Stimulus Policy).

The relevance of this research topic is that the public as bank customers and insurance institution customers are parties who have the right to obtain legal protection from the implementation of regulatory and supervisory duties. Based on the legal facts and facts in the field, the problem can be formulated, namely, what factors cause differences in the implementation of the duties and authorities of the FSA in the banking sector and the insurance sector carried out in Indonesia. The research purposes are to find and analyze what factors cause differences in the implementation of the duties and authorities of the FSA in the banking sector and the insurance sector carried out in Indonesia

I. Literature Review

The existence of a legal system greatly influences the development of law (Michael J. N. & Rachael K. H, 2018). Law tends to follow changes in society also (Nikolin, 2015). The legal system includes elements of structure, categories, and concepts. Differences in these elements result in differences in the legal system used (Satjipto Raharjo, 2014). There are many different legal systems in the world.

This paper divides the legal system into the two most widely adopted legal systems. The two legal systems are divided into the Roman-German legal system or the Continental European Legal System or often called the Civil Law System (Giulio Peroni, 2018), and the English legal system or the Anglo-Saxon legal system (Taylor Kidd, 2021). Both legal systems affect the implementation of legal objectives in each country (Claus Holm, 2014). Some characteristics distinguish the two legal systems. In their implementation (Mark Abell and Victoria Hobbs, 2013), academics have the aim of not only determining but seeking harmony between the two legal systems (Valcke, C, 2019). The legal system in a country in practice always tries to adapt (Dovgert, et all, 2021) to the development of the global situation (Kuznietsova, N. S., 2021; Peter H Sand, 2020; Marcus Moore, 2018). Legal history is one method to study the development of the legal system (Thomas Duve, 2020). Because the Dutch colonized Indonesia, Indonesia adhered to the Roman-German legal system. The primary source of Law in this Civil Law System is Legislation, and The characteristic of the civil law system is that there are at least legal regulations. Details in concrete rules will be left to the judges. The judge must formulate a precise and correct control in a dispute. The ability of judges to apply the law in concrete cases is a determining factor for the success of the legal objectives in this civil law system. The purpose of Law is to obtain legal certainty (Eva Jueptner, 2020). On the other hand, according to John Locke's opinion, to establish a legal state that respects the rights of citizens, a form must contain laws. According to John Locke, the basis of power is the consensus of the community (Stanton, T, 2018). The state of nature is a natural state of harmony and freedom as John Locke said (Seabright, P. et all (2021)). He is the originator of the social contract

theory. This theory asserts in arguing that the existence of government only with the consent of the people, aims to protect basic rights and promote the common good of society (Maegan Nation, 2019). The doctrine of the image of God is often regarded as the foundation of human dignity in something permanent and unchanging that transcends our attitudes and behaviour (Jennifer Herdt, 2021). Locke uses a modern minimalist doctrinal approach to understanding Christian doctrine (Manfred Svensson, 2020). Individuals still have fundamental freedoms. The fundamentals of freedom are life, liberty and estate (Ian Turner, 2020). These rights are called natural rights (Rojek C., 2022; Chung, Hun; 2022). From the perspective of economic activity, the legal task is to protect individual rights in economic activity (Erick Mack, 2017: Jon Cooper, 2021: Claude Roche & Carl Pitchford, 2021). John Locke's opinion is not isolated from the moment it is given, it can always be adapted. (Pedro Faria, 2021)- The explanation above shows the relationship between legal objectives in the spirit of the civil law system in Indonesia in supporting economic activity. The legal objective to be achieved is the legal goal to protect the rights of the community. As John Locke said that the state must guarantee the fulfilment of the natural rights of the community, namely the right to protection. The state carries out the obligation to protect institutions following their duties and authorities. Law regulates how members of society can enjoy their human rights peacefully and a body that can resolve disputes that may arise. Arise between the government (vertical dispute) or fellow members of the community (horizontal dispute). Based on the foregoing, it can be seen that Law No. 21 of 2011 concerning the FSA gives duties and authority to the FSA to regulate and supervise financial institutions in Indonesia. Banking institutions and

insurance institutions are two institutions that are supervised by the FSA. Law No. 21 of 2011, article 4 states that the purpose of establishing the FSA is so that all activities in the financial sector can be carried out in an orderly, fair, transparent, and accountable manner; b. able to realize a financial system that grows sustainably and stably; and c. able to protect the interests of consumers and the public. From a regulatory perspective, Law No. 21 of 2011 concerning the FSA becomes the legal basis for the FSA in carrying out its duties and authorities in achieving the objectives of its establishment. This is following the purpose of law formation in the Civil law system which prioritizes legal certainty. From the perspective of the FSA as an institution, Law No. 21 of 2011 concerning the FSA becomes a strong legal basis in carrying out its duties and authorities to be able to protect the interests of consumers and society. This is following John Locke's opinion that the State through the Act gives respect to the rights of citizens. The right of citizens not to be harmed when dealing with financial institutions under the control and supervision of the FSA. The effectiveness of Law No. 21 of 2011 concerning the FSA and other related regulations will be analyzed using the legal system theory of Lawrence Friedman. Lawrence Friedman put forward the theory of legal systems. In the theory of the legal system, it is stated that the legal system consists of 3 elements, namely legal substance, legal structure, and legal culture. Legal culture is defined as community behaviour which is one element of the legal system (Mauk, D, 2021) among other elements, namely legal substance, and legal structure. (Saksonov, et al, 2020). Friedman points to 3 elements in the legal system that will affect the effectiveness of the legal system. The first is the element of legal culture. Legal culture shows and implements the behaviour and habits of the community that is considered good, have an unwritten nature and are supported and

carried out by the local community. For example, the application of legal culture in society is the principle of good faith in contract law. The principle of good faith is the spirit of the agreement in the implementation of the contents of the agreement. Furthermore, Friedman has ideas so that a legal system can be implemented properly. Both elements have a Legal structure. Legal structure refers to institutions and law enforcement. The three elements of legal substance. The legal substance can be interpreted as norms and the rule of law itself. The three elements mentioned above must be contained in a legal system, which can control the community and has a function as a social control tool. The legal system can help solve problems in society. (Lawrence M.Fridman and Grant M.H, 2017). John Locke's concept of legal purpose, the law is used to protect people's rights which have existed since the human being was born. This concept is used as a basis for thinking to discuss FSA's duties in protecting the interests of the public and consumers. In carrying out its duties and authority in achieving the objectives of its establishment, FSA must base the idea that the right of the community to obtain protection is a natural right that humans are born with. Legal System theory is used as a rationale to analyze the effectiveness of Law No. 21 of 2011 concerning the FSA in carrying out its duties and authorities to regulate and supervise banking institutions and insurance institutions in Indonesia. There is a close relationship between the laws of social behaviour (Ariel Zuckerbrot., 2019)

2. Research Methods

This research uses normative juridical research (Muryanto Yudho T, et all, 2022). Normative legal research uses secondary data consisting of primary and secondary

legal materials (Kharisma, D.B, 2021). Primary legal materials used are Law No. 21 of 2011 concerning the Financial Services Authority, Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking, and Law No. 40 of 2014 concerning Insurance. The second type of secondary data is Secondary Legal Materials. The secondary legal materials used in this research are expert opinions taken from books, international journals, legal dictionaries, and the Big Indonesian Dictionary. All secondary data is collected, sorted according to data needs, presented descriptively, and then analyzed using qualitative data analysis techniques (Sethi, D, and Arya, 2021) The approach used in the description and data analysis in generating conclusions is using a regulatory/statutory approach, conceptual and comparative approach. The regulatory approach used as a consequence of this research is normative juridical research, research-based on applicable regulations. The conceptual approach is used in analyzing the legal concept from the perspective of the objectives, and concepts of the duties and authorities of the FSA. A comparative approach is used to compare the duties and authorities of the FSA in regulating and supervising banking institutions and insurance institutions. This research uses deductive conclusion techniques

3. Result and discussion

Based on Law No. 21 of 2011 concerning the FSA, the FSA has the authority to regulate and supervise banking institutions and insurance institutions. Empirical facts that occur can be shown that there are differences in the implementation of regulatory and supervisory tasks for the two financial institutions. During the Covid-19 pandemic, the FSA issued regulations for banking, namely, Regulation of the Financial Services Authority of the

Republic of Indonesia Number 11/POJK.03/2020 Concerning National Economic Stimulus as a Countercyclical Policy Impact of the spread of Coronavarius Disease 2019 as amended by the Regulation of the Financial Services Authority of the Republic of Indonesia Number 48/POJK.03/2020 and as amended again by the Regulation of the Financial Services Authority Number 17/POJK.03/2021 concerning the Second Amendment to the Regulation of the Financial Services Authority Number 11/POJK.03/2020 concerning the National Economic Stimulus as a Countercyclical Policy Impact on the spread of Coronavarius Disease 2019 (the Financial Stimulus Policy). The policy is in the form of restructuring that is specifically for debtors who have difficulty making payments. This means that the policy will greatly help banks from declining bank health due to the inability of debtors to make payments. FSA's efforts in carrying out its duties and authorities have shown the results of the stability of banking capital in the CAR of 25.18%, credit growth of 2.21% (yoy), and Third-party funds also growing 7.69% (yoy). The risk profile of financial services institutions shows improvement with the gross NPL ratio at the level of 3.22% (net NPL: 1.04%) from the previous 3.24% (net NPL: 1.06%) in June 2021 (OJK, 2021). These data show the close relationship between law and economy (Alan O Sykes, 2021)

In the insurance sector, based on data, the total assets of the insurance industry increased by 3.05% to Rp1,525.17 trillion compared to the previous quarter. (OJK, 2021) But another juridical fact can be shown that the situation of insurance institutions in Indonesia does not show a good thing seen from the perspective of obtaining community rights as customers. This statement is supported by the fact that there are several default conditions for the company PT Asuransi Bumiputera

(Bisnis.com, 2022), PT Asuransi Jiwasraya (kompas.com, 2021), and the Suspension Of Debt Payment Application Case addressed to PT Asuransi Jiwa Kresna with a Request for Debt Payment Obligation in the Case Register Number 389/Pdt.Sus-PKPU/2020/PN Niaga Jkt. Pst., The Panel of Judges has handed down the decision of the Provisional PKPU; on December 10, 2020. Concerning the Provisional Suspension Of Debt Payment Decision, the Panel of Judges then handed down a permanent Suspension of Debt Payment Obligation decision with Decision Number 389/Pdt.Sus-PKPU/2020/PN Niaga Jkt. Pst., dated January 22, 2021, which is as follows: Granting the Application for Suspension of Obligation for Payment of Debts within 14 (fourteen) days, as of the date the quo decision was pronounced. There is an appeal against the previous decision. The Supreme Court then issued a Decision Canceling the Decision on Ratification of the Peace Agreement (Homologation), namely the Decision of the Commercial Court at the Central Jakarta District Court Number 389/Pdt.Sus-PKPU/2020/PN Niaga Jkt. Pst., dated February 18, 2021, in conjunction with the Permanent Suspension of Debt Payment Obligation Decision Number 389/Pdt.Sus-PKPU/PN Niaga Jkt. Pst., January 22, 2021, in conjunction with the Provisional Suspension Of Debt Payment Decision Number 389/Pdt.Sus-PKPU/2020/PN Niaga Jkt. Pst., December 10, 2020. This decision rejects the application for Suspension of Debt Payment Obligation from the Applicant for Suspension of Debt Payment Obligation in its entirety. As a result of the judge's decision, the customer will be at a loss. On the other hand, banks and insurance institutions are institutions under the regulatory and supervisory authority of the Financial Services Authority. Rights from customers become difficult to obtain, this will not happen if the

FSA carries out its duties and authorities properly.

Previous research was conducted by Marva Jordana Ashila R, Zainal Azikin, and Deman A.M. This research aims to find the regulation related to the Suspension Of Debt Payment on Insurance Companies (Marva Jordana Ashila, et all, 2021). The results of the research are to find out the legal position of the policyholder in submitting a PKPU application against an Insurance Company in decision number 389/Pdt.Sus-PKPU/2020/PN-Niaga.

Jkt.Pst. Dewi Andani & Wiwin Budi Pratiwi (Dewi Andani & Wiwin Budi Pratiwi, 2021), and Hendri SAK and Bianca B (Hendri SAK and Bianca B. 2020) also conducted a similar study Related analysis was also carried out by Anak Agung & Ida Ayu S (Anak Agung & Ida Ayu S, 2021).

FSA From a regulatory perspective, the objectives, duties and authorities, and supervision will be described below, which will serve as a guide for discussion. , and accountable; able to realize a financial system that grows sustainably and stably; and able to protect the interests of consumers and the public. FSA's duties are regulated in article 6, which states that FSA carries out regulatory and supervisory duties on financial service activities in the banking sector; financial services activities in the Capital Market sector; and financial service activities in the Insurance, Pension Fund, Financing Institutions, and Other Financial Services Institutions sector. In carrying out its duties, the FSA is given the authority which is normatively stated in articles 7 to article 9 of Law No. 21 of 2011. Article 7 of Law No. 21 of 2011 regulates the authority of FSA in carrying out the task of regulating and supervising financial service activities in the banking sector. The authority includes 4 authorities, namely first, the authority to regulate and supervise bank institutions. Second, regulation and supervision regarding bank soundness,

third, regulation and supervision regarding bank prudential aspects, and fourth, bank inspection authority. The authority granted to the FSA contained in articles 8 and article 9 which is based on the assigned task is different from the authority granted in article 7 of the FSA Law. Article 7 authorizes the FSA to carry out special regulatory and supervisory duties in banking sector activities, so the FSA's authority given in Articles 8 and 9 is an authority that generally arises based on the duties of Article 6 for the entire financial services sector.

FSA in the perspective of regulation and supervision of banking institutions. The spread of Covid-19 throughout the world harms all sectors of life. The banking sector is one of the sectors most affected by the spread of Covid-19. The reduced ability to pay debtors will have negative consequences for bank capital. On the other hand, banking institutions are the institutions most trusted by the public in economic activities. If banking institutions are disrupted, it will certainly trigger a crisis in economic stability (Claudio Borio, 2020). Based on this situation, the Financial Services Authority Regulation of the Republic of Indonesia Number 11/POJK.03/2020 concerning National Economic Stimulus as a Countercyclical Policy Impact of the spread of Coronavarius Disease 2019 was issued as amended by the Regulation of the Financial Services Authority of the Republic of Indonesia Number 48/POJK.03/2020 and as amended again by the Financial Services Authority Regulation Number 17/POJK.03/2021 concerning the Second Amendment to the Financial Services Authority Regulation Number 11/POJK.03/2020 concerning the National Economic Stimulus as a Countercyclical Policy Impact of the spread of Coronavarius Disease 2019. Regulations of the Financial Services Authority In Indonesia, the pandemic situation caused

by the coronavirus has a bad impact, one of which is on economic activity (Bashir, M., Ma, B. & Shahzad, 2020). Covid-19 causes a situation of weak demand in the consumption and production sectors. Weak demand for consumption and production can be seen from the low disbursement of bank loans, which only grew by 1.49% (yoy), even though deposits grew by 7.95% (yoy) (OJK, 2021). The consequence of this situation has an impact on the banking LDR level which has decreased to the level of 88.64%. This situation indicates a fairly well-maintained liquidity condition. Although the banking CAR still shows a safe capital. But the state of the spread of Covid-19 cannot be predicted when it will stop. An increase in credit risk will very likely occur. This will adversely affect the profitability of the bank. If this situation is not anticipated, the bank's capital will have the potential to decrease. The Financial Stimulus Policy either directly or indirectly will be able to maintain the business continuity of banking institutions. FSA in the perspective of regulation and supervision of insurance institutions. As described above, the authority of the FSA in carrying out the task of regulating and supervising financial activities is regulated among others in articles 7, 8, and 9 of Law No. 21 of 2011. The authority of the FSA in carrying out tasks in the banking sector is specifically regulated in Article 7 of Law No. 21 of 2011. Articles 8 and 9 of Law No. 21 of 2011 regulate the authority of the FSA in carrying out the tasks contained in Article 6 as a whole. The following reads articles 8 and 9 of Law No. 21 of 2011. Article 8 gives authority to the FSA to carry out regulatory tasks, especially to insurance institutions. These powers include, among others, stipulating implementing regulations for this Law, stipulating statutory regulations in the financial services sector, stipulating FSA regulations and decisions, stipulating regulations regarding supervision in the

financial services sector, stipulating policies regarding the implementation of FSA duties, stipulating regulations regarding procedures for implementing FSA duties. stipulation of written orders against Financial Services Institutions and certain parties, stipulates regulations regarding procedures for determining statutory managers at Financial Services Institutions, stipulates organizational structure and infrastructure, and manages, maintains, and administers assets and liabilities; and stipulate regulations regarding procedures for imposing sanctions following the provisions of laws and regulations in the financial services sector. Article 9 of Law No. 21 of 2011 gives authority to the FSA in carrying out its supervisory duties, including to insurance institutions. These powers include, among others, establishing operational policies for supervision of financial service activities, supervising the implementation of supervisory duties carried out by the Chief Executive, conducting supervision, examination, investigation, consumer protection, and other actions against Financial Services Institutions, actors, and/or supporting service activities. financial services as referred to in the laws and regulations in the financial services sector, giving written orders to Financial Services Institutions and/or certain parties, appointing statute managers, stipulating the use of statutory managers, stipulating administrative sanctions against parties who violate the laws and regulations in the financial services sector and grant and/or revoke, business license, individual license, effective registration statement, registration certificate, approval to conduct business activities, ratification, approval or determination of dissolution, and determination other matters, as referred to in the laws and regulations in the financial services sector.

The authority granted to the FSA contained

in articles 8 and article 9 of the FSA Law is based on the tasks given in article 6. In contrast to the authority granted in article 7 of the FSA Law which gives authority to carry out special regulatory and supervisory tasks in banking sector activities, the authority of the FSA those given in articles 8 and 9 are powers that generally appear based on the duties of article 6 as a whole. Article 8 of the FSA Law provides regulatory authority and Article 9 provides supervisory authority in carrying out regulatory and supervisory duties throughout the financial services sector (financial service activities in the banking sector; financial service activities in the Capital Markets sector; and financial service activities in the Insurance, Pension Fund, and Pension Fund sectors). Financing Institutions, and Other Financial Services Institutions). This means that the authority of the FSA in carrying out its regulatory and supervisory duties in the insurance sector is contained in the provisions of articles 8 and 9. In connection with the issue of PT Asuransi Jiwa Kresna which had difficulty paying, then PT Asuransi Jiwa Kresna was asked for a Debt Payment Obligation by Lukman Wibowo. The judge gave a decision on Register Number 389/Pdt.Sus-PKPU/2020/PN Niaga Jkt. Pst., the Panel of Judges has handed down the Provisional Suspension Of Debt Payment decision, dated December 10, 2020. Then there is the Cassation Decision from Supreme Court's Cassation Decision Number 647 K/Pdt.Sus-Pailit/2021, annulled the Kresna Life Insurance Suspension Of Debt Payment decision (the decision of the Central Jakarta Commercial Court) because only the Financial Services Authority has the authority to file a Suspension Of Debt Payment application against insurance companies. The verdict is detrimental to the insurance customer. The form of loss borne by insurance customers of PT Asuransi Jiwa Kresna is that there is

uncertainty about the rights of insurance customers. In the perspective of the FSA's duties in carrying out the task of regulating and supervising insurance institutions facing the inability of PT Asuransi Jiwa Kresna before the Decision of Register Number 389/Pdt.Sus-PKPU/2020/PN Niaga Jkt. Pst., FSA normatively has the authority to carry out regulatory and supervisory duties as stipulated in articles 8 and 9 of the FSA Law. In reality, the FSA does not appear to have implemented this authority in dealing with the PT Asuransi Jiwa Kresna problem. As a result, there was a PKPU decision made by an unauthorized party, and the PKPU decision was later annulled by the Supreme Court. It is the customer who suffers the most in this situation. The same problem occurs in customers' rights to PT Asuransi Bumiputera and PT Asuransi Jiwasraya. From the perspective of the FSA's duties, the FSA does not optimize its supervisory duties and powers so that the customer's rights are not fulfilled. Based on the description of the implementation of the duties and authorities of the FSA towards banking institutions and insurance institutions, it can be studied that there are differences in the implementation of the authority of the FSA towards insurance institutions and banking institutions. The FSA is more likely to carry out its duties and authority over banking institutions, with the aim that the sustainability of financial institutions can be maintained. The factors that cause differences in the implementation of the duties and authorities of the FSA towards banking institutions and insurance institutions are because, firstly, the 2019 National Survey of Financial Literacy and Inclusion showed that the Financial Inclusion Index was 76.19%, an increase compared to 2016 which was at 67.80% and 2013 at 59.70% (OJK, 2021). Financial inclusion is the availability of access to various financial institutions, products, and services

following the needs and capabilities of the community to improve the welfare of the community. In simple terms, financial inclusion is a condition where every member of society has access to various formal financial services. Indexes of financial inclusion of 76, 19% means that every 100 people in the population as many as 76 people have access to financial services. In the sectoral financial inclusion index in 2019, for banking institutions, the financial inclusion index was at 73, 88%, and the financial inclusion index was 13.15%. Financial literacy indexes for the banking services sector have the highest indexes compared to other financial service sector institutions (insurance, financial institutions, pension funds, pawnshops, capital markets, and microfinance institutions). This means that for every 100 people, 74 people use banking access. This shows that banking institutions have access to the most needed by the community. Other data shows that public knowledge of banking institutions (99.07%) is the most widely known among their knowledge of other financial services sectors. Public knowledge of insurance institutions is around 58.74% (SNLKI, 2021). This is supported by the large number of banking service networks that are spread in almost all corners of Indonesia. In addition, the financial services provided by the banking industry touch almost all financial transactions needed by the public. The popularity of banking was then followed by the insurance sector, financial institutions, pension funds, and microfinance institutions. The capital market industry (13.97%) is the least popular. The data shows that banking institutions are the institutions most trusted by the public in terms of the number of banking access needed by the community, and are the most popular compared to insurance institutions. Banking institutions are institutions that are still widely trusted by the public among insurance institutions, pension funds,

financing institutions, pawnshops, and the capital market. This is also a consideration for the authority of the FSA to carry out regulatory and supervisory duties in the banking services sector, which is given in a separate article. Furthermore, it can also be shown that the Deposit Insurance Corporation in Indonesia has only provided guarantees for customer deposits in banking institutions. This proves that banking institutions are institutions that have the most dominant position and access for the public compared to insurance institutions.

From the description above, it can be studied what factors cause the differences in the FSA's steps to regulate and supervise banking institutions and insurance institutions carried out in Indonesia can be studied from the theory of the legal system. Legal system theory consists of legal substance, legal structure, and legal culture. From the aspect of legal substance, Law No. 21 of 2011 provides the basic authority for the FSA to regulate and supervise Banking Institutions and Insurance Institutions (articles 7, 8, and 9 of Law No. 21 of 2011). From the legal structure aspect, it can be studied that based on its authority the FSA in insurance cases (Kresna Life Insurance Case, Jiwasraya insurance case, and other insurance company cases), does not carry out the functions of both regulatory and supervisory functions that already exist in Law No. 2011). The FSA authorizes the FSA to regulate and supervise in the form of a warning, written warning, or sanction, but it is not fully implemented. This is proven by the default of PT Asuransi Jiwasraya and PT Asuransi Bumi Putera and the PKPU decision and the Cassation case of PT Asuransi Jiwa Kresna. This situation is different from the FSA's excellent implementation of arrangements for banking institutions (financial stimulus policy in the banking sector). From the aspect of legal culture, the difference in the

implementation of regulatory and supervisory duties for banking institutions compared to insurance institutions is due to the higher level of financial inclusion indexes and the popularity of banking institutions compared to insurance institutions. The public is the party that suffers the most because of differences in the implementation of the FSA's regulatory and supervisory duties for banking institutions and insurance institutions. The duty of the State through the FSA to provide legal protection as a natural right of the people as stated by John Locke must be the basis of the parties in the FSA and Government institutions.

Conclusion

The conclusion is the answer to the problem formulation. There are differences in the implementation of regulatory and supervisory duties by the FSA to banking institutions and insurance institutions in Indonesia. Based on this situation, the formulation of the legal problem is what factors cause differences in the implementation of the duties and authorities of the FSA in the banking sector and the insurance sector carried out in Indonesia. The theory of the legal system is used to assist in analyzing the legal facts in answering legal issues. The theory of the legal system states that there are three elements, namely elements of legal substance, legal culture, and legal structure that will affect the operation of the law. Based on 3 of the elements in the theory system, from the element of legal substance, Law 21 of 2011 concerning the FSA provides the basis for the authority of the FSA to regulate and supervise Banking Institutions and Insurance Institutions (articles 7, 8, and 9 of Law No. 21 of 2011). From the element of the legal structure, the FSA does not carry out the functions of both the regulatory and supervisory functions that already exist in Law No. 21 of 2011. The FSA authorizes the FSA to

regulate and supervise in the form of a warning, written warning, or sanction, but it is not fully implemented. From the element of Legal culture, the difference in the implementation of regulatory and supervisory tasks for banking institutions compared to insurance institutions is due to the higher level of financial inclusion indexes and the popularity of banking institutions compared to insurance institutions. Based on this, the legal structure and legal culture are factors that cause differences in the implementation of the duties and authorities of the FSA in the banking sector and the insurance sector carried out in Indonesia.

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