

Jurisdiction in Financial Crime: A Legal Analysis of the Investigative Authority of Indonesia's Financial Services Authority in Money Laundering Cases

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Abstract

Act Number 4 of 2023 expands the Financial Services Authority (known as Otoritas Jasa Keuangan/OJK), as the leading sector in investigating money laundering crimes initiated by criminal acts in the financial services sector. However, this provision has resulted in many legal ambiguities, such as who can explore the predicate crime, what the optimal division of authority between the police and the OJK is, and what the consequences of the OJK's authority as a sole investigator. This article is here to identify the legal ambiguities arising from the expansion of OJK authority and to offer solutions that focus on strengthening harmonization and coordination between related institutions. The approach includes an analysis of available legal instruments, relevant case studies, and other policies used to address financial service crimes, such as banking fraud. The results of this study are expected to contribute positively to the expansion of the authority of the OJK in enhancing the effectiveness of money laundering investigations. In addition, this article also contributes to providing concrete recommendations to overcome legal ambiguities by strengthening cooperation between institutions and formulating more integrated policies.

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1. Introduction

The rapid progress of Indonesia's financial services sector creates economic opportunities and comes with significant risks. One risk accompanying the progress of the financial services sector in Indonesia is the presence of criminal acts in the industry itself. Criminal offenses in the financial services sector must be watched out for because this type of criminal offense can extend to money laundering. To combat money laundering, Indonesia took a bold step to become the 40th full member of the Financial Action Task Force (FATF) on October 25, 2023.¹ Indonesia's membership in the FATF allows Indonesia to learn about developing international regulatory standards, enabling the country to align its regulatory framework with global practices.² However, understanding the development of international regulatory standards can be challenging for Indonesia, as the government needs to incorporate the principles of international law into its national legal framework. To fulfill this commitment, Indonesia enacted Act No. 8 of 2010, which addresses preventing and eradicating money laundering. This law was formulated based on FATF recommendations and demonstrates Indonesia's active role in establishing global standards to combat money laundering.³

Referring to Act No. 8 of 2010, it is said that money laundering cannot be issued without being preceded by an predicate crime.⁴ Article 2 of this Law also includes predicate crime in the banking sector as the initial criminal act of money laundering L. With the

¹ Winardi Ginting, Margaretha Hanita, and Stanislaus Riyanta, "Analysis of The Impact Financial Action Task Force On Money Laundering and Terrorism Financing? (FATF) On The Supervision of Money Laundering and Terrorism Financing Crimes In Indonesia," *Asian Journal of Social and Humanities* 2, no. 8 (May 2024): 2963–4946, <https://doi.org/https://doi.org/10.59888/ajsosh.v2i8.319>.

² Dwi Nurahman et al., "The Urgency of Indonesian Collaboration with International Organizations in Terms of Cooperation and Exchange of Information on Economic Crime and Money Laundering," *In International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)*, December 31, 2023, 429–36, https://doi.org/10.2991/978-2-38476-180-7_47.

³ Fitriah and Yusuf, "Implikasi Hukum Internasional Terhadap Penanganan Tindak Pidana Pencucian Uang Di Indonesia."

⁴ Ronny Oktahandika, "Pembuktian Kejahatan Asal (Predicate Crime) Tindak Pidana Pencucian Uang Pada Pelaku Pasif (Predicate Crime Evidence Of Money Laundering On Passive Actor)," *Jurnal Legal Reasoning* 1, no. 2 (2019): 156–71, <https://doi.org/https://doi.org/10.35814/jlr.v1i2.2184>.

predominance of money laundering preceded by criminal acts in the financial services sector, the police are overwhelmed in handling it.

Before the Financial Services Authority OJK enacted Act No. 21 of 2011, the police had established a particular unit tasked with handling various cases in the financial services sector called the Directorate of Special Economic Crimes.⁵ The primary purpose of establishing this unit was to handle criminal offenses in the financial services sector that could become a predicate crime of money laundering. The specificity of money laundering means that police officers handling cases in this field must obtain additional knowledge related to the essential aspects of the financial services sector. This is a tangible manifestation of the police's efforts to realize the public's need for capable investigators to combat criminal acts in the financial services sector.

However, the police's competence in investigating criminal acts in the financial services sector is considered inadequate. This is mainly because such crimes require specialized expertise, as perpetrators frequently employ sophisticated methods to conceal their actions through complex transactions that are difficult to trace.⁶ These crimes also often involve internal parties from the sector or parties with high economic and political status.⁷ As a result, detecting money laundering crimes in the banking sector becomes challenging.

According to Act No. 21 of 2011 regarding the OJK, this institution is recognized as a state institution responsible for the integrated supervision of banking institutions within the financial services sector. This shows that OJK has a high position and is above other institutions. One of OJK's responsibilities in supervising banking institutions is its commitment to ensuring that regulations in Indonesia align with international standards established by organizations like the Financial Action Task

⁵ Sri Pujiarti, "Polri Dan OJK Jelaskan Ranah Penyidikan Sektor Jasa Keuangan," [mkri.go.id](https://www.mkri.id/index.php?page=web.Berita&id=19465), August 28, 2023, <https://www.mkri.id/index.php?page=web.Berita&id=19465>.

⁶ Ilham Fathir Arifuddin and Hudi Yusuf, "Peran Kepolisian Dalam Penanggulangan Tindak Pidana Ekonomi Khusus Di Sektor Perbankan," *JIIIC: Jurnal Intelek Insan Cendikia* 1, no. 9 (November 2024): 5398–5413, <https://jicnusantara.com/index.php/jiic>.

⁷ Ahmad Dwi Nuryanto, "Problem Penyidikan Tindak Pidana Pencucian Uang Yang Berasal Dari Predicate Crime Perbankan," *Jurnal Bestuur* 7, no. 1 (2019): 55–65, <https://doi.org/https://doi.org/10.20961/bestuur.v7i1.43437>.

Force (FATF). This indicates that OJK concentrates on domestic regulations and collaborates with global financial authorities to exchange information and strategies to combat money laundering.⁸

Furthermore, based on the substance contained in Article 49, paragraph 7 letter m of the OJK section of Act No. 4 of 2023 concerning Development and Strengthening of the Financial Sector, which reads:

"Investigators of the OJK, as referred to in paragraph (1), are authorized and responsible for conducting investigations into money laundering crimes with criminal acts of origin in the form of criminal acts in the financial services sector;"

This regulation is the answer given by the government to overcome the problems related to the inability of police investigators to match the cleverness of money laundering perpetrators who originated from their actions in the previous financial services sector. In addition, this policy is also in line with the recommendations of the Financial Action Task Force (FATF), which encourages strengthening the supervisory system through the role of the OJK, which is more proactive in preventing and eradicating money laundering.⁹

People who fill positions at OJK possess a comprehensive understanding of the operational mechanisms within the financial services sector.¹⁰ This expertise stems from OJK's broader authority compared to other institutions, the authority to formulate guidelines and regulations to ensure that financial institutions in Indonesia have practical operational standards in identifying suspicious transactions that have

⁸ Dewi Asri Puanandini, Muhammad Syahid Syidiq, and Jihan Pasha Noevera, "Efektivitas Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," *PUBLIC SPHARE: Jurnal Sosial Politik, Pemerintahan Dan Hukum* 3, no. 3 (November 2024): 52–61, <https://doi.org/10.59818/jps.v3i3.1048>.

⁹ Fitriah and Yusuf, "Implikasi Hukum Internasional Terhadap Penanganan Tindak Pidana Pencucian Uang Di Indonesia."

¹⁰ Arifuddin and Yusuf, "Peran Kepolisian Dalam Penanggulangan Tindak Pidana Ekonomi Khusus Di Sektor Perbankan."

the potential to lead to money laundering.¹¹ Through this authority, OJK will be able to match the ingenuity of criminals in the financial services sector.

The presence of OJK investigators is a plus for all investigators in the financial services sector because their expertise and professionalism in reviewing the operation of the financial services sector will shorten the time to explore the expansion of the types of financial services sector crimes contained in Act No. 4 of 2023. Thus, it can be understood that this is the origin of Act No. 4 of 2023, which expands the authority for the OJK to become an investigator of money laundering caused by criminal acts in the financial services sector.

The plus points pocketed by OJK investigators make the provisions that allow the institution to become an investigator in predicate crime. Money Laundering follows the ideal law enforcement destination to protect all layers or levels in the financial sector. With the presence of OJK as a party that is considered more qualified and educated to intervene in handling all problems in the financial services sector, it is hoped that it can smooth the course of the investigation process and thoroughly eradicate criminal acts in the financial services sector that can continue to spread to money laundering.

This article introduces several novelties that differentiate it from previous research on the investigative authority of the OJK. It offers a fresh perspective on the strengths and weaknesses of both the OJK and the police as law enforcement agencies. Additionally, it highlights the potential for effective collaboration between these institutions to enhance the investigation of money laundering within the financial services sector. Unlike earlier studies that tend to favor the investigative authority of a single agency, this article emphasizes the importance of cooperation. Furthermore, it goes beyond merely discussing the theoretical aspects of money laundering crimes to examine their real-life implications. The article incorporates concrete case studies and uses principles of accountability and the banking code of ethics as analytical tools. By presenting these novelties, the article aims to provide valuable insights into

¹¹ Dewi Asri Puanandini, Muhammad Syahid Syidiq, and Jihan Pasha Noevera, "Efektivitas Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," PUBLIC SPHARE: Jurnal Sosial Politik, Pemerintahan Dan Hukum 3, no. 3 (November 2024): 52–61, <https://doi.org/10.59818/jps.v3i3.1048>.

strengthening the OJK's capacity to investigate money laundering crimes caused by predicate crimes in the financial services sector.

2. Problem Statement

Act No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector becomes the legality for OJK to conduct investigations in the financial services sector. However, this regulation does not diminish the authority of the Police to conduct investigations. In practice, OJK investigators will continue coordinating with Police investigators to create synergy and harmonization in investigating money laundering crimes in the financial services sector. Therefore, this article will analyze several relevant regulations to examine how coordination between the OJK and the police can be improved to enhance law enforcement effectiveness. This discussion will also highlight the positive side of granting authority to OJK as an investigator in money laundering cases caused by criminal acts in the financial services sector.

3. Methods

The research method used Guide locating primary and secondary legal sources, such as legal encyclopedias, legal dictionaries, and bibliographies. The purpose of collecting these legal materials is to identify various legal ambiguities that arise in Indonesia due to the expansion of the authority of the OJK. Additionally, the research addresses several issues that stem from this expansion, including the authority of institutions responsible for investigating money laundering, the division of tasks among relevant institutions during investigations, and the potential benefits of OJK's enhanced authority in investigating money laundering within the financial services sector on the effectiveness of law in Indonesia.

4. Problems in Various Regulations Regarding the Investigative Authority of the OJK

The dynamic development of crime in the financial services sector raises management challenges for the investigation authority, which is becoming increasingly complex. Harmonizing the investigation authority in this sector is an urgent way to maintain public confidence in the financial system because the investigation stage also determines the success or failure of the law enforcement process in the financial

services sector. The new authority owned by OJK to carry out investigative actions contributes to improving the criminal system in Indonesia.¹² Before further dissecting the OJK's investigation authority, it is first necessary to understand what the OJK is.

The establishment of the OJK ensured that the supervision of the financial services sector was integrated under one roof.¹³ The issuance of this Law also implies that the duties of Bapepam-LK and Bank Indonesia have shifted to carrying out supervision and investigation in the financial services sector of the OJK.¹⁴ Along with its development, all the arrangements in this Law have faced transformation as contained in Act No. 4 of 2023, which contributes a definition of the OJK as an independent state institution that holds the functions, duties, and authority of regulation, supervision, examination, and investigation. This means that the existing law has validated OJK's investigation steps.

The widening of authority distributed to the OJK is based on the complexity of problems that continue to develop in the financial services sector. OJK, as the regulator in this sector, is in a vital position to monitor all activities related to the stability of the country's financial system constantly. Through its monitoring actions, OJK can become a moral hazard to stem the entry of illegal actions that are prone to be found in the financial services sector. Therefore, it is fitting that OJK should be given enhanced authority, which will be needed in the future to overcome the challenges often faced in Indonesia's financial sector.¹⁵

However, the government's good intentions, which were constructed through the improvement of OJK's authority to conduct investigations into money laundering, have yet to be positively responded to by the community, especially academics and legal practitioners. The hustle and bustle in Act No. 4 of 2023 has generated controversy

¹² Syafril Hendrik Hutabarat, Hartiwiningsih, and Pujiyono Suwadi, "Reconstructing The Authorities Of Investigators Of The Financial Service Authority," *Journal of Law and Sustainable Development* 11, no. 2 (2023): 1-19, <https://doi.org/10.55908/sdgs.v11i2.323>.

¹³ Eka Wahyu and Hestya Budiarto, "Mapping Research Topics on the Financial Services Authority (OJK): VOSviewer Bibliometric Study and Literature Review," 2023, <https://doi.org/10.5281/zenodo.10254158>.

¹⁴ Maulia Madina, "Kewenangan Penyidikan Dalam Tindak Pidana Di Sektor Jasa Keuangan Oleh Otoritas Jasa Keuangan" (Universitas Airlangga, 2020).

¹⁵ Rasji and Muhammad Arif Budiman, "Tinjauan Hukum Terhadap Pengawasan Dan Penyidikan Oleh Otoritas Jasa Keuangan," *Jurnal Kewarganegaraan* 7, no. 2 (2023): 1766-71, <https://doi.org/https://doi.org/10.31316/jk.v7i2.5423>.

because many think that if the OJK, which has so much authority in the financial services sector, is still entrusted with extra authority to investigate money laundering, it will make this institution have an omnipotent position in the country's economic system.

Herdiansyah Hamzah, an expert in Constitutional Law from Mulawarman University, expressed concerns regarding the concentration of power held by the OJK in investigating money laundering. He warned that without sufficient control and accountability measures, the OJK could misuse its authority, leading to corrupt practices such as bribery and manipulation of legal proceedings.¹⁶ Furthermore, Herdiansyah highlighted the risk that the OJK might decide to halt investigations, with the choice to proceed potentially swayed by the internal interests of the institution.¹⁷

Yenti Garnasih, a Money Laundering expert, also raised similar concerns. She criticized the government's decision to grant sole authority to the OJK for investigating financial sector crimes, describing it as reckless. Garnasih highlighted the OJK investigators' limited experience and technical capacity.¹⁸ It emphasized the importance of involving more experienced institutions, such as the Directorate of Special Economic Crimes (Dittipideksus), within the National Police Criminal Investigation Unit.¹⁹

Furthermore, the OJK's investigative authority in the financial services sector is also envisioned to address two other critical issues. First, there is currently a lack of synchronization in the regulations concerning the parties authorized to investigate the predicate crime of money laundering. Article 1 number 1 of the Criminal Procedure

¹⁶ Yogi Yasa Wedha et al., "Analisis Hukum Penyitaan Aset Korupsi Dalam Perspektif Keadilan Dan Pemulihan Keuangan Negara: Analysis of Legal Confiscation of Corruption Assets from the Perspective of Justice and State Financial Recovery," *LITIGASI* 26, no. 1 (2025): 477–504, <https://doi.org/10.23969/litigasi.v26i1.21484>; Sriono et al., "Legal Protection for Digital Bank Customers in Indonesia: Analysis of Data Confidentiality Regulations and Bank Responsibility," *LITIGASI* 25, no. 2 (2024): 301–30, <https://doi.org/10.23969/litigasi.v25i2.18538>.

¹⁷ Abraham Ethan, "Masalah Hukum Dalam Pengaturan OJK Sebagai Penyidik Tunggal Sektor Keuangan," *hukumonline.com*, October 1, 2023, <https://www.hukumonline.com/berita/a/masalah-hukum-dalam-pengaturan-ojk-sebagai-penyidik-tunggal-sektor-keuangan-lt651a27dae6146/>.

¹⁸ Zico Junius Fernando and Muhammad Imanuddin, "Green Financial Crime in The Perspective of Islamic Law," *Khazanah Hukum* 7, no. 2 (2025): 206–22, <https://doi.org/10.15575/kh.v7i2.39211>.

¹⁹ M. Agus Yozami, "Kewenangan OJK Penyidik Tunggal Tindak Pidana Sektor Jasa Keuangan Dinilai Tidak Tepat," *hukumonline.com*, January 20, 2023, <https://www.hukumonline.com/berita/a/kewenangan-ojk-penyidik-tunggal-tindak-pidana-sektor-jasa-keuangan-dinilai-tidak-tepat-lt63caaa045973a/?page=2>.

Code (KUHAP) states that investigators are officers of the Indonesian National Police or certain civil servants who are given special permission by law to conduct investigations. Thus, in addition to the police, other institutions are also allowed to investigate the predicate crime of money laundering, which overall has legal bases underlying this authority.

However, Article 74 of Act No. 8 of 2010 assesses that the investigative institutions for money laundering crimes are only the Indonesian National Police, the National Narcotics Agency (BNN), the Prosecutor's Office, the Corruption Eradication Commission (KPK), and investigators within the Directorate General of Taxes and the Directorate General of Customs and Excise of the Ministry of Finance of the Republic of Indonesia.²⁰ This limitation raises questions regarding the position and authority of the OJK in conducting investigations into criminal acts related to the financial services sector, as one of the predicate crimes is also regulated in Act No. 8 of 2010.

The situation highlights a significant inconsistency in Act No. 8 of 2010, which disqualifies OJK Investigators from investigating predicate crimes related to money laundering. Therefore, a judicial review was requested at the Constitutional Court regarding this law. The applicants argued that Article 74 of Act No. 8 of 2010 contradicted the 1945 Constitution (UUD 1945) as it discriminated against authorities responsible for investigating money laundering crimes.²¹ This concern is further amplified by the fact that other law enforcement agencies may lack adequate knowledge to handle these specialized cases.²² In its ruling, the Constitutional Court Decision Number 15/PUU-XIX/2021 determined that Article 74 of Act No. 8 of 2010 was not legally binding. As a result, any institution authorized by law to conduct investigations is also permitted to examine predicate crimes related to money laundering.

²⁰ Wicaksono, "Deferred Prosecution Agreement as an Alternative in Addressing Tax Crimes of the Corporate Taxpayers in Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 14, no. 2 (2022): 262–75, <https://doi.org/10.18860/j-fsh.v14i2.18721>.

²¹ Lulu Anjarsari P, "MK Perluas Definisi Penyidik Tindak Pidana Asal Dalam UU TPPU," *mkri.id*, June 29, 2021, <https://www.mkri.id/index.php?page=web.Berita&id=17380&menu=2>.

²² Hasrina Nurlaily and Go Lisanawati, "Eksistensi Penyidik Pegawai Negeri Sipil Sebagai Penyidik Tindak Pidana Pencucian Uang Pasca Putusan," *Jurnal Kertha Patrika* 44, no. 3 (December 2022): 284–99, <https://doi.org/10.24843/KP.2022.v44.i03.p.03>.

The second upheaval is highlighting OJK's sole authority to conduct investigations. In November 2014, there were two Memorandum Of Understanding, namely with Number PRJ-36/D.01/2014 and Number B/44/XI/2014, which were agreed upon by OJK and the National Police. The content postulates that the authority to handle cases depends on who receives the crime report concerned. If the Police Investigator gets the report, the Police are authorized to work on the case. On the other hand, if OJK Investigators receive the report, then the OJK is responsible for handling the case.

This MoU implements the mandate of Act No. 21 of 2011 to consolidate the authority to handle criminal offenses in the OJK with cross-agency collaboration. This memorandum of understanding suggests that the two institutions collaborate by considering the principles of involvement, coordination, and flexibility in handling cases of financial crimes in the financial services sector.²³ The benefits to be achieved from the collaboration between the two institutions through joint investigation are to instill a collaborative culture, encourage volunteers to share information, and foster trust between institutions. In addition, implementing this model is planned to obtain various perspectives to find the best way to deal with criminal acts in the financial services sector. In this collaboration, both agencies must recognize the specificity of the tasks of each member to avoid ambiguity in implementation so that an ideal division of labor can be obtained based on the specialties possessed by each agency.²⁴

However, with the emergence of Article 49 paragraph (5) of Act No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector which explains:

"Investigation of criminal offenses in the financial services sector can only be carried out by investigators of the OJK."

²³ Abdul Kadir and Musataklima Musataklima, "Community Bank as the Philosophical Ratio Legis Behind the Prohibition of Islamic Rural Banks from Offering Direct Debit in Constitutional Court Rulings: Impacts and Solutions in the Digital Financial Era," *Jurisdictie: Jurnal Hukum Dan Syariah* 15, no. 2 (2025): 412–45, <https://doi.org/10.18860/j.v15i2.26582>; Kefi Miftachul Ulum et al., "Integration of Islamic Philanthropy with Financial Technology: The Case Study of Waqf Towards Sustainable Funding in Indonesia," *Jurisdictie: Jurnal Hukum Dan Syariah* 16, no. 1 (2025): 77–123, <https://doi.org/10.18860/j.v16i1.30447>.

²⁴ Muhammad Ridho Ramadhenta and Joko Priyono, "Harmonization of Authority in the Investigation of the Financial Services Sector in Indonesia," *International Journal of Multicultural and Multireligious Understanding* 11, no. 5 (2024): 352–60, <https://doi.org/10.18415/ijmmu.v11i5.5678>.

The phrase “can only” in the article above suggests that the OJK has been granted sole authority without a commitment to coordinate with the police. This interpretation is seen as hasty because the independent nature of OJK means its employees do not hold the status of Civil Servants (PNS)²⁵ and thus can only act as supporting investigators, with the police as the principal investigators. Consequently, police involvement is still necessary in the investigation process. A significant concern for the future is that if OJK continues to operate with sole authority without collaborating with the police, it may lead to non-transparent investigations. To mitigate this risk, the police could serve as supervisors during the investigation process conducted by OJK, ensuring that legal procedures are followed correctly and that the rights of both suspects and victims are protected. Additionally, the police possess broader experience and expertise in criminal investigations and are supported by specialized units such as forensics, criminal investigations, and cybercrime,²⁶ which OJK lacks. For these reasons, effective coordination between OJK and the police is essential to promote transparency, accountability, and efficacy in the law enforcement process.

To clarify that the OJK does not hold exclusive authority to investigate criminal acts within the financial services sector, a judicial review was submitted to the Constitutional Court regarding Article 49, paragraph (5) of Act No. 4 of 2023. In this petition, the Applicant argued that the provision violated constitutional rights by limiting access to legal remedies through the police for handling alleged criminal acts in the financial services sector. The Applicant also pointed out that granting exclusive authority to the OJK led to numerous reports from the public being improperly handled due to police rejections.²⁷ In response, in Decision Number 59/PUU-XX/2023, the Constitutional Court stated that Article 49, paragraph (5) of Act No. 4 of 2023 is contrary to the 1945 Constitution (UUD 1945) and lacks binding legal force. This ruling

²⁵ Dwi Anindya Harimurti, “Eksistensi OJK Pada Lembaga Keuangan Di Indonesia,” *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora* 1, no. 2 (April 30, 2024): 181–96, <https://doi.org/10.62383/humif.v1i2.617>.

²⁶ Yuliana Syafitri, “Implikasi Penerbitan Omnibus Law Undang-Undang Nomor 4 Tahun 2023 Tentang Pengembangan Dan Penguatan Sektor Keuangan (UU P2SK) Terhadap Peran Otoritas Jasa Keuangan (OJK) Dalam Sektor Keuangan,” *UNES LAW REVIEW* 6, no. 1 (2023): 860–68, <https://doi.org/10.31933/unesrev.v6i1>.

²⁷ Sri Pujianti, “Kewenangan Penyidikan Tunggal Kepada OJK Dipertanyakan,” *mkri.id*, June 19, 2023, <https://www.mkri.id/index.php?page=web.Berita&id=19269>.

restores the police's authority to investigate criminal acts in the financial services sector, as before Act No. 4 of 2023 was enacted.

OJK faces several limitations in its investigative function within the financial services sector. One major issue is the small number of investigators; only 15 personnel, consisting of 10 police investigators and five civil servant investigators (PPNS), are assigned to the OJK. This situation is further complicated because OJK offices are located only in provincial capitals, making it challenging for residents of district areas to access complaint services or engage in legal processes that require direct interaction with the OJK. Although OJK has fulfilled its obligation to provide consumer complaint services as regulated in Act No. 21 of 2011,²⁸ both online and offline, many individuals still struggle to understand the digital reporting procedures and prefer to report issues in person at the office.

On the other hand, according to POJK Number 16 of 2023 concerning Investigation of Criminal Acts in the Financial Services Sector, OJK has the authority to summon, examine, and request information and evidence from any person suspected of committing, or as a witness in a Criminal Act in the Financial Services Sector. In practice, this often requires the physical presence of the reporter to provide further clarification and submit physical evidence needed for the investigation. This is an obstacle, especially for people who live in the regions, considering that the OJK office is only located in the provincial capital.

Referring to OJK press release Number SP 65/GKPB/OJK/VI/2023 held on June 15, 2023, as of June 2023, the number of cases within the financial services sector was still led by the banking sector, namely 79, which OJK investigators completed. This figure should increase if more investigators in the OJK are spread across all regional offices to combat the expanding scale of financial sector crime. The OJK, in practice, often faces institutional problems that still rely on the position of investigators from outside, but on the other hand, it must maintain its independence.²⁹ Therefore, it is deemed

²⁸ Ningsih, "License Revocation of Insurance Companies and Legal of the Policyholders."

²⁹ Moh Achyar, Sri Endah Wahyuningsih, and Teguh Prasetyo, "Legal Problems of the Financial Services Authority and the National Police of the Republic of Indonesia in Enforcing Banking Crimes," *Journal of Asian Research* 3, no. 2 (April 8, 2019): 116–38, <https://doi.org/10.22158/jar.v3n2p116>.

necessary to have regulatory reforms that allow the OJK to recruit investigators from within its institutions so that it is open to investigators sent to serve at the OJK and can prevent overloading work that exceeds the capacity of each OJK investigator.

In addition, many people are still mistaken in reporting indications of criminal acts in the financial services sector because they cannot perfectly identify the differentiation between general and special criminal acts. For example, customers who feel that their rights have been harmed due to activities carried out by a party in the financial services sector mostly make reports to police agencies. Thus, it is deemed necessary to have active socialization from OJK for people who have complaints related to services in the financial services sector to make complaints directly to OJK through a website specifically designed to process complaints and input from the public effectively and efficiently. As the front line in overseeing financial services sector activities, OJK's supervision department is required to bridge customers' interests with OJK's PPNS. Therefore, optimizing the coordination between the supervision and investigation departments is necessary to exercise OJK's responsive authority.

5. The Role of OJK Investigators in Cracking Down on Money Laundering Preceded by Financial Services Sector Crimes

Nowadays, the preparation of regulations in the financial services sector strives to always accommodate the growing variety of criminal offense models in the financial services sector. Act No. 4 of 2023, as the main regulation that accommodates provisions in the financial services sector, has delegated further regulation of investigations in this sector to the POJK. Therefore, POJK Number 16 of 2023 concerning Investigation of Criminal Acts in the Financial Services Sector was established, which replaces the previous POJK Number 22/POJK.01/2015 concerning Investigation of Criminal Acts in the Financial Services Sector. Referring to Article 1 paragraph (1) of this POJK, it states:

"Criminal Acts in the Financial Services Sector are any criminal acts as stipulated in the Law regarding the financial services sector."

In the discussion of this article, we will focus on criminal acts in the banking sector of the financial services sector or what is often called banking fraud. According to Article 1, paragraph 2 POJK Number 39 of 2019 concerning the Implementation of Anti-Fraud

Strategies for Commercial Banks, in essence, Fraud is:

"an act of deviation or omission that is deliberately carried out to deceive, cheat, or manipulate the Bank, customers, or other parties, which occurs within the Bank and/or using Bank facilities resulting in the Bank, customers, or other parties suffering losses and/or the perpetrators of Fraud obtaining financial benefits either directly or indirectly."

Fraud in the banking sector can involve all institutional components, including internal parties like owners, managers, and employees, as well as external parties such as customers, investors, and shareholders. One of the main factors contributing to fraud is the violation of the banking code of ethics by internal parties seeking to obtain illegal profits. The banking code of ethics is a set of principles and standards of professional behavior that all bank employees must follow.³⁰ The purpose of implementing this code is to ensure that every employee's actions and decisions are guided by the values of integrity, objectivity, competence, confidentiality, and independence.³¹ However, in practice, the implementation of the banking code of ethics does not always occur as intended.

In response to the high potential for fraud resulting from the weak implementation of the code of ethics, various efforts have been made to enhance the internal integrity of banking institutions. These initiatives involve the development of internal policies and the establishment of a supervisory body to ensure compliance among internal parties, as recommended by the FATF. One significant aspect of internal supervision is the formation of an independent audit committee. This committee plays a crucial role in strengthening the internal control system and detecting potential fraud at an early stage. It is tasked with evaluating compliance with internal policies and overseeing the implementation of business practices based on the principles of transparency and accountability, as outlined in OJK Regulation Number 4/PJOK.03/2015. This highlights

³⁰ Kasmir, *Manajemen Perbankan* (Raja Grafindo Persada, 2014).

³¹ Raqiqa Fathiya Imani, Kanaya Tabitha Rahman, and Syifa Zhafira Ranty Hidayat, "Analisis Dampak Playing Dirty Terhadap Terjadinya Internal Fraud Di Perbankan Indonesia," *Indonesian Journal of Auditing and Accounting (IJAA)* 2, no. 1 (2025): 125–37, <https://doi.org/https://doi.org/10.71188/ijaa.v2i1>.

the importance of accountability and transparency as essential components in the application of the banking code of ethics.

Despite the presence of an audit committee and internal policy support, the risk of fraud in the banking industry remains. Fraud cases continue to emerge, highlighting that internal supervision alone is insufficient. To ensure comprehensive legal protection for customers, the government has established a legal protection mechanism that includes two main approaches, preventive and repressive.

The realization of legal protection in the preventive dimension is reflected through the obligation of each bank to uphold the principles of confidentiality and prudence. This approach helps maintain the bank's health and supports the achievement of its business objectives.³² A bank's compliance in applying the principle of confidentiality is seen as a form of recognition of the human rights inherent in each customer. The obligation to comply with the principle of confidentiality is present to protect customers' interests regarding their financial condition. In addition, the principle of confidentiality can maintain public trust in banks as a place to save money. Thus, it can create business continuity for the bank.³³

Other preventive efforts accommodated by the government, namely to provide legal protection for products issued by banks, can be found in Article 7 letter b of Act No. 21 of 2011, which states that banks in carrying out their business must apply the principle of knowing their customers or the principle of Customer Due Diligence (CDD) which is regulated in POJK Number 8 of 2023 concerning the Implementation of Anti-Money Laundering Programs, Prevention of Financing of Terrorism, and Prevention of Financing the Proliferation of Weapons of Mass Destruction in the Financial Services Sector, namely in Article 1 paragraph (12) which reads:

"CDD is an activity in the form of identification, verification, and monitoring carried out by the Financial Services Institution to ensure that transactions are in accordance with

³² Ayup Suran Ningsih and Hari Sutra Disemadi, "Breach of Contract: An Indonesian Experience in Credit Akad of Sharia Banking," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 19, no. 1 (2019): 89–102, <https://doi.org/10.18326/ijtihad.v19i1.89-102>.

³³ Asri Elies Alamanda and Darminto Hartono, "Perlindungan Konsumen Atas Pencabutan Izin Usaha BPR Oleh Otoritas Jasa Keuangan," *Journal of Judicial Review* 23, no. 1 (2021): 57–70, <https://doi.org/http://dx.doi.org/10.37253/jjr.v23i1.4361>.

the profile, characteristics, and/or transaction patterns of prospective customers, customers, or WICs."

The implementation of the CDD principle is one of the 40 key recommendations made by the FATF. This principle helps the financial services sector accurately identify the identities of their customers. By adopting the CDD principle, these institutions are expected to detect suspicious activities related to money laundering as early as possible, allowing for prompt follow-up by law enforcement officers.³⁴

The concrete implementation of the CDD principle during account opening is separated into individual and corporate customers. In opening an individual customer account, bank employees must meet directly with the customer concerned to cross-check the entire identity to ensure that the party intends to open an account in their name without any other suspicious intentions. Meanwhile, the procedure is more or less the same for corporate customers. However, important aspects need to be considered, namely considering the appropriateness of the company's business information, such as financial statements, business turnover, company location, etc. By adhering to this principle, bank employees can get to know their prospective customers better before finally agreeing to open an account, leading to other business relationships.

In 2018, 36 banks were indicated to have committed fraud driving their business. As many as 80% were committed by perpetrators at the managerial level due to the mistaken interpretation that their position justified their actions to act outside the limits of authority.³⁵ This situation underscores a significant neglect of the banking code of ethics, particularly among management. Most banks have established a code of ethics to guide employees in carrying out their responsibilities professionally. Therefore, it is essential for banking institutions to establish high recruitment standards, particularly regarding compliance with integrity and moral values that align

³⁴ Howard Chitimira and Sharon Munedzi, "Overview International Best Practices on Customer Due Diligence and Related Anti-Money Laundering Measures," *Journal of Money Laundering Control* 26, no. 7 (2022): 53–62, <https://doi.org/10.1108/JMLC-07-2022-0102>.

³⁵ Meliana and Trie Rundi Hartono, "Fraud Perbankan Indonesia: Studi Eksplorasi," *Prosiding Seminar Nasional Pakar Ke 2 Tahun 2019 Buku 2: Sosial Dan Humaniora*, 2019, 2521–28.

with the banking code of ethics.³⁶ Emphasizing these values is crucial for cultivating an ethical organizational culture, which is further reinforced by the development of an internal control system overseen by an independent audit committee. If a bank official lacks a strong sense of integrity and a proper understanding of the code of ethics, they are more likely to engage in unlawful behavior.

To enhance the writing of this article, we will analyze a case from 2018 that focuses on the disregard for the banking code of ethics and principles of accountability. The case involves the banking crime committed by BPR Multi Artha Mas Sejahtera, which ultimately led to a money laundering investigation. In this case, there is an indication of an internal banking role, namely the commissioners of the bank itself to reap personal profits. The findings of banking crimes at BPR MAMS were discovered when the banking supervision department of the OJK was undergoing routine supervision procedures in this sector. The investigation of the actions of the BPR Commissioner, who deviated from his authority, began in 2013. The Commissioner set up an account in his name at a well-known Indonesian bank, BCA, and instructed the finance director of BPR MAMS to transfer the company's cash to his account.

Cash is the most liquid asset compared to other types of assets in a bank because it can be used immediately to fulfill its operational interests if needed. Cash availability is also likened to the most crucial aspect of a bank operation because a cash vacuum will disrupt bank operations. Therefore, it is necessary to manage cash appropriately to ensure that it is used solely to finance the company's needs, not for personal or one-party only. Effective management of cash involves its rotation. In other words, banks should avoid allowing excessive cash to accumulate, as this can lead to losses due to missed opportunities for profit.³⁷

The bank's funds need to be rotated so that banking institutions can make a profit by distributing interest to customers and setting aside maintenance costs for the server.

³⁶ Hasan Ashari and Trinandari Prasetyo Nugrahanti, "Apakah Pelanggaran Etika Menjadi Penyebab Terjadinya Fraud Dan Kegagalan Bank Perkreditan Rakyat (BPR)?," *Neraca Keuangan* 15, no. 2 (September 2020): 1-24, <https://doi.org/https://doi.org/10.32832/neraca.v15i2.3497>.

³⁷ Vanessa Christie and Nurainun Bangun, "Faktor-Faktor Yang Mempengaruhi Cash Holding," *Jurnal Multiparadigma Akuntansi Tarumanagara* 2, no. 4 (2020): 1499-1509.

If all of this is done by relying on the initial capital owned by the banking institution when establishing the institution, the foundation of the bank in question will begin to erode to cover the existing shortage of funds, ending in the destruction of the bank itself. Therefore, through the circulation of funds in the community, either through lending or by offering other investment products, it is expected to cover the profit targets that must be met.

The financial director plays a crucial role in managing bank funds and ensuring its use adheres to the principles of transparency and accountability. However, in this instance, the financial director misused their authority by transferring bank funds to an account belonging to another party. This action represents a serious type of banking crime, as it involves unauthorized fund transfers by an internal individual, violating the principles of accountability outlined in the banking code of ethics. An official entrusted with the management of public resources, such as community funds, must be able to justify every decision and action taken.

Banking crimes initiated by internal parties suggest that individuals in strategic positions within a company may take advantage of weaknesses in existing control systems to commit fraud. This case proves that when the banking code of ethics is not upheld in implementing obligations by the bank's internal parties, it will increase the risk of committing fraud or abuse of trust. Therefore, the presence of investigators from the OJK is crucial, not only to carry out formal supervision of the bank's internal policies and performance but also to encourage the formation of an organizational culture that upholds integrity and ethics. A strong ethical culture is believed to serve as a fundamental barrier against practices that can harm both financial institutions and the community.

Returning to the criminal offense case above, the OJK did not immediately transfer the case to the investigation section after detecting an irregularity during the supervision process. At first, OJK appealed to the commissioner to close his account. Instead of heeding the warning given by the OJK, the commissioner continued his action.³⁸

³⁸ Hengki Heriyadi, "Tinjauan Yuridis Peran Dan Fungsi Otoritas Jasa Keuangan (Ojk) Dalam Sistem Keuangan Di Indonesia," *Jurnal Hukum Progresif* 11, no. 1 (October 15, 2023): 36–45, <https://doi.org/10.24256/alw.v5i1.1577>.

Because of the commissioner's continued action, the OJK took firm steps by transferring this case to be followed up by OJK Investigators as mandated by Act No. 21 of 2011. For his illegal actions, Initials H, who at that time served as commissioner of the BPR MAMS, has fulfilled the formulation of Article 49 of Act No. 10 of 1998 concerning Banking in the form of false recording activities in documents or reports on business activities, transaction reports or accounts of a bank and/or deliberately causing the failure to record in the books or reports or documents or reports on business activities, transaction reports or accounts. In addition, OJK has also revoked the business license of the BPR concerned as a form of OJK's authority in carrying out its supervisory function.³⁹

The massive revocation of business licenses in BPRs due to failures in their management organs has implications for customers who still hold their funds in the BPR concerned. To prepare for the revocation of the BPR business license, the OJK has the authority to require the cessation of all business activities conducted by the BPR. Additionally, the BPR must announce a settlement plan for all obligations arising from the termination of its business activities. However, the revocation of the business license does not eliminate the BPR's legal responsibilities, particularly concerning the repayment of customer savings and the fulfillment of other financial obligations.

In addition, the existence of the LPS has also secured this problem, where this institution will guarantee recovery to customers who still hold their funds in BPR's and have their business licenses revoked. To ensure that creditors can recover their funds in the event of losses caused by crimes committed by the company, customers will receive compensation of up to a maximum of Rp. 2,000,000,000.00 (two billion rupiah). The implementation of this compensation mechanism was also carried out in the case of BPR MAMS, where after the revocation of the business license by OJK, the customer fund return process was transferred to LPS. Later, LPS here will form a liquidation team to complete the obligations of the parties who committed the crime, in this case, the commissioner and financial director of the BPR.

Not stopping here, the BPR MAMS case turned out to be continuing on money

³⁹ Ningsih, "License Revocation of Insurance Companies and Legal of the Policyholders."

laundering. The actions in this case, which are included as criminal offenses in the banking sector, can be linked to all activities related to banking and followed by criminal threats, even though the regulation is in a different regulation as well as predicate crime in the banking sector which are criminal offenses of money laundering origin in Act No. 8 of 2010. At the time of this case, OJK had not yet been granted the authority to conduct investigations into money laundering caused by criminal offenses in the financial services sector. Therefore, OJK investigators who had previously handled the predicate crime had to refer the BPR MAMS case to the OJK Police Criminal Investigation Agency (Bareskrim) to track the money laundering assets.

From the brief chronological explanation above, it can be concluded that OJK has carried out all its duties and authorities following what was regulated in the applicable regulations at that time. However, when analyzing and implementing Act No. 4 of 2023, it is possible for OJK investigators to also carry out investigations into money laundering by coordinating with the police. Article 49 paragraph (7) of Act No. 4 of 2023 also widened the authority of OJK investigators, which was not previously regulated in Act No. 21 of 2011, namely OJK investigators can request the authorized agency to order the banning of Indonesian citizens/foreigners who are suspected of being involved in criminal acts in the financial services sector, request assistance from the Police or other agencies to detain, secure, search, and seize all things needed in the investigation process, and submit the results of the investigation to the Prosecutor for prosecution. The above provisions show that OJK investigators already have a position recognized by the latest regulations to conduct investigations on money laundering caused by criminal acts in the financial services sector and even have duties equivalent to police investigators.

6. Conclusion

This study concludes that institutional reform is necessary to strengthen the OJK's role in conducting its investigative function. The proposed reform includes developing a new policy design that allows for independent investigations within OJK, which would enhance its reach across Indonesia through ongoing coordination with the police. Additionally, the article identifies legal inconsistencies that have emerged due to the expansion of OJK's authority. By analyzing relevant constitutional court decisions, the

article provides a detailed explanation of how authorized institutions in Indonesia address regulatory inconsistencies. Consequently, this article contributes to solidifying the legal basis for OJK's authority as an investigator through a systematic normative approach and juridical approach. It also explores several international FATF recommendations that are suitable for adapting to the national legal framework, demonstrating how these recommendations can be implemented in law enforcement in Indonesia. This holistic approach aims to strengthen the financial services sector's ecosystem, promoting greater transparency and accountability in alignment with the values of the banking code of ethics.

This study highlights that persistent issues such as low compliance with the banking code of ethics, weak internal supervision, and minimal contributions from internal audits leave the banking sector highly susceptible to fraudulent practices, which can potentially escalate into money laundering. While violations of the code of ethics do not always result in fraud, and fraud can occur without ethical breaches, it is crucial to recognize that both issues cannot be overlooked. Therefore, the study emphasizes the need to strengthen the role of the OJK in ensuring that banking institutions effectively instill the values of the banking code of ethics in their employees. This is crucial for cultivating a robust culture of integrity and accountability within the banking sector. Overall, this article aims to provide a significant contribution to the academic field by proposing a more effective supervisory framework that integrates the code of ethics, institutional strengthening, and collaboration between law enforcement agencies.

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