

*Original Paper*

Legal Problems of the Financial Services Authority and the  
National Police of the Republic of Indonesia in Enforcing  
Banking Crimes

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**Abstract**

*The Financial Services Authority in practice often face institutional problems that still rely on the position of outside investigators, but on the other hand it must maintain its independence. The purpose of this study is to examine and to analyze the Legal Problems of the Financial Services Authority and the National Police of the Republic of Indonesia in Enforcing Banking Crime. The method used in this study was the constructive paradigm. The research approach used was empirical juridical, namely legal research. The object of study were provisions and enforcement or implementation of legal provisions in action on every legal event that occurs in the community (in concreto). The data analysis used qualitative analysis. The results of the study found that the problem of the Financial Services Authority and the National Police of the Republic of Indonesia in conducting criminal acts against banking crimes was due to legislative factors or legal substance, structure and legal culture. Provisions of Article 183 of the Criminal Procedure Code, in which Civil Servant Investigators or PPNS are not necessarily able to collect all the evidence specified. The Second factor is the Law Enforcement Officials. In quality, the law enforcement factor that impedes the role of the FSA in investigating banking crimes is the limited professionalism in the field of investigation, so that knowledge and technical skills of investigation need to be improved. FSA in investigating banking crimes must recruit Police Investigators and Prosecutors, FSA must make an agreement with Polri in conducting investigations into banking crimes so that they can immediately arrest suspects who are considered to have committed banking criminal acts. The third is the cultural factors of society. In*

*terms of the cultural factors of the community, the intensity of the community in its involvement in enforcement and supporting the investigation will be hampered by the lack of clarity in the position of the investigative institution.*

**Keywords**

*FSA, Banking Crime*

**1. Introduction**

Banking crime is increasing today, the modus operandi is even more sophisticated. In fact, in some cases, mafia syndicates are involved, both from within and from abroad. In addition, more than 90% of Banking Crimes are committed through the cooperation of outsiders and people within the bank. They use computers as a means of crime, which is one of the crystals of the white collar crime (Note 1).

In Law Number 21 year 2011 concerning the Financial Services Authority (in Indonesian called as Otoritas Jasa Keuangan or OJK). The government has granted authority to the Financial Services Authority (which is commonly abbreviated as FSA) as an independent and free agency from other parties, which has the functions, duties, and authority to regulate, supervise, examine and investigate as referred to in this Law (Article 1 Paragraph 1).

In the case of investigations, the Financial Services Authority also has a role in the case of an investigation into the financial service crime. The FSA law regulates it in Article 49 which reads:

- 1) In addition to the Indonesian National Police Investigation Officer, certain Civil Servants Officers whose scope of duties and responsibilities include overseeing the financial services sector within the FSA, are specifically authorized as investigators as referred to in the Criminal Procedure Code.
- 2) Civil servants as referred to in Article 27 paragraph (2) may be appointed as Civil Servant Investigators as referred to in paragraph (1).
- 3) Civil Servant Investigators as referred to in paragraph (1) are authorized to:
  - a. receive reports, notifications, or complaints from someone about a crime in the financial services sector;
  - b. conduct research on the truth of reports or statements relating to criminal acts in the financial services sector;
  - c. conduct research on anyone suspected of committing or engaging in a crime in the financial services sector;
  - d. summon, examine, and request information and evidence from Everyone suspected of committing, or as a witness in a criminal act in the financial services sector;
  - e. conduct checks on books, records and other documents relating to criminal acts in the financial services sector;
  - f. conduct searches in any particular place suspected of having any evidence of bookkeeping, recording, and other documents as well as confiscating goods that can be used as evidence in

- criminal cases in the financial services sector;
- g. request data, documents, or other evidence, both printed and electronic, to telecommunication service providers;
- h. in certain circumstances ask the authorized official to prevent people suspected of committing criminal acts in the financial services sector in accordance with the provisions of legislation;
- i. request assistance from other law enforcement officers;
- j. ask for information from the bank about the financial condition of parties suspected of committing or engaging in violations of laws and regulations in the financial services sector;
- k. block accounts at banks or other financial institutions from parties suspected of committing or engaging in criminal acts in the financial services sector;
- l. request expert assistance in carrying out the task of investigating criminal acts in the financial services sector; and
- m. stated when the investigation began and stopped.

This authority when viewed from the position of other State institutions in the case of a clear investigation, there are also other State institutions that have authority in the case of banking investigations. Among the institutions other than FSA (Financial Services Authority) referred to in this case are the Police of the Republic of Indonesia as investigators of banking crimes regulated in Law Number 8 year 1981 concerning KUHAP Article 6 paragraph (1) a. Investigators are the Police of the Republic of Indonesia, besides that the Police of the Republic of Indonesia as investigators are also regulated in Law Number 2 year 2002 concerning Indonesian Police Article 14 paragraph (1) a. which reads: Carrying out investigations and investigations into all criminal acts in accordance with criminal law and other laws and regulations.

The presence of the Police against banking crimes is another form of G.P Hoefnagels's idea who stated that crime prevention efforts can be pursued by the application of criminal law application; prevention without crime (prevention without punishment); and influence the public's view of crime and punishment through mass media (influencing views of society on crime and punishment/mass media) (Note 2).

The above provisions have confirmed that the Police of the Republic of Indonesia as investigators including investigators have the right and authority to carry out investigations into all criminal acts, including criminal acts in the financial services sector (Banking and others). On the other hand, here it can also be concluded that based on the mandated authority in the legislation, there is a dualism of the position of the crime handlers in the financial sector.

Likewise, the Financial Services Authority Act regulates its own programs, especially regarding investigations. This will raise the question of whether there will be an investigation by FSA investigators in the same criminal offense, where the right and authority of the investigation to the FSA criminal offense is also owned by other existing investigators. This situation will likely not be in

harmony with the integrated criminal justice system. Integrated criminal justice system has an understanding of the integration of investigators in the field of criminal acts. One of the pillars of an integrated handling system, is the need for coordination from investigators (Note 3).

Enforcement of criminal law in developed countries has actually strengthened the government's position in preventing and eradicating criminal acts in the financial and banking fields. In developing countries including Indonesia, where there are still weaknesses in the political/economic, financial and banking conditions that are lacking/unhealthy, the enforcement of criminal law is difficult to implement consistently and in accordance with the principle of legal certainty and impartiality of the judiciary. This condition actually causes the enforcement of criminal law to be seen as vulnerable and has the potential to cause imbalance, so that it is seen as less useful compared to administrative law enforcement (Note 4).

One of problems is the position of authority. The author is interested in conducting research with the title of FSA Position Reconstruction and National Police of the Republic of Indonesia in Conducting Repression Against Bank Crime in accordance with Justice Principles and Legal Certainty. So, it is interesting to do in-depth research into the Legal Problems of the Financial Services Authority and the National Police of the Republic of Indonesia in Enforcing Banking Crimes.

## **2. Research Methods**

The paradigm in this study is Constructivism. The research approach used was empirical juridical, namely legal research whose object of study includes provisions and enforcement or implementation of legal provisions in action on every legal event that occurs in the community (in concreto) (Note 5). Furthermore, thus research used primary and secondary data.

All secondary and primary data that have been collected were then analyzed qualitatively. Qualitative analysis is more likely to attempt to run three lines of activity that occur simultaneously, namely data reduction, data presentation, and conclusions or clarifications. In this data reduction there is a process of selecting, simplifying, abstracting and transforming rough data that appears from written records in the field. This data reduction is a form of analysis used in order to sharpen, classify, direct, dispose of unnecessary and organize data so later conclusions can be drawn correctly and verified (Note 6).

## **3. Research Results and Discussion**

### *3.1 The Financial Services Authority and the National Police of the Republic of Indonesia in Enforcing Banking Crimes*

Crime is an act that is prohibited by a legal rule, which prohibition is accompanied by threats or sanctions in the form of certain crimes, for those who violate the prohibition (Note 7). In the Criminal Code (KUHP), the definition of a criminal act means an act against the law or doing something which is stated as a prohibited act and threatened by criminal law.

National Law Development Agency (in Indonesia, Badan Pembinaan Hukum Nasional BPHN), the Department of Justice provides a different understanding for both banking criminal acts and criminal acts in the banking sector, namely (Note 8):

- a. Banking criminal acts are: 1) Every act that violates the laws and regulations as stipulated in Law No. 7 year 1992 concerning Banking as amended by Act No. 10 year 1998 (Banking Act). 2) Crime committed in carrying out its functions and business as a bank under the Banking Act.
- b. Criminal acts in the banking sector are: 1) All types of acts that violate the law relating to activities in running a bank business, both banks as targets and as a means. 2) Crimes that do not only cover violations of the Banking Law, but also include criminal acts of fraud, embezzlement, forgery and other criminal acts insofar as they relate to banking institutions.

Moch. Anwar distinguishes the meaning of banking crime with criminal acts in the banking sector based on the treatment of regulations on acts that have violated the law relating to activities in running a bank's business (Note 9). Especially for banking crimes, Indriyanto Seno Adji sees in two sides of understanding, namely narrow and broad. In a narrow sense, banking crime is only limited to actions categorized as criminal acts according to the Banking Act. While in broad terms, banking crimes are not limited to those regulated by the Banking Law, but also include actions that are formulated in criminal acts that disrupt the economic sector broadly, which also includes capital market crime, computer crime, both with it arising from losses to private companies and Government and BUMN, fiscal and customs (custom crime) (Note 10).

In the context of similar perceptions of the notion of banking crime, Bank Indonesia in Bank Indonesia Circular Letter No. 12/35/INTERN dated 23 July 2010 concerning Guidelines for the Coordination Mechanism for Handling Alleged Criminal Acts of Banking, provides an understanding of banking crime as a criminal offense. Elements are as referred to in Article 46 to Article 50A of the Banking Law or Article 59 to Article 66 of Act 21 of 2008 concerning Sharia Banking (Sharia Banking Law). The elements of a criminal offense include the subject (perpetrator) and the form of his actions which are both positive in nature, namely doing an act, or that which is negative, namely not doing an act that is obligatory to do.

The Banking Act distinguishes criminal sanctions into two forms, namely crime and violation. Banking crime with a crime category consists of seven, namely Article 46.47, 47A, 48 paragraph (1), 49, 50, and Article 50A. Meanwhile, banking crimes with categories of violations with criminal sanctions that are lighter than criminal acts classified as crimes, consist of one article, namely Article 48 paragraph (2). Classification of banking criminal acts into crime is based on the imposition of a more severe sentence than a violation. This is because the bank is an institution that stores funds entrusted by the community to them, so that actions that can cause damage to public trust, which basically will harm banks and the community, should always be avoided. The expectation of the classification of banking crimes as a crime, so that more compliance can be established with regard to the provisions in the Banking Law. While the Sharia Banking Law does not distinguish between sanctions for banking crimes and lists

them into eight articles, namely Article 59 to Article 66.

The complexity of the system of enforcing criminal actions in a practical way makes FSA's authority in handling these matters very important. The Financial Services Authority is required so that the overall activities of financial services in the financial sector are organized regularly, fairly, transparently and accountably, and are able to realize a financial system that grows sustainably and stably, and is able to protect the interests of consumers and society. With this aim, the FSA is expected to support the interests of the national financial services sector so as to increase national competitiveness. In addition, FSA must be able to maintain national interests, including, among other things, human resources, management, control and ownership in the financial services sector, while still considering the positive aspects of globalization.

Various challenges related to the banking world by responding to the birth of FSA are very important. The Bank Century case, BLBI and others are small number of cases that need to be taken seriously. In Law Number 21 year 2011, FSA investigators specifically authorized to carry out investigations into the crimes of FSA. Based on the Law, FSA also has a function on supervision of banks, while in Law Number 23 year 1999 concerning Bank Indonesia Article 8c: To achieve the objectives referred to in Article 7, Bank Indonesia has the following tasks: c. regulate and supervise the bank. Thus there is overlap in supervision of FSA, especially in the Banking sector. Likewise about FSA investigators and discovering the same problems in the future, because there will be over laps with existing investigators, namely Prosecutors, Police and Corruption Eradication Commission investigators.

The existence of the FSA is the most important part in accordance with Muchtar Kusumaatmadja's thought which underlines that before achieving justice must be created first order in society, there can be no justice if the society is not orderly. This means that people must obey the law, both material law and formal law. Order here includes order in the judicial process. Starting from investigation, pre-prosecution, prosecution, trial and execution. This includes the process and settlement of criminal cases by the Financial Services Authority.

FSA itself in exercising its authority is not stand alone. Regarding the investigation, Article 1 point 1 of the Criminal Procedure Code states that investigators are state police officers of the Republic of Indonesia or certain civil servant officials who are specifically authorized by law to carry out investigations. The appointment to serve as a police investigator is based on the appointment by the Chief of the Indonesian Police (Kapolri).

The authority to appoint the investigator can be delegated by the National Police Chief to the Indonesian National Police Officer. While investigators are held by Civil Servants, their appointments are made by the Minister at the suggestion of the Department in charge of the Civil Servants. The Minister before carrying out the appointment, first listens to the considerations of the Attorney General and the Chief of the Indonesian Police. Further, the appointment authority can be delegated by the Minister to the appointed Officer (Article 2 (6) PPRI No. 27/1983). Appointment of someone to be a helper investigator, who came from the police was appointed by the Chief of the National Police on the

proposal of the commander or leader of their respective units. While the appointment of Assistant Investigators from Civil Servants can be delegated to RI National Police officials.

- 1) Investigation is an action during a preliminary examination to look for evidence of a criminal act;
- 2) The investigation is carried out by:
  - a. Investigators held by State Police officials with the rank of at least Second Lieutenant Assistant;
  - b. Assistant investigators who are held by State Police officials, who have the rank of Second Sergeant to Sergeant Major and members of the special police who are appointed by the Commander or Chief of Bureau of Government Civil Service appointed by the National Police Chief.

Departing from the police position, Coordination between Bank Indonesia and law enforcement has been carried out since 1997 with the stipulation of the Joint Decree of the Attorney General of the Republic of Indonesia, Head of the National Police of the Republic of Indonesia and Bank Indonesia Governor No. KEP-126/JA/11/1997, KEP/10/XI/1997, No. 30/6/KEP/GBI dated November 6, 1997 concerning Collaboration in Handling Criminal Cases in Banking, which later on December 20, 2004 was replaced by Joint Decree No. KEP-902/A/JA/12/2004; No.POL: Skep/924/XII/2004; and No. 6/91/KEP.GBI/2004 concerning Cooperation in Handling Crime in the Field of Banking (SKB of Banking Crime), and finally on December 19, 2011 replaced with a Memorandum of Understanding between Bank Indonesia and the National Police of the Republic of Indonesia and the Prosecutor's Office of the Republic of Indonesia No. 13/104/KEP.GBI/2011, No. B/31/XII/2011, No. Kep-261/A/JA/12/2011 concerning Banking Crime Handling Coordination.

The purpose of this memorandum of understanding is as a basis for BI POLRI and the Indonesian prosecutor's office to coordinate strengthening the implementation of good and clean governance in the Indonesian bank, the Republic of Indonesia police force and the Republic of Indonesia's prosecutor's office. The aim is to achieve coordination, speed up and optimize handling banking crime (Note 11).

The scope of handling banking crimes as regulated in Article 46 through Article 50 of Law No. 7/1992 concerning banking as which has been amended by Law No. 10 year 1998 or Article 59 to Article 66 of Law No. 21 year 2008 concerning Islamic banking. Coordination forms handling banking crimes includes:

- a. Discussion of alleged banking crimes.
- b. Reporting on banking crime.
- c. Provision of sanctions.
- d. Provision of experts.
- e. Account blocking.
- f. Confiscation of money and documents.
- g. Exchange information.

h. Evaluation.

i. Other activities.

This memorandum of understanding is valid for a period of three years from the date of the signing of this memorandum of understanding. It can be extended based on BI, POLRI and RI Prosecutor's approval by first coordinating no later than three months before the change or three months before the end of the memorandum this can be terminated before the term provided that the party ending the memorandum of understanding notifies the intent in writing to the other party no later than three months before the end of this memorandum of understanding. Costs arising from this activity are charged by Indonesian banks in accordance with applicable regulations in Indonesian banks.

Regarding the relationship between FSA and Polri, the Financial Services Authority (FSA) and the National Police of the Republic of Indonesia (POLRI) signed a Memorandum of Understanding (MoU) on Cooperation in Handling Crime in the Financial Services Sector. The FSA Law continues to give authority to the National Police to carry out investigations into criminal acts in the financial services sector. Thus, the FSA and the National Police both carry out the mandate of the FSA Law to conduct investigations into criminal acts in the financial services sector. In order to achieve synergy in carrying out the mandate of the FSA Law, good coordination is needed between the FSA and the National Police which are formally formulated in the Memorandum of Understanding.

The scope of cooperation stipulated in this Memorandum of Understanding covers the following fields:

- 1) The field of prevention of criminal acts in the financial services sector, through the activities of delivering information and education to financial service industry players and the public, both about criminal acts in the financial services sector and other criminal acts that have an impact on the financial services sector;
- 2) The field of law enforcement, through the exchange of data or information; and assistance in investigations, both technical and tactical assistance; Investigation assistance from the National Police to FSA is very much needed considering various considerations, including:
  - Limitations on the number of Investigators at FSA, especially at the beginning of the implementation of the investigation function by the FSA;
  - Potential occurrence of criminal acts in the area, so that it requires coordination between the FSA and the police in the area;
  - The limited authority of the FSA PPNS, for example in making forced attempts to arrest and detain suspects; and
  - Supporting investigative facilities owned by the National Police that can be utilized for conducting criminal investigations in the financial services sector, for example the Police Forensic Laboratory.
- 1) Security Sector, through FSA security activities and FSA activities;
- 2) Field of coordination, through the establishment of a coordination forum between the leaders of the FSA and the National Police or between controlling officials, discussing the direction and



strategy of law enforcement in the financial services sector, and discussing the effectiveness of handling, analyzing and evaluating the implementation of criminal acts in the financial services sector. In addition, in the framework of this coordination, a working group will be formed at a more technical level involving the FSA and Polri leaders in the region;

3) The field of assignment and termination of the assignment of members of the National Police (Investigator HR), through the placement of police investigative personnel at the FSA to carry out investigative duties; and

4) The field of education and training, through activities to improve the quality and competence of human resources, both FSA and Polri, especially those carrying out investigative functions, both competencies regarding the financial services sector, as well as technical expertise in investigations.

Provisions and/or forms of cooperation that exist between FSA and Polri are as follows:

a. This memorandum of understanding is the mandate of Law Number 21 Year 2011 concerning the Financial Services Authority (FSA Law) which mandates FSA to carry out the function of investigating criminal acts in the financial services sector including criminal acts in the banking sector, capital market, insurance, and pension funds.

b. The field of crime prevention in the financial services sector through the delivery of information and education activities to financial service industry players and the public, both about criminal acts in the financial services sector and other criminal acts that have an impact on the financial services sector;

c. The field of law enforcement through the exchange of data or information and assistance in investigations, both technical and tactical assistance. Investigation assistance from the National Police to FSA is very necessary considering various considerations, among others: 1) the limited number of investigators in the FSA, especially at the beginning of the investigation function by the FSA; 2) the potential for criminal acts in the regions so that coordination between the FSA and the police is needed the limited authority of the FSA PPNS, for example in making forced attempts to arrest and detain suspects; and 3) investigative supporting facilities owned by the National Police that can be utilized for conducting criminal investigations in the financial services sector, for example the Police Forensic Laboratory;

d. Security sector, through FSA security activities and FSA activities.

This synergy is very important, considering that Banking as a financial institution has a very strategic role in economic activities through its business activities to raise public funds and channel financing for productive and consumptive businesses, as well as determining the direction of government and monetary policy formulation in supporting the stability of national development, especially to be able to be a safe place of deposit of funds, a place that is expected to carry out financing activities for the smooth running of the business and trade world.

However, there is a disharmony of regulations in which the Financial Services Authority Act regulates its own programs, especially regarding investigations. This will raise the question of whether there will

be an investigation by FSA investigators in the same criminal offense, where the right and authority of the investigation to the FSA criminal offense is also owned by other existing investigators. This situation will likely not be in harmony with the integrated criminal justice system. Integrated criminal justice system has an understanding of the integration of investigators in the field of criminal acts. One of the pillars of an integrated handling system, is the need for coordination from investigators. With the existence of the Financial Services Authority investigator, this will lead to a dispute over the case in the investigation of the FSA criminal offense and there will be overlapping of authority which leads to the existence of *nebis in idem*. The Financial Services Authority (FSA) is an independent and independent institution that is free from interference from other parties, which have functions, duties and authorities to regulate, supervise, audit and investigate banking, capital market, insurance, pension funds, payment institutions and other financial institutions. Thus including investigations into corruption, drug trafficking, arms and human trafficking, smuggling, crime in taxation, capital markets and crime in the insurance industry. It can be investigated by FSA investigators if there is an indication of a crime. Thus the FSA investigator has great authority in addition to being authorized to carry out investigations that are not owned by other investigators.

### *3.2 Problems in the Law of the FSA Authority of the Republic of Indonesia in Enforcing Criminal Acts against Banks*

The new authority carried out by FSA in accordance with article 9 (c) is conducting an investigation. In contrast to Bank Indonesia so far, those who have authority in bank supervision, but do not have the authority to investigate, are limited to conducting investigations if they find an alleged crime. The authority of the investigation itself includes the authority to:

- a. receive reports, notifications, or complaints from someone about a crime in the financial services sector;
- b. conduct research on the truth of reports or statements relating to criminal acts in the financial services sector;
- c. conduct research on anyone suspected of committing or engaging in a crime in the financial services sector;
- d. summon, examine, and request information and evidence from Everyone suspected of committing, or as a witness in a criminal act in the financial services sector;
- e. conduct checks on books, records and other documents relating to criminal acts in the financial services sector;
- f. conduct searches in any particular place suspected of having any evidence of bookkeeping, recording, and other documents as well as confiscating goods that can be used as evidence in criminal cases in the financial services sector;
- g. request data, documents, or other evidence, both printed and electronic, to telecommunication service providers;

- h. in certain circumstances ask the authorized official to prevent people suspected of committing criminal acts in the financial services sector in accordance with the provisions of legislation;
- i. request assistance from other law enforcement officers;
- j. ask for information from the bank about the financial condition of parties suspected of committing or engaging in violations of laws and regulations in the financial services sector;
- k. block accounts at banks or other financial institutions from parties suspected of committing or engaging in criminal acts in the financial services sector;
- l. request expert assistance in carrying out the task of investigating criminal acts in the financial services sector; and
- m. stated when the investigation began and stopped.

Referring to Article 1 number 1 in conjunction with Article 2 paragraph (1) of Law No. 21 year 2011 concerning the Financial Services Authority, FSA as an independent institution means the institution tasked with regulating and supervising financial institutions free from interference from any party except for matters explicitly stated in the FSA Law. Furthermore, in the general explanation of the FSA Law, it is stated that the FSA is carrying out its duties and its position is outside the government. So, it should not be affected by the government (independent).

Although it is normatively stated that the FSA is an independent institution, in some circles there are still doubts about the independence of the FSA. In its implementation, FSA is led by a Board of Commissioners consisting of 9 members as stipulated in Article 10 paragraph (1) of the FSA Law. The composition of the Board of Commissioners (DK) which will be occupied by former employees of certain financial institutions, becomes the basis for doubts that the FSA will be truly independent.

As is known that the crisis that hit in 1998 had made the Indonesian financial system in ruins. Since then an agreement has been established to form a financial services authority which according to the law must be formed in 2002. Although financial service authorities are based on agreements and mandated by law, in fact until 2002 the draft formation of financial services authorities did not exist until finally Law No. 23/1999 concerning the revised Bank Indonesia (BI), becoming Law No. 24 2004 stating that BI's duty is to achieve and maintain the stability of the rupiah.

Historically, the idea of establishing the FSA was actually the result of a compromise to avoid a deadlock in discussing the law on Bank Indonesia by the DPR (House of Representative). At the beginning of President Habibie's administration, the government submitted a bill concerning Bank Indonesia which gave independence to the central bank. This bill besides providing independence but also issued a banking supervision function from Bank Indonesia. The idea of the separation of the supervisory function from the central bank came from Helmut Schlesinger, former Governor of the Bundesbank (German central bank) who at the time of drafting the Bill (later Act No. 23 of 1999) acted as a consultant. Taking the pattern of the German central bank that does not oversee the bank.

One of the main problems in determining criminal banking is the authority of the investigation. Thus the Law on the Financial Services Authority regulates its own events, especially regarding

investigations. This will raise the question of whether there will be an investigation by FSA investigators in the same criminal offense, where the right and authority of the investigation to the FSA criminal offense is also owned by other existing investigators. This situation will likely not be in harmony with the integrated criminal justice system. Integrated criminal justice system has an understanding of the integration of investigators in the field of criminal acts. One of the pillars of an integrated handling system, is the need for coordination from investigators (Note 12).

To carry out regulatory tasks, Article 8 of the FSA Law gives authority related to the regulation of Financial Service Institutions (Banks and Non-Banks) which include:

- a. determining the rules for implementing this Law;
- b. establishing legislation in the financial services sector;
- c. establishing FSA rules and decisions;
- d. establishing regulations regarding supervision in the financial services sector;
- e. establishing policies regarding the implementation of FSA duties;
- f. stipulating regulations concerning procedures for stipulating written orders for Financial Service Institutions and certain parties;
- g. establish organizational structure and infrastructure, and manage, maintain and administer wealth and obligations; and
- h. establishing regulations regarding the procedure for imposing sanctions in accordance with the provisions of legislation in the financial services sector.

To carry out regulatory tasks, Article 9 of the FSA Law gives authority related to the supervision of Financial Service Institutions (Banks and Non-Banks) which include:

- a. establishing operational supervision policies for financial service activities;
- b. supervising the implementation of supervisory duties carried out by the Chief Executive;
- c. conducting supervision, inspection, investigation, consumer protection and other actions towards Financial Service Institutions, actors and/or supporting financial service activities as referred to in legislation in the financial services sector;
- d. giving written orders to Financial Services Institutions and/or certain parties;
- e. appointing statutory managers;
- f. determining the use of statutory managers;
- g. establishing administrative sanctions against parties who violate laws and regulations in the financial services sector; and
- h. provideing and/or revoking: 1) business permit; 2) permission of an individual; 3) the effectiveness of the registration statement; 4) registered sign; 5) approval for conducting business activities; 6) endorsement; 7) approval or stipulation of dissolution; and 8) other stipulations.

With the existence of the Financial Services Authority investigator, this will lead to a dispute over the case in the investigation of the FSA criminal offense and there will be overlapping of authority which leads to the existence of nebis in idem. The Financial Services Authority (FSA) is an independent and

independent institution that is free from interference from other parties, which have functions, duties and authorities to regulate, supervise, audit and investigate banking, capital market, insurance, pension funds, payment institutions and other financial institutions. Thus including investigations into corruption, drug trafficking, arms and human trafficking, smuggling, crime in taxation, capital markets and crime in the insurance industry. It can be investigated by FSA investigators if there is an indication of a crime. Thus the FSA investigator has great authority in addition to being authorized to carry out investigations that are not owned by other investigators. In the case of an investigation into a financial service crime the FSA law regulates it in Article 49.

Investigation is one of FSA's supervisory duties as referred to in Article 9 letter c of Act Number 21 of 2011 concerning the Financial Services Authority which reads: "To carry out supervisory duties as referred to in Article 6, FSA has the authority to conduct supervision, inspection, investigation Consumer protection, and other actions towards Financial Service Institutions, actors and/or supporting financial service activities as referred to in legislation in the financial services sector".

The authority of the Civil Servant Investigator (PPNS) referred to in banking crimes includes Article 49 Paragraph (3) of Law Number 21 year 2011 concerning the Financial Services Authority which reads: Civil Servant Investigators as referred to in Paragraph (1) are authorized to:

- a. Receive reports, notifications, or complaints from someone about a crime in the financial services sector;
- b. Conduct research on the truth of reports or information relating to criminal acts in the financial services sector;
- c. Conduct research on anyone suspected of committing or engaging in a crime in the financial services sector;
- d. Call, examining, and asking for information and evidence from each person suspected of committing, or as a witness in a criminal act in the financial services sector;
- e. Examine books, records and other documents relating to criminal acts in the financial services sector;
- f. Search for any particular place suspected of having any evidence of bookkeeping, recording, and other documents as well as confiscating goods that can be used as evidence in criminal cases in the financial services sector;
- g. Request data, documents, or other evidence, both print and electronic, to telecommunications service providers;
- h. In certain circumstances, ask the authorized official to prevent people suspected of committing criminal acts in the financial services sector in accordance with the provisions of the legislation;
- i. Ask for help from other law enforcement officers;
- j. Ask for information from the bank about the financial condition of parties suspected of committing or engaging in violations of laws and regulations in the financial services sector;
- k. Block accounts with banks or other financial institutions from parties suspected of committing

or engaging in criminal acts in the financial services sector;

l. Request expert assistance in carrying out the task of investigating criminal acts in the financial services sector; and

m. Declare when the investigation begins and stops.

However, it should be noted that the Police as investigators of banking crimes are regulated in Law Number 8 of 1981 concerning KUHAP Article 6 paragraph (1) a. Investigators are the State Police of the Republic of Indonesia, besides that the Police as investigators are also regulated in Law Number 2 year 2002 concerning Indonesian Police Article 14 paragraph (1) a: Carrying out investigations and investigations into all criminal acts in accordance with criminal procedural law and statutory regulations-other invitation.

Thus, the Police as investigators including investigators have the right and authority to carry out investigations into all criminal acts, including criminal acts in the financial services sector (Banking and others). Prosecutors as investigators have the authority to carry out investigations into certain criminal acts such as corruption, this is regulated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia Article 30 paragraph (1) d. In the field of Criminal Justice the Prosecutor's Office has the duty and authority to conduct investigations into certain criminal acts under the law. So if there is an indication of corruption in the financial services sector (banking sector and others), the Prosecutor is authorized to carry out investigations. Likewise, KPK investigators, as investigators, have the authority to investigate corruption, as stipulated in Law Number 30 year 2002 concerning the Corruption Eradication Commission Article 6 c): The Corruption Eradication Commission has the duty to: Investigate and prosecute corruption. Thus, KPK investigators also have authority in the banking sector and other financial service authority sectors, if there are indications of corruption in those sectors. With the existence of investigative authority from FSA investigators, investigators will be verified and will make more overlapping investigations in certain criminal acts, namely criminal acts regulated outside the Criminal Procedure Code.

Such conditions will hamper the position and orientation of the Financial Services Authority (FSA) in accordance with Law Number 21 year 2011 concerning the Financial Services Authority formed with the aim that all financial service activities in the financial services sector be organized on a regular, fair, transparent and accountable basis, and able to realize a financial system that grows sustainably and stably, which in the end is able to protect the interests of consumers and society.

Here, the main problem is legal certainty that is not implemented properly. Certainty is a part of the rule of law. The concept of receptiveness comes from human ratios, individualistic liberalism, anthropocentric humanism, absolute separation of state and religion-atheism is possible. As for the main elements according to FJ Stahl there are 4 (four) legal elements and states, namely: (1) Guarantees against human rights; (2) the division of power; (3) the government harms based on legal regulations; and (4) the existence of administrative justice. While according to Scheltema the elements consist and: (1) Legal Certainty; (2) Equations; (3) democracy and; (4) government that serves the

public interest (Note 13).

Legal certainty is also considered as one of the conditions that must be fulfilled in law enforcement. The principle of legal certainty means, the attitude or decision of any State administrative official may not cause legal shock (Note 14).

This view is justified by Gustav Radbruch. In its enforcement, the law is required to fulfill the three domains of enforceability that Gustav Radbruch called triadism which include three legal enforces, namely the application of the law philosophically, dogmatically and sociologically. Each legal enactment is based on three different basic values. The three basic values are the value of justice (justice), certainty, and the value of utility. The core and philosophy of Radbruch's law consists of his teachings on legal concepts and legal ideas. Radbruch said that "The idea of law is defined through a triad of justice, utility and certainty". The value of utility or benefit arises and an analysis of the value of justice (Note 15).

Muchtar Kusumaatmadja's opinion on the position of legal certainty was also emphasized by arguing that the main purpose of the law if it was reduced to just one thing was order which was made as a basic requirement for an organized society. Another objective of the law is the achievement of justice which varies in content and size, according to society and its era. Furthermore, to achieve order, the existence of legal certainty in human relations in the community is attempted, because it is impossible for humans to develop the talents and abilities God has given him optimally without the existence of legal and order certainty (Note 16).

Descartes argued that legal certainty can be obtained from the sanction method applied to legal subjects both individuals and legal entities that emphasize the process of orientation of the implementation process not on the results of implementation. Certainty provides clarity in carrying out legal actions when implementing contracts in the form of achievements even when the contract is in default (Note 17).

At the level of the problem of investigation, it is also a crucial problem based on a number of main problems both in the realm of structure and substance. The description is as follows (Note 18):

1) Legal Substance Factors. Legislation factors or legal substance can hinder the role of the Financial Services Authority (FSA) in investigating banking crimes is the provision of Article 183 of the Criminal Procedure Code, in the case of imposing a sentence on the defendant, a judge may not impose the sentence unless at least two valid evidences, so that the judge obtains the conviction that the criminal act actually happened and the defendant is guilty of doing so. Article 184 states that the legal evidence in question is: (a) Witness Information; (b) Information of Experts; (c) Letter; (d) Directions; (e) Description of the Defendant or things that are generally known so that they do not need to be proven. The investigation process is the most crucial stage in the Criminal Justice System, where the task of investigations charged to the National Police is very complex, besides being an investigator as well as a supervisor and as a coordinator for PPNS investigators.

The complexity of the duties of the INP investigator is increasing along with the reformation in all

areas of life in Indonesia. Investigators are required to successfully disclose all cases indicated to have violated the law they are handling. Investigators are also required not to violate Human Rights (HAM) in conducting investigations of someone suspected of committing a criminal act. Another challenge faced by police investigators not only comes from the success of passing a case to court through the prosecutor's office, but also the possibility of being prosecuted by the suspect and his family through a pre-trial lawsuit due to the investigator's own fault. Investigation is a series of prosecution/forced efforts, examination, completion and submission of case files. Starting from the process of making police reports, investigations, summons, arrests, detention, searches, seizures, inspections, filings, to the submission of case files and suspects and evidence (P-21), so that the actions taken by investigators in every effort or step of their actions can run effectively and efficiently in the context of law enforcement. Based on the description above, it can be stated that the legislation factor or legal substance can hinder the role of the Financial Services Authority (FSA) in investigating banking crimes is the provision of Article 183 of the Criminal Procedure Code, where PPNS is not necessarily able to collect all specified evidence that is.

2) Factors of Law Enforcement Officials. The factor of law enforcers that hindered the role of the Financial Services Authority (FSA) in investigating banking crimes was that the FSA PPNS personnel were limited in quantity to investigate banking crimes. In connection with the lack of FSA personnel, it is necessary to increase the number of FSA PPNS that specifically conduct investigations into banking crimes, so that investigators are not faced with a burdensome workload. In quality, the law enforcement factor that impedes the role of the FSA in investigating banking crimes is the limited professionalism of the work of officers in the field of investigation, so that knowledge and technical skills of investigation need to be improved. FSA in investigating banking crimes must recruit Police Investigators and Prosecutors, FSA must make an agreement with Polri in conducting investigations into banking crimes so that they can immediately arrest suspects who are considered to have committed banking criminal acts. In addition, the FSA must also make an agreement with the Attorney General's Office to be able to bring down and prosecute the accused of banking crime. FSA must also be given full authority in acting to investigate allegations, violations and crimes in the banking sector. Based on the description above, it can be stated that the factor of law enforcement officers that can hinder the role of the Financial Services Authority (FSA) in investigating banking crimes is that the FSA civil servant personnel are limited in quantity to carry out investigations into banking crimes. In addition, quality is the limited professionalism of the work of officers in the field of investigation, so that the knowledge and technical skills of investigating criminal acts need to be improved.

3) Cultural factors of society. In terms of the cultural factors of the community, the intensity of the community in its involvement in enforcement and supporting the investigation will be hampered by the lack of clarity in the position of the investigative institution. These legal cultural factors include taking into account the basic problems in education and training which are still minimal to be



improved both by the FSA and police investigators who assist the FSA.

The inhibiting ideas mentioned above are part of the problem in the field related to the legal system that is not running optimally. Friedman divides the legal system into three (3) components, namely (Note 19):

- 1) The substance rule of the law, which covers all written and unwritten rules, both material law and formal law.
- 2) Structure of the law, covering legal institutions, legal apparatus and law enforcement systems. Legal structures are closely related to the justice system carried out by law enforcement officials, in the criminal justice system, the application of law enforcement is carried out by investigators, prosecutors, judges and advocates.
- 3) Legal culture, is an emphasis in terms of culture in general, habits, opinions, ways of acting and thinking, which direct social power in society.

The three components of the legal system according to Lawrence Friedman above are souls or spirits that move the law as a social system that has special characteristics and techniques in its study. Friedman dissected the legal system as a process that begins with an input in the form of raw materials, namely in the form of sheets of paper in a concept of claim filed in a court, then the judge manages the raw materials to produce an output in the form of a decision (Note 20).

Input in the form of a claim concept or indictment in a system is an element of social attitudes and values for the demands of the people who move the legal system. If the community does not make demands for values and attitudes that they consider contrary to their expectations either individually or in groups, then there will be no concept of a claim or an indictment that goes to court. If there are no claims or charges as input in the system, the court will not work and will never exist (Note 21). But of course a legal system is not a machine that works with definite mechanisms and processes. Legal experts with their ideal ideas want the law to be definite, predictable, and free from subjective matters in other words the law must be very programmed, so that every input that is entered and processed will produce a definite and predictable output. Therefore everything that outputs other than that will be seen as unfair (Note 22).

The ideal idea above is an idea that is impossible to realize in a common law legal system or a civil law legal system. This is inseparable from the unique and special character of the legal system as a specific social science. As expressed by Friedman that those who play an important role in a court process are Judges and lawyers. The judges in deciding the case they handled were inseparable from various factors, both background, attitudes, values and intuition. One study shows that Democrats at the Michigan Supreme Court are more sensitive than Republicans to the demands of unemployment (Note 23). Stuart Negel measures the role of lawyers in every judicial process based on the background, expertise and experience of lawyers for decision-making. As a result, he found that lawyers who were older and richer tended to win cases (Note 24).

Weaknesses in the aspect of the legal system are considered to be negligible, because there has been an

agreement between the police and FSA in bridging the problem of the investigation process in the banking sector, but these problems are still a dilemma in the implementation. This is also what happens between the investigation process in the police and KPK scope, which often overlaps in carrying out authority substantially and procedurally.

In addition, the weakness of the legal system's entry into force also implies the absence of legal certainty. Certainty is a definite matter (condition), provision or provision. The law must be definite and fair. It must be a guideline for conduct and fairness because the behavioral guidelines must support an order that is considered reasonable. Only because it is fair and carried out with certainty can the law carry out its functions. Legal certainty is a question that can only be answered normatively, not sociology (Note 25).

According to Kelsen, law is a norm system. Norms are statements that emphasize the "should" aspect or *das sollen*, by including some rules about what to do. Norms are products and deliberative human actions. The law which contains general rules becomes a guideline for individuals to behave in a society, both in relationships with fellow individuals and in relations with the community. These rules become a limitation for the community in overloading or taking action against individuals. The existence of these rules and the implementation of these rules creates legal certainty (Note 26).

According to Utrecht, legal certainty contains two senses, namely, first, the existence of general rules that make individuals know what they can or should not do, and second, in the form of legal security for individuals from government arbitrariness because of the general rules that individuals can know what the State can charge or do with individuals. The teaching of legal certainty comes from the Juridical-Dogmatic teachings which are based on positivistic schools of thought in the world of law, which tend to see law as something autonomous, independent, because for adherents of this thought, law is nothing but a collection of rules. For adherents of this school, the purpose of law is nothing more than just guaranteeing the realization of legal certainty. Legal certainty is realized by law by its nature which only makes a general rule of law. The general nature of the legal rules proves that the law does not aim to realize justice or benefit, but solely for certainty (Note 27).

The new thing in this FSA Law is that the FSA has the authority to carry out investigations which are very much needed by legal certainty, which is stated in the FSA Law. This authority is not owned by Bank Indonesia as a bank supervisor so far. Wider authority in the context of this examination is like the authority of law enforcement officials. FSA can act more decisively if it finds violations/fraud from the results of its examination. But keep in mind that as described above, the banking industry is a systemic belief industry. For banking supervisors/examiners, they have a duty to see from two sides. The law enforcement/provisions and the other side are so that national banks continue to grow healthily, so that they must have a strategy so that if they find a violation, don't let the water become cloudy. This is somewhat different from other law enforcement officials. In addition to this, the FSA operational budget will be financed through the state budget and collected from supervised institutions (financial & banking institutions) (Article 37 of the FSA Law). This is rather strange, on the one hand FSA is given

more authority (until the investigation process), on the other hand the operational costs can be collected from the supervised institution, so that it can lead to conflict of interest. How can the law be made like this.

Legal certainty is a guarantee of a law that contains justice. The norms that promote justice must truly function as rules that are obeyed. According to Gustav Radbruch justice and legal certainty are permanent parts of the law. He argued that justice and legal certainty must be considered, legal certainty must be maintained for the security and order of a country. Finally, positive law must always be obeyed. Based on the theory of legal certainty and the value to be achieved, namely the value of justice and happiness (Note 28).

The existence of the Financial Services Authority Regulation Number 22/PFSA.01/2015 concerning Investigation of Crimes in the Financial Services Sector is a form of FSA authority in carrying out FSA's institutional strategic role in the role of law enforcement. Some considerations regarding the issuance of the Financial Services Authority Regulation Number 22/PFSA.01/2015 concerning Investigation of Crime in the Financial Services Sector are:

- a. that the implementation of the authority of investigation as intended is carried out by the Indonesian National Police Investigator and/or Civil Servant Investigator employed in the Financial Services Authority;
- b. that the investigation is carried out in a fast, light and simple manner that is directed at making light of criminal acts that occur in order to realize justice, expediency and legal certainty, foster and maintain public trust in the financial services sector, and strengthen financial system stability;
- c. that financial service industry players and the public need to be given access to participate in the prevention and handling of criminal acts in the financial services sector;

Crime in the Financial Services Sector is any act/event that is threatened by criminal law stipulated in the Law governing FSA, Banking, Islamic Banking, Capital Market, Pension Funds, Microfinance Institutions, Insurance, Indonesian Export Financing Institutions, Guarantee Organizers Social, Bank Indonesia insofar as it relates to interference with the implementation of FSA duties in the regulation and supervision of banks, as well as the Law concerning Other Financial Services Institutions, as referred to in Law Number 21 Year 2011 concerning FSA. The role of the investigator is of course very much determined how the clarity of his authority is stated explicitly in the applicable laws and regulations.

What is done in the FSA's role in the investigation is one of the roles of examination. Examination is a series of activities to search for, collect, and process data and/or other information carried out by the Examiner to prove violations of the laws and regulations in the Capital Market sector. Examination begins when the results of research on criminal acts in the financial services sector (Capital Market) are true of criminal acts in the financial services sector (Capital Market), the FSA (Financial Services Authority) will initiate checks on those who violate criminal acts in the financial services sector

(Market Capital) and get actors who commit or are involved in criminal acts in the financial services sector (Capital Market), the first examination is carried out calling, examining, and asking for information and evidence from Everyone suspected of committing, or as a witness in a criminal act in the sector financial services (Capital Market). In this article the FSA can initiate and stop the investigation of the existence of a criminal act of capital. The first examination is carried out to summon, examine, and request information and evidence from Everyone suspected of committing, or as a witness in a criminal act in the service sector finance (Capital Market) in accordance with Article 49 paragraph (3) letter d of law-und Article 21 of 2011 concerning the Financial Services Authority which reads: summoning, examining, and asking for information and evidence from Everyone suspected of committing, or as a witness in a criminal act in the financial services sector. In the results of the interview here FSA (Financial Services Authority) called, examined, and requested information and evidence from Everyone suspected of committing, or as a witness in a criminal act in the financial services sector (Capital Market) so that Civil Servant Investigators (PPNS) can get evidence and evidence needed for inspection.

So basically FSA (Financial Services Authority) calls, checks, and asks for information and evidence from Everyone who is suspected of committing, or as a witness in a criminal act in the financial services sector (Capital Market) to obtain evidence and evidence used in prosecution if found guilty of violating a criminal offense in the financial services sector (Capital Market). After making a summons, examining, and asking for information and evidence from each person who is suspected of committing to, or as a witness in a criminal act in the financial services sector (Capital Market) FSA (Financial Services Authority) checks the books, records and other documents. relating to criminal acts in the financial services sector (Capital Market) in accordance with Article 49 paragraph (3) letter e of Law 21 of 2011 concerning the Financial Services Authority which reads: conducting checks on books, records and other documents relating to criminal acts in financial services sector. In the results of the interview here, the FSA (Financial Services Authority) conducts checks on records, records and other documents relating to criminal acts in the financial services sector (Capital Market) to obtain important data because it can be used as evidence at the trial and prosecution of public prosecutors, because the data can be seen as a crime in the financial services sector (Capital Market). So basically the FSA (Financial Services Authority) conducts checks on books, records and other documents relating to criminal acts in the financial services sector (Capital Markets) to obtain much-needed evidence for the trial and demands of the public prosecutor.

#### **4. Conclusion**

Legal Services of the Financial Services Authority and the National Police of the Republic of Indonesia in Conducting Crimes Against Criminal Offenses, which are caused by: First, the legal substance factor that can hamper the role of the Financial Services Authority (FSA) in investigating banking crimes is the provision of Article 183 KUHAP where PPNS is not necessarily able to collect all the specified

evidence. The Second Factor is the Law Enforcement Officials. The factor of law enforcers that hindered the role of the Financial Services Authority (FSA) in investigating banking crimes was that the FSA PPNS personnel were limited in quantity to investigate banking crimes. In connection with the lack of FSA personnel, it is necessary to increase the number of FSA PPNS that specifically conduct investigations into banking crimes, so that investigators are not faced with a burdensome workload. In quality, the law enforcement factor that impedes the role of the FSA in investigating banking crimes is the limited professionalism of the work of officers in the field of investigation, so that knowledge and technical skills of investigation need to be improved. The three cultural factors of society. In terms of cultural factors of society, the intensity of the community in its involvement in enforcement and supporting the investigation will be hampered by the lack of clarity in the position of the investigative institution.

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## Notes

- Note 1. Munir Fuady, 1996, *Hukum Bisnis dalam Teori dan Praktik Buku Kesatu*, Bandung.
- Note 2. Barda Nawawi Arief, 1996, *Bunga Rampai Kebijakan Hukum Pidana*, Bandung Citra Aditya Bakti, page 48.
- Note 3. Barda Nawawi Arief, *Ibid.*, page 61.
- Note 4. Romli Atmasasmita, 2003, *Pengantar Hukum Kejahatan Bisnis*, Edisi Kedua. Cetakan Pertama, Jakarta: Prenada Media, page 18. See and compare with Hikmahanto Juwono, “Analisa Ekonomi atas Hukum Perbankan”, *Jurnal Hukum dan Pembangunan* No. 1-3 Tahun XXVIII FH UI Jakarta, page 49.
- Note 5. Abdulkadir Muhamad, 2004, *Hukum dan Penelitian Hukum*, Citra Aditya Bakti, Bandung, page 134.
- Note 6. Silalahi, 2006, *Metode Penelitian Sosial*, Unpar Press, Bandung, page 312.
- Note 7. Tri Andrisman, *Hukum Pidana*, Universitas Lampung, Bandar Lampung, 2009, page 69.
- Note 8. BPHN, Departemen Kehakiman, *Laporan Akhir Penelitian Masalah-Masalah Hukum Kejahatan Perbankan*, BPHN, Jakarta, 1992, page 68.
- Note 9. Marjono Reksodiputro, *Kemajuan Pembangunan Ekonomi dan Kejahatan, Kumpulan Karangan*, Buku Kesatu, Pusat Pelayanan Keadilan dan Pengabdian Hukum, Jakarta, 1994, page 74.
- Note 10. N.H.T. Siahaan, *Money Laundering & Kejahatan Perbankan*, Edisi Ketiga, Cetakan Ketiga, Jala Permata, Jakarta, 2008, page 212.
- Note 11. Memorandum of Understanding Between Bank Indonesia, Indonesian National Police, and the Attorney General's Office of the Republic of Indonesia in 2011 concerning banking crime chapter I article 1.
- Note 12. Barda Nawawi Arief, “*Bunga Rampai Kebijakan Hukum Pidana*”, Cetakan Kesatu (Bandung: Penerbit PT. Citra Aditya Bakti, 1996), page 61.
- Note 13. Sirajuddin dan Winardi, 2015, *Hukum Tata Negara Indonesia*, Setara Press (Kelompok Instras Publising), Malang, page 25.
- Note 14. Prajudi Atmosudirdjo, 1983, *Hukum Administrasi Negara*, Ghalia Indonesia, Jakarta, page 88.
- Note 15. Suteki, 2013, *Desain Hukum Di Ruang Sosial*, Thafa Media, Yogyakarta, page 191.
- Note 16. Mochtar Kusumaatmadja, 1997, *Fungsi dan Perkembangan Hukum dalam Pembangunan Nasional*, Penerbit Bina Cipta, Bandung, page 2-3.

Note 17. Mariotedja, 2013, *Teori Kepastian Dalam Perspektif Hukum*, Marotedja.blogspot.com accessed on 10 Desember 2016.

Note 18. Adelia monica bangsawan, *Peran Lembaga Otoritas Jasa Keuangan (OJK) Dalam penyidikan tindak pidana perbankan fakultas hukum*, universitas lampung bandar lampung 2018.

Note 19. Lawrence M. Friedman; *The Legal System: A Social Science Perspective*, Russel Sage Foundation, New York, 1975; page 12-16.

Note 20. *Ibid.*, page 13.

Note 21. *Ibid.*, page 13.

Note 22. *Ibid.*, page 14.

Note 23. *Ibid.*, page 228.

Note 24. *Ibid.*, page 228.

Note 25. Dominikus Rato, *Filsafat Hukum Mencari: Memahami dan Memahami Hukum*, Laksbang Pressindo, Yogyakarta, 2010, page 59.

Note 26. Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Kencana, Jakarta, 2008, page 158.

Note 27. Achmad Ali, *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*, Penerbit Toko Gunung Agung, Jakarta, 2002, page 82-83.

Note 28. *Ibid.*, 95.