



## Challenges of the Financial Services Authority in Supervising Indonesia's Capital Market Independently

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**ABSTRACT:** The Financial Services Authority (FSA), is an independent institution that has powers, responsibilities, and jurisdiction to oversee and regulate all financial services sectors. An essential element in determining the objectivity and effectiveness of supervision is the supervisory authority's independence. The article discusses the independence of the FSA to conduct supervision in the capital markets sector. The financing aspect is one of the important things, that affect the FSA's independence. To fulfil its obligations and functions, the FSA is legally authorized to collect levies from supervised financial services institutions other than government agencies. In view of the violations that occur in the capital market, can the fees paid to the OJK by companies supervised by the OJK affect the independence of the OJK in carrying out its supervisory duties? The OJK is the one that has to take on this challenge. The research is normative juridical, by using secondary data. Qualitative research using a literature study design is the research methodology employed. The data collection makes use of secondary data gathered from Google Scholar reference sources, including journals, legal goods, and research publications. These findings demonstrate the implementation of the independence of OJK supervision of actors in the capital market sector. OJK answers the challenge by enforcing the law for violators in an accountable and transparent manner. Thus, the OJK levy does not affect the independence of the OJK in conducting supervision.

**Keywords:** Independence, Supervisory, Financial Services Authority



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### INTRODUCTION

There has been a long history of the existence of FSA in the world ([McKinsey & Company, 2017](#)). In brief, it began with the 1997 monetary crisis and the world economic crisis of 2008 (GFC) in the USA ([Barth et al., 2012](#)); ([Armour et al., 2016](#)). Most countries carried out reforms in financial regulators and regulations to overcome the GFC ([Ferran, 2014](#)). Immediately after the crisis, the Financial Stability Board (FSB) was founded by G20 leaders to remedy the deterioration of the

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financial system ([Carney, 2017](#)). Before, Forrest Capie explained that founded in 1997, the England FSA grew to become the sole, supreme regulator of the financial industry. Thousands of comprehensive guidelines for conducting business within any financial institution were produced by it ([Goodhart, 2007](#)). Then, following the GFC, numerous noteworthy regulatory changes have contributed to the advancement of crisis management and preventive techniques ([Calvo et al., 2018](#)). In the European Union (EU) as well, stricter supervision should be implemented for financial risks ([Boldeanu & Tache, 2015](#)). Then in the EU, as a result of the crisis, macroprudential oversight evolved into a new policy domain, i.e., supervisory architecture ([Masciandaro & Quintyn, 2013](#)). An economic system needs a well-designed financial supervisory architecture to function properly ([Calvo et al., 2018](#)).

Moreover, financial supervision reform attempts to achieve several goals, including investor protection, the preservation of stability of finances, and the appropriate operation of the securities markets ([Restroy, 2016](#)). Then, FSA was launched to enhance the standard of oversight and regulation with the ultimate objective of averting financial disasters, attracting investment efficiently, protecting consumers, and second, helping to decrease the political risk perceived by private investors ([OECD, 2016](#)). The OECD mentions that building the FSA having a high degree of independence (from the government and those it regulates) can provide people more assurance that judgments made about regulations are made honourably. A high degree of integrity will enhance the results of decisions made by regulators ([OECD, 2014](#)). Financial supervisors and regulators have been granted more autonomy from political entities since the crisis ([Fraccaroli et al., 2020](#)). It finds that a notable improvement in financial stability is linked to regulatory and supervisory independence ([Fraccaroli et al., 2020](#)).

In Indonesia, at that time, history shows weak supervision and law enforcement from financial authorities of financial institutions, particularly against banks that support the ruling party politically and the interference of several stakeholders ([Nasution, 2015](#)) ([Mwenda, 2006](#)). Additionally, weak governance and lack of competition are the main causes of market confidence problems ([Thirkell-White, 2005](#)). As a result, Indonesia became one of the serious victims of the 1997 Asian crisis. Before the crisis, the economy grew at a reasonable rate of 7% per year on average between 1990 and 1996. However, after the crisis, the growth rate fell rapidly to minus 13.1% in 1998. During the same period, the interest rate increased from 14% to 63%, and the inflation rate increased from 6% to 60%. Before the crisis, the external value of the Rupiah was IDR 2,300 per US dollar; in 2001, the exchange rate fell to IDR 10,261 ([Nasution, 2015](#)). The financial crisis is made worse by the regulator's lack of impartiality.

Moreover, the 2008 GFC, has a very significant impact on the Indonesian capital market performance. Even though each country has a different macroeconomic environment, the movement of the Jakarta Stock Index is greatly influenced by the movement of regional stocks ([Suparman, 2012](#)). The 2008 monetary crisis caused foreign funds to exit, causing the Combined Stock Price Index (IHSG) to decline sharply to 50 percent lower than before at the end of 2008. The Indonesian Stock Exchange suspended trading on October 9 and 10, 2008, to give investors a break to be more rational amidst the financial crisis. The performance of the bond market weakened and peaked in October, with the average price corrected to 27.4 percent. Moreover, Indonesian debt prices also dropped drastically, with yields jumping around 10 percent to 17 percent ([OCBC, 2023](#)).

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More and more policymakers and analysts are realizing how important it is to shield financial sector regulators from the pressure of politics ([Quintyn & Taylor, 2004](#)). Thus, based on critical experiences and the GFC, they have strengthened the need and highlighted the significance of a well-functioning authority of regulator institutions ([OECD, 2012](#)).

Faced with the circumstances, the Indonesian government focused on reforming the financial regulatory body to become independent by launching the Financial Service Authority based on Law Number 21 of 2011 of the Otoritas Jasa Keuangan (OJK) to supervise and regulate all financial sectors ([Pikahulan, 2020](#)). In Law Number 21 of 2011, to address the prior oversight shortcomings of financial institutions, the government established an impartial and comprehensive body ([Wiyanti et al., 2023](#)). As stated in Article 2 of the OJK Act, OJK is an independent body in the exercise of its duties and authority and is free from interference by other parties.

Article 5 OJK Law states that OJK functions to maintain the system of configuration and integrated monitoring of the entire activity within the industry for financial services. Overseeing the whole financial sector, including banks, insurance, the capital market, and non-bank financial institutions, is OJK, an independent super-institution ([Rahmadi, 2019](#)). This authority is modeled after the UK's Financial Services Authority ([Masciandaro & Quintyn, 2011](#)).

The supervisory authority of financial services institutions needs independence so that the OJK's goal is to guarantee that all financial services industry operations are conducted in a predictable, equitable, transparent, and responsible manner can be achieved ([Indaryanto, 2012](#)). Moreover, FSA was launched to enhance the standard of oversight and regulation to ultimately avoid financial disasters. A high degree of integrity affects the outcomes of the regulatory judgments, building the FSA with a degree of independence from those it regulates as well as from the government might present better confidence and trust that regulatory decisions are made with integrity (OECD, 2014). Market forces regulate most of the regulation that takes place in a market economy ([Baetjer, 2015](#)).

Independence can be understood as something that is not dependent, free, or independent from other influences, nor is it part of a government, so an independent institution is an institution that is free from influence or intervention by other institutions. However, it remains restricted by the principles of openness and accountability ([Mwenda, 2006](#)). Some forms of such independent agencies are state auxiliary agencies, independent regulatory authorities, or Quangos (quasi-autonomous non-governmental organizations) which can form agencies or bodies, or councils (boards). Independent institutions generally assist in the exercise of certain state powers in the executive sphere ([Rahyani, 2014](#)).

Moreover, one important aspect that affects OJK independence, is the financing aspect. It is anticipated that OJK will be able to create a developing financial system that is stable, sustainable, and able to safeguard the interests of society and consumers ([Indaryanto, 2012](#)). In carrying out its duties, OJK requires the support of funds. In the OJK Act Article 34 paragraph (2), the provisions concerning the source of operational financing funds of OJK are taken from the budget for state revenue and purchases (APBN) and/or the receipts of the parties carrying out activities in the financial services business. The explanation of Article 34 states that the determination of the levy amount is carried out while taking into account the capabilities of parties carrying out activities in the financial services sector as well as OJK's funding needs. For budgeting, the House of

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Representatives must first grant OJK approval. The OJK submitted a report to the Financial Inspectorate and the Council of People's Representatives.

Article 37 of OJK Law mentions the OJK imposes charges on the parties that carry out activities in the financial services industry. The party that carries out the activities of the financial service sector is obliged to pay the charges imposed on the OJK. The charges are the receipt of the OJK. OJK receives, manages, and administers the said charges in an accountable and independent manner. Explanation of Article 37 Paragraph (1) What is meant by “claim” is, inter alia, a charge for licensing, approval, registration, verification, arrangement, supervision, inspection, as well as research and transactions of effect trading. Then, Paragraph (6) states the acquisition of assets, additional supporting operations, and operational and administrative costs are all covered by OJK levies. The type of levy, the amount of the levy, and the parties subject to the levy are regulated in detail in Government Regulations. Government Regulation Number 11 of 2014 concerning Levies by the Financial Services Authority regulates this in more detail.

However, the independence of the OJK in regulating, supervising, and enforcing the law by providing sanctions to perpetrators of capital market violations is questionable considering the existence of OJK levies on perpetrators of violations. Chief Executive of the Behaviour Supervisor of Financial Services Education and Consumer Protection Enterprises of OJK, Friderica Widyasari Dewi, states that between 2024 to 30 April 2024, OJK has received 127,000 requests for services through the Consumer Protective Portal (CPC) Application, including 9,100 complaints. Of the complaints, 3,252 came from the banking sector, 1,992 from the financial technology industry, 432 from the finance corporate industry, and the remainder from the insurance industry as well as services from the capital market sector and other Non-Banking Financial Industries (IKNB) ([Aprilia, 2024](#)).

Related to various cases occurring in various financial services sectors, this article examines the independence of the OJK in performing its obligations to supervise and regulate the financial services sector, especially the capital market, while at the same time collecting money from its members. Would this OJK become independent if a charge or allowance is imposed on the party that carries out activities in the financial services industry that are assigned to OJK?

## METHOD

This study uses a normative juridical approach as a research method. Normative research is doctrinal research or theoretical legal research. It is called so because this normative research focuses on written studies, namely using secondary data such as laws and regulations, court decisions, legal theories, legal principles, scientific works of scholars, legal products, research articles, and journals collected from Google Scholar and news portals such as OJK Press Releases that are related to the problem under study. Normative legal research methods are commonly called doctrinal legal research because this research is only aimed at written regulations. This research is closely related to a literature study. In normative legal research, written law is also studied from various aspects such as theory, philosophy, comparison, structure or composition, consistency, general explanation, and explanation of each article, formality and binding force of law, and the language used is legal. Thus,

it can be said that normative legal research has a very broad scope. Normative legal research is no longer solely identified with legislation ([Irwansyah, 2021](#)).

The data collection technique in this research is library research or document study, which is a secondary data collection technique through reviewing concepts, theories, regulations, and other written materials related to the research. The data collection was selected based on certain criteria, namely: 1) Title or content related to independent OJK supervision; 2) Published between 2022, 2023, and 2024; 3) Focusing on capital market financial services institutions. The authors then conducted a review process by selecting and identifying articles that focused on the topic of independent supervision of the Financial Services Authority. The identified articles are then used to evaluate previous research that will be developed due to the literature review.

The author conducts qualitative research to gather data and information. The term "qualitative methods" is intentionally broad, covering several more specialized forms of research ([Tracy, 2013](#)). This research will qualitatively analyze the independent supervision of the capital market sector by the OJK. Qualitative research is artistic and descriptive, focusing on a better comprehension of the observed occurrences and their overall meaning ([Creswell & Creswell, 2023](#)). The traditional review method was employed in this study to examine the literature. This method is one of the approaches to do a literature review that explains the situation and argues for the study's relevance to finding issues or gaps in the field's existing knowledge related to independent supervisors of OJK ([Allen, 2017](#)).

## RESULT AND DISCUSSION

### Brief Overview of Independence Regulators and Supervisors of Financial Institutions

According to the OECD Best Practice Principles on the Governance of Regulators, a regulator is an organization that is legally permitted to use legal means in order to: 1) accomplish policy goals; and 2) impose duties through roles including licensing, inspection, enforcement, approval, permitting, and accreditation. To accomplish the goals of the policy, a regulator may also employ additional complementary instruments, such as communication campaigns. Furthermore, their governance and the integrity of their decision-making processes are vital due to the exercise of control through legal powers ([OECD, 2016](#)).

However, generally, there isn't a consensus on what qualities define a regulator as "independent." The definition of independent can be found in some references. For instance, Independence, according to the Cambridge Dictionary, is the state of not being impacted or under the direction of other individuals, things, or occasions. The Better Regulation Taskforce of the United Kingdom in 2003 defined an independent regulator as "a body established by Parliament Act but functioning independently of the government and possessing one or more of the following authorities: inspection, licensing, referral, advice to a third party, accreditation, or enforcement." ([OECD, 2014](#)). According to the Law-insider dictionary, "Independent Regulatory Agency" refers to an organization created by law that controls licensing or regulatory authority. Although it may be subject to general norms through guidelines, regulations, or directives, and its actions may be subject to approval, variance, or revocation by the Government with greater certainty, it is not specifically under the Government's control or direction ([Koop & Hanretty, 2018](#)).



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To maintain public confidence in the impartiality and objectivity of decisions and the efficient operation of the market, the OECD's Recommendation of the Council on Regulatory Policy and Governance stipulates that independent regulatory agencies must be taken into consideration in the following situations: 1) non-government and government entities are regulated under the same framework, and competitive neutrality is therefore required, or 2) the decision of the regulator can have a significant impact on particular interests. Furthermore, maintaining its objectivity is necessary (OECD, 2012). Additionally, in theory, independent regulators could decide on and intervene in markets protected from interference of political and enhance stability, transparency, and regulatory and supervisory expertise (Quintyn & Taylor, 2004).

On the supervision side, generally, there are three classifications of the supervisory functions of the financial sector, namely:

1. Macroprudential supervision aims to curb a financial crisis that can destroy the economy. It focuses on the consequences of systematic institutional actions on financial markets, including informing public authorities and the financial industry when there is a potential imbalance in several financial institutions as well as conducting an assessment of the potential impact of a financial institutional failure on the stability of the financial system of a country.
2. Micro-prudential supervision aims to maintain the level of health of financial institutions individually. Regulators establish regulations based on the principle of prudence and supervise through two approaches: off-site analysis of bank reports and on-site visits to assess performance and risk profiles, and compliance of financial institutions with applicable regulations.
3. Conduct of Business Supervision: emphasizing the safety of consumers as clients against fraud and possible injustice (Rahyani, 2012) (Pikahulan, 2020).

### Independent of Financial Services Authority Based on the OJK Law

The primary attribute of regulatory bodies is their autonomy (Gilardi & Maggetti, 2010). The definition of independent is not provided by the OJK Law; however, the explanation of the OJK Act mentions that the FSA is governed by the principles of good governance, which include accountability, transparency, independence, and liability (fairness). The FSA exercises its powers and performs its duties based on several factors, including the following: the basis of independence, which is the FSA's ability to make decisions and carry out the functions, duties, and authority of the OJK under the provisions of the applicable laws; the financial services authority's independence is reflected in its leadership; the OJK Act establishes a transparent, accountable, and public participation selection mechanism through a selection committee made up of government, the Bank of Indonesia, and the public in the financial services industries.

Additionally, OJK Law in Article 1, number 1 mentions The FSA should be an autonomous organization with the function, assignment, control authority, supervision, and investigative powers as outlined below, free from the interference of any other party. Furthermore, Article 2, paragraph 2, declares that the FSA is an independent organization that is immune to outside interference when carrying out its duties and authority, except for situations that are specifically addressed in this document. In addition, according to Article 4, the FSA was created for all activities in the financial services sector that are: (1) well-organized, transparent, equitable, and accountable; (2) able to realize

a stable and sustainable economic system; and (3) able to safeguard the interests of the community and consumers.

Furthermore, OJK in Article 9 has the authority to carry out the assignment of supervision as specified in Article 6 by: a) creating an operational supervision policy for financial services; b) overseeing the Executive Chairman's implementation of the assignment of supervision; c) carrying out surveillance, examination, investigations, and other actions directed at Financial Service Institutions, agents, and/or supporting financial services in accordance with the law and regulations on the financial services sector; d) giving written instructions to Financial Service Institutions and/or specific parties; e) appointing statutory management; f) establishing the utilization of statutory management; g) establishing administrative sanction to: 1) Business License; 2) Individual Business License; 3) Registration Statement Effectiveness; 4) Registered Certificate; 5) Permission to Conduct Business; 6) Legalization; 7) Acceptance and Dissolution Establishment; 8) Other Establishment as specified by Law and Regulation on the Financial Service Sector.

### Dimensions of Independent

Independence is a tool for better outcomes ([OECD, 2016](#)). To improve the integrity of long-term policy commitments, the FSA must be independent ([Majone & Surdej, 2006](#)). Dimensions of independence are divided into four: regulatory, supervisory, institutional, and budgetary ([Mwenda, 2006](#)) ([Sigalingging, 2022](#)). The details are as follows:

1. In the financial sector, regulatory independence refers to the regulators' extensive authority to establish regulations and prudential guidelines that stem, at the very least, from the special characteristics of financial intermediation.
2. To monitor and inspect, implement sanctions, and even revoke licenses, supervisory independence is essential in the financial sector. A large portion of their operations are carried out of direct public notice ([Quintyn & Taylor, 2004](#)).
3. There are three essential components to institutional independence, or the agency's standing apart from the legislative and executive departments. First and foremost, senior employees should have tenure security. Appointing and dismissing them should be governed by explicit regulations, ideally including two government agencies. Second, commissions made up of several experts should make up the agency's governing body. Third, to allow the public and industry to closely examine regulatory judgments, decision-making should be open and transparent to the extent that it does not compromise business confidentiality.
4. The role that the legislative or executive plays in setting the agency's budget and how it is spent is what essentially determines budgetary independence. Senior staff members ought to have the financial flexibility to staff the organization as they see fit and act fast to meet new demands as they arise. If money from the government budget is required, the agency itself should propose and justify the supervisory budget based on objective standards linked to market developments. Industry fees are used to support some supervisory agencies, which reduces political intervention but increases the possibility of industry interference and dependence ([Quintyn & Taylor, 2004](#)).

On the other hand, there isn't any institution in the United States or anywhere else in the world that: (1) can request and obtain information about regulatory decisions and financial market conditions; (2) is immune to the attraction and influence of private financial markets; (3) has the expertise to

assess such information; (4) has the prominence to effectively present such an assessment to the public and their elected representatives; and (5) is free from short-term political influences. The Guardians of Finance lack many strong checks and balances ([Barth et al., 2012](#)).

### Legal Basis for Levies by OJK

Industry fees provide funding for certain supervisory authorities. It is important to note that this strategy runs the risk of growing reliance on the industry and its influence, even as it minimizes political interference. Therefore, the regulatory agency and the government should decide on industry fees jointly if they are to be used to pay supervision ([Mwenda, 2006](#)).

Parties engaging in financial services sector operations are required to pay for the financing of regulatory bodies. This regulation is also imposed by other legislative acts, such as Act No. 8 of 1995 on the Capital Market, which stipulates that the stock exchange may charge registration fees, membership fees, and transaction fees concerning the services provided. The fees and fees are used to carry out the functions of the Stock Exchange ([Rahyani, 2014](#)).

Regarding the Working Plan and Budget, Article 34 of OJK Law mentions that OJK's operating strategy and budget are set by the Board of Commissioners. The funding source for the FSA is the State Revenue and Expenditure Budget (APBN) or entities involved in the financial services industry.

Article 35 explains that the budget will be used to pay for asset purchases, other supporting activities, and operational and administrative expenses. The budget and utilization of the fund for financing purposes must be determined following the applicable financial sector standards. It is not subject to the general cost, procurement process, or remuneration system standards specified in the laws and regulations of the APBN, government procurement of goods and services, or remuneration services. The initial fund placement to the FSA could be handled by the government to support the agency's operating activities.

OJK levies a fee on the financial sector as of April 15, 2014, to cover its operating expenses. The Government Regulation No. 11 Year 2014 on Levies by OJK serves as the basis for the charge. Law Number 21 Year 2011 on the Financial Services Authority mandates this rule. Levy is a sum of money that must be paid by Parties conducting activities in the financial services sector.

The State Revenue and Expenditure Budget (APBN) 2014 allotted Rp.2.4 trillion to OJK the last time around. The APBN funds will be utilized to support OJK's strategic objectives and the transfer of responsibilities, authority, and functions from Bank Indonesia (BI) to OJK, rather than for OJK's operating costs ([Sudarwati, 2014](#)).

The Financial Services Regulation issued is OJK Regulations or POJK No.3/POJK.02/2014 concerning Procedures for the Implementation of Claims for Indemnity by OJK. Subsequently, the POJK was amended by POJK No.22/POJK.02/2018, an amendment to POJK No. 3/POJK.02/2014 on the Implementation of Levies by OJK. The Circular Letter (Surat Edaran OJK) issued No.4/SEOJK.02/2014 on payment mechanism of claims of OJK which contains an explanation of the method of payment to the obliged to pay the claims by OJK, that is, financial services institutions, individuals who carry out activities in the financial services sector and bodies that carry out activity in the sector of financial services ([OJK, 2014](#)).



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POJK levies consist of four main subject matter rules, namely, Procedures for Payment and Calculation of Levies, Procedures for Collecting Levies, Procedures for Verifying Levies, and Adjustment of Levy Payment Obligations. The types of levies that apply to OJK include 1) fees for licensing, approval, registration, authorization, and review of corporate action plans (Registration Fees); 2) annual fees in the context of regulation, supervision, examination, and research (OJK, 2014). The following is a description of OJK's main type of levy Rates based on Government Regulation Number 11 Year 2014 (OJK, 2014).

**Table 1. Licensing, Approval, Registration, and Endorsement Fees**

| No  | FSA Main Levy Types  | Unit            | 2014                         | From 2015                   |
|---|--|-----------------|------------------------------|-----------------------------|
| <b>A. Licensing, Approval, Registration, and Endorsement Fees</b> |  |                 |                              |                             |
| 1   | Stock Exchange, Clearing and Guarantee Corporation, Depository and Settlement Corporation, State Bond Trading Organiser outside Stock Exchange, Commercial Bank, Life Insurance, General Insurance, Reinsurance, and Investment Manager      | Per Company     | Rp66.666.667                 | Rp100,000,000               |
| 2   | Securities Rating Companies, Underwriters, BPR, BPRS, Financing Companies, and Venture Capital, as well as FSIs  | Per Company     | Rp33.333.333                 | Rp50,000,000                |
| 3   | Broker-Dealer who administers Securities Accounts Customer   | Per Company     | Rp20 Juta                    | Rp30.000.000                |
| 4   | Broker-Dealers who do not administer Client Securities Accounts, Investment Advisers, Securities Administration Bureaus, and Securities Pricing Agencies   | Per Company     | Rp3.333.333                  | Rp5.000.000                 |
| 5   | Approval for the Issuing Party of Sharia Securities List, Custodian Bank; Banking Support Institution I.e. Rating Agency   | Per Company     | Rp3.333.333                  | Rp5.000.000                 |
| 6   | Licensing of Non-Bank Financial Industry Supporting Institutions, namely Insurance Brokerage Companies, Reinsurance Brokerage Companies, Insurance Loss Assessment Companies, Actuarial Consultant Companies, and Insurance Agent Companies. | Per Company     | Rp3.333.333                  | Rp5.000.000                 |
| 7   | Trustee  | Per Company     | Rp3.333.333                  | Rp5.000.000                 |
| 8   | Mutual Fund Selling Agent  | Per Company     | Rp20.000.000                 | Rp30.000.000                |
| 9   | Endorsement for Financial Institutions Pension Fund and Employers Pension Institution Fund   | Per Institution | Rp33.333.333                 | Rp50.000.000                |
| 10  | Investment Manager Representative and Investment Adviser   | Per Person      | Rp666.667                    | Rp1.000.000                 |
| 11  | Underwriter Representative, Broker-Dealer Representative and Mutual Fund Selling Agent Representative  | Per Person      | Rp333.333                    | Rp500.000                   |
| 12  | Supporting Profession  | Per Person      | Rp3.333.333                  | Rp5.000.000                 |
| 13  | Registration Statement in the context of Public Offering Equity Securities, Debt Securities, in the context of capital increase  | Emission Value  | 0,033% Maks<br>Rp500.000.000 | 0,05% Maks<br>Rp750.000.000 |

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|    |   |                            |                              |                             |
|----|---|----------------------------|------------------------------|-----------------------------|
|    | with Pre-emptive Rights (Limited Public Offering/Right Issue), for Capital Increase without Pre-emptive Rights, Securities that can be converted into shares, and by Shareholders |                            |                              |                             |
| 14 | Sukuk   | Emission Value             | 0,033% Maks<br>Rp100.000.000 | 0,05% Maks<br>Rp150.000.000 |
| 15 | Registration Statement for Public Company   | per registration statement | Rp6.666.667                  | Rp 10.000.000               |
| 16 | Registration Statement for Voluntary Tender Offer   | Per Offering               | Rp16.666.667                 | Rp25.000.000                |

Source: OJK, Press Release No. 01/DKHI/OJK/4/2014 About the Implementation Rules of FSA Levy

The following tables outline the main types of levies in the form of corporate action fee review fees and annual costs for regulation, supervision, inspection, and research.

**Table 2. Review of Corporate Action Plan Fee**

| No   | OJK's Main Levy Types   | Unit                                      | 2014                         | From 2015                    |
|--|---|---|------------------------------|------------------------------|
| <b>B. Corporate Action Plan Review Fee</b> |   |   |                              |                              |
| 1  | Capital Increase without Pre-emptive Rights through Public Offering not to improve financial position | Emission Value                            | 0,017% Maks<br>Rp333.333.333 | 0,025% Maks<br>Rp500.000.000 |
| 2  | Merger or Consolidation of a Public Company   | Merger / Consolidation Performance Assets | 0,033% Maks<br>Rp166.666.667 | 0,05% Maks<br>Rp250.000.000  |
| 3  | Voluntary going private of a Public Company into a Closed Company                                     | Per Change                                | Rp666.666.667                | Rp1.000.000.000              |
| 4  | Takeover of a Public Company  | Per return                                | Rp16.666.667                 | Rp25.000.000                 |

Source: OJK, Press Release No. 01/DKHI/OJK/4/2014 About the Implementation Rules of FSA Levy

**Table 3. Annual Costs for Regulation, Supervision, Inspection and Research**

| Main Levy Types  | 2014 | From 2015 |
|--|------|-----------|
| <b>C. Annual Fees for Regulating, Supervising, Examining and Researching</b> |      |           |

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|   |  |  |                               |                                |
|---|--|--|-------------------------------|--------------------------------|
| 1 | Stock Exchanges, Clearing and Guarantee Institutions, Depository and Settlement Institutions, State Bond Trading Organisers outside the Stock Exchange | Business Income                                      | 10%                           | 15%                            |
| 2 | Banking, Insurance, Pension Funds, Financing Companies, Venture Capital Companies and Other Financial Services Institutions                            | Assets   | 0,03% (minimal Rp6.666.667)   | 0,045% (minimal Rp10.000.000)  |
| 3 | Investment Manager   | Funds Under Management                               | 0,03% (minimal Rp6.666.667)   | 0,045% (minimal Rp10.000.000)  |
| 4 | Underwriters, Broker-Dealers, Investment Advisors, and Mutual Fund Selling Agents  | Business Income                                      | 0,8% (minimal Rp6.666.667)    | 1,2% (minimal Rp10.000.000)    |
| 5 | Securities Rating Companies and Supporting Institutions  | Business Income                                      | 0,8% (minimal Rp3.333.333)    | 1,2% (minimal Rp5.000.000)     |
| 6 | Issuers  | Emission Value                                       | 0,02% (Min Rp10jt Maks 100jt) | 0,03% (Min Rp15jt, Maks 150jt) |
| 7 | Public Company   | Per Company  | Rp10.000.000                  | Rp15.000.000                   |
| 8 | Public Accounting Firm, Public Appraisal Service Firm, legal consulting firm, notary office, and Actuarial Consulting Firm                             | Contract value from activities in Financial Services | 0,8%                          | 1,2%                           |
| 9 | Supporting Professions and individual actors other   | Per Person   | Rp3.333.333                   | Rp5.000.000                    |

**Source:** OJK, Press Release No. 01/DKHI/OJK/4/2014 About the Implementation Rules of FSA Levy

All technical details regarding levy payment using SIPO (OJK Revenue Information System) are contained in the Circular Letter on the OJK Levy Payment Mechanism. Payers can access SIPO via the [www.ojk.go.id](http://www.ojk.go.id) website. The following functions are accessible in SIPO: 1) Calculate the yearly fees by entering the basis of imposition; 2) Provide information about the remaining OJK levies; 3) Manage the payment of annual fees, fines, and sanctions; and 4) Track the status of payments. Additionally, OJK keeps an eye on the levies' payment procedure by setting up an OJK Levy call centre, which can be reached at 021-29600000 and through the email [pungutan@ojk.go.id](mailto:pungutan@ojk.go.id). ([OJK, 2014](#)).

### FSA Challenges: Accountability and transparency in the context of exercising independence

Several parties are active in capital market activities in the capital market industry. These parties pay fees to the OJK. According to the Capital Market Fact Book 2023, the following are the parties in question, namely securities companies and Capital Market Supporting Institutions and Professions and their developments ([OJK, 2024](#)).

**Table 4. Number of Securities Company 2023**

| No | Securities Company                     | Total |
|----|--|-------|
| 1  | Securities Companies as Broker-Dealers | 32    |

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|   |  |     |
|---|--|-----|
| 2 | Securities Companies as Underwriters   | 8   |
| 3 | Securities firms as underwriters and broker-dealers                                  | 77  |
| 4 | Securities firms as investment managers and broker-dealers                           | 1   |
| 5 | Securities firms as investment managers, underwriters, and broker-dealers            | 3   |
| 6 | Bond and Sukuk Broker-Dealers (133 Broker-Dealers, Banks 54, Money Market Brokers 8) | 175 |
| 7 | Bond and Sukuk Broker-Dealers - Broker-Dealer  | 113 |
| 8 | Banks as broker-dealers for bonds and sukuk  | 54  |
| 9 | Money Market Brokers - Bond and Sukuk Broker-Dealers                                 |     |

### Number of Securities Company Representatives

| License Type   | Year 2022 | Year 2023 |
|--|-----------|-----------|
| Representative of the Broker-Dealer                    | 8.041     | 8.232     |
| Representative of Underwriter                          | 1.261     | 1.321     |
| Marketing, Broker-Dealer Representative                | 17.122    | 17.808    |
| Representative of the Broker-Dealer -Limited Marketing | 228       | 241       |

### Capital Market Supporting Institutions and Professions

| Institution/Profession Name      | Active Number as of Dec 30, 2022 | Active Number as of Dec 30, 2023 |
|----------------------------------|----------------------------------|----------------------------------|
| Securities Administration Agency | 9                                | 9                                |
| Rating Agencies                  | 4                                | 4                                |
| Custodian Banks                  | 25                               | 25                               |
| Trustees                         | 12                               | 12                               |
| Capital Market Sharia Experts    | 104                              | 100                              |
| Government Appraisers            | 245                              | 245                              |
| Public Accountant Firms          | 318                              | 318                              |
| Accountants                      | 788                              | 790                              |
| Appraiser                        | 303                              | 339                              |
| Legal Consultants                | 455                              | 461                              |
| Notaries                         | 298                              | 324                              |

Source: OJK, *Capital Market Fact Book 2023*

Numerous participants in the capital market violate capital market regulations. OJK, as an independent institution that oversees the capital market, has carried out supervisory and law enforcement duties against violations that occur as mandated by the OJK Law. Capital market industry players pay dues to OJK. However, if they violate the regulations, OJK will take appropriate action. From various cases that occurred in the capital market, OJK has sanctioned the perpetrators. Regarding sanction, OJK issued Financial Services Authority Regulation (POJK) Number 26 /POJK.02/2018 on the Second Amendment to Financial Services Authority Regulation Number 4/POJK.04/2014 on Procedures for Collection of Administrative Sanctions in the Form of Fines in the Financial Services Sector. The following data is related to law enforcement conducted by OJK in the capital market industry in 2022 and 2023.

**Table 5. Capital Market Law Enforcement**

Capital Market Law Enforcement up to October 11, 2022 (Darmansyah, 2022b)

|   |  |   |
|---|--|---|
| 1 | Sanctions for professional STTD cancellation | 1 |
| 2 | Sanctions of license revocation              | 2 |

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|  |   |       |
|--|---|-------|
| 3  | Sanctions of license suspension   | 11    |
| 4  | Sanctions of written warning  | 85    |
| 5  | Sanctions of administrative in the form of fines with a total fine of IDR 115 billion   | 794   |
| 6  | Written directives to perform specific tasks  | 10    |
| <b>Total sanctions letters issued</b>  |   | 901   |
| <b>Capital Market Law Enforcement up to 30 December 2022 (Darmansyah, 2022a)</b> |   |       |
| 1  | Supervisory action in the form of technical examination and compliance examination  | 217   |
| 2  | Completion of examination out of 162 cases  | 54    |
| 3  | Sanction letters for cancellation of STTD Profession  | 1     |
| 4  | Sanction of license revocation  | 3     |
| 5  | Suspension of license   | 13    |
| 6  | Written warning   | 89    |
| 7  | Administrative fines totaling Rp.151.09 billion   | 951   |
| 8  | A written order to perform certain actions  | 19    |
| 9  | Handling complaints from 46 cases   | 29    |
| <b>Total sanction letters</b>  |   | 1.376 |
| <b>Capital Market Law Enforcement up to August 8, 2023 (Rahayu, 2023)</b>        |   |       |
| 1  | Written warning penalties   | 19    |
| 2  | The sanction for revocation of permit   | 1     |
| 3  | Administrative penalties in the form of fines, amounting to Rp 26.13 billion in total   | 173   |
| 4  | Written directives to uphold the law against transgressions of capital markets rules and regulations  | 5     |
| <b>Total sanctions letter issued</b>   |   | 193   |
| <b>Capital Market Law Enforcement up to October 2023 (Adventy, 2023)</b>         |   |       |
| 1  | Administrative sanction in the form of fines amounting to IDR 58.85 billion   | 1     |
| 2  | Revocation of license   | 8     |
| 3  | Suspension of license   | 1     |
| 4  | Written orders  | 48    |
| 5  | Written warning   | 23    |
| 6  | Administrative sanctions in the form of fines for delays amounting to Rp.14.12 billion  | 299   |
| 7  | Written warning for late submission of report   | 5     |
| 8  | Administrative sanctions on investment managers in the form of a fine of Rp.525 millic and a written order to complete the dissolution process of their mutual fund | 1     |
| 9  | Administrative sanctions in the form of a fine of IDR 200 million and a written order for Deputy Broker-Dealers (WPPE) and Securities Companies (PE)                | 2     |
| <b>Total sanctions letter issued</b>   |   | 388   |

Furthermore, there are three types of sanctions, namely: 1) sanctions on cases; 2) sanctions on late submission of reports; and 3) penalties for infractions other than non-cases of late submission. The following table will present one of the recapitulations of administrative sanctions imposed by OJK, namely sanctions on cases in the capital market to parties that violate (OJK, 2024).

**Table 6. Sanctions on Cases**

|                              |         | Sanction Type |         |            |            |            |         |
|------------------------------|---------|---------------|---------|------------|------------|------------|---------|
| No                           | Parties | Fine          | Written |            | License    | License    | Warning |
|                              |         | Sanction      | Amount  | Admonition | Suspension | Revocation | Letter  |
| <b>Investment Management</b> |         |               |         |            |            |            |         |



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| <b>Institutions</b>   |                                |           |                       |           |          |           |           |
|---|--------------------------------|-----------|-----------------------|-----------|----------|-----------|-----------|
| 1   | Investment Manag               | 10        | 16.660.000.000        | 10        | -        | 2         | -         |
| 2   | Securities Compan              | 1         | 300.000.000           | -         | -        | -         | -         |
| 3   | Mutual Fund Sell Agents        | -         | -                     | -         | -        | 1         | -         |
| 4   | Custodian Banks                | 2         | 950.000.000           | -         | -        | -         | -         |
| <b>Individuals</b>  |                                |           |                       |           |          |           |           |
| 1   | President Director             | 5         | 1.730.000.000         | 1         | -        | 1         | -         |
| 2   | Directors                      | 12        | 2.320.000.000         | 1         | -        | -         | -         |
| 3   | Shareholders (Direct/Indirect) | 5         | 6.300.000.000         | 4         | -        | -         | -         |
| 4   | President Commissioners        | 1         | 1.200.000.000         | 1         | -        | -         | -         |
| 5   | Commissioners                  | 3         | 755.000.000           | 2         | -        | 2         | -         |
| 6   | Other Individuals              | 54        | 5.250.000.000         | 44        | -        | 8         | -         |
|   | <b>Total</b>                   | <b>93</b> | <b>35.465.000.000</b> | <b>63</b> | <b>-</b> | <b>14</b> | <b>-</b>  |
| <b>Securities Transaction Financial Derivative and Carbon Exchange</b>            |                                |           |                       |           |          |           |           |
| <b>Institutions</b>   |                                |           |                       |           |          |           |           |
| 1   | Investment Management          | 1         | 100.000.000           | -         | -        | -         | -         |
| 2   | Securities Compan              | 6         | 10.275.000.000        | 1         | 1        | -         | -         |
| 3   | Companies                      | 2         | 4.900.000.000         | 1         | -        | -         | -         |
| <b>Individuals</b>  |                                |           |                       |           |          |           |           |
| 1   | Directors                      | 3         | 1.700.000.000         | -         | -        | -         | -         |
| 2   | Commissioners                  | 1         | 10.000.000            | -         | -        | -         | -         |
| 3   | Customers                      | 7         | 13.000.000.000        | 6         | -        | -         | -         |
| 4   | Shareholders                   | 3         | 2.800.000.000         | -         | -        | -         | -         |
| 5   | Sales                          | 6         | 9.825.000.000         | 2         | -        | -         | -         |
| 6   | Directors & Shareholders       | 2         | 2.200.000.000         | -         | -        | -         | -         |
| 7   | Commissioners Shareholders     | 2         | 2.600.000             | -         | -        | -         | -         |
| 8   | Other Individuals              | 1         | 25.000.000            | -         | -        | -         | -         |
|   | <b>Total</b>                   | <b>34</b> | <b>48.625.000.000</b> | <b>10</b> | <b>1</b> | <b>-</b>  | <b>-</b>  |
| <b>Issuers, Public Companies, and Capital Market Supporting Professions</b>       |                                |           |                       |           |          |           |           |
| <b>Institutions</b>   |                                |           |                       |           |          |           |           |
| 1   | Issuers                        | 4         | 1.478.000.000         | -         | -        | -         | 2         |
| <b>Individuals</b>  |                                |           |                       |           |          |           |           |
| 1   | Directors                      | 1         | 525.000.000           | -         | -        | -         | 23        |
| 2   | Notaries                       | 10        | -                     | -         | -        | -         | -         |
| 3   | Appraisers                     | -         | -                     | -         | -        | -         | 1         |
|   | <b>Total</b>                   | <b>4</b>  | <b>1.803.000.000</b>  | <b>-</b>  | <b>-</b> | <b>-</b>  | <b>16</b> |
| <b>Securities Companies, Securities Institutions, and Supporting Institutions</b> |                                |           |                       |           |          |           |           |
| <b>Institutions</b>   |                                |           |                       |           |          |           |           |
| 1   | Securities Compan              | 1         | 200.000.000           | -         | -        | -         | -         |
| <b>Individuals</b>  |                                |           |                       |           |          |           |           |
|   |                                | -         | -                     | -         | -        | -         | -         |
|   |                                | 1         | 200.000.000           | -         | -        | -         | -         |

Source: OJK, Capital Market Fact Book 2023

## CONCLUSION

Financial Services Authority or Otoritas Jasa Keuangan (OJK) is an institution that has the responsibility, authority and jurisdiction to independently supervise and regulate all financial services

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sectors including capital markets. It is a challenge for the OJK to independently supervise the companies it supervises, given that it collects fees from these companies. Nonetheless, the OJK in Indonesia has put into practice the OJK Law's mandate to perform supervisory tasks independently adhering to accountability and transparency standards. Thus, the levies made by the OJK on the parties it supervises do not affect the independence of the OJK in carrying out its responsibilities, authorities and activities. OJK's accountability in overseeing the capital market is very clear. This can be seen in law enforcement by providing appropriate sanctions to parties who commit violations in the capital market industry which are carried out transparently. It is further recommended that the OJK increase independent supervision so that cases that occur in the capital market are reduced.

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