

RECONSTRUCTION OF CONSUMER PROTECTION BANKING SECTORS MAKING THE LEGAL PERFECTION THE SUBSTANTIVE JUSTICE

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ABSTRACT

This study aims to determine and examine the consumer protection factor of the banking sector as an effort to realize the consumer protection of the banking sector based on legal certainty¹ with justice substantive². This research is an empirical juridical research and is an evaluative research. The data in this research is obtained from interview and documentation study. The results of the study indicate that the protection of banking sector consumers implemented by the Financial Services Authority (OJK) through preventive and repressive measures has not been legal with justice substantive. This is due to three factors, firstly the legal factor of substance because the consumer protection norm is essentially not regulated in the Financial Services Authority Act (OJK) and the lack of harmonization in the regulation related to the settlement of consumer disputes of banks. The two legal strata factors are the lack of optimal Financial Service Authority (OJK) in supervising the implementation of consumer protection by the Banking Institution and the socialization of consumer protection is not appropriate because the socialization is carried out in relation to the understanding of the type, character and products of banking services. The three factors of legal culture, namely the consumer understanding of the banking on their rights as consumers is still less so the confidence in the ability of the Financial Services Authority (OJK) can solve the problem of big losses experienced by consumers is low, unless the loss is small value.

Key words: consumer protection, Financial Services Authority, legal certainty, substantive justice

A. INTRODUCTION

Along with the growth of people's economic activities in various fields has encouraged the growth of the financial services sector. Financial institutions grow rapidly both in terms of quantity of business actors as well as products and types of services it offers. Government regulations and policies in the financial services sector also runs dynamically as changes and developments in the community even tend to facilitate its growth. The development of the banking financial services sector occupies the highest position compared to other financial services sector.

The other hand, problems arises from the growth of banking financial services sector based on survey results from the National Consumer Protection Agency (BPKN) with universities in 5 (five) provinces, North Sumatra, South Kalimantan, South Sulawesi, West Nusa Tenggara and East Java to 2000 respondents , about 96.6 percent, the services of bank financial institutions in general has not been satisfactory. Consumers claim, banks often do not explain the product in detail and easily understood. Complaints of the community as a banking consumer associated with the lack of information on interest rate accumulation, funds transfer, use of automated teller machines and credit terms.³

In 2014, complaints shifted from previously dominated by the insurance sector to the banking sector. OJK's call center noted as of 31st of October 2014 the complaints of the incoming community reached 2,772 complaints, about 40 percent of total complaints dominated complaints against banking products. This is because the number of customers in the banking industry

¹ Lon Fuller's opinion above can be said that there must be certainty between the rules and the implementation, thus has entered the realm of action, behavior and factors that affect the positive law is run, see Lon L. Fuller in his book "The Morality of Law", dalam Satjipto Rahardjo, *Hukum dan Masyarakat* , Angkasa, Bandung, 1997, p. 75.

² John Rawls's justice concept, that justice is not only formal justice set forth in the rule of law, but also has the meaning of substantive justice that sees justice more than just formal justice, see John Rawls, *A Theory of Justice, Teori Keadilan*, Harvard University Press, Cambridge, Massachusetts, 1995, Cetakan II , Pustaka Pelajar, Jogjakarta, 201, p. 54.

³ Kompas Newspaper "Perbankan Dikeluhkan, Produk Tidak Dijelaskan Secara Rinci," Saturday 7 th November , 2014.

⁴<http://m.wartaekonomi.co.id/berita37787/call-center-ojk-masih-didominasi-pengaduan-sektor-perbankan>, 11 November 2014, see <http://m.tribunnews.com/bisnis/2014/11/07/ojk-perbankan-paling-banyak-melanggar>, accessed on 7 November 2014 at 20.00.

more than other financial services industries such as insurance and capital markets. Complaints from the public related to the banking services sector are related to the credit guarantee auction, credit card and gold mortgage.⁴

Many problems in the banking sector should be the concern of the Financial Services Authority because the banking sector is the largest financial sector of the number of customers and has an important role for economic stability. In addition, the purpose and function of the formation of the Financial Services Authority as mandated by the Law on the Financial Services Authority is to exercise oversight on financial services institutions and provide protection to all consumers of the financial services sector, not to mention the banking sector. However, it seems that consumer complaints who feel aggrieved by the perpetrators of banking services business the longer the number is also more and more as has been mentioned above.

The above cases are some of the cases that exist from many cases experienced by bank consumers, thus causing legal uncertainty and injustice for banking consumers. Thus, this study is relevant to be studied more deeply with the expectation of finding (output / output) consumer protection protection of the banking financial services sector that provides a substantive justice for the consumer of the banking sector in Indonesia.

B. IMPLEMENTATION OF THE FINANCIAL SERVICES AUTHORITY PROVIDES CONSUMER PROTECTION TO THE BANKING SECTOR

Under the provisions of Article 4 of Act No. 21 of 2011 regarding the Financial Services Authority, it is mentioned that one of the duties of the Financial Services Authority is to provide protection to consumers and / or the public. In performing its function in the field of consumer protection⁵ the Financial Services Authority to do two approaches are:

1. Preventive actions

Preventive actions are conducted in the form of arrangement and implementation in the field of education and consumer protection. Preventive education is needed as a first step to improve the financial literacy of the community so that they have a good understanding of financial products and services. Financial education is conducted by providing understanding to consumers and / or the public regarding the basic features, benefits and risks of financial products and services, as well as the rights and obligations of financial consumers. Preventive activities carried out through various media and ways that is through:

- a. Provision of information and financial education both directly (face-to-face), through public service advertisements, and through online media (sikapiuangmu.ojk.go.id, and social media);
- b. Customer and / or consumer complaints services through the Consumer Services Service of the Financial Services Authority;
- c. Market intelligence is a strategy that can be done to obtain information. Information can be obtained by data collection and market analysis in accordance with current market conditions. The goal is to prevent potential losses experienced by consumers.
- d. Self Assessment is an independent appraisal delivered by Financial Services Businessmen (PUJK); Self Assessment is performed by business actors of banking financial services by filling out the paperwork to be reported to the Financial Services Authority.
- e. Thematic Surveillance is a monitoring by the Financial Services Authority based on a theme, product or service in the financial services field.
- f. Action to cease other activities or actions.

In conducting this preventive measure, in addition to educating and conveying information, the Financial Services Authority also ensures that the products and services provided by the Banking Institution meet the principles of consumer protection.

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The principles of consumer protection that must be done are:

- 1) in providing adequate information in a transparent manner to build public financial literacy;
- 2) to treat consumers fairly;
- 3) reliably in providing financial services;
- 4) maintaining the confidentiality of consumer data;
- 5) can handle complaints and resolve consumer disputes with simple, fast, and affordable costs.

2. Repressive actions

⁵ Consumer protection is a term used to describe the legal protection afforded to consumers, see Janus Sidabolok, *Hukum Perlindungan Konsumen*, Citra Aditya Bhakti, Bandung, 2014, p. 7.

Repressive actions are conducted in the form of facilitation of dispute resolution / facilitation of dispute resolution, and legal defense to protect consumers.

a. Facilitation of Complaints Settlement

In the settlement of complaints of Financial Services Institutions (LJK) is often not reached agreement between consumers with LJK. In order to solve this problem, an Alternative Dispute Settlement Institution (LAPS) is required which is capable of providing dispute resolution services that are easily accessible, fast, and cheap. Therefore, based on the consideration, the Financial Services Authority stipulates OJK Regulation Number 1 / POJK.07 / 2014 regarding the Settlement Alternative Institution in the Financial Services Sector. The Alternative Dispute Settlement Institution is an independent agency that provides non-court dispute resolution services.

Dispute settlement through LAPS is made when dispute resolution between the consumer and the Internal Dispute Resolution Fund (IDR) does not reach an agreement. Complaints settlement through the Alternative Dispute Settlement Institution may be delivered by the consumer if the complaint has not been resolved through arbitration or court and financial complaints <Rp 500,000,000). PUJK is obliged to implement the decision of Alternative Dispute Settlement Institution. Type of service LAPSPI as follows:

1). Mediation

How to settle disputes through a third party (mediator) to help the parties to the dispute reach an agreement.

2). Adjudication

The means of dispute resolution through a third party (adjudicator) to pass a decision on the dispute arising between the parties in question. The adjudication decisions are binding on the parties, if the consumer accepts. In case the consumer refuses, the consumer may seek other remedies.

3). Arbitration

How to settle a civil dispute outside the court based on an arbitration agreement made in writing by the parties to the dispute. The arbitral award is final and binding on the parties.

b. Legal defense

The Financial Services Authority is authorized to defend the law by filing a lawsuit to recover the property of the disadvantaged party from the party causing the loss, either under the control of the party causing the intended loss or under the control of another party in bad faith. This provision is governed by Article 30 paragraph (b) of the Financial Services Authority Act. This legal defense can be done with the following restrictions:

- Is a legal standing lawsuit not a class action lawsuit (class action).
- Conducted based on the evaluation of the Financial Services Authority not on the Consumer's request.
- The last attempt for the Financial Services Authority if an out-of-court settlement is unsuccessful.
- Submitted based on lawsuits against the law.
- Only applicable to cases that have been set for administrative sanctions by the Financial Services Authority.

Notwithstanding the provisions of Article 30 of the Financial Services Authority Law regulating such legal defense as above but has not been applied based on various constraints and considerations as conveyed by the Directorate of Development of Consumer Protection Policy of OJK Jakarta.⁶

C. CONSUMER FACTOR OF BANKING SECTOR HASN'T GAINED PROTECTION OF CERTAINTY OF SUBSTANTIVE JUSTICE LAW

One of the paradigms of law is value, so the law is the embodiment of values which implies that its presence is to protect and promote the values that are upheld by society. One of the critical conversations about the law is the demand for law to provide justice, which means that the law is always faced with the question of whether it manifests justice.⁷

⁶ Interview with Tri Herdianto, Directorate of Consumer Protection Policy Development at the Jakarta Financial Services Authority, on September 3, 2015.

⁷ Satjipto Raharjo, *Sosiologi Hukum*, Cetakan ke II, Genta Publishing, Jogjakarta, 2010, p. 66.

⁸ Abdul Manan, *Aspek Pengubah Hukum*, Cetakan III, Kencana Prenada Media, Jakarta, 2009, p. 6-7

⁹ Satjipto Rahardjo, *Hukum Progresif: Aksi Bukan Teks*, Bunga Rampai dalam "Memahami Hukum dari Konstruksi sampai Implementasi", Editor: Satya Arinanta, Rajawali Pers, Jakarta, 2011, p. 5.

¹⁰ Satjipto Raharjo, *Hukum Progresif, Hukum yang Membebaskan*, Jurnal Hukum Progresif, Vol.1 / No.1 / April 2005, PDIH, Universitas Diponegoro, Semarang, p. 5.

The jurists agree that the law must be dynamic, it should not be static and should protect the community. Therefore, the law must be a driving force and a pioneer to change people's lives to a better and beneficial for all parties.⁸ Satjipto Rahardjo says progressive law never ceases, but continues to flow into the idea that "the law for man". The philosophy behind the progressive law is not law for the law but the law for man⁹ or it is also said that the law is for man not the other way around.¹⁰

The law must play an active role as a tool of social engineering then based on legal events in the field of banking consumers should be changed so that the law can realize the idea that the law is for humankind not the opposite as the view of Satjipto Rahardjo in progressive law and as well as responsive legal theory from Philippe Nonet and Philip Selznick.¹¹

Article 1 number (1) of the Consumer Protection Act states that consumer protection is any endeavor that ensures legal certainty to provide protection to consumers. Efforts to ensure legal certainty are to establish a regulation of marriage or intervene in market mechanisms. It is based on the development of a nation that enters the stage as a welfare state¹², then the demand for government intervention through the formation of a law protecting the weak is very strong.

This study uses legal system theory from Lawrence M. Friedman through three elements of the Legal System Theory: Legal Substance, Legal Structure, and Legal Culture.¹³

1. Legal Substance

a). Article 28 Act No. 21 of 2011

Act No. 21 of 2011 stipulates the protection of consumers and the public, namely OJK authorized to take measures to prevent consumer and community losses. From the provisions of Article 28 (a) in relation to providing information and education to the public on the characteristics of the financial services sector, its services and products, there is no provision which should also mention to provide information and education to the public about its rights as a consumer. This is important because the provisions of paragraph 28 (a) only limit and mention provide information and education to the public on the characteristics of the financial services sector, services, and products, the policies and programs of the Financial Services Authority put more emphasis on policies and programs Education and Literacy Services Financial , that it is essential that it should be regulated.

b). Article 29 of Law No. 21 of 2011

Article 29 Act No. 21 of 2011 regulates complaints of consumers in which there are several instruments for customer complaints services for violations committed by business actors. In an effort to regulate the provisions of article 29 (c) to facilitate the settlement of consumer complaints harmed by the actors in the Financial Services Institution in accordance with the laws and regulations of the financial services sector, OJK shall issue the provisions of OJK Regulation Number 1 / POJK.07 / 2014 on Alternative Settlement Institutions Disputes in the Financial Services Sector. Related to the problem of the settlement of consumer complaints outside the court indicates that there are problems in the regulation, that is related to the implementation of Article 29 (c) as mentioned above which then comes out the provisions of OJK Regulation Number 1 / POJK.07 / 2014 on Alternative Dispute Settlement Institutions in Financial Services Sector . On the other hand, Act. No. 8 of 1999 on Consumer Protection regulates the settlement of disputes outside the court, namely in Article 45 paragraph (2) jucto Articles 49 through 58 Act No. 8 of 1999 which recognizes the existence of Consumer Dispute Settlement Agency (BPSK).

Thus the post-enactment of the Law on the Financial Services Authority in the case of the settlement of disputes outside the court led to multiple interpretations, this is also based on interviews conducted to the Secretary of BPSK Malang after the formation of Financial Services Authority in Malang, consumer complaints of banking by BPSK Malang City delegated to OJK Malang, but for other financial services sector such as financing sector they accept to help settlement of consumer complaints.

It is necessary to synchronize in the Law on the Financial Services Authority and the Financial Services Authority Regulation concerning LAPS because if it refers to the provisions of Article 3 of the Financial Services Authority Regulation Number 1 / POJK.07 / 2014 on the Alternative Dispute Settlement Institution that the LAPS Register is defined as a collection of Alternative Institutions Dispute Settlement that is not contradictory to the principles stipulated by the Financial Services Authority, which is subsequently established by the Financial Services Authority, the Banking Dispute Settlement Institution is the Indonesian Banking Alternative Dispute Settlement Institution (LAPSPI).

11 Philippe Nonet and Philip Selznick, *Hukum Responsif*, Nusa Media, Bandung, 2010, p. 84.

12 Organski, A.F.K, *The State of Political Development*, The University of Michigan, Disunting alih bahasa, A.Anran Tasai, *Tahap-tahap Pembangunan Politik*, Presindo, Jakarta, 2010, p.222

13 Lawrence M. Friedman, *What is a Legal in American Law*, W.W Norton & Company, New York City, 1984, p. 5-7.

It also has implications in the out-of-court dispute settlement between consumers and Banks that have been terminated by BPSK, as many Supreme Court rulings are canceled on the legal grounds that the Consumer Dispute Protection Agency (BPSK) is not authorized to examine and adjudicate the case. This thus creates legal uncertainty in consumer banking disputes whose settlement is resolved through the Consumer Dispute Protection Agency. For example in the case of 6 (six) Supreme Court Judgments reviewed by authors who settled disputes outside the court that have been decided by BPSK by the Supreme Court was canceled.¹⁴

c) Article 30 Act No. 21 of 2011

For consumer and community protection, the Financial Services Authority is authorized to defend the law, namely to file a lawsuit:

1. to recover the property of the disadvantaged party from the party causing the loss, whether it is under the control of the party causing the loss in question or under the control of the other party in bad faith; and / or;
2. to obtain indemnification from the party causing loss to the Consumer and / or Financial Services Institution as a result of violation of the laws and regulations in the financial services sector.

The above provision is very broad because it is mentioned in Article 30 paragraph b number 1 that is filed a lawsuit to recover the property of the disadvantaged party. Thus, based on an interview with Deputy Directorate of Consumer Protection Policy at the Jakarta Financial Services Authority, Mr. Tri Herdianto until now the Financial Services Authority did not dare to apply the provisions of article 30 b number 1 and number 2.

2. Legal Structure

Relevant Legal Structures based on Friedman's Theory of the Legal System that the Financial Services Authority as a supervisory institution as stipulated in Article 4 of the Financial Services Authority Law, one of the objectives of the establishment of a Financial Services Authority, is to protect the interests of consumers and the public. From the results of research conducted through interviews with the Supervision Section and Consumer Complaint Unit OJK Malang, Jimmy that supervision is done indirectly that supervision is done by studying reports received in writing every quarter with from Bank Financial Institutions in Malang.

In addition Human Resources at the Institute of Financial Services Authority, especially at the regional level is very less let alone oversee the implementation and receive complaints in all sectors of financial services, not just complaints and supervision in the banking sector alone. Also related to the structure and job description of authority remains one with the supervision of operational services financial sector, meaning that the bank's supervisory operations as well as concurrent as supervisors in the field of education and consumer protection.

Therefore, in order for the Financial Services Authority to be more optimal in carrying out the provisions of Article 4 (c) of the Law on the Financial Services Authority in the field of consumer protection, it is necessary to separate the description job which clearly does not unify the authority of the operational oversight of financial services with the supervision and complaint of the consumers. According to George R Terry *control is to determine what is accomplished, evaluate it, and apply corrective measures, if needed to ensure result in keeping with the plan.*¹⁵

The conduct of supervision will be an evaluation and corrective action whether the Financial Services Authority as a supervisory institution and from the side of the study of administrative law in the opinion of Tatiek Sri Djamiati is part of the legal aspect of enforcement whose instrument of supervision is sanction. In this regard, although the sanctions are regulated in Article 28 b of Act No. 21 of 2011 is "Financial Services Authority can ask the Financial Services Institution to stop its activities if such activities potentially harm the community" but based on interviews with the Deputy of Consumer Protection Policy of OJK

¹⁴ See the Supreme Court Decision:

1. Decision Number 770 K / Pdt. Sus-BPSK / 2015 between PT BRI, Tbk Tanjung Balai against Hendra Gunawan Tanjung Balai;
2. Decision Number 105 K / Pdt. Sus-BPSK / 2016 between Bank Mega Syariah Jakarta against Nuri Andriani, Regency of Asahan, North Sumatera BPSK Pem. Batu Bara Indrapura Regency;
3. Decision Number 425 K / Pdt. Sus-BPSK / 2015 between Nia Kurniasih, Tasikmalaya with Bank Danamon Indonesia, Tbk South Jakarta;
4. Decision Number 198 K / Pdt. Sus-BPSK / 2014 between PT Bank Tabungan Negara (Persero) Bogor Branch against Mohamad Sofian et al;
5. Decision Number 818 K / Pdt. Sus-BPSK / 2015 between PT BPR Bareleng Mandiri Batam city against Debby Chrisje Herlina Tatalede, Batam;
6. Decision Number 100 K / Pdt. Sus-BPSK / 2016 between Sujarwo, Batam against PT Bank Mandiri (Persero) Tbk Jakarta.

¹⁵ Irfan Fachruddin, *Pengawasan Peradilan Administrasi Terhadap Tindakan Pemerintah*, dalam Sulistyandari, *Hukum Perbankan, Perlindungan Hukum Terhadap Nasabah Penyimpan Melalui Pengawasan Perbankan di Indonesia*, Penerbit Laros, Sidoarjo, 2012, p.29.

Jakarta Tri Herdianto as well as Supervisor and Consumer Protection OJK Malang, Yan Jimmy Hendrik Simamarmata, sanctions this has never been applied.

3. Legal Culture

The relevance of legal culture (Legal culture) which is meant by Freidman with this research is as a consumer (society) attitude toward law and legal system. Concerning the attitudes and judgments of the public in relation to law and institutions (the Financial Services Authority), have positive or negative perceptions. Result of interview of writer with consumer who have done complaint both at Bank and Financial Service Authority in Malang, consumer perception to Bank if complaining problem got response which generally got positive response and can be settled between consumer with bank side if not yet related to loss many.

However, what consumers often complain about is in credit agreements and credit restructuring due to the occurrence of bad loans by consumers, the bank is considered by the consumer always at a disadvantaged position while the consumer in a disadvantaged position either about the amount of credit that increasingly swell the amount and in the case of the auction of collateral owned debtor. While the information obtained by debtors related to the rights of consumers has also never been delivered. The information submitted is only related to products and services in the banking sector which are also profits while for risk, the bank does not deliver clearly and honestly. This is often disappointing customers / bank debtors as consumers of the banking sector.

While the perception of consumers who ever complained to the Financial Services Authority in Malang during this interview results on respondents who have complained on the Financial Services Authority is that consumers do not feel the existence of the Financial Services Authority fully to the maximum can help consumers in solving the problem with the bank. Consumer Perceptions if suffered large losses prefer to settle the case through the Court by using a lawyer (Lawyer) is considered more understanding of the law.

D. RECONSTRUCTION OF CONSUMER PROTECTION IN THE BANKING SECTOR AS AN EFFORT TO REALIZE SUBSTANTIVE JUSTICE

The jurists agree that the law must be dynamic, not static and should be able to protect the community. The law must be a reformer in the life of the nation and the state that must be formed with the future orientation (for word looking) should not be law is built with the orientation of the past (back world looking).¹⁶ The law not only serves as a justification or endorse all things that happen after society changes, but the law must appear simultaneously with events that occur, even appear first new events follow. The law must play an active role as a tool for social engineering.¹⁷

In the framework of legal reform thinking that occurred in Indonesia, Solly Lubis mention there are two views that affect each other, namely: First: the changes made dogmatically that changes are done thoroughly and the implementation is done with great care with a very in-depth research involving all relevant elements and the people who accept change. This group has a tendency to maintain moral and cultural values in the context of national law development. Second, changes are made by first making laws or other regulations that are considered important and urgent as needed. If the law has been made inconsistent with the legal consciousness of the community then the Law is immediately revised and adapted to the legal consciousness of the community.¹⁸ According to Adi Sulistiyono, the development of law has a more comprehensive and fundamental meaning compared to the terms of legal coaching or legal reform. Legal guidance refers more to efficiency in the sense of improving legal efficiency. Law renewal implies developing a legal order to adapt to community change. Therefore, the development of the law is not only directed to the rule or substance of law, but also on the structure or institutional law and community legal culture.¹⁹

The synchronization of legal substance in non-court dispute settlement is not to be interpreted (ambiguously) whether dispute settlement through BPSK is still recognized or only the Consumer Dispute Settlement Institution administered by the Financial Services Authority having the authority of non-court dispute settlement between the consumer and the Banking Institution not to cause legal uncertainty. In terms of structure further optimize the role and function of the Financial Services Authority in the field of supervision of the implementation of consumer banking protection is still a lot of complaints on the Financial Services Authority. In terms of cultur, OJK conducts socialization and education in the field of consumer protection law to consumer banking concerning consumer rights of banking in case of violation done by banking in order to cultivate legal awareness for consumers to make complaints and lawadap filed banking institution if its rights as consumer banking harmed or violated or ignored by the bank.

Based on the findings and in-depth study, it is necessary to reconstruct consumer protection especially in the banking sector with the aim to provide legal certainty with justice substantive in ius constituendum perspective. Therefore, in terms of Substance, it is

¹⁶ Abdul Manan, *Op.Cit.*, p. 7-8.

¹⁷ Abdul Manan, *Loc.Cit.*

¹⁸ Solly Lubis, "*Sistem Nasional*" dalam Abdul Manan, *Op.Cit.*, p.9.

¹⁹ Adi Sulistiyono, *Reformasi Hukum Ekonomi Indonesia*, UPT Penerbitan dan Percetakan UNS, Surakarta, 2008, p. 69

necessary to create a Financial Services Sector Act which can provide strengthening from the aspect of its legal substance which is also followed up by making the Financial Service Obligation Rule in the field of consumer protection for the financial services sector of the Banking as well as each of the other sectors in order to provide protection the justice substantive.

E. CONCLUSIONS

1. The protection of banking consumers conducted by the Financial Services Authority (OJK) both preventive and repressive has not provided substantive legal justice protection for banking sector consumers. Similarly, in practice in the Court through the Supreme Court ruling, the decision of the Consumer Dispute Settlement Agency (BPSK) was canceled by the Supreme Court because the banking dispute was not the authority of BPSK.
2. The weakness of consumer banking protection is not based on legal certainty with substantive justice because there are 3 (three) factors: legal substance, legal structure and legal culture:
 - a. Legal Substance due to consumer protection norm is not inherently regulated in the Financial Services Authority (OJK) Law and lack of harmonization in regulation related to consumer banking dispute settlement, likewise in the settlement of consumer banking dispute in Supreme Court decision, decision of Consumer Dispute Settlement Board BPSK) is canceled so that there is no substantive legal certainty for the consumers of the banking sector.
 - b. Legal structure that is less optimal Financial Service Authority (OJK) in conducting supervision on implementation of consumer protection by Banking Institution and socialization of consumer protection less appropriate because socialization which is conducted related to understanding type, character and product of banking service.
 - c. Legal culture is the understanding of consumer banking on its rights as a consumer is still less so also the confidence in the ability of the Financial Services Authority (OJK) can solve the problem of large losses suffered by consumers low, unless the loss is small value.

F. SUGGESTIONS

Based on the findings and in-depth study it is necessary to reconstruct the banking sector's consumer protection in order to realize the legal certainty with justice substantive in the perspective of *constituendum*. Therefore it is necessary to revise the Law on the Financial Services Authority (OJK Law) and the harmonization of related regulations and also there should be a more optimal supervision of OJK to the Banking Institution in order to provide more equitable legal protection for banking consumers.

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