



## The Integration of Alternative Dispute Resolutions Institutions in the Financial Services Sector with POJK No. 61/POJK.07/2020

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### ABSTRACT

Financial institutions and consumers/customers have more than a contractual relationship. Financial institutions and consumers build trusting relationships. These 2 financial services businesses are used for financial services dispute resolution. The settlement includes Banking, Insurance, Capital Market, Guarantee, Pension Fund, and Financing and Pawnshops. In 2020, OJK issued POJK No. 61/POJK.07/2020 on Alternative Institutions for Financial Services Sector Disputes. The newest Financial Services Authority Regulation divides dispute resolution into 6 financial services sectors. This time, it's 1 alternative dispute resolution institution for financial services. This study examines the unification principle's applicability. Integration of conflict resolution organizations, authorities, and methods in the financial services industry. Legal normative research is used. This study uses primary and secondary legal sources from laws and books/journals. This study shows that alternative dispute resolution entities in the financial services sector have implemented unification and integration to conflict resolution.

## 1. Introduction

Moral hazard acts (a person's behavior when the risk resulting from his actions is carried by another party, not himself), no optimization of financial services protection, and financial system disruption are all cross-sectoral issues in the financial services sector. According to Law No. 21 of 2011, the formation of institutions in the service sector has become increasingly encouraged as the economy has become more stable. finance that would be

integrated. Consumer protection in the financial services sector aims to establish a consumer protection framework, improve consumer empowerment, and raise awareness of financial service organizations so that they can increase public confidence in the sector <sup>1</sup>. In carrying out consumer complaints service operations, the Financial Services Authority can arrange suitable facilities and infrastructure to ensure that consumer complaints services are carried out properly.

The agency or institution also resolves legal issues between financial services sector actors, according to Consumer Protection Law No. 8 of 1999 on Article 1 Paragraph (2) and (3) (in this context, it might be a person or a company) with customers. The establishment of a dispute resolution agency or agency, according to the Consumer Protection Law, intends to build a consumer protection system that includes components of legal certainty, information disclosure, and access to information. Aside from that, another purpose is to enhance business actors' understanding of the necessity of consumer protection, resulting in a more honest and responsible approach to doing business. Dispute resolution in the financial services sector is, of course, one of the dispute resolutions <sup>2</sup>.

Financial Services Authority Regulation Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector was changed by Financial Services Authority Regulation Number 61/POJK.07/2020 concerning Alternative Institutions for Dispute Settlement in the Financial Services Sector. The existence of this legislation is supposed to be one of OJK's measures to prevent financial services consumers from suffering losses. These actions include informing and educating the public about the financial services sector, services, and products, requesting financial service institutions to cease operations if they have the potential to harm the community, and other actions deemed necessary in accordance with the provisions of current laws and regulations. sector of financial services <sup>3</sup>.

The complex process of addressing legal issues that arise between parties in the financial services sector through litigation/judicial channels makes Alternative Dispute Resolution Institutions the preferred forum for resolving legal issues that arise between parties. The disputing parties have an Alternative Dispute Resolution Institution as a forum for resolving their disputes because the dispute resolution process is fast, inexpensive, and

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<sup>1</sup> Bustanul Arifien Rusydi. (2015). *Perlindungan Konsumen Sektor Jasa Keuangan Melalui Lembaga Alternatif Penyelesaian Sengketa*, (Universitas Islam Indonesia).

<sup>2</sup> Muhammad Fikri Aufa. (2022). *Asas Unifikasi Dan Integrasi Dalam Penyelesaian Sengketa Melalui Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan*. (Universitas Muhammadiyah Yogyakarta).

<sup>3</sup> Hesty D Lestari. (2021). Otoritas Jasa Keuangan: Sistem Baru Dalam Pengaturan Dan Pengawasan Sektor Jasa Keuangan. *Jurnal Dinamika Hukum*. 12(3). <https://doi.org/10.20884/1.jdh.2012.12.3.127>; Dewi Nurul Musjtari, Ani Yunita, and Muhammad Khaeruddin Hamsin, "Efektivitas Penyelesaian Sengketa Perbankan Syariah Melalui Mekanisme Fasilitasi Oleh Otoritas Jasa Keuangan (Ojk)," *Masalah-Masalah Hukum* 49, no. 1 (2020): 3-4, <https://doi.org/10.14710/mmh.49.1.2020.1-13>.

provides a win-win solution, rather than resolving disputes through court proceedings that follow a structured pattern, formalities, and very strict bureaucratic procedures. As a result, in terms of time, effort, and expense, it is inefficient <sup>4</sup>.

Banking, capital markets, venture capital, pension funds, insurance, guarantees, finance companies, and the Financial Services Sector Alternative Dispute Resolution Institution oversees 8 industries registered and licensed by the Financial Services Authority, whether conventional or sharia, including banking, capital markets, venture capital, pension funds, insurance, guarantees, and finance companies (fintech) <sup>5</sup>. It should be noted that in the financial services sector, there are 6 (six) institutions for dispute resolution that are present according to their sector/scope of authority, namely Insurance, Capital Markets, Pension Funds, Banking, Guarantees, and Financing, as well as Pawnshops <sup>6</sup>. This investigation's focus. With the issuance of Financial Services Authority Regulation Number 61/POJK.07/2020 concerning Alternative Dispute Resolution Institutions in the Financial Services Sector, the purpose of this research is to discover and analyze the financial services authority's integration of alternative dispute resolution institutions into the financial services sector. Nikolas Kirby's Integration Theory is used in this study. According to him, there are three aspects to the presence of an integration in a new organization, thus: <sup>7</sup>

1. Within an organization, integration is a complicated subset with individuals who have responsibilities that are predetermined, structurally limited by a rule, and have a decision-making mechanism.
2. An institution with integrity is capable of exercising authority, setting goals, and making sound decisions.

According to another viewpoint, the integration of dispute resolution mechanisms occurs with the goal of controlling the settlement of previously separated disputes. Furthermore, with this integration, data security for the privacy of the disputing parties has increased <sup>8</sup>.

As a result, the purpose of this research is to identify and investigate the integration of alternative dispute resolution institutions in the financial services sector in greater depth. This is the most recent study, with the existence of a single LAPS SJK replacing the previous six LAPS in the financial services sector, which is divided into six financial services sectors.

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<sup>4</sup> Miswardi Miswardi. (2020). Kajian Ekonomis Penyelesaian Sengketa Bisnis Melalui ADR (Alternative Dispute Resolution). *EKONOMIKA SYARIAH: Journal of Economic Studies*. 4(1). <https://doi.org/10.30983/es.v4i1.3281>.

<sup>5</sup> Nida Shara. (2021). Enam Lembaga Sengketa Jasa Keuangan Terintegrasi Pada 2021. *investor.id*, 2020, <https://investor.id/finance/enam-lembaga-sengketa-jasa-keuangan-terintegrasi-pada-2021>.

<sup>6</sup> Otoritas Jasa Keuangan. (2020). Lembaga Alternatif Penyelesaian Sengketa Otoritas Jasa Keuangan. Otoritas Jasa Keuangan.

<sup>7</sup> Nikolas Kirby. (2021). An 'institution-First' Conception of Public Integrity. *British Journal of Political Science* 51(4). <https://doi.org/10.1017/S000712342000006X>.

<sup>8</sup> Damian Clifford and Yung Shin Van Der Sype. (2016). Online Dispute Resolution: Settling Data Protection Disputes in a Digital World of Customers. *Computer Law and Security Review* 32(2). <https://doi.org/10.1016/j.clsr.2015.12.014>.

## 2. Method

This is normative law research, which is founded on normative legal science, but does not investigate a system of norms in legislation, but rather studies how the norm system operates in society. This research focuses on the norm system in order to provide legal grounds for judging whether an occurrence is right or wrong<sup>9</sup>. As the primary components of the analysis, the principles, ethics, rules and regulations, court judgments, agreements, and doctrines that are described in this study are the main legal materials<sup>10</sup>.

The author of this study took an Act Approach and a Case Approach. To bolster the researchers' normative legal study, field research was undertaken via interviews with the Financial Services Sector Alternative Dispute Resolution Institution, which is located in Wisma Mulia 2 Lt. 16 Gatot Subroto No. 42, South Jakarta, Jakarta Special Capital Region (currently having its address at Menara Karya 25th Floor, Jl. H.R. Rasuna Said Blok X-5, Kav 1-2, South Jakarta).

## 3. Discussion

### 3.1. The Financial Services Sector's Integration of Alternative Dispute Resolution Institutions

Alternative Institutions for the Settlement of Financial Services Sector Disputes is a Financial Services Authority Regulation issued by the Financial Services Authority. This rule consolidates the financial services sector's alternative dispute resolution institutions into one (single) entity. Starting January 1, all Financial Services Business Actors who have become members of Alternative Dispute Resolution Institutions in the Financial Services Sector are registered as regulated in Financial Services Authority Regulation Number 1/POJK.07/2014 concerning Alternative Dispute Settlement Institutions in the Financial Services Sector, according to Article 47 paragraph (1) of the Transitional Provisions for the Financial Services Authority Regulation.

A new entity called the Alternative Dispute Resolution Institution for the Financial Services Sector was established as a result of the Financial Services Authority Regulation. As previously noted, Article 6 of POJK No. 61/POJK.07/2020 states that customers seeking to resolve a dispute in the financial services sector may use 1 (one) Alternative Financial Services Sector Dispute Settlement Institution. Although it is not stated explicitly, the existence of an integration in the POJK can be seen by interpreting the law grammatically<sup>11</sup>. The interpretation or interpretation made can be seen in

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<sup>9</sup> Mukti Fajar; Nur Dewata and Yulianto Achmad. (2017). *Dualisme Penelitian Hukum Normatif & Empiris*, Cetakan ke. Yogyakarta: Pustaka Pelajar. PP 47-48.

<sup>10</sup> Wempy Setiabudi Hernowo and Muhammad Fikri Aufa. (2021). Dewan Pengawas Syariah Koperasi Syariah Dalam Bias Pengaturannya. *Pandecta Research Law Journal* 16(2). <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/32360>.

<sup>11</sup> Afif Khalid. (2014). Penafsiran Hukum Oleh Hakim Dalam Sistem Peradilan Di Indonesia. *Al 'Adl.* 6(11).

Article 6 of the POJK, which states that the settlement of financial services sector disputes will be carried out only through one institution for financial services sector dispute resolution.

The presence of this new alternative dispute resolution institution benefits both the general public and Financial Services Businesses seeking to resolve disputes outside of the court<sup>12</sup>. Convenience for the parties, particularly in the settlement of disputes outside of court, reduces the cost and time required.

As required in Article 5 of the Financial Services Sector, the Alternative Financial Services Sector Dispute Resolution Institution takes the form of a legal body, namely an association legal entity. This establishment has been approved by the Ministry of Law and Human Rights. In comparison to the preceding six ADR bodies, the development of alternative dispute resolution institutions in the financial services industry is a question mark. The 6 (six) institutions were liquidated in this context, prior to the formation of a substitute organization for financial services industry dispute resolution. This occurred as a result of the 6 (six) institutions' failure to complete the consolidation or merger<sup>13</sup>. This is because the Ministry of Law and Human Rights does not have a regulation that allows legal entities to merge. The 6 (six) dispute resolution institutions in the financial services sector agreed to be liquidated/dissolved in the spirit of the existence of a single institution in the settlement of disputes in the financial services sector.

This integration can be considered legal integration in financial services dispute resolution, as well as regional legal integration because it is resolved in financial services dispute resolution. The presence of alternative financial integration of dispute resolution in the service sector is evidence of the harmonization of the dispute resolution system and the inclusion of regulations<sup>14</sup>.

Furthermore, this institution was established privately and obtained an operational permit from the Financial Services Authority, according to the explanation given during the interview process. It should be noted that the Financial Services Sector Alternative Dispute Resolution Institutions differ from the previous six Alternative Dispute Resolution Agencies, as well as the Consumer Dispute Resolution Agency (BPSK). Adjudication services were removed from the Financial Services Sector LAPS's dispute resolution services. According to Article 8 paragraph (3) letter a, the Financial Services Sector LAPS has at least two (two) dispute resolution services, namely mediation and arbitration.

The institution established under POJK No. 61/POJK.07/2020 differs not only from previous LAPS in the financial services sector, but also from the

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<sup>12</sup> Arman Tjoneng, Christin S. Basani, and Vira Sintia. (2020). Implementation Law Issues Of Supreme Court Regulation No. 4 Of 2019 About Perma Revision No. 2 Of 2015 About Small Calim Court Resolution Procedures And Its Settlement Efforts. *Veteran Law Review*. 3(2).

<sup>13</sup> LAPS SJK. (2021). Interview with Bapak Tri Legono Yanuarachmadi as Secretary of the Institution for Alternative Dispute Resolution in the Financial Services Sector in South Jakarta October 22, 2021.

<sup>14</sup> Rashad Kurbanov. (2021). Regional Integration and Law: An Approach to Issues of Theory and Practice," *Selected Topics in Humanities and Social Sciences*. 71(4). <https://doi.org/10.9734/bpi/sthss/v7/4650f>.

Consumer Dispute Resolution Agency (BPSK). The following are the distinctions between these two (two) alternative dispute resolution institutions:<sup>15</sup>

- 1) In terms of legal foundation, the BPSK was founded on the mandate of Law No. 8 of 1999 on Consumer Protection. According to Article 49 paragraph (1), the government establishes a Consumer Dispute Settlement Agency in Level II Regions to resolve consumer disputes outside of court. The Financial Services Sector LAPS, on the other hand, was established in accordance with Financial Services Authority Regulation Number 61/POJK.07/2020 concerning Alternative Institutions for Financial Services Sector Settlement.
- 2) In terms of authority, BPSK can receive complaints from all sectors and resolve consumer disputes. Meanwhile, it is only within the scope of the financial services sector for the Financial Services Sector LAPS.

The urgency of unifying dispute resolution from what was originally divided according to the sectors into 1 (one) door is as follows :<sup>16</sup>

- a) That the financial services sector's products and services are increasingly hybrid, or that there are no clear boundaries. Services and products containing Link units are two examples. The unit is an insurance product that also has an investment component. As there are two types in that unit, consumers may be "confused" about whether they prefer insurance or the capital market.
- b) There are elements of effectiveness and efficiency. The LAPS SJK facilitates dispute resolution services in the financial services sector. Prior to this 1 (one) door service, LAPS provided sector-specific dispute resolution services. So, according to Tri Herdianto, this will go through its own backoffice and operations, as opposed to passing through 1 (one) LAPS only.
- c) There is uniformity. The presence of the Financial Services Sector LAPS helps to standardize dispute resolution in the financial services sector. Unlike the previous LAPS, each LAPS has different standards because each institution is unique in different sectors.
- d) From a supervisory standpoint, it is simpler for OJK. With only 1 (one) LAPS, it will make OJK's supervisory duties easier. OJK oversees several things from the operational side of the Financial Services Sector LAPS, including :<sup>17</sup>
  1. Periodic reports from LAPS SJK. Article 36 POJK No. 61/POJK.07/2020 states that SJK LAPS must submit periodic reports every 3 (three) months to OJK. Not only monthly reports, but these reports also consist of semiannual and annual reports.

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<sup>15</sup> Titia Tauhiddah, Busyra Azheri, and Yussy Mannas. (2020). Kewenangan Penyelesaian Sengketa Konsumen Lembaga Pembiayaan Antara Badan Penyelesaian Sengketa Konsumen (Bpsk) Dengan Lembaga Alternatif Penyelesaian Sengketa (Laps)). *DE LEGA LATA: Jurnal Ilmu Hukum*. 5(1). <https://doi.org/10.30596/dll.v5i1.3472>.

<sup>16</sup> Sonora Semarang. (2021). *Alternative Institutions for Resolving Financial Services Sector Disputes*, Youtube Channel Sonora Semarang, 2021.

<sup>17</sup> Semarang; Aufa. *Asas Unifikasi Dan Integrasi Dalam Penyelesaian Sengketa Melalui Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan*.

2. 2. OJK also previews the work plan and annual budget prepared by LAPS SJK, as well as conducts fit and proper tests on LAPS SJK supervisors and management.
3. Monitor the principles outlined in the LAPS SJK.
4. Monitor Financial Services Sector LAPS dispute resolution decisions that are not implemented by the parties.

The Financial Services Sector LAPS, which is the sole forum for consumers/customers and FSPs in resolving disputes in the financial services sector, is not a brief discussion of dispute resolution in the financial services sector under "one roof". Progress discussions about the existence of this institution began in 2018 with the formation of a Forum Group Discussion committee consisting of each representative from six LAPS. The discussion held in Bogor was attended by representatives from the six LAPS in the Financial Services Sector, the Financial Services Authority, and the Ministry of Law and Human Rights. During the discussion an agreement emerged that resulted in the formation of a single and integrated LAPS. Not only is there a problem with the name, but there is also a problem with the container of the LAPS SJK. During the discussion, Mr. Tri Legono stated that it was unclear whether the shape of the LAPS SJK in question was a fusion or merger. This is due to a competition involving the 6th (main) LAPS's age. BAPMI is one of the oldest institutions in the country with BMAI.

Furthermore, the secretary of the Alternative Dispute Settlement Institution in the Financial Services Sector stated that the two institutions fought each other to become a shell/container for the establishment of LAPS SJK due to their existence in dispute resolution outside of the court in accordance with their respective scopes or sectors. It can be seen that the Financial Services Sector LAPS was established with coordination from sources other than the OJK and the previous LAPS. However, there is also collaboration with LJK associations that are registered as members of alternative dispute resolution institutions in its establishment and formation by performing the function of a self-regulatory organization<sup>18</sup>.

The founders signed the deed of establishment of this institution on September 22, 2020, and it received legal entity approval from the Minister of Law and Human Rights on November 30, 2020. It was only after the promulgation of POJK 61/POJK.07/2020, on December 19, 2020, that this occurred. Institutions for Alternative Dispute Resolution The Financial Services Authority grants the Financial Services Sector an operational permit. On January 1, 2020, Alternative Dispute Resolution Institutions in the Financial Services Sector officially began operations.

This Alternative Financial Services Sector Dispute Resolution Institution was established in response to the financial services sector's need for dispute resolution. The founders, in collaboration with the Financial Services Authority, conducted a comparative study in three (three) countries, namely Malaysia, Singapore, and Australia, during the planning process for the

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<sup>18</sup> Robinsar Marbun. (2020). Juridical Analysis Of Employee Considerations As Administrative Competition Agency. *Veteran Law Review* . 3(1).

establishment of the Financial Services Sector LAPS <sup>19</sup>. In terms of the three (three) institutions mentioned in the interviews conducted for the purpose of the comparative study, they are as follows :

- 1) Securities Industry Dispute Resolution Center (SIDREC), Malaysia.
- 2) Financial Industry Disputes Resolution Center Ltc (FIDReC), Singapura.
- 3) Australian Financial Complaints Authority (AFCA), Australia.

Conceptually, the stance taken does not fully take into account LAPS from these countries. This can be explained as follows :

- 1) The institutions in the three (three) countries are regulated and governed by laws. It differs from the Alternative Dispute Resolution Institution for the Financial Services Sector, which was established in accordance with the Financial Services Authority's regulations.
- 2) That the agency only serves dispute resolution in the context of retail and small claims (pro bono), whereas these countries have other independent institutions for resolving commercial disputes. Moreover, the LAPS for the Financial Services Sector serves two (two) levels, namely retail and small claims and commercial disputes.
- 3) In terms of funding, these institutions are subsidized by the local government. In contrast to the Financial Services Sector LAPS, which receives no government funding, the funding issue for the SJK LAPS, as explained by the secretary, is that this institution receives income from the PUJK, which is deposited each year.
- 4) Membership in LAPS SJK differs from that of existing institutions in these countries. Members of LAPS SJK mentioned in the interview session that there are approximately 1,300 members (Additionally, he clarifies that this membership does not include BPR <sup>20</sup>. In terms of members covered by the BPR, the Financial Services Sector LAPS classifies them according to the region/region covered by the BPR <sup>21</sup>. As a result, the BPR is only represented at the regional level by management. Not only are BPRs excluded from membership in the Financial Services Sector LAPS, but so are MSMEs <sup>22</sup>).

### 3.2. Varieties of Dispute Settlement Services Offered by LAPS-SJK

Of course, the integration of dispute resolution into one LAPS will result in service changes. The following services are provided during the dispute resolution process :

- 1) Mediation

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<sup>19</sup> SJK. (2021). Interview with Bapak Tri Legono Yanuarachmadi as Secretary of the Institution for Alternative Dispute Resolution in the Financial Services Sector in South Jakarta October 22, 2021.

<sup>20</sup> Muhammad Fikri Aufa, Wempy Setyabudi Hernowo, and Dewi Nurul Musjtari. (2021). Dynamics of Sharia Cooperative Regulation in Indonesia. *Lambung Mangkurat Law Journal*. 6(2). <https://doi.org/10.32801/lamlaj.v6i2.261>.

<sup>21</sup> Hernowo and Aufa. Dewan Pengawas Syariah Koperasi Syariah Dalam Bias Pengaturannya.

<sup>22</sup> SJK. (2021). Interview with Bapak Tri Legono Yanuarachmadi as Secretary of the Institution for Alternative Dispute Resolution in the Financial Services Sector in South Jakarta October 22, 2021.



Mediation is an alternative dispute resolution process that takes place outside of the courtroom and involves the two disputing parties meeting with the assistance of a neutral third party (referred to as the Mediator). The mediator is here to assist the dispute resolution process, where the mediator is completely passive and has no right or authority to provide input, let alone decide whether or not a dispute occurs<sup>23</sup>.

Meanwhile, LAPS SJK Mediation is a method of resolving disputes through a negotiation process between disputing Parties with the assistance of an LAPS SJK Mediator in order to look for various possible dispute resolutions without breaking/imposing a will in order to reach a win-win settlement agreement. Mediation in this SJK LAPS is governed by Regulation of Alternative Dispute Resolution Institutions in the Financial Services Sector Number 01 concerning Mediation Regulations and Procedures. Article 2 paragraph (3) states that disputes that may be submitted to LAPS SJK Mediation are those in which the parties meet the following requirements :

- a. Attempts have been made to resolve it through deliberation among the parties for consensus (internal dispute resolution);
- b. On the basis of the existence of a mediation agreement between the parties and the submission of a mediation application registration by one or more of the parties; and
- c. Any conventional and sharia disputes arising from or in connection with financial industry agreements/transactions are listed below: Banking, capital market, insurance, pension fund, pawnshop, financing, venture capital, credit guarantee, financial technology, payment system Each product is a hybrid of one financial product and another; Any derivative products from the above financial products; Other products/transactions designated as financial products/transactions under prevailing laws and regulations; Other products/transactions that are supervised by the Financial Services Authority and or Bank Indonesia; and Other transactions and activities carried out by the Parties in the financial services sector, including.

The results of the Mediation's peace agreement are final and binding on the parties, and must be implemented in good faith. If the parties wish, the peace agreement can be stated in a Peace Decision (Deed of Peace/Deed of van Dading) via the LAPS SJK Arbitration process. SJK LAPS are required to submit to OJK a monitoring report on the implementation of the Peace Agreement, including the name of the PUJK that violated the Peace Agreement.

If the peace agreement expected from the Mediation negotiations cannot be reached, the Mediation is declared completed without peace, and the Parties may now continue their settlement efforts through the LAPS SJK Arbitration in accordance with the SJK LAPS Arbitration Rules and Procedures.

## 2) Arbitration

Arbitration is the voluntary submission of a dispute to a qualified person for resolution, with the agreement that the arbitrator's decision will

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<sup>23</sup> R. Lestari. (2013). Perbandingan Hukum Penyelesaian Sengketa Secara Mediasi Di Pengadilan Dan Di Luar Pengadilan Di Indonesia. *Jurnal Ilmu Hukum Riau*. 3(2).

be final and binding<sup>24</sup>. Meanwhile, according to Article 1 of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, arbitration is a method of resolving a civil dispute outside of the general court based on an arbitration agreement made in writing by the disputing parties.

To settle a dispute through arbitration, the parties must first agree in writing to use an arbitration institution<sup>25</sup>. LAPS SJK arbitration is a method of resolving civil disputes outside of the general court system based on an Arbitration Agreement signed in writing by the parties to the dispute, with an examination conducted by a Sole Arbitrator/Arbitration Council to render an Arbitration Award in accordance with the LAPS SJK procedural procedures.

By adding a clause to the main agreement, the parties agree and bind themselves to resolve disputes that will occur in arbitration before a real dispute occurs. The parties can make an agreement if the dispute has occurred by using a deed of compromise signed by both parties and witnessed by a notary. An arbitration agreement is a contract that can be in the form of a separate agreement or a part of a contract known as an arbitration clause<sup>26</sup>. The arbitration clause does not have to be long or complex but if the arbitration clause is to be effective, it must be clear. The ambiguity of the arbitration clause can cause disputes that will cost time and money. The lifeblood of arbitration is an arbitration clause. The arbitration clause will determine whether a dispute can be resolved by arbitration, where it is settled, which law is used, etc<sup>27</sup>.

Using an arbitration institution to resolve a dispute will result in an arbitration award. According to Law No. 30 of 1999, the arbitrator or arbitral tribunal must issue an arbitration award within 30 days of the completion of the arbitrator's examination of the dispute<sup>28</sup>. If there is an administrative error in the decision rendered, the parties have 14 days from the date the decision is rendered to request a correction of the decision. The arbitration award is immediately binding on the parties and can be implemented once the decision has reached the final stage. The arbitration award may be enforced after it has been registered with the clerk of the district court by the arbitrator or his proxy<sup>29</sup>. Following registration, the head of the district court will have 30 days to issue an order implementing the arbitral award.

The LAPS SJK Arbitration Award is final, has permanent legal force, and is binding on the Parties; however, it must be implemented voluntarily.

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<sup>24</sup> Ade Maulana and Devi Siti Hamzah Marpuang. (2021). Penyelesaian Sengketa Wanprestasi Melalui Mekanisme Arbitrase. *Rechtsregel*. 4(1).

<sup>25</sup> Lili Naili Hidayah Muskibah. (2021). Penyelesaian Sengketa Konstruksi Melalui Arbitrase Berdasarkan Peraturan Perundang-Undangan. *Pandecta Research Law Journal*. 16(1). <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/25671>.

<sup>26</sup> Jed Meers and Liz Hind. (2021). The 'code Adjudicator' Model: The Pubs Code, Statutory Arbitration and the Tied Lease. *Legal Studies* 3594412. <https://doi.org/10.1017/lst.2021.47>.

<sup>27</sup> Muskibah. Penyelesaian Sengketa Konstruksi Melalui Arbitrase Berdasarkan Peraturan Perundang-Undangan.

<sup>28</sup> Maulana and Hamzah Marpuang. Penyelesaian Sengketa Wanprestasi Melalui Mekanisme Arbitrase.

<sup>29</sup> Emmanuel Onyedi Wingate and Pontian N. Okoli. (2021). Judicial Intervention in Arbitration: Unresolved Jurisdictional Issues Concerning Arbitrator Appointments in Nigeria. *Journal of African Law*. 65(2). <https://doi.org/10.1017/S0021855321000103>.

If the Arbitration Award is not implemented voluntarily, it will be implemented based on an order from the Head of the District Court at the request of one of the Parties. The SJK LAPS Arbitration Award in the form of a Peace Award (Deed of Peace/Deed of Van Dading) has legal force as a permanent legal decision. LAPS SJK is required to submit to the OJK a monitoring report on the implementation of the Arbitration Award, including the names of Financial Services Providers who refuse to voluntarily implement the Arbitration Award.

### 3) Binding Opinion

The service of expert evaluation is also mentioned in Article 52 of Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. In contrast, the Article states that "the parties to an agreement have the right to request a binding opinion from the arbitration institution on certain legal relationships of an agreement." Even in the absence of a dispute, LAPS SJK may accept requests submitted by the parties to an agreement for a binding opinion on a matter pertaining to the agreement, such as regarding:

1. Provisions with ambiguous interpretation;
2. Adjustments or additions to provisions relating to the emergence of new circumstances;
3. And others concerning an agreement's specific legal relationships.

LAPS SJK provides this binding opinion if the parties believe they require "assistance" in conducting a contract review. In other words, this service is provided to the parties with the goal of lowering the likelihood of a dispute between the two parties. The Parties are bound by the Binding Opinion issued by LAPS SJK. It is not possible to contest the LAPS SJK's Binding Opinion through legal means, and if one of the Parties acts contrary to the Binding Opinion, it will be deemed to have violated the agreement (According to Article 53 of the Law No. 30 of 1999).

The benefits of this binding opinion service can undoubtedly make it easier for parties to reach agreements, both consumers and PUJK. This facility, on the other hand, has some drawbacks. The disadvantage of a binding opinion is that no applications have been submitted. Whether or not in the LAPS SJK, there were no requests from the parties to submit a binding opinion in the previous LAPS. The disputing parties can select one of the three service options provided. Disputes submitted to the Financial Services Sector LAPS can be conventional or sharia in kind.

## 4. Conclusion

An alternative dispute resolution institution was set up to replace the six other alternative dispute resolution institutions in the financial services sector. This new institution was set up to replace the six other alternative dispute resolution institutions. These new institutions were built as a sign of a single door for dispute resolution in the financial sector. Six alternative dispute resolution institutions in the financial sector and the Ministry of Law and Human Rights were invited to a group discussion held by the Financial Services Authority. This led to the creation of this institution. LAPS-SJK is the

first dispute resolution institution to get a permit from the OJK to work. It has three dispute resolution services: mediation, arbitration, and a binding opinion. Even though it's a new company, there needs to be a standard way to settle disputes in the financial services industry. There needs to be more research into existing dispute resolution bodies like BANI or previous dispute resolution bodies in the financial services industry to see how they compare to each other

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