



## Position of the Financial Services Authority in Bankruptcy of Securities Companies

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### Abstract

Human resource management of a company is an important component. The process of managing human resources itself is an effort to obtain reliable workers who can do their jobs properly and responsibly. A leader of a government organization can apply several behaviors, including adopting the right leadership style, to realize good employee task activities. The purpose of this study was to analyze the transformational leadership style in Perumda Air Minum Danum Taka, Penajam Paser Utara Regency. This study uses a qualitative approach with in-depth interviews with key informants from the Central Financial Services Authority. Based on the results of the study in the discussion, it was found that the position of the financial services authority in a bankruptcy petition is a requirement so that a bankruptcy petition against a securities company can be submitted, and Transformational leadership style plays a very important role in creating positive change, motivating team members and achieving better results. The author suggests that the Financial Services Authority as a supervisory institution and as an institution that has a position in submitting a bankruptcy statement application should provide more comprehensive supervision to be able to guarantee the rights of the Indonesian people in entrusting their finances to securities companies that manage large finances and based on POJK Number 6/POJK.04/2021 should implement risk management to avoid bankruptcy.

## Introduction

The development of community needs is increasing day by day which is one of the impacts of globalization. Nowadays, people already have a visionary outlook on life in facing the increasing and unpredictable needs of life in the future. Especially for the middle to upper class, they are actively investing their assets in the hope of being able to meet better living needs and get abundant profits in the future. Investment for some people is a new lifestyle. They compete to follow the investment trend that is being intensively carried out by several companies with the lure of profitable returns (Haudi et al., 2020).

Investment comes from the word invest which means planting or investing money or capital (Shadily et al., 2011; Wibowo, 2023) In general, investment can be interpreted as an activity carried out by both individuals (natural persons) and legal entities (juridical persons), in an effort to increase and/or maintain the value of their capital, either in the form of cash money, equipment, immovable assets, intellectual property rights, or expertise (Harjono, 2007; Parr, 2018).

The main problem faced by every company to develop its business is capital. Although the banking world and other financial institutions have provided and opened opportunities for every entrepreneur to obtain capital facilities, not all companies can obtain this opportunity

(Alvarez & Barney, 2014; Fathonih et al., 2019; Henderson, 2002). The main obstacle usually concerns guarantees or collateral. The limited guarantees owned by the company force the opening of the market for its business products or the relaxation provided by the government cannot be fully utilized (Anoraga & Pakarti, 2008; Chen, 2006).

In the dictionary of capital market and financial terms, the word investment is defined as the investment of money or capital in a company or project for the purpose of obtaining profit (Vernimmen et al., 2022). A complete dictionary of economics, investment is defined as the exchange of money for other forms of wealth, such as shares or immovable property that is expected to be held for a certain period of time in order to generate income (Ahmad Rodoni, 2009; Haig, 2020).

With the development of the capital market, companies sell their shares on the stock exchange, this will be in line with the goal of equitable development, opening up job opportunities, and no less importantly reducing social tensions among the community (Nikmah, 2021; Zulham & Dayu, 2022). Securities companies or securities companies are parties that carry out business activities as underwriters of securities, securities brokers and/or investment managers (Mujahid et al., 2021). The large number of securities companies or securities companies in managing public finances so that in supervising the company there are institutions that are formed including Bapepam-Lk and the Financial Services Authority.

The activities of the Indonesian capital market are supervised by the capital market supervisory body which is currently handled by Bapepam-LK (Capital Market and Financial Institutions Supervisory Agency). The guidance, regulation and daily supervision of capital market activities in Indonesia are carried out by Bapepam-Lk which is under the Minister of Finance. The development, regulation and daily supervision of capital market activities are carried out by Bapepam-Lk with the aim of realizing the creation of orderly, fair and efficient capital market activities and protecting the interests of investors and the public (Hariyani & Serfianto, 2010).

Kusuma (2022) The Financial Services Authority is the sole authority in the financial services sector in Indonesia, the Financial Services Authority is a financial services supervisory institution such as the banking industry, capital markets, mutual funds, finance companies, pension funds and insurance that must have been formed in 2010. The existence of the Financial Services Authority (OJK) as a financial sector supervisory institution in Indonesia needs to be considered, because everything must be prepared well to support the existence of the OJK (Fitriyanti & Hanifah, 2023; Atikah, 2020).

A decade of the Bankruptcy and Suspension of Debt Payment Obligations Law (UUK-PKPU) in effect in Indonesia has made many important contributions to dispute resolution in Indonesia. In 2011, the Government issued Law Number 21 of 2011 concerning the Financial Services Authority, hereinafter referred to as the OJK Law, there was a major change in the financial industry in Indonesia. Article 1 of Law Number 21 of 2011 states:

"The Financial Services Authority, hereinafter abbreviated as OJK, is an independent institution free from interference from other parties, which has the functions, duties, and authority to regulate, supervise, inspect, and investigate as referred to in this Law."

In other words, it can be interpreted that the Financial Services Authority is an institution that supervises financial services such as the banking industry, capital markets, mutual funds, finance companies, pension funds and insurance (Susanto, 2021). Basically, the Law on OJK only regulates the organization and implementation of financial activities of institutions that have the authority to regulate and supervise the financial services sector. Therefore, with the

establishment of OJK, it is hoped that a more effective coordination mechanism can be achieved in handling problems that arise in the financial system. Thus, it can better guarantee the achievement of financial system stability and the existence of more integrated regulation and supervision (Sinaga, 2013; Tsindeliani et al., 2022).

Article 34 of Law Number 3 of 2004 concerning Bank Indonesia mandates the establishment of a financial services sector supervisory institution that includes banking, insurance, pension funds, securities, venture capital and financing companies and other bodies that organize management and the community. According to Article 34, what is meant is providing regulatory and supervisory authority for the financial services sector in question for the Banking Industry, Capital Market (securities) and Non-Bank Financial Industry (insurance, pension funds, venture capital and financing companies and other bodies that organize management of community funds) (Tyson, 2023; Lamptey, 2020).

Based on Article 4 of the OJK Law, the OJK was formed so that all financial services activities in the financial services sector are organized regularly, fairly, transparently, and accountably, and are able to realize a financial system that grows sustainably, stably, integrated, and is able to protect the interests of consumers and the community. The OJK is expected to be able to support the interests of the national financial services sector so as to be able to increase national competitiveness. In addition, OJK must be able to safeguard national interests, including human resources, management, control and ownership in the financial services sector, while still considering the positive aspects of globalization (Diba et al., 2020; Adrian Sutedi, 2014; Astanti & Juita, 2017).

Bankruptcy is a state of inability to pay debts by a Debtor to his Creditors which results in a general seizure of all of the Debtor's assets (Shubhan, 2012). Furthermore, the word bankrupt which in English is called bankrupt comes from the Italian Law called banca rupta (Fuady, 2010). In Indonesia, regulations regarding bankruptcy itself have existed and have even been specifically enacted since 1905 with the enactment of Staatsblad 1905-217 Juncto Staatsblad 1906-348, which was later amended by Perpu No. 1 of 1998 concerning Amendments to the Law on Bankruptcy which was later enacted as Law No. 4 of 1998

Law No. 4 of 1998 does not contain provisions governing terminology, in its application it has not met the development and legal needs of society, so that Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (hereinafter referred to as the PKPU Law). Article 2 of the PKPU Law explains the Bankruptcy Requirements and Decisions in full and clearly. Article 2 paragraph (4) of the PKPU Law states that in the case of the Debtor being a Securities Company, Stock Exchange, Clearing and Guarantee Institution, Depository and Settlement Institution, a bankruptcy statement application can only be submitted by the Capital Market Supervisory Agency (hereinafter referred to as Bapepam). Based on Article 3 paragraph (1) of Law No. 8 of 1995 concerning the Capital Market (hereinafter referred to as the PM Law), Bapepam's duties, namely fostering, regulating, and supervising daily Capital Market activities are carried out by Bapepam. However, since the enactment of Law No. 21 of 2011 concerning the Financial Services Authority (hereinafter referred to as the OJK Law), the functions, duties and authority for regulation and supervision in the Capital Market sector have shifted to the OJK. This is based on Article 55 paragraph (1) concerning OJK which confirms that since December 31, 2012, the function, duties, and authority for regulating and supervising financial services activities in the Capital Market sector, Insurance Companies, Pension Funds, Financing Institutions, and other Financial Services Institutions have shifted from the Minister of Finance and Bapepam and Financial Institutions to OJK. Based on Article 55 paragraph (1) concerning OJK, only the function, duties, and authority regarding regulation and supervision

in the Capital Market sector which based on the PM Law are in the hands of Bapepam, now because of the OJK Law, the function, duties and authority have shifted to OJK. However, until now there has been no transfer of authority in terms of bankruptcy declarations against Securities Companies and there has been no technical management analysis regarding why a securities company can be declared bankrupt. Whereas the mandate in Article 2 paragraph (4) of the PKPU Law states that Bapepam has the authority to submit a petition for a bankruptcy declaration of Securities Companies, so there is a legal vacuum in terms of a petition for a bankruptcy declaration against Securities Companies.

## **Methods**

In this study, the author uses qualitative data types. This study began with companies circulating in the middle of being sought after by the public to gain profit so that researchers as law enforcers are interested in researching supervision of these companies and management of companies that are bankrupt or insolvent. The role of researchers in this qualitative research is as planners, data collectors, analysts, and finally as research initiators. Qualitative research emphasizes that researchers themselves or with the help of others are the main data collection tools. Therefore, researchers are key to conducting research. Researchers not only act as data takers, data managers and discoverers of research data. However, researchers also try to analyze what things are important to provide input. This research was conducted at the Financial Services Authority office, Soemitro Djojohadikusumo Building, on Jalan Lapangan Banteng Timur 2-4, Jakarta. The data collection techniques used by the author are as follows: Direct observation / participant observer studies Observation is a complex process, a process that consists of various biological and psychological processes. Two of the most important are the observer and memory processes. Data collection methods where the author directly intervenes and participates in the activities carried out by the company. This approach is not only observing, studying, but also participating directly in the activities carried out directly by the author at the Financial Services Authority office, Soemitro Djojohadikusumo Building, on Jalan Lapangan Banteng Timur 2-4, Jakarta.

## **Result and Discussion**

The author in conducting the research found a bankruptcy case of the securities company PT. Andalan Artha Advisindo (PT. AAA Securities), which in the provisions of Article 2 Paragraph (4) of the Bankruptcy and Suspension of Debt Payment Obligations Law was not applied. The application for a declaration of bankruptcy was not submitted by the authorized party, namely the Financial Services Authority (OJK), but was submitted by two customers of PT. AAA Securities, namely Ghazi Muhammad and Azmi Ghazi Harharah to the Central Jakarta Commercial Court. The bankruptcy case of PT. AAA Securities began when PT. AAA Securities, which is a national securities company engaged in the field of securities brokerage and securities underwriter (underwriter) (as debtor or defendant in bankruptcy) did not fulfill its obligation to pay bills to its two customers (as creditors or applicants for bankruptcy).

The bill was based on an agreement that had been agreed upon by PT. AAA Securities and its two customers to carry out a repo transaction (Repurchase Agreement). In the transaction, the bankruptcy applicant is obliged to give and/or deposit funds to the respondent amounting to Rp. 24,000,000,000.00 (twenty-four billion rupiah) to buy shares in BRI INDO and FRN Garuda. The obligation has been fulfilled by the applicant. Then, until the due date for the return or repurchase, the respondent did not carry out its obligation to complete and/or return the applicant's funds to buy back the shares. Based on this, the applicant filed a bankruptcy statement application against PT. AAA Sekuritas to the Central Jakarta Commercial Court. Before filing the bankruptcy application, the applicant had delivered a warning or admonition

and notified both via electronic media messages (email) and a summons letter to the respondent. However, the respondent did not have good intentions to return the funds to the applicant. The Panel of Judges in the bankruptcy decision decided to accept the petition for a declaration of bankruptcy from the applicant (two customers) against the respondent (PT. AAA Securities) because in its considerations it considered that the petition for a declaration of bankruptcy had met the requirements for a petition for bankruptcy as stipulated in Article 2 Paragraph (1) and Article 8 Paragraph (4) of the UUK and PKPU.

In the bankruptcy case, an error was seen, both by the petitioner for bankruptcy and the Panel of Judges. The petitioner for bankruptcy filed a petition for a declaration of bankruptcy against PT. AAA Securities to the Central Jakarta Commercial Court without going through the Financial Services Authority (OJK) as the authorized party. And the Panel of Judges did not consider the provisions of Article 2 Paragraph 4 of the Bankruptcy Law and Suspension of Debt Payment Obligations. Based on these provisions, the petitioner for bankruptcy should not have the authority to file a petition for a declaration of bankruptcy against the respondent for bankruptcy, but the party authorized to file a petition for a declaration of bankruptcy against the respondent for bankruptcy is only the Financial Services Authority.

According to the Deputy Executive of Capital Market II of OJK, Mr. Nurahman, the bankruptcy lawsuit filed by two customers of PT. AAA Sekuritas is not in accordance with the laws and regulations, namely the provisions of Article 2 Paragraph (4) of the Bankruptcy Law and Suspension of Debt Payment Obligations. Based on these provisions, the Financial Services Authority (OJK) has sent a letter addressed to the Head of the Commercial Court at the Central Jakarta District Court regarding the bankruptcy lawsuit application. In its letter, OJK explained who has the right to file a bankruptcy statement application against a company in the capital market sector.

However, the letter was not responded to. According to him, the unresponsive letter is the right of the Court as a Judicial institution not to intervene in the decision. The author conducted an interview with the Chief Executive of Capital Market Supervision, Derivative Finance and Carbon Exchange, Mr. Inarno Djajadi, who explained that this bankruptcy case has attracted quite a lot of attention because the bankruptcy application was filed by the customer, not the Financial Services Authority (OJK). In fact, Article 2 paragraph 4 of Law No. 37 of 2004 concerning Bankruptcy and PKPU states, in the case of a debtor being a securities company, stock exchange, clearing and guarantee institution, depository and settlement institution, a bankruptcy statement application can only be submitted by the capital market supervisory body. Another interesting thing in this case is the absence of legal efforts from AAA Securities such as cassation or Judicial Review (PK) on the judge's decision. He further stated that the connection between the official letter from the OJK that was not responded to was the authority of the Commercial Court and as an institution that has its own power, namely the Judicial power, the OJK respects the decision and makes the decision an improvement for the OJK to be more responsive in carrying out supervision.

The author also interviewed the Deputy Commissioner of OJK Capital Market Supervision, Mr. Sarjito, who explained that his party had conducted a technical examination of AAA Securities and asked for information from the President Director of AAA Securities, Andri Rukminto, who had been detained since January 2015 with a criminal case of Fraud and Embezzlement. According to him, the risk management that has been regulated in POJK number 6 / POJK.04 / 2021 concerning the implementation of risk management for securities companies that carry out business activities as underwriters of securities and securities brokers was not carried out by the management of PT. AAA, so that it was the cause of bankruptcy,

although according to him through an inappropriate mechanism, the decision was still respected by the OJK. The author has tried to interview the President Director of PT. AAA Securities, Mr. Theodorus Andri Rukminto at the Correctional Institution, but the person concerned was reluctant to comment, only giving a statement that he had indeed made a mistake as the President Director and did not carry out risk management as stated in POJK number 6 / POJK.04 / 2021 concerning the implementation of risk management for securities companies that carry out business activities as underwriters of securities and securities trading intermediaries. Then the author has also conducted an interview with the management of the senior manager of PT. AAA Securities, namely Mr. Teguh Purwinto, who explained that as a Senior Manager, whose job is to complete bond and stock transactions carried out by Bond Sales and Stock Sales that have been transacted, and in carrying out his duties, the Witness is responsible to Lulu Eleonora Soekardi as the Operational Director of PT AAAS. The next interview from the management of PT. AAA Sekuritas, namely Mrs. Lulu Eleonora Soekardi as the Operational Director of PT AAAS, explained that as the Operational Director who oversees and is responsible for the smoothness and accuracy of customer transaction settlement and its compliance with OJK and Bapepam regulations, is responsible for creating the ISO system, is responsible for developing human resources, and in her work is responsible to her superior, namely the President Director, Mr. Theodorus Andri Rukminto. Then further, Mrs. Lulu Eleonora Soekardi explained that in her duties she is responsible for compliance with business activities, OJK, BEI, and as a Director she oversees 5 divisions, namely: Risk Management Division, Settlement Division, IT Division, Accounting Division and HRD Division and PT AAAS is engaged in the field of Securities Trading Intermediaries and underwriters in accordance with the permit from Bapepam. Regarding the OJK regulation regarding the implementation of risk management for securities companies that carry out business activities as underwriters of securities and securities brokers, it is explained that at that time they did not know about the POJK so they had not implemented it, resulting in bankruptcy. There are two types of securities trading transactions, namely outright sales/purchase transactions and sales/purchase transactions with the obligation to repurchase/sell the same securities, which are commonly called repurchase agreement (repo) transactions. Analyzing the case of the company PT. AAA Securities, the securities trading transaction that is the problem is the sales/purchase transaction with the obligation to repurchase/sell the same securities, which are commonly called repurchase agreement (repo) transactions. A repo transaction is a sales transaction in the money market for a short period of time with collateral in the form of securities with an agreement to be repurchased after a predetermined period of time. In this case, not all securities in the money market can be traded, but only certain ones, namely short-term securities. Due to the short period of time, the securities used as the underlying are securities that have high quality or have the lowest possible risk. With this repo transaction, banks use it as a means to support liquidity management and as a source of short-term funds.

Repo transactions are currently developing and are in great demand by investors because repo transactions have the advantage of being a source of cheap financing with an easy mechanism and as a tool to increase liquidity. Especially for banks where repo transactions of increasingly developing securities are in great demand because these repo transactions are used as an alternative funding that can be done to overcome liquidity difficulties. This is because repo transactions are relatively safe because there is collateral in the form of securities or it can be said that repo transactions are collateralized. Repo transactions also provide benefits for those who do repo transactions. When viewed from the seller's side, they will get the funds they need, while from the buyer's side, they will feel safe because there is collateral in the form of

securities that when the seller defaults and is unable to buy back the securities, then the buyer can sell the collateral.

Each repo transaction involves two parties, namely the fund provider (buyer) and the fund user (seller) who are mutually bound by the agreement. The buyer is willing to buy according to the agreement while the seller agrees to buy back at the agreed time and price. In addition to being known as a repo transaction, there is also a reverse repo transaction. A reverse repo transaction is a transaction that is the opposite of a repo transaction. If in a repo transaction the sale will later be repurchased, then in a reverse repo transaction the purchase is offered in a repo transaction to be resold. In practice, repo and reverse repo transactions contain risks that include default risk, market risk, and interest rate risk. Default risk occurs if the debtor is unable to pay the loan when it is due, then the creditor will later acquire the securities that are collateral. Market risk is when the value of the securities becomes insufficient as collateral for the loan. This occurs when the prevailing market price for the collateralized securities is lower than that determined when the agreement was made because basically the market price has the potential to fluctuate. Meanwhile, interest rate risk occurs when the interest rate in the money market fluctuates so that the agreed repo interest rate is lower than the deposit interest rate in banking (Sapto Raharjo, 2003).

According to Ingebretsen (2003), there are ten major reasons that drive a company to bankruptcy. These reasons are letting stock prices determine strategy, too rapid growth, ignoring consumers, ignoring paradigm shifts, engaging in prolonged price wars, ignoring obligations-threats-crisis, innovating too often, poor planning, failed synergies, and arrogance. The causes of bankruptcy can come from within the company, including mismanagement, and external causes related to changes in the business environment. Companies that experience bankruptcy only have two options, namely declaring bankruptcy according to law or making recovery efforts by trying to increase efficiency and productivity. In terms of bankruptcy, securities companies are different from other companies. Bankruptcy against securities companies can only be filed by the institution that supervises securities companies, namely the Capital Market Supervisory Agency (Bapepam). This is as regulated in Article 2 Paragraph (4) of the Bankruptcy and PKPU Law which states that:

*"In the case where the debtor is a securities company, stock exchange, clearing and guarantee institution, storage and settlement institution, a bankruptcy statement application can only be submitted by the Capital Market Supervisory Agency"*

Explanation of the provisions of Article 2 Paragraph (4) of the Bankruptcy and Suspension of Debt Payment Obligations Law states that:

*"A bankruptcy application as referred to in this paragraph can only be submitted by the Capital Market Supervisory Agency, because the institution carries out activities related to public funds invested in securities under the supervision of the Capital Market Supervisory Agency. The Capital Market Supervisory Agency also has full authority in terms of submitting a bankruptcy statement application for institutions under its supervision, such as BI's authority over banks".*

Based on these provisions, the Bankruptcy and Suspension of Debt Payment Obligations Law has limited that in the case of debtors who have business activities in the capital market sector, the application for a bankruptcy statement against them can only be made by BAPEPAM. This is because only BAPEPAM has the authority to supervise all activities engaged in the collection of public funds invested in securities.

Based on the provisions of Article 3 Paragraphs (1) and (2) of Law Number 8 of 1995 concerning the Capital Market, BAPEPAM is an institution that has the authority to carry out guidance, regulation, and daily supervision of capital market activities and is under and responsible to the Minister of Finance.

After the establishment of the Financial Services Authority (OJK) on January 1, 2013 based on Law Number 21 of 2011 concerning the Financial Services Authority, hereinafter referred to as UUOJK, the functions, duties, and authority to regulate and supervise financial services activities in the capital market, insurance, pension fund, financing institutions, and other financial services institutions were transferred from the Minister of Finance and the Capital Market and Financial Institutions Supervisory Agency (BAPEPAM-LK) to OJK as regulated in Article 55 paragraph (1) of the Financial Services Authority Law. With this provision, BAPEPAM was automatically abolished institutionally and replaced by OJK.

Thus, the authority held by BAPEPAM was also transferred to OJK in filing a bankruptcy statement application as regulated in Article 2 Paragraph (4) of the Bankruptcy and Suspension of Debt Payment Obligations (PKPU) Law. The transfer was followed up with the issuance of Presidential Regulation Number 14 of 2014 concerning the Fifth Amendment to Presidential Regulation Number 24 of 2010 concerning the position, duties and functions of Echelon I of the Ministry of State which changed the organizational structure of Echelon I of the Ministry of Finance with the absence of BAPEPAM and Financial Institutions in the organizational structure of Echelon I of the Ministry of Finance.

Based on the provisions of Article 2 Paragraph (4) of the Bankruptcy and Suspension of Debt Payment Obligations Law, the only party authorized to file a bankruptcy petition against a securities company is the Financial Services Authority (OJK). Because the institution carries out activities related to public funds invested in securities supervised by the Financial Services Authority. The existence of the OJK means that Bapepam, which was previously a government institution under the Ministry of Finance, has now merged and become part of the OJK. So that the name Bapepam is no longer used, and has been changed to the Chief Executive of Capital Market Supervision. However, its role and duties have not changed. In principle, the Chief Executive of Capital Market Supervision plays the following roles: Supervising securities trading activities, so that they do not deviate from existing regulations, especially Law No. 8/1995 concerning the Capital Market. Conducting tests on all personnel who hold certain professions in the capital market, such as brokers, investment managers, investment advisors and others. Granting permits to companies wishing to carry out activities in the capital market.

As for its relationship with the issuer, because the Chief Executive of the Capital Market Supervisory Agency is the gateway for the entry of securities into the public, the issuer must be able to convince the Chief Executive of the Capital Market Supervisory Agency that the company to be sold to the public is a healthy company and can provide benefits to investors. However, the Chief Executive of the Capital Market Supervisory Agency does not guarantee the truth of the information submitted by the issuer.

In relation to the application of the principle of prudence in repo transactions as in the research results, the Financial Services Authority (OJK) issued regulations regarding guidelines for repo transactions, namely the Financial Services Authority Regulation (POJK) Number 9/POJK.04/2015 concerning Guidelines for Repurchase Agreement Transactions for Financial Services Institutions. Article 6 paragraph (1) letter c explains that financial services institutions in repo transactions are required to ensure the existence of securities and/or funds for the settlement of repo transactions. These securities are used as collateral that the seller will later

be able to buy back the securities considering that the repo transaction promises that the securities sold will be bought back.

Repo and reverse repo transactions involve parties within the scope of banking financial institutions which are then supervised by the Financial Services Authority (OJK), and based on POJK Number 6 / POJK.04 / 2021, PT. AAA should implement Effective Risk Management by at least covering: active supervision of the Board of Directors and Board of Commissioners of the Securities Company; adequacy of Risk Management policies and procedures and determination of Risk limits; adequacy of the Risk identification, measurement, monitoring, and control process and the Risk Management information system; and; a comprehensive internal control system. The implementation of Risk Management must be adjusted to the objectives, business policies, size and complexity of the business, and the capabilities of the Securities Company.

Risk management is further regulated in the Financial Services Authority Circular Letter (SEOJK) Number 23 / Seojk.04 / 2021 Concerning the Form, Structure, and Procedures for Submitting Self-Assessment Reports on the Implementation of Risk Management for Securities Companies Conducting Business Activities as Underwriters and Securities Dealers Who Are Members of the Stock Exchange, with a description of the self-assessment report on the implementation of Risk Management containing the following information: Value of each Inherent Risk indicator; Value of each Inherent Risk parameter; Inherent Risk Value; Value of each Risk Management indicator; Value of each Risk Management parameter; and Risk Management Value.

The self-assessment report on the implementation of Risk Management is prepared and signed by the director in charge of the Risk Management function and is acknowledged by the Board of Commissioners. The self-assessment report on the implementation of Risk Management is prepared with reference to the format and technical guidelines listed in the Attachment which is an integral part of this Financial Services Authority Circular Letter. In the case of securities companies PT. Andalan Artha Advisindo (PT. AAA Sekuritas) management that became a problem that led to bankruptcy was caused by not fulfilling its obligation to pay bills to two of its customers, so that it can be analyzed that risk management was not implemented due to negligence of the Board of Commissioners and Directors who should have implemented good operational risk management governance, including:

preparation of operational risk ratings to be taken (risk appetite) and operational risk tolerance; and adequacy of active supervision by the Board of Directors and Board of Commissioners including the implementation of the authority and responsibilities of the Board of Directors and Board of Commissioners.

## **Conclusion**

The position of the Financial Services Authority in the bankruptcy of securities companies has been regulated in the Law to submit a bankruptcy application to securities companies by the OJK as an institution that has the function, duties and authority to regulate and supervise financial services activities, one of which is the Capital Market. The bankruptcy case of securities companies occurred in 2015 as the Company PT. AAA which went bankrupt based on the first level Decision of the Commercial Court in Central Jakarta, due to the failure to implement risk management, the implementation of which is very important to be carried out so that securities companies avoid bankruptcy, technically the OJK has issued POJK Number 6 / POJK.04 / 2021 which at least includes: a. active supervision of the Board of Directors and Board of Commissioners of Securities Companies; b. adequacy of Risk Management policies

and procedures and determination of Risk limits; c. adequacy of the process of identification, measurement, monitoring, and control of Risk and the Risk Management information system; and; d. a comprehensive internal control system.

## References

- Adrian Sutedi, S. H. (2014). *Aspek hukum otoritas jasa keuangan*. RAS.
- Ahmad Rodoni. (2009). *Investasi Syariah*. Jakarta: UIN Jakarta.
- Alvarez, S. A., & Barney, J. B. (2014). Entrepreneurial opportunities and poverty alleviation. *Entrepreneurship theory and practice*, 38(1), 159-184. <https://doi.org/10.1111/etap.12078>
- Anoraga, P., & Pakarti, P. (2008). *Pengantar pasar modal*. Jakarta: Rineka Cipta.
- Astanti, D. I., & Juita, S. R. (2017). Kewenangan Otoritas Jasa Keuangan (OJK) Dalam Melakukan Fungsi Pengawasan Pada Lembaga Perbankan Syariah. *Jurnal Law and Justice*, 2(2). <https://doi.org/10.23917/laj.v2i2.5547>
- Atikah, I. (2020). Consumer protection and fintech companies in indonesia: innovations and challenges of the financial services authority. *Jurnal Hukum dan Peradilan*, 9(1), 132-153. <http://dx.doi.org/10.25216/jhp.9.1.2020.132-153>
- Chen, J. (2006). Development of Chinese small and medium-sized enterprises. *Journal of small business and enterprise development*, 13(2), 140-147. <https://doi.org/10.1108/14626000610665854>
- Diba, N. F., Disemadi, H. S., & Prananingtyas, P. (2020). Kebijakan Tata Kelola Otoritas Jasa Keuangan (OJK) Di Indonesia. *Ekspose: Jurnal Penelitian Hukum dan Pendidikan*, 18(2), 868-876. <https://doi.org/10.30863/ekspose.v18i2.48>
- Fathonih, A., Anggadwita, G., & Ibraimi, S. (2019). Sharia venture capital as financing alternative of Muslim entrepreneurs: Opportunities, challenges and future research directions. *Journal of Enterprising Communities: People and Places in the Global Economy*, 13(3), 333-352. <https://doi.org/10.1108/JEC-11-2018-0090>
- Fitriyanti, F., & Hanifah, E. W. (2023). The Role of the Financial Services Authority (OJK) in Supervising Illegal Investments in Indonesia. *Wacana Hukum*, 29(1), 33-40. <https://doi.org/10.33061/wh.v29i1.9251>
- Fuady, M. (2010). *Hukum pailit dalam teori dan praktek*. Citra Aditya Bakti.
- Haig, R. M. (2020). The concept of income—economic and legal aspects. In *Forerunners of Realizable Values Accounting in Financial Reporting* (pp. 140-167). Routledge.
- Hariyani, I., & Serfianto. (2010). *Buku Pintar Hukum Bisnis Pasar Modal: Strategi Tepat Investasi Saham, Obligasi, Waran, Right, Opsi, Reksadana, & Produk Pasar Modal Syari'ah*. Jakarta: Visi Media.
- Harjono, D. K. (2007). *Hukum Penanaman Modal*. Jakarta: PT Raja Grafindo Persada.
- Haudi, H., Wijoyo, H., & Cahyono, Y. (2020). Analysis of most influential factors to attract foreign direct investment. *Journal of Critical Reviews*, 7(13).
- Henderson, J. (2002). Building the rural economy with high-growth entrepreneurs. *Economic Review-Federal Reserve Bank of Kansas City*, 87(3), 45-75.
- Ingebretsen, M. (2003). *Why companies fail* (E. Salim, Trans.). Internusa.

- Kusuma, C. (2022). *The Rise of the Indonesian Financial Service Authority*. Springer Books.
- Lamprey, R. O. (2020). *The Influence of Bank-Based and Capital Market-Based Impact Investments on SME Financing in Ghana: Governance, Strategy Change and Impacts*. Open University (United Kingdom).
- Nikmah, A. A. (2021). *Strategi Bursa Efek Indonesia Kantor Perwakilan Lampung dalam Menumbuhkan Minat Masyarakat Berinvestasi di Pasar Modal Syariah* (Doctoral dissertation, IAIN Metro).
- Parr, R. L. (2018). *Intellectual property: valuation, exploitation, and infringement damages*. John Wiley & Sons.
- Shadily, H., Rokhmatussa'dyah, A., & Suratman. (2011). *Hukum Investasi dan Pasar Modal*. Jakarta: Sinar Grafika.
- Shubhan, M. H. (2012). *Hukum kepailitan: Prinsip, norma, dan praktik di peradilan*. Kencana Prenada Media Group.
- Sinaga, R. D. (2013). Sistem koordinasi antara Bank Indonesia dan Otoritas Jasa Keuangan dalam pengawasan bank setelah lahirnya Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan. *Jurnal Hukum Ekonomi, Universitas Sumatera Utara*.
- Susanto, W. (2021). SUPERVISION OF THE FINANCIAL SERVICES AUTHORITY IN THE FIELD OF INVESTMENT IN THE BANKING INDUSTRY BY AN INSURANCE COMPANY. *Awang Long Law Review*, 3(2), 143-151. <https://doi.org/10.56301/awl.v3i2.137>
- Tsindeliani, I. A., Proshunin, M. M., Sadovskaya, T. D., Popkova, Z. G., Davydova, M. A., & Babayan, O. A. (2022). Digital transformation of the banking system in the context of sustainable development. *Journal of Money Laundering Control*, 25(1), 165-180. <https://doi.org/10.1108/JMLC-02-2021-0011>
- Tyson, J. E. (2023). Capital market development in emerging economies. In *Research Handbook on Global Capital Markets Law* (pp. 124-140). Edward Elgar Publishing. <https://doi.org/10.4337/9781800379305.00015>
- Vernimmen, P., Quiry, P., & Le Fur, Y. (2022). *Corporate finance: theory and practice*. John Wiley & Sons.
- Wibowo, P. F. N. (2023). Kepastian dan Perlindungan Hukum dalam Penanaman Modal di Indonesia Ditinjau dari Undang-Undang 25 Tahun 2007 tentang Penanaman Modal. *UNES Law Review*, 6(2), 4414-4428. <https://doi.org/10.31933/unesrev.v6i2.1278>
- Zulham, Z., & Dayu, W. (2022). *Filsafat Gerakan Ekonomi Islam Indonesia*.