A. Models and Global Trends

1. Regulatory structure of financial regulators is a complex issue and has been subject to much discussion and studies. Although there is no consensus on the best model, they can be generally divided into 4 categories. First, the institutional or sectoral model where the legal status of the financial intermediary determines which regulator is responsible for their supervision and market conduct. The second model is functional where intermediaries are regulated based on the activities or function they play in the financial sector. The third and fourth model are both considered integrated model, either where both prudential supervision and market conduct of all financial intermediaries is regulated by a single unified regulator and the ‘twin-peaks’ model where the central banks are responsible for all prudential issues including financial stability, crisis management and payment systems and another regulator focuses on market misconduct and issues between intermediaries and investors or customers throughout the financial sector.¹

2. The structure adopted by a country is influenced by several factors and may vary from one period to another. One of the biggest influence is the structure of the financial sector itself. There has been a significant increase in the integrated model with the increased of cross-sector and cross border consolidation of financial intermediaries and the increased number of conglomerates where a company with several subsidiaries operate in all subsector of the financial sector (banking, capital market and insurance).² The integrated model is believed to be in the best position to minimize regulatory gaps, arbitrage and to protect competitive neutrality. This model also brings more efficient resource allocation, harmonization of regulatory criteria and unification of reporting requirements. Some prominent examples include the Federal Financial Supervisory Authority (BaFIN) in Germany, the Swiss Financial Market Supervisory Authority (FINMA), The Financial Services Agency (J-FSA) in Japan and the Monetary Authority in Singapore. The IMF paper shows that number of integrated regulator increased from less than 5 in the 1985 to 29 by the end of 2004 with half of them in Europe.

3. Since that period, there has been further developments in Europe. The examples of the Financial Services Authority (FSA) in UK and BaFIN of Germany provides useful insights. In 2012, the conservative government in UK enacted the Financial Services Act which brought the Bank of England back to the center of financial regulation through the Financial Policy Committee. The FSA was replaced with the Financial Conduct Authority with the mandate for conduct and compliance of firms across the industry not considered of systemic importance. The task of prudential regulations for systemic important institutions was the mandate of the Prudential Regulatory Authority which, a subsidiary of the Bank of England. In effect, the UK regulatory model moved from a single unified regulator to the ‘twin-peaks’ model. This change however can be traced back to 2007 during the global financial crisis. The FSA was held responsible for allowing irresponsible banking practices which led to the credit crunch, shrinking of the UK housing market and public acquisition of Northern Rock. On the other hand, Germany maintained its single regulator model through BaFIN which is responsible for supervision of the banking, insurance and capital market sub sectors. BaFIN shares the task of banking supervision with the Bundesbank through a memorandum of understanding, though BaFIN has final enforcement powers. Similarly, the single integrated regulator structure in Japan and Singapore survived the

¹ Further discussion of the different models can be read from Elisabette Montanaro, 2016. ‘Central Banks and Financial Supervision’, Estonia.
crisis whereas Switzerland strengthened its single regulator structure through the creation of FINMA.

B. Creation of OJK and Coordination with Bank Indonesia

4. The establishment of OJK can be traced to 1999 when, following policy dialogue between the government and ADB, Parliament passed the Banking Law to insulate the regulatory and supervisory framework from political interference. Due to the 1997–1999 financial crisis and concerns about the transition from several regulators into one, the Parliament postponed the establishment of OJK from 2002 to 2010. The OJK Law was enacted in 2011, and OJK started implementing its mandate to regulate the capital market and nonbank financial institutions in December 2012. The OJK took over the banking supervision function from Bank Indonesia on 1 January 2014, thus becoming the unified regulator of all three sub-sectors.

5. Despite OJK’s position as a single unified regulator, the role of Bank Indonesia (BI) and the cooperation between the two institutions is made clear in the OJK Law. Article 7 of the law, states that apart from the micro-prudential role of OJK, BI will be fully responsible as the macro prudential regulator. This role will require strong coordination with OJK to safeguard financial stability and reduce the overall cost of regulatory and supervisory activities. Article 39 of the law specify the institutional arrangements of information sharing and coordination between OJK and BI in relation to OJK’s regulatory functions including minimum capital requirements, banking products, new business of banking institutions and the designation of systematically important financial institution.


6. Financial stability in Indonesia is considered a joint responsibility between the government, BI, OJK, the Deposit Insurance Corporation (LPS) through the creation of the Financial Stability Forum (FKSSK). Article 41 of the OJK Law mandates OJK to ensure effective coordination with the Deposit Insurance Corporation (LPS) and Bank Indonesia which covers among other pre-crisis coordination on “weak banking institutions” or “institutions facing a liquidity event”. The FKSSK was institutionalized as the Financial Stability Committee (KSSK) through the enactment of the Law on Prevention and Resolution of Financial System Crisis in 2016 discussed below.

7. The 2016 Law provides that the KSSK is to be chaired by the Minister of Finance and comprises of the Chairman of OJK, Governor of BI and Chairman of LPS. Decisions in the KSSK are principally intended to be made on a consensus basis, failing which a majority vote. The Minister, Governor of BI and Chairman of OJK each have one vote; the Chairman of LPS is not a voting member. Article 17 of the Law provides that OJK will coordinate with BI to determine banks considered of systemic importance and the agreed list is to be reported to the KSSK. Article 18 provides the OJK with the authority to determine capital surcharge for the systemic banks. Furthermore, the provisions on capital adequacy ratio, liquidity coverage ratio, and the recovery plan of a systemic bank shall be provided in OJK’s regulation which are being developed.

8. To conclude, the institutionalizing of KSSK and the information sharing and cooperation arrangement in both the OJK Law and the law on Prevention and Resolution of Financial System Crisis provides for an effective nationwide decision making process and proper crisis prevention and management protocols. International experience tells us that the most important factor to safeguard financial stability is not necessarily the structure of the regulator but an effective coordination mechanism and sharing of information between the relevant stakeholders.