



## THE URGENCY OF ACCELERATING THE REALIZATION OF THE POLICY GUARANTEE PROGRAM AS AN EFFORT TO PROTECT THE INSURED DUE TO DEFAULT ON INSURANCE COMPANY CLAIMS

Anang Seputro

University of Indonesia, anang1109@gmail.com

### Abstract

A series of cases of massive claim default, such as the one that befell PT Asuransi Jiwasraya with losses of more than sixteen trillion rupiah and PT Asuransi Jiwa Kresna which harmed thousands of policyholders, clearly reveal the absence of an effective and fast legal protection mechanism for the insured. This study aims to analyze the urgency of accelerating the implementation of the Policy Guarantee Program as a vital instrument of legal protection for policyholders, as well as evaluating the adequacy of the current regulatory framework. The research method used is normative juridical by integrating a legal approach, a conceptual approach, and a comparative legal. The results show that delays in program implementation have the potential to significantly increase the accumulation of policyholder losses and increase systemic risks in the financial services sector. Different from previous research which mostly focused on the urgency of establishing institutional aspects, this study provides a more advanced academic contribution in the form of formulation of concrete recommendations on the substance of Government Regulations that must be issued, including, among others, the determination of policy guarantee value limits, specific criteria for the level of financial health of the insurance companies participating in the program, and an integrated coordination mechanism between financial sector supervisory authorities. Thus, this study offers an applicative normative roadmap to ensure preventive and responsive legal protection before the official implementation deadline.

**Keywords:** Policy Guarantee Program, Policyholder Legal Protection, Legal Comparison, Financial Sector Regulatory Framework.

### A. Introduction

The insurance industry is one of the important pillars in the national financial system which functions as a mechanism for diversion and risk management in people's economic activities. The existence of

insurance not only provides financial protection for individuals and business entities, but also contributes to economic stability through long-term fundraising.<sup>1</sup> However, in practice, the insurance industry in Indonesia is still faced with various

<sup>1</sup>J. David Cummins and Bertrand Venard, Handbook of International Insurance Between Global Dynamics

and Local Contingencies (Cham: Springer Nature, 2021), 45.



fundamental problems, one of which is the failure of insurance companies to fulfill their claim payment obligations to policyholders.

The phenomenon of claim default is a serious problem that not only impacts the insured's financial losses, but also creates legal uncertainty and lowers the level of public trust in the insurance industry as a whole.<sup>2</sup> In recent years, the default case involving PT Asuransi Jiwasraya was recorded as one of the largest scandals in the financial services sector with the value of state losses reaching sixteen point eight trillion rupiah. The case of PT Asuransi Jiwa Kresna also harmed more than eight thousand policyholders with total funds under management of six point four trillion rupiah due to investment placements in affiliated

shares which reached eighty percent of total assets.

Normatively, the protection of policyholders has been regulated in Law Number 40 of 2014 concerning Insurance which emphasizes the principles of prudence and financial health of insurance companies. However, the arrangement focuses more on the prevention aspect through supervision and risk control, and has not provided a recovering protection mechanism when insurance companies fail to pay claims.<sup>3</sup>

As an answer to these weaknesses, the government through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector has given a mandate to the Deposit Insurance Corporation to implement the Policy

---

<sup>2</sup>Sojung Carol Park and Xiaoying Xie, "An Analysis of Systemic Risk in the Insurance Industry Evidence from the Asia Pacific Region," *Asia Pacific Journal of Risk and Insurance* 8, no. 2 (2014): 199 to 200.

<sup>3</sup>Ebenezer Butar Butar et al., "Legal Certainty for the Implementation of the Policy Guarantee Program for

Insurance Policyholders After the Enactment of the Law on the Development and Strengthening of the Financial Sector," *Locus Journal of Academic Literature Review* 3, no. 4 (2024): 225.



Guarantee Program. It is important to understand that Article 5 paragraph (2) letter b of Law Number 24 of 2004 as amended by Law Number 4 of 2023 emphasizes that the policy guarantee function is an additional authority of the Deposit Insurance Institution, not a new institution that stands alone.<sup>4</sup> Article 329 of the Financial Sector Development and Strengthening Law provides a five-year deadline from its promulgation on January 12, 2023, so that the Policy Guarantee Program will be effective on January 12, 2028.

From an economic law perspective, the five-year preparation period has the potential to increase the risk of losses experienced by insureds and weaken the stability of the financial services sector. In the absence of an

active guarantee mechanism, policyholders are in a vulnerable position when insurance companies default.<sup>5</sup> In addition, the absence of an effective policy underwriting institution can pose systemic risks or spreading risks that have a broad impact on public confidence in the financial industry.

Various previous studies have discussed the urgency of establishing policy guarantee institutions, including Widywati, Siregar, and Khikmah. These studies generally discuss the need for the establishment of institutions before the issuance of the Law on the Development and Strengthening of the Financial Sector. The position of this research is different because it focuses on accelerating the implementation after the issuance of the law and formulating

---

<sup>4</sup>Uswatun Hasanah and Rini Wibowo, "The Effectiveness of Insurance Policyholder Protection Laws in the Indonesian Insurance System," *Journal of Law and Development* 54, no. 1 (2024): 92.

<sup>5</sup>Yos Johan Utama Suhardin and Hartana, "New Authority of Deposit Insurance Institutions to

Guarantee Insurance Policies after the Enactment of the Law on the Development and Strengthening of the Financial Sector," *Indonesian Business Law Journal* 12, no. 2 (2024): 180.



concrete recommendations on the substance of the implementing regulation, the guarantee value limit, participant criteria, and the coordination mechanism between authorities. This is the academic novelty offered by this research.<sup>6</sup>

## **B. Problem Formulation**

Based on the description above, there are two problem formulations that will be answered in this study. First, how to regulate the legal regulation of policyholder protection in the Indonesian insurance system after the enactment of the Law on the Development and Strengthening of the Financial Sector. Second, what is the urgency of accelerating the realization of the Policy Guarantee Program as an instrument of legal protection for the insured.

## **C. Research Objectives**

The purpose of the research is to affirm the formulation of the problem to be researched.

## **D. Research Methods**

This research uses normative legal research methods as formulated by Peter Mahmud Marzuki.<sup>7</sup> Three approaches are used simultaneously. First, the legislative approach is carried out by examining Law Number 40 of 2014 concerning Insurance, Law Number 24 of 2004 concerning Deposit Insurance Institutions as amended, and Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector. Second, a conceptual approach is used to dissect Philipus M. Hadjon's theory of legal protection, Gustav

---

<sup>6</sup>Roxana Caja Espana and Mario Pellegrini, "Policyholder Protection Schemes in Situations of Insurer Insolvency. A Comparative Study Between States and Jurisdictions," *The Geneva Papers on Risk and Insurance Issues and Practice* 45, no. 3 (2020): 420.

<sup>7</sup>Ardita Rahma Putri and Bayu Pratama, "Reformulation of Policy Guarantee Policy After the Law on the Development and Strengthening of the Financial Sector," *Journal of Ius Constituendum* 10, no. 1 (2025): 62.



Radbruch's theory of legal certainty, and John Rawls's theory of justice. Third, a comparative legal approach was used to examine the practice of the Policy Guarantee Program in Malaysia and South Korea.

There are three types of sources of legal materials. Primary legal materials are laws and regulations and court decisions. Secondary legal materials are in the form of books, journal articles indexed by Scopus and Sinta, as well as official reports of the Financial Services Authority and the Deposit Insurance Agency. Tertiary legal materials are in the form of legal dictionaries and encyclopedias. The collection of legal materials is carried out through literature studies and analyzed qualitatively using systematic and teleological interpretation techniques

## **E. Research Results and Discussion**

### **1. Legal Arrangements for Policyholder Protection in the**

### **Indonesian Insurance System After the Enactment of the Law on the Development and Strengthening of the Financial Sector**

The regulation of policyholder protection in Indonesia has a long history that began during the Dutch colonial rule through the *Wetboek van Koophandel* or the Commercial Law Code, especially Articles 246 to 308 which regulate insurance in general. The arrangement is very limited because it only regulates the contractual relationship between the insurer and the insured without providing a strong protection framework when the insurance company goes bankrupt.

The era of modern regulation began with the promulgation of Law Number 2 of 1992 concerning Insurance Business. This law became the initial milestone of supervision of the insurance industry by the



state through the Ministry of Finance. Unfortunately, this law does not contain provisions on policy guarantee programs so that when the economic crisis in 1998 hit Indonesia, many insurance companies went bankrupt without a protection mechanism for the insured.

Law Number 40 of 2014 concerning Insurance brought important changes. In Article 53 paragraphs (1) to (4) of this law, it has been mandated to establish a policy guarantee program which should be formed three years after the law was promulgated, which is no later than 2017. However, the mandate was not carried out on time and continued to be delayed for almost ten years. This delay is ironic because at the same time, the banking sector has had a Deposit

Insurance Corporation since 2004 based on Law Number 24 of 2004.<sup>8</sup>

In addition to the main law, policyholder protection is also supported by a number of Financial Services Authority Regulations. Financial Services Authority Regulation Number 71 of 2016 concerning the Financial Health of Insurance and Reinsurance Companies regulates the level of risk-based capital capability or Risk Based Capital with a minimum threshold of one hundred and twenty percent. Financial Services Authority Regulation Number 73 of 2016 concerning Good Corporate Governance for Insurance Companies regulates the governance structure, risk management system, and internal control. Although this regulatory apparatus is quite complete in terms of prevention, the case of

---

<sup>8</sup>Peter Mahmud Marzuki, Legal Research Revised Edition (Jakarta: Kencana Prenada Media Group, 2017), 133.



default cases shows that the preventive device alone is not enough.<sup>9</sup>

## **2. Empirical Case Study of Insurance Company Default in Indonesia**

The weakness of the preventive approach in the policyholder protection system is evident from a number of default cases involving large insurance companies in Indonesia. The following three cases will be analyzed in depth as they provide a comprehensive overview of the root causes that drive the importance of the Policy Guarantee Program.<sup>10</sup>

The first case was PT Asuransi Jiwasraya (Persero) which was revealed at the end of 2018. Based on the Supreme Court Decision, this company caused state losses of

sixteen point eight trillion rupiah and harmed more than seventeen thousand policyholders of JS Saving Plan products.<sup>11</sup> The mode used is the placement of customer funds in high-risk stocks categorized as fried stocks, then price engineering is carried out through a recurring buying and selling scheme with several affiliated investment managers. JS Saving Plan products are sold with a promise of a return of nine to thirteen percent per year, far above the bank deposit interest rate which only ranged from five to seven percent in the same period. The promise of high returns is an attraction for customers, but at the same time it is not worth the investment risk that the company actually bears.

The second case is PT Asuransi Jiwa Kresna or Kresna Life which lasted from

---

<sup>9</sup>Bonardo Panjaitan et al., "Realizing Legal Certainty of Policy Guarantee Programs to Protect Insurance Policyholders," SETARA Journal of Law 3, no. 1 (2022): 8.

<sup>10</sup>Hasanah and Wibowo, "The Effectiveness of Policyholder Protection Laws," 95.

<sup>11</sup>Decision of the Supreme Court of the Republic of Indonesia Number 1247 K/Pid.Sus/2021 in the Case of PT Asuransi Jiwasraya.



2019 to 2023. Kresna Life invests in affiliated shares amounting to eighty percent of the company's total assets, far exceeding the maximum limit of ten percent set by the Financial Services Authority Regulation Number 71 of 2016.<sup>12</sup> The total loss reached six point four trillion rupiah with the number of affected policyholders as many as eight thousand six hundred people. Most concerning is that the reporting of the level of capital capability by risk shows a very suspicious range, from plus two hundred and sixty-one percent in one period to minus six hundred and sixty-three percent in the next. In addition, the process of revoking the permit by the Financial Services Authority was delayed due to a lawsuit to the State Administrative Court which added to the complexity of handling this case.

The third case is PT Asuransi Sosial Angkatan Berarmed Republik Indonesia or ASABRI which was also revealed in 2020. Based on the Supreme Court Decision, the state's losses in this case reached twenty-two point seven trillion rupiah.<sup>13</sup> The pattern found is similar to Jiwasraya, namely the placement of funds in high-risk stock stocks with suspected price engineering. What distinguishes the ASABRI case is that the policyholders are soldiers of the Indonesian National Army, members of the Indonesian National Police, and civil servants within the Ministry of Defense, who should receive the strongest protection from the state.

The three cases show the same pattern. First, corporate governance failures which are characterized by the dominance of majority shareholders over investment

---

<sup>12</sup>Butar Butar et al., "Legal Certainty of the Implementation of the Policy Guarantee Program," 230 to 232.

<sup>13</sup>Decision of the Supreme Court of the Republic of Indonesia Number 1444 K/Pid.Sus/2022 in the PT ASABRI Case.



decisions. Second, the failure of the supervision of the Financial Services Authority to act when the losses are already very large. Third, there is no recovery mechanism so that the policyholder bears his own losses. The total losses from the three cases reached forty-five point nine trillion rupiah, a very significant figure on the scale of the national economy

### **3. Strengthening the Protection Framework After the Enactment of the Law on the Development and Strengthening of the Financial Sector**

After the enactment of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector, there has been a very significant strengthening in the framework of policyholder protection.

This strengthening can be seen from the four main aspects that will be described below.

The first aspect is the expansion of the authority of the Deposit Insurance Corporation. Article 5 paragraph (2) b of the Law on the Deposit Insurance Corporation as amended expands the authority of this institution to guarantee insurance policies in addition to the previous function of guaranteeing bank deposits. Article 3A even expressly states that the Deposit Insurance Corporation aims to guarantee and protect public funds placed in Banks and Insurance Companies. Thus, the Deposit Insurance Corporation is transforming from a single deposit guarantee institution to an integrated financial guarantee institution covering two main sectors.<sup>14</sup>

The second aspect is the strengthening of integrated supervision. The Law on the

---

<sup>14</sup>Suhardin and Hartana, "The New Authority of the Deposit Insurance Corporation," 184.



Development and Strengthening of the Financial Sector strengthens the role of the Financial Services Authority in conducting integrated supervision of all financial services institutions, including insurance companies, in order to detect potential problems early. This strengthening reflects a dual protection approach, which is a combination of protection that prevents through supervision and protection that restores through guarantee mechanisms.<sup>15</sup>

The third aspect is the affirmation of membership obligations. Every insurance company and sharia insurance company that meets a certain level of health is required to be a participant in the Policy Guarantee Program. Each participant is required to pay an initial contribution at the time of becoming a participant and periodic contributions

during their time as a participant. The amount of contributions will be regulated in Government Regulation after consultation with the House of Representatives of the Republic of Indonesia. This kind of contribution scheme uses the principle of mutual cooperation in which a healthy insurance company helps bear the burden of reimbursing policyholders from a bankrupt insurance company.

The fourth aspect is the establishment of a clear guarantee mechanism. This law stipulates two forms of guarantees, namely the transfer of the policy portfolio to another healthy insurance company, or the return of the policyholder's rights up to a certain guarantee limit. The selection between the two mechanisms will be determined by the Deposit Insurance Corporation based on the

---

<sup>15</sup>Diah Anggraeni and Wahyu Budi Pratomo, "The Impact of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial

Sector on the Sustainability of the Insurance Industry in Indonesia," *Bonum Commune 6 Business Law Journal*, no. 2 (2023): 150.



condition of the insurance company whose license has been revoked.

Despite significant strengthening, the provisions in the Financial Sector Development and Strengthening Law are still a general framework that requires further regulation through Government Regulations and Deposit Insurance Corporation Regulations. Until early 2026, the Government Regulation as an implementing regulation has not been issued, while the effective deadline for the Policy Guarantee Program on January 12, 2028 is approaching. The delay in the issuance of this implementing regulation is one of the main obstacles to accelerating implementation.<sup>16</sup>

In the perspective of legal protection theory put forward by Philipus M. Hadjon,

legal protection is divided into two forms, namely preventive protection and restorative protection.<sup>17</sup> Preventive protection aims to prevent rights violations from occurring, while restorative protection aims to restore rights that have been violated. Indonesia's insurance system has been dominated by preventive protection through the supervision of the Financial Services Authority, the principle of prudence, and financial health obligations. In fact, restorative protection is just as important, even more so when the risk of default is real.

In the perspective of Gustav Radbruch's theory of legal certainty, law must provide three basic values, namely justice, utility, and certainty. These three values must be balanced. In the context of

<sup>16</sup>Merdeka, "Progress of the Deposit Insurance Institution Policy Guarantee Program Reaches 85 Percent, Implementation Target Accelerated," January 23, 2026, accessed from the official website of Merdeka.

<sup>17</sup>Philipus M. Hadjon, *Legal Protection for the Indonesian People* (Surabaya: Bina Ilmu, 1987), 25 to 30.



policy guarantees, legal certainty means that the insured has the right to know clearly how much protection he will receive if the insurance company defaults, when the protection can be accessed, and through what mechanism. When the new Policy Guarantee Program takes effect in 2028, legal certainty for policyholders who incur losses before that date is compromised.<sup>18</sup>

In the perspective of John Rawls's theory of justice, the principle of equal opportunity demands that every citizen obtain equal protection from the state in financial relationships. Currently, banking customers have been protected by the Deposit Insurance Corporation since 2004 with a guarantee limit of two billion rupiah per customer per bank. Meanwhile, insurance policyholders have not received equal protection. This condition creates structural

injustices that are actually contrary to the principle of distributive justice. Delaying the implementation of the Policy Guarantee Program until 2028 means prolonging this injustice for five years after the law is enacted.<sup>19</sup>

If these three theories are combined, it can be concluded that the Law on the Development and Strengthening of the Financial Sector has normatively fulfilled the principles of legal protection, legal certainty, and justice. However, implementably, the mandate has not met the element of usefulness because policyholders have not been able to enjoy real protection. The gap between written norms and real practice is the main problem and becomes the basis for the urgency of accelerating implementation which will be discussed in the next sub-chapter.

<sup>18</sup>Hasanah and Wibowo, "The Effectiveness of Policyholder Protection Laws," 100.

<sup>19</sup>Putri and Pratama, "Reformulation of Policy Guarantee Policy," 68.



#### **4. The Urgency of Accelerating the Realization of the Policy Guarantee Program in the Legal Protection of Insured Persons**

The urgency of accelerating the Policy Guarantee Program is supported by a number of empirical indicators that show a crisis of confidence in the Indonesian insurance industry. The first indicator is the decrease in life insurance premiums. Based on data from the Financial Services Authority, total insurance premiums in 2019 were recorded at four hundred and eighty-one point one trillion rupiah and increased to five hundred and three point three trillion rupiah in 2020 with a growth of four point six percent. However, in 2023, life insurance premiums will decrease by nine point ninety-four percent on an annual basis. This decline took place in the midst of relatively stable national

economic growth, so it cannot be interpreted solely as ordinary economic dynamics, but as an indicator of declining public trust.<sup>20</sup>

The second indicator is the decline in the insurance penetration rate. The insurance penetration rate in Indonesia is only around two point seven percent of Gross Domestic Product, far behind Singapore which reaches nine percent, Malaysia five point four percent, and Thailand four point nine percent. This low penetration rate shows that Indonesians do not fully believe that buying an insurance policy is a financially safe decision. In fact, insurance is one of the main instruments in the financial planning of modern society.

The third indicator is the increasing number of consumer complaints in the insurance sector. Based on data from the Financial Services Authority, the number of

---

<sup>20</sup>Financial Services Authority, Indonesian Insurance Statistics for 2020 to 2023 (Jakarta: Directorate of

Statistics and Information of the Non-Bank Financial Industry Financial Services Authority, 2023), 12.



complaints related to insurance claims continues to increase from year to year, with the largest complaints in the form of claim rejections, late payments, and unclear policy provisions. This increase in complaints is a clear indicator that the relationship of trust between insurance companies and policyholders is at a critical point.

In financial system theory, trust is a fundamental element that determines the sustainability of the financial services industry. When public trust is disturbed, excessive risk-avoidance behaviors will emerge, including the tendency of people to delay purchasing policies or withdrawing funds. Park and Xie emphasized that policyholder protection schemes are an important element in reducing systemic risks to the insurance industry in the Asia Pacific

region.<sup>21</sup> The study found that countries with active policyholder protection schemes experienced a faster recovery of trust after the financial crisis than countries that did not have a similar scheme.

Malaysia has significant experience in the formation of policyholder protection schemes. The scheme implemented is called *the Takaful and Insurance Benefits Protection System* which is maintained by Perbadanan Insurans Deposit Malaysia. The scheme came into effect on 31 December 2010 under the *Malaysia Deposit Insurance Corporation Act 2011*, approximately two years after the amendment to the deposit insurance company law was passed.<sup>22</sup>

The coverage of *the Takaful and Insurance Benefits Protection System* is very broad. In 2021, Perbadanan Insurans Deposit

---

<sup>21</sup>Park and Xie, "An Analysis of Systemic Risk in the Insurance Industry," 215.

<sup>22</sup>Putri Sekarayu and Sharifa Hanifah Rambe, "The Institutional Form of the Policy Guarantee Program in

Indonesia: A Comparative Study between Indonesia and Malaysia and South Korea," *Dharmasiswa Journal of the Master of Law Program, Faculty of Law, University of Indonesia* 1, no. 3 (2022): 9.



Malaysia expanded coverage by removing most of the exemptions. Currently, almost all benefits under insurance policies applicable in the Malaysian market are covered, except for benefits in foreign currencies, policies issued outside Malaysia, as well as maturity benefits and the cash value of the investment portion of the unit-linked policy. Death benefits derived from the unit-linked portion remain protected.<sup>23</sup>

Membership in Perbadanan Insurans Deposit Malaysia is mandatory for all takaful operators licensed under the *Islamic Financial Services Act 2013* and all insurance companies licensed under *the Financial Services Act 2013*, including subsidiaries of foreign insurance companies operating in Malaysia. Exemptions are only given to pure reinsurance companies and National Guarantee Fund Berhad. Protection is

provided automatically to policyholders without the need for registration or payment of additional fees.

What is interesting about the Malaysian system is its funding. Perbadanan Insurans Deposit Malaysia is fully funded from premiums or dues collected from the participating board and does not receive public funds for operations. This institution also has the authority to borrow or collect funds to fulfill its legal obligations. This kind of self-funding scheme is very attractive for Indonesia to adopt because it does not burden the State Revenue and Expenditure Budget.

The handling mechanism when insurance companies fail in Malaysia is run through two schemes. The first scheme is continuity of protection, which is transferring the policy to another healthy insurance company. The second scheme is the payment

---

<sup>23</sup>Perbadanan Insurans Deposit Malaysia, Takaful and Insurance Benefits Protection System Information

Materials (Kuala Lumpur: Perbadanan Insurans Deposit Malaysia, 2021), 4.



of benefits directly to the policyholder if the insurance company is no longer able to continue its operations. Claims must be filed within the stipulated time frame after the claim event, policy maturity, or policy surrender.<sup>24</sup>

South Korea implements a policyholder protection scheme through *the Korea Deposit Insurance Corporation* which has been established since 1996. In 2003, the institution was given an additional mandate to guarantee insurance policies with a guarantee limit of fifty million South Korean won or the equivalent of about five hundred and eighty million rupiah per policyholder per insurance company. This scheme applies to all life insurance companies and general insurance companies operating in South Korea.<sup>25</sup>

A distinctive characteristic of *the Korea Deposit Insurance Corporation* is the dual role of the manager of the guarantee fund as well as the resolution authority that handles the troubled insurance company. This institution is authorized to liquidate, transfer portfolios, or inject capital to insurance companies experiencing financial difficulties. This approach is different from the Indonesian model where the supervisory function is in the Financial Services Authority while the guarantee function is in the Deposit Insurance Corporation.

The Indonesian Deposit Insurance Corporation has been cooperating with *Korea Deposit Insurance Corporation* since the end of 2023, including the assignment of employees of the Deposit Insurance Corporation at *Korea Deposit Insurance*

---

<sup>24</sup>Perbadanan Insurans Deposit Malaysia, Takaful and Insurance Benefits Protection System Information Materials, 7.

<sup>25</sup>Sekarayu and Rambe, "The Institutional Form of the Policy Guarantee Program," 13.



*Corporation* and vice versa. This cooperation demonstrates the Deposit Insurance Corporation's serious commitment to learning from good practices from other countries.<sup>26</sup>

What is interesting about *Korea Deposit Insurance Corporation* is its risk-based contribution scheme. Insurance companies that are more at risk of paying higher premiums than healthy insurance companies. This approach is fair because the burden of protection is borne proportionately according to the risk level of each participant. This approach also provides a disincentive for insurers to take excessive risks, thus simultaneously serving as a preventive mechanism.

The delay in the implementation of the Policy Guarantee Program until 2028 has the

potential to cause three systemic risks that must be watched out for. The first risk is the risk of spreading between insurance companies. If one large insurance company fails without an active underwriting mechanism, public panic can spread to other insurance companies that are actually healthy. Policyholders can make policy withdrawals simultaneously which in the long run can trigger a chain failure.<sup>27</sup>

The second risk is the risk of spreading between the financial services sector. The insurance industry is closely linked to the banking industry, capital markets, and pension funds through investment placement. The failure of a large insurance company can trigger losses to the bank that places funds in the insurance company or on the capital market through the forced sale of shares

---

<sup>26</sup>Deposit Insurance Institution, *Innovation of Deposit Insurance Institutions in Handling Guarantee Claims and Mandate of Deposit Insurance Institutions in Accordance with the Law on the Development and*

*Strengthening of the Financial Sector* (Jakarta: Deposit Insurance Corporation, 2024), 18.

<sup>27</sup>Park and Xie, "An Analysis of Systemic Risk in the Insurance Industry," 220.



owned by the insurance company. Research by Caja Espana and Pellegrini shows that the interconnectedness between the financial services sector today is much more complex than it was two decades ago, making protection schemes even more crucial.<sup>28</sup>

The third risk is the risk of declining public confidence in the financial services sector as a whole. When the public sees that banking customers are protected while insurance policyholders are not protected, there will be a perception of structural injustice. This perception can erode public trust not only in insurance, but also in the financial system in general.<sup>29</sup>

The institutional readiness of the Deposit Insurance Corporation to implement the Policy Guarantee Program has reached a very good level. Based on the official news

of the Deposit Insurance Corporation in January 2026, preparations have reached eighty-five percent, covering four main aspects, namely program design, regulatory preparation, information technology infrastructure development, and human resource readiness. The Deposit Insurance Corporation even stated its readiness to accelerate the implementation to 2027.<sup>30</sup>

In addition, the Deposit Insurance Corporation has been a full member of *the International Forum of Insurance Guarantee Schemes* since October 2023. The forum is made up of twenty-five insurance underwriters from twenty-two countries. This membership provides access to the exchange of information and experience from countries that have already implemented policy guarantee schemes. This strengthens the

<sup>28</sup>Caja Espana and Pellegrini, "Policyholder Protection Schemes in Situations of Insurer Insolvency," 430.

<sup>29</sup>Hasanah and Wibowo, "The Effectiveness of Policyholder Protection Laws," 105.

<sup>30</sup>Merdeka, "Progress of the Deposit Insurance Board's Policy Guarantee Program Reaches 85 Percent."



argument that the main obstacle is not in the technical aspect or institutional competence, but in the political aspect in the form of the unissued Government Regulation as an implementing regulation.<sup>31</sup>

The Deposit Insurance Corporation has also established a special Directorate for the implementation of the Policy Guarantee Program and continues to recruit experts in the field of insurance. The Integrated Information Exchange Facility between the Deposit Insurance Corporation and the Financial Services Authority is targeted to be fully operational by 2025, so that the policyholder-based policy data exchange system can run on time by 2028.

## F. Conclusion

Based on the above analysis, two main conclusions can be drawn. First, the regulation of legal protection for

policyholders in the Indonesian insurance system after the enactment of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector shows normative strengthening through the granting of additional authority to the Deposit Insurance Corporation to implement the Policy Guarantee Program. This reflects a shift in the pattern of protection from prevention to a combination of prevention and recovery. However, there is still a gap between normative mandates and the reality of legal protection in society, as seen in the case of PT Asuransi Jiwasraya with a loss of sixteen point eight trillion rupiah, PT Asuransi Jiwa Kresna with a loss of six point four trillion rupiah, and PT ASABRI with a loss of twenty-two point seven trillion rupiah.

Second, the determination of the effective target for the enactment of the

---

<sup>31</sup>Deposit Insurance Agency, Deposit Insurance Corporation Innovation, 22.



Policy Guarantee Program on January 12, 2028 as stipulated in Article 329 of the Law on the Development and Strengthening of the Financial Sector is not in line with the level of urgency of legal protection needed. A comparative study with Malaysia which takes about two years and South Korea which takes about three years shows that Indonesia is able to operationalize the Policy Guarantee Program faster. Moreover, the readiness of the Deposit Insurance Corporation has reached eighty-five percent in early 2026.

The author recommends four concrete steps, namely accelerating the issuance of Government Regulations with a clear mechanism substance, setting the guarantee limit in the range of five hundred million rupiah to seven hundred and fifty million rupiah per policyholder, setting a threshold for the level of capital ability based on a minimum risk of two hundred percent for participating insurance companies, and

strengthening the coordination mechanism between financial authorities through the Financial System Stability Committee. These four recommendations are expected to be an academic contribution for policymakers in accelerating the realization of the Policy Guarantee Program as a real legal protection effort for the insured

## Bibliography

### 1. Book

- Cummins, J. David, dan Bertrand Venard. Handbook of International Insurance Between Global Dynamics and Local Contingencies. Cham: Springer Nature, 2021.
- Hadjon, Philipus M. Perlindungan Hukum bagi Rakyat Indonesia Sebuah Studi tentang Prinsip Prinsipnya, Penanganannya oleh Pengadilan dalam Lingkungan Peradilan Umum dan Pembentukan Peradilan Administrasi Negara. Surabaya: Bina Ilmu, 1987.
- Marzuki, Peter Mahmud. Penelitian Hukum Edisi Revisi. Jakarta: Kencana Prenada Media Group, 2017.

### 2. Journal Articles

- Anggraeni, Diah, dan Wahyu Budi Pratomo. "Dampak Undang Undang Nomor 4



- Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan terhadap Kelangsungan Industri Asuransi di Indonesia.” *Jurnal Hukum Bisnis Bonum Commune* 6, no. 2 (2023)
- Butar Butar, Ebenezer, Bismar Nasution, Sunarmi, dan Mahmul Siregar. “Kepastian Hukum Pelaksanaan Program Penjaminan Polis bagi Pemegang Polis Asuransi Pasca Berlakunya Undang Undang Pengembangan dan Penguatan Sektor Keuangan.” *Locus Journal of Academic Literature Review* 3, no. 4 (2024)
- Caja Espana, Roxana, dan Mario Pellegrini. “Policyholder Protection Schemes in Situations of Insurer Insolvency. A Comparative Study Between States and Jurisdictions.” *The Geneva Papers on Risk and Insurance Issues and Practice* 45, no. 3 (2020)
- Hasanah, Uswatun, dan Rini Wibowo. “Efektivitas Hukum Perlindungan Pemegang Polis Asuransi dalam Sistem Perasuransian Indonesia.” *Jurnal Hukum dan Pembangunan* 54, no. 1 (2024)
- Panjaitan, Bonardo, Ningrum Natasya Sirait, Mahmul Siregar, dan Detania Sukarja. “Mewujudkan Kepastian Hukum Program Penjaminan Polis untuk Melindungi Pemegang Polis Asuransi.” *SETARA Jurnal Ilmu Hukum* 3, no. 1 (2022)
- Park, Sojung Carol, dan Xiaoying Xie. “An Analysis of Systemic Risk in the Insurance Industry Evidence from the Asia Pacific Region.” *Asia Pacific Journal of Risk and Insurance* 8, no. 2 (2014)
- Putri, Ardita Rahma, dan Bayu Pratama. “Reformulasi Kebijakan Penjaminan Polis Pasca Undang Undang Pengembangan dan Penguatan Sektor Keuangan.” *Jurnal Ius Constituendum* 10, no. 1 (2025)
- Sekarayu, Putri, dan Sharifa Hanifah Rambe. “Bentuk Kelembagaan Program Penjaminan Polis di Indonesia Studi Perbandingan antara Indonesia dengan Malaysia dan Korea Selatan.” *Dharmasiswa Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia* 1, no. 3 (2022)
- Suhardin, Yos Johan Utama, dan Hartana. “Kewenangan Baru Lembaga Penjamin Simpanan untuk Menjamin Polis Asuransi Pasca Berlakunya Undang Undang Pengembangan dan Penguatan Sektor Keuangan.” *Jurnal Hukum Bisnis Indonesia* 12, no. 2 (2024)
- ### 3. Law and Regulation
- Commercial Law Book.
- Law Number 2 of 1992 concerning Insurance Business.
- Law Number 24 of 2004 concerning Deposit Insurance Institutions.
- Law Number 40 of 2014 concerning Insurance.



E-NISN : 2614-2643

P-NISN : 2541-7037

Journal Equitable

Vol 11 No 2  
2026

Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector.

Financial Services Authority Regulation Number 71/POJK.05/2016 concerning the Financial Health of Insurance and Reinsurance Companies.

Financial Services Authority Regulation No. 73/POJK.05/2016 concerning Good Corporate Governance for Insurance Companies.

Malaysia Deposit Insurance Corporation Act 2011.

Depositor Protection Act 2003 Republic of Korea.

Decision of the Supreme Court of the Republic of Indonesia Number 1247 K/Pid.Sus/2021 in the Case of PT Asuransi Jiwasraya.

Putusan Mahkamah Agung Republik Indonesia Nomor 1444 K/Pid.Sus/2022 dalam Perkara PT ASABRI