

## Juridical Factors Cause the Deposit Guarantee Institution for Insurance Customers to be Urgently Implemented



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**ABSTRACT:** This research aims to analyze what juridical factors cause the Deposit Guarantee Institution for insurance customers to be urgently implemented. It is relevant to the legal aim of obtaining benefits for most people. This research is normative research. Research that uses primary and secondary legal materials as secondary data. Respondents as primary data were not used in this research. Data analysis techniques using qualitative descriptive data analysis techniques and deductive conclusion drawing were used in this research. The research results show that the juridical factor causing the Deposit Guarantee Institution for insurance customers to be urgently implemented is the existence of forms of legal protection for insurance customers protects at a normative level, but it is not concrete for customers to quickly implement it. From the perspective of the substance of regulations, the form of legal protection has not been able to benefit society. The Law has yet to substance

**KEYWORDS:** Deposit, Data, Guarantee, Legal, Normative,

### I. INTRODUCTION

In Indonesia, there are financial institutions, such as banks and non-banks. Banking institutions have the most customers compared to other financial institutions. Law is very much needed in economic activities (Benson, 2024) (Abdul et al., 2024). Some factors influence people to prefer banking institutions, namely the authority of banking institutions in specific fields, banking regulations that are pretty accommodating in resolving banking problems, and the existence of guarantees from deposit insurance institutions that guarantee banking customers' deposits if the bank experiences default. Compared with banking institutions, public trust in insurance institutions is less significant than in banking institutions. This was made worse by the cases that befell (CNBC Indonesia, 2023), Bumi Asih Jaya Company, AJB Bumiputera Insurance Company, Kresna Life, Wana Artha Life, Bakri Life, and Jiwasraya,. The failure of the insurance company hurt public trust in the Insurance Institution. On the other hand, the existence of an insurance company that will transfer the risk of loss to society is essential in supporting society's prosperity. Decreasing public trust in insurance institutions will certainly not be suitable for maintaining the sustainability of insurance institutions in Indonesia. Based on this idea, legal issues can be raised: What juridical factors cause the Deposit Insurance Agency, which guarantees insurance customer deposits, to be urgently implemented? This research aims to analyze what juridical factors cause the Deposit Guarantee Institution for insurance customers to be urgently implemented. It is relevant to the legal aim of obtaining benefits for most people. There are researches on Insurance customer legal protection that have been conducted by TA, Christiani (Theresia, (2021), Fujii et al. (2020)), and examined the relationship between advertising and insurance optimization). Research on reinsurance companies has also been conducted (Han et al., 2020). This research shows that it is novel, too.

### II. RESEARCH METHODS

This research is normative legal research (Theresia et al., 2021). Research that is not based on primary data. This research is not sourced from sources directly related to research. This research data is secondary data ((Aprillina et al., G, Widiartana, 2023). Secondary data is sourced from material and tertiary legal materials (Lego K, Said G, Zaidah N, I Gusti A., Abdul K.J., Willy N H, 2020). Primary legal materials used include the Civil Code, OJK Regulations, Law No. 4 of 2023 concerning the Strengthening and Development of the Financial Services Sector (from now on referred to as the PPSK Law), regulations, and other related matters. Secondary legal materials are books and various journals. The data will be analyzed qualitatively. The technique for concluding is using deductive.

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### **III.RESULT AND DISCUSSIONS**

#### **III.1. Existence of forms of legal protection for insurance company customers today.**

As explained previously, the PPSK Law states that the Deposit Insurance Agency in Indonesia will have a new function, namely guaranteeing the insurance policies of insurance company customers. Legal protection ensures the fulfillment of the rights of someone who has carried out their obligations. Thus, with the increase in the function of the Deposit Guarantee Institution to guarantee insurance policies, if the insurance company fails to pay, it will be compensated by the Deposit Guarantee Institution. Article 329 of Law Number 4 of 2023 regarding the Development and Strengthening of the Financial Sector explains that implementing the policy guarantee program has only just begun to come into effect. 5 (five) years from the date this Law is promulgated. Explanation of Article 329 of Law Number 4 of 2023 concerning Financial Sector Development Based on this idea, it can be studied that before there was an Insurance Policy Guarantee, there was a form of legal protection after a customer failed to pay. It is a problem that this form of protection for insurance customers can only be implemented five years after promulgating the PPSK Law. Meanwhile, the protection needs of insurance customers require a quick answer. Below, we will analyze the forms of legal protection before depositing insurance through LPS.

First, a form of legal protection based on the legal agreement between the customer and the insurance company. Legal facts show that customers can extend their policy's contents after an insurance company fails to pay. It is a strategy provided by insurance companies due to insurance company payment difficulties. From the perspective of contract law, this action is consistent with the Law if the parties agree on the agreement's contents. However, from the insurance customer's perspective, this legal fact shows that the customer's position is at a loss due to the inaccuracy of payment times and uncertainty about whether the customer's rights can be paid at the promised time.

Second, a form of legal protection through alternative dispute resolution outside of court for customers of financial sector institutions. In this regard, there are provisions in Financial Services Authority Regulation Number 6 / POJK.07 / 2022 concerning Consumer and Community Protection in the Financial Services Sector, POJK Number 61 / POJK.07 / 2020 concerning Alternative Dispute Resolution Institutions, explaining that alternative sector dispute resolution institutions financial services or LAPS SJK is an institution that has the authority to overcome disputes in the financial services sector outside of court. This arrangement explains that customers who experience losses due to failure to pay insurance companies have a mechanism to obtain their rights through a customer complaints unit at the insurance company. If this cannot be resolved, an alternative institution for overcome disputes in the financial services sector is provided. At a normative level, forms of legal protection are indeed provided. However, at a practical level, it is challenging for customers to realize these rights because they need more time and knowledge to exercise them.

The third form of legal protection is the provision of deposit insurance funds. There are regulations relating to the formation of savings funds, namely Law Number 40 of 2014 concerning Insurance, which requires guarantee funds to be held by insurance companies, sharia insurance companies, and Reinsurance companies in the form and amount determined by the Financial Services Authority. Guarantee funds can be used to compensate insurance policyholders who experience losses in cases of policy failure after the liquidation process. Article 2, paragraphs (1) and (2) Financial Services Authority Regulation Number 71 / POJK. 05 / 2016 concerning Financial Health, it is explained that insurance companies are obliged to fulfill the requirements for the level of financial health, and one of them is to establish a guarantee fund.

Furthermore, Financial Services Authority Regulation Number 5 of 2023 explains that the rules regarding guarantee funds have changed this regulation. Based on Article 36 POJK, it is stated that the guarantee fund will be a legal protection for insurance companies that do not meet the policy guarantee program requirements regulated in the PPSK Law. Guarantee fund obligations for insurance companies, at the level of normative legal protection, were something good before the PPSK Law. However, implementing fulfilling customer rights in the guarantee fund mechanism has become challenging for insurance customers.

Fourth: There are provisions in Financial Services Authority Regulation Number.14/POJK.05/2015 concerning Self-Retention and Domestic Reinsurance Support, as amended by Financial Services Authority Regulation Number 19/POJK.05/2019 and last amended by POJK number 39/POJK.05/2020, which Insurance Companies and Sharia Insurance Companies are required to obtain 100% (one hundred percent) reinsurance support from domestic reinsurers for coverage that has simple risks. This regulation requires insurance companies to be supported by total reinsurance by a reinsurance company. For customers, this provision is an obligation the Financial Services Authority gives to insurance companies. From a normative customer protection perspective, implementing this arrangement well is perfect for customers. However, at an implementation level, these obligations, and the juridical consequences if they are not implemented depend on the OJK and the insurance company.

#### **III.2. The Purpose of Law in Economic Regulation from Jeremy Bentham's Perspective**

According to Jeremy Bentham (Postema, 2019), the Law aims to achieve the greatest happiness in society (Lorenzo Cello, 2020). Jeremy Bentham, who is a thinker whose teachings are known as Principles of Morals and Legislation (Jeremy Bentham,

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2000) and the teachings of Utilitarianism (Kakarash, 2023), believes that whether something is considered reasonable is not measured by the consequences caused by the action. Jeremy Bentham. Utility is a principle that, according to Bentham, approves or rejects any action that increases or decreases the happiness of the party affected by the action. Approving and rejecting the action is seen from whether the consequences of the action are good or not (Niessen, 2019). In this case, the government has the task of increasing society's happiness (Kelly, P., 2023). Laws are needed to regulate economic activities (Charles et al., 2023). From the perspective of the substance regulated by Law, this understanding provides a concept of the direction the government should regulate. About the problems raised and this research aims to find out what juridical factors cause the Deposit Guarantee Institution for insurance customers to be urgently implemented, the results of the research indicate that there are juridical factors that cause the Deposit Guarantee Institution that guarantee insurance customers' savings to be urgently implemented. There is a form of legal protection for insurance customers that protects at a normative level, but it is not concrete for customers to implement quickly. From the perspective of the substance of regulations, the form of legal protection has not been able to benefit society. The Law has yet to substantially realize the legal objectives of society, as Jeremy Bentham has requested.

### IV. CONCLUSIONS

The PPSK Law mandates an increase in the function of the Deposit Insurance Corporation to guarantee insurance policies if an insurance company defaults five years from the date of enactment of the PPSK Law. Before these provisions can be realized, insurance customers have a form of legal protection. These forms of legal protection include, among others, forms of legal protection based on legal agreements between customers and insurance companies, forms of legal protection through Alternative Dispute Resolution Institutions in the Financial Services Sector, forms of protection in the form of the obligation to have a guarantee fund, and forms of protection based on company obligations. Insurance to re-insure the responsibility. The existence of forms of legal protection for insurance customers protects at a normative level, but it is not concrete for customers to quickly implement it. From the perspective of the substance of regulations, the form of legal protection has not been able to benefit society. The Law has yet to substantially realize the legal objectives of society, as Jeremy Bentham has requested.

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