

Efforts to Strengthen the Indonesian Insurance Sector through the Policy Guarantee Program

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ABSTRACT

The development of the financial sector in Indonesia has increased positively, but the insurance sector is still constrained by low penetration rates and default cases that threaten public confidence. To overcome these problems, the Policy Guarantee Program was implemented as an effort to protect policyholders and strengthen the insurance sector. This article analyzes the relevant laws and regulations, the phenomenon of insurance company defaults, and policyholder protection mechanisms in the context of insurance company bankruptcy. The Policy Guarantee Program, mandated in the Insurance Law, aims to guarantee the return of policyholders' rights against liquidating insurance companies. Although there is no detailed information on the operational scheme, some countries such as Japan have successfully implemented similar programs with satisfactory results, which can be a motivation for Indonesia to improve the insurance climate through a policy guarantee program.

Keywords: Insurance, Policy Guarantor

INTRODUCTION

The development of the financial sector in Indonesia continues to show a positive graph over the past few months, which reflects the strong efforts made by the government to recover from the pandemic that hit globally some time ago. The insurance sector is one of the sectors of the economy that has suffered as a result of the pandemic, and the overall insurance sector in Indonesia is still under development in order to achieve a stable position in the future. This is supported by the fact that the penetration rate in Indonesia is still relatively low, which only reaches 3.18%, where the main factor influencing this is the low level of trust and use of insurance products in Indonesia, and the rampant cases of insurance defaults involving several well-known insurance companies are supporting the weak insurance sector. In response to this problem, one of the efforts mandated in the context of strengthening the insurance sector is through the Policy Guarantee Program which is intended as an effort to protect policyholders, then the problem is how the Policy Guarantee Program can act as an umbrella in providing protection to policyholders who are able to have an impact on strengthening the insurance sector.

ANALYSIS

Referring to the provisions of Law Number 40 of 2014 that insurance is an agreement between the insurer (insurance company) and the insured (policy holder) regarding the transfer of risk from the insurer to the insured in certain situations after payment of premiums.¹ In insurance practice, the insurance policy is crucial as the basis for fulfilling the rights and obligations of the parties, as well as being written evidence of the provision of protection to the parties if in the process of utilization there is a situation that is detrimental to the parties.² Although the main purpose of organizing insurance is to provide protection and convenience for policyholders in dealing with certain situations, the fact is that there are not a few insurance companies that neglect to provide protection costs or default on policyholders.

The phenomenon of insurance company defaults on policyholders has often occurred in Indonesia either because the company is bankrupt or the operational license is revoked by the Financial Services Authority (OJK), such as PT Asuransi Jiwa Kresna (Kresna Life), PT Asuransi Jiwasraya (Persero), PT Asuransi Jiwa Bakrie Life, and PT Asuransi Bumi Asih Jaya. In connection with efforts to restore the rights of policyholders after the company is declared bankrupt, there are several obstacles in practice, namely the difference in the position of policyholders, where the Bankruptcy Law emphasizes the position of policyholders as concurrent creditors, while the Insurance Law emphasizes the position of policyholders as preferred creditors.³ The legal umbrella for the bankruptcy law is the position of policyholders as preferred creditors.

¹ Vera W.S Soemarwi, "Perlindungan Hukum Pemegang Polis Terhadap Gagal Bayar Perusahaan Asuransi Jiwasraya (Studi Kasus: Putusan 589/PDT.G/2019/PN.JKT.PST)", *Jurnal Hukum Adigama*, Vol. 5 No.1 tahun 2022, hlm. 122.

² Sarah Meilinda Putri, "Kedudukan Hak Pemegang Polis dari Perusahaan Asuransi Jiwa yang Pailit Ditinjau dari Undang-Undang No. 40 tahun 2014 tentang Peransuransian dan Undang-Undang No. 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang", *Bandung Conference Law Studies*, Vol. 2 No. 1 tahun 2022, hlm. 853

³ Ni Kadek Vikka Ayu Swandewi, dkk, "Kedudukan Hukum Pemegang Polis Pada Perusahaan Asuransi Yang Dinyatakan Pailit", *Jurnal Konstruksi Hukum*, Vol. 2 No.3 tahun 2021, hlm. 523

The protection of policyholders is comprehensively regulated in several regulations, Article 36 of the Financial Services Authority Regulation Number 6 / POJK.07 / 2022 concerning Consumer and Community Protection in the Financial Services Sector emphasizes that business actors are required to maintain the security of data and / or consumer assets that are in the responsibility of Financial Services Actors (PUJK). Furthermore, Article 4 of Law Number 8 of 1999 concerning Consumer Protection outlines several consumer rights, one of which is the right to correct, clear and honest information regarding the condition of goods or services, the right to obtain advocacy, proper consumer protection, and the right to obtain compensation if the goods or services received are not in accordance with what was promised.

Responding to these problems, of course, requires a mechanism that is rigidly able to protect the rights of the insured in the insurance agreement and minimize the occurrence of defaults by insurance companies, one of which is through the Policy Guarantee Program. This program has been mandated in the Insurance Law, where the aim is to guarantee the return of part or all of the Policyholders against the liquidated insurance company.⁴ After approximately 9 (nine) after the enactment of the Insurance Law. in line with the issuance of Law Number 4 of 2023 concerning Development and Strengthening in the Financial Sector (PPSK Law) which provides enlightenment on the implementation of the Policy Guarantee Program will be carried out under the auspices of the Deposit Insurance Corporation (LPS). This is considered quite appropriate and effective compared to forming a special institution to carry out the program, the implementation of the Policy Guarantee Program was initiated in practice approximately 5 (five) years after the enactment of the PPSK Law ⁵

⁴ Boas P. Panjaitan, Ismail, dan Dewi Iryani, “Mewujudkan Kepastian Hukum Program Penjamin Polis Untuk Melindungi Pemegang Polis Asuransi”, *Jurnal Setara*, Vol. 3 No. 1 tahun 2022, hlm. 15

⁵ Ketua Dewan Komisiner Lembaga Penjamin Simpanan, “ Kami Siap Untuk Mengembang Program Penjamin Polis” Press Release, >
https://www.lps.go.id/web/guest/home?p_p_id=56_INSTANCE_abcd&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-3&p_p_col_count=1&56_INSTANCE_abcd_groupId=10157&56_INSTANCE_abcd_articleId=1444321> diakses pada 13 Mei 2023.

Although there is no further information regarding the operational scheme that will be carried out in the Policyholder Protection Program in providing preventive and repressive efforts in the insurance sector, several countries that have implemented this program have obtained satisfactory results, one of which is in Japan through the Life Insurance Policyholders Protection Cooperations (LIPPC).⁶ The main task of the LIPPC is to carry out supervision of insurance companies that have joined the LIPPC, where this institution has the ability to obtain external loans with the approval of the Minister of Finance.⁷ In the event of a loss involving policyholders in insurance companies that join the LIPPC, the institution uses a mutual assistance system for policyholders which provides assistance for the transfer of insolvent insurance contracts, provides executive management for subsequent insurance companies. In the event of a loss involving policyholders of insurance companies that join the LIPPC, the institution uses a mutual assistance system for policyholders which provides assistance for the transfer of insolvent insurance contracts, provides executive management for the next insurance company, and provides financial assistance related to the payment of insurance proceeds.⁸ The implementation of the policy guarantee program in Japan has had a significant impact on increasing insurance utilization and public confidence in the insurance sector. Based on this, it can certainly be a motivation for a better Indonesian insurance climate through the policy guarantee program..

CONCLUSION

Based on the description above, it can be concluded that the protection of policyholders in Indonesia is still not comprehensively accommodated, this is evidenced by the rampant phenomenon of insurance company defaults on policyholders. Even though the insurance company has been declared bankrupt or has had its operational license revoked by the OJK, the protection of policyholders is still vulnerable, which has an impact on the fulfillment of the rights that policyholders should receive. One of the efforts that can be done is to establish a Policy Guarantor Program aimed at ensuring the fulfillment of the policyholder's rights.

⁶ Aria Sri Agustin, "Tinjauan Yuridis Pembentukan Lembaga Penjaminan Polis Asuransi, *Skripsi*, Universitas Islam Negeri Jakarta, 2020, hlm. 51

⁷ Makoko Okubo, "Japan Life Insurers Insolvencies and Resolution Case Studies", Research Report from The Geneva Association, January 2015, hlm. 34.

⁸ *Ibid.*

rights for policyholders comprehensively both preventive and repressive. Based on the provisions of the PPSK Law, in order to improve the insurance climate in Indonesia, the implementation of the Policy Guarantee Program will be carried out under the authority of the Deposit Insurance Corporation, of course, the establishment of the Policy Guarantee Program can have a positive impact on the insurance sector in Indonesia.

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