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**Daftar Isi**

# Jurnal Negara Hukum
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# *Building Financial Safety Nets for Policyholders: Urgency and Legal Challenges of Insurance Policy Guarantee Program in Indonesia*

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***Abstract***

*In recent years, several default cases involving insurance companies in Indonesia have eroded public trust in the insurance industry. Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector (P2SK Law) mandates the Indonesia Deposit Insurance Corporation (Lembaga Penjamin Simpanan/LPS) to administer the Insurance Policy Guarantee Program. This study examines the urgency of establishing the Insurance Policy Guarantee Program and the legal and institutional challenges related to its implementation in Indonesia. This research employs a normative legal research method using both statutory and comparative approaches through an analysis of the P2SK Law, related regulations, and policyholder protection practices in several countries. The study indicates that the Insurance Policy Guarantee Program is necessary to provide legal protection and certainty for insured parties or policyholders when insurance companies experience financial distress or the revocation of their business licenses. In addition, the program is expected to maintain the stability of the insurance industry and fulfill international standards of consumer protection in the financial sector. However, its implementation requires comprehensive regulation regarding financial soundness criteria, funding mechanisms, guarantee limits, and the scope of insurance products covered. Therefore, collaboration among regulators, insurance companies, and other stakeholders is necessary to ensure the sustainability and effectiveness of the Insurance Policy Guarantee Program.*

***Keywords:*** *Insurance; Insurance Policy Guarantee Program; Indonesia Deposit Insurance Corporation*

## I. Introduction

Insurance is an institution established by law to transfer an object's risk from potential threats that may cause loss.[1] Essentially, this risk transfer takes the form of a contract stating that the insurer is entitled to receive premium payments and is obligated to assume the risk, while the insured party is entitled to compensation in exchange for agreeing to pay a certain sum (premium) corresponding to the transferred risk. The premiums collected by

1 Nurjihad Nurjihad, "Konsekuensi Pilihan Bentuk Badan Hukum Perasuransian di Indonesia," *Jurnal Hukum Ius Quia Iustum* 29, No. 1 (Januari 2022): 123.

insurance companies are then utilized through investment schemes to cover claims, share profits with policyholders, and support the development sector.[2]

Public trust plays a fundamental role in the sustainability of the insurance industry, particularly when consumers rely on insurers to fulfill long-term financial promises. In recent years, several insurance companies in Indonesia have experienced severe financial distress and default issues, including Jiwasraya, Asabri, Asuransi Jiwa Bersama (AJB) Bumiputera 1912, Wanaartha Life, and Asuransi Jiwa Kresna. These events have significantly eroded public trust in the insurance sector. The underlying causes include poor financial health, underpriced insurance products, negative investment spreads, and weak asset management performance, exacerbated by illiquid portfolios, limited capital access, and inadequate corporate governance.[3]

The situation was further exacerbated by the COVID-19 pandemic, which began in early 2020. The pandemic's impact on Indonesia led to a slowdown in total premium income and investment returns in the insurance industry during 2020. The total investment returns of insurance companies declined by 23.7%, from IDR 23.53 trillion to IDR 17.95 trillion.[4] This slowdown in insurance income was due to the underperformance of the capital markets, as many insurance companies had invested heavily in stocks and mutual funds. At the same time, while economic activity weakened, the number of claims that insurance companies had to pay out increased significantly. The Indonesian Life Insurance Association stated that this surge in claims payments occurred because many people needed cash to meet daily needs during the economic uncertainty.[5] This situation could potentially worsen the condition of struggling insurance companies if not appropriately managed.

The inability of insurance companies to pay claims or returns to policyholders could lead to debt. Only a few cases of insurance defaults have been resolved through debt restructuring mechanisms. In such instances, debt restructuring is the best legal step available to policyholders after all other settlement efforts have failed to provide legal certainty. Through the restructuring process, the desired outcome is to agree on how claims or returns will be paid, which will be formalized in a legally binding settlement agreement that all parties involved must adhere to.

However, debt restructuring is not the only form of legal protection for policyholders in the event of default. Long before defaults occur, the government has provided legal protection to policyholders by establishing a Guarantee Fund, as stipulated in Article 20, paragraph (1) of Law No. 40 of 2014 on Insurance (hereinafter referred to as the Insurance Law). This Guarantee Fund is sourced from the assets of insurance companies. Establishing the Guarantee Fund is to provide partial or complete compensation for the rights of policyholders, the insured, or participants in the event of the company's liquidation. Thus, the Guarantee Fund is part of the effort to protect insurance customers.

Article 53 of the Insurance Law also states that insurance companies must participate in the Insurance Policy Guarantee Program, and the guarantee scheme must be established within three years of the law's enactment. However, the Insurance Policy Guarantee Program has not yet been realized within the stipulated timeframe.

Given the numerous cases of insurance company defaults and the resolution processes that have not adequately addressed justice and certainty

2 Husni Mubarrak, "Kontroversi Asuransi di Indonesia: Telaah Fatwa Majelis Ulama Indonesia (MUI) tentang Badan Penyelenggara Jaminan Sosial (BPJS)," *Tsaqafah* 12, No. 1 (Mei 2016): 106.

3 Citra Amanda and Ananta Dian Pradipta, "Risk-Based Premiums of Insurance Guarantee Schemes: A Machine-Learning Approach," *Journal of Indonesian Economy and Business* 39, No. 2 (January 2024): 124.

4 Asosiasi Asuransi Jiwa Indonesia, "Kinerja Asuransi Jiwa Turun Pada 2020," cnnindonesia.com, last modified 2020, accessed March 13, 2023, https://www.cnn indonesia.com/ ekonomi/20210309144251-78615548/ kinerja-asuransi-jiwa-turun-pada-2020.

5 *Ibid.*

for policyholders, the government issued Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (hereinafter referred to as the P2SK Law), which mandates in Chapter VIII, Section Four, Article 86, that the Insurance Policy Guarantee Program will be administered by the Indonesia Deposit Insurance Corporation (LPS).

The mandate under the P2SK Law introduces a new responsibility for LPS as the institution tasked with developing and implementing the Insurance Policy Guarantee Program. In light of these issues, this study aims to examine the urgency of establishing the Insurance Policy Guarantee Program in Indonesia and to analyze the legal and institutional challenges that must be addressed to ensure its effective implementation and restore public trust in the insurance industry.

In relation to the topic of this study, several prior studies have explored the Insurance Policy Guarantee Program. However, to maintain the originality of this research, the author will compare it with previous studies. The first study, titled "Pengaturan Lembaga Penjamin Polis pada Perusahaan Asuransi di Indonesia", was written by Ni Putu Sintha Pradnya Dewi and Desak Putu Dewi Kasih. This work examines how the regulation of policy guarantee institutions in Indonesian insurance companies is structured and the impact of the absence of such institutions in these companies. The second study, titled "Bentuk Kelembagaan Program Penjaminan Polis di Indonesia (Studi Perbandingan Antara Indonesia dengan Malaysia dan Korea Selatan)" authored by Putri Nurul Hidayati, focuses on the status of the policy guarantee program within Indonesia's legal framework and the potential for the Indonesian Deposit Insurance Corporation (LPS) to expand its role as a policy guarantor. This research will differ from previous studies as it will concentrate on the challenges of establishing a policy guarantee program following the enactment of the Financial Sector Development and Strengthening Law (P2SK Law).

## II. Research Methodology

This study employs a normative legal research method using statutory and comparative approach. The statutory approach is conducted through an analysis of primary legal materials, including Law No. 24 of 2004 on the Indonesia Deposit Insurance Corporation (hereinafter referred to as the LPS Law), Insurance Law, and P2SK Law, along with other related regulations concerning insurance policy guarantees. The comparative approach is used to examine policy guarantee practices implemented in several countries in order to identify relevant legal dan institutional frameworks applicable to Indonesia. This study also utilizes secondary legal materials, such as academic journals, regulatory reports, and policy documents. A qualitative, analytical framework is applied to examine statutory provisions, institutional mandates, and regulatory gaps, allowing for systemic evaluation and normative legal reasoning. The research aims to present the subject matter in a structured, coherent, and logical manner to facilitate interpretation and deepen the understanding of legal and institutional challenges in implementing the insurance policy guarantee program.

## III. The Urgency of Establishing an Insurance Policy Guarantee Agency in Indonesia

Insurance companies are critical financial market players crucial to driving national economic growth.[6] *First,* insurance helps individuals cope with daily financial risks, contributing to the stability of household, corporate, and national finances. *Second,* the insurance industry serves as a significant investor in financial markets.[7] Premiums collected from the public are invested for claim payments, profit-sharing with policyholders, and supporting

6 Muawya Ahmed Hussein and Md. Shabbir Alam, "The Role of Insurance Sector in the Development of the Economy of Oman," *Global Journal of Economics and Business* 6, No. 2 (April 2019): 357.

7 Federico Apicella, Raffaele Gallo, and Giovanni Guazzarotti, "Insurers' Investments before and After the Covid-19 Outbreak," *SSRN Electronic Journal*, No. 310 (April 2022): 2.

national development. *Third*, the financial activities of insurance companies are closely linked to the banking sector and other financial institutions,[8] meaning that issues within the insurance industry can affect the banking sector.[9]

Alongside these roles, the insurance industry faces various risks that could impact its performance, including credit risk, liquidity risk, insurance risk, operational risk, strategic risk, asset and liability risk, governance risk, compliance risk, and reputational risk.[10] Many insurance companies in Indonesia have mitigated these risks by reinsuring part of their coverage with reinsurance companies. Reinsurance is regulated by Article 271 of the Indonesian Commercial Code (KUHD), which states that "the Insurer is always authorized to reinsure what they have already insured." This provision legitimizes insurance companies to reinsure the insured object with another party willing to assume the initial insurer's risk.

Insurance companies may seek reinsurance protection for several reasons, such as to reduce underwriting volatility, especially in high-risk lines of business, to increase underwriting capacity, or to achieve an appropriate level of risk diversification.[11] Reinsurers assist in the secondary coverage when the primary insurer cannot absorb the risk on a proportional basis.[12] As such, the reinsurer assumes a proportional share of the risk based on the agreement between the insurance and reinsurance companies.

However, reinsurance has proven insufficient to guarantee that policyholders receive full coverage from insurance companies. This is because, in the event of an insurance company's bankruptcy, the reinsurer only provides a proportional percentage of the coverage costs specified in the policyholder's contract.

Moreover, reinsurance may negatively impact financial stability if the reinsurer experiences financial difficulties. If insurance companies actively shift their risks to reinsurance companies, this practice may inadvertently create risk concentration.[13] This relationship can generate systemic risk, particularly if multiple reinsurers encounter financial issues, potentially leading to more significant financial challenges that involve several reinsurers simultaneously.

According to the National Conference of Insurance Guaranty Funds (NCIGF), the country must have an insurance guaranty association to assist policyholders when an insurance company faces financial difficulties.[14] In some countries, insurance guaranty schemes were established in response to insurance company bankruptcies and financial crises.[15] Such a scheme's absence could

8 Chi-Hung Chang, "The Dynamic Linkage Between Insurance and Banking Activities: An Analysis on Insurance Sector Assets," *Journal of Multinational Financial Management* 46 (July 2018): 36 https://www.sciencedirect.com/science/article/abs/pii/S1042444X18300768.

9 EIOPA, *Systemic Risk and Macroprudential Policy in Insurance*, 2017, accessed 26, 2026, https://www.eiopa.europa.eu/document/download/25eb36d7-cef9-4f1c-8201-2ad944ed76ae_ en?filename=Discussion%20Paper%20-%20Systemic%20Risk%20and%20Macroprudential% 20Policy%20in%20Insurance, 11.

10 Otoritas Jasa Keuangan, "Peraturan Otoritas Jasa Keuangan Nomor 1 /POJK.05/2015 tentang Penerapan Manajemen Risiko bagi Lembaga Jasa Keuangan Non-Bank."

11 Organization for Economic Cooperation and Development (OECD), "The Contribution of Reinsurance Markets to Managing Catastrophe Risk," (2018), https://www.oecd.org/content/dam/oecd/en/publications/reports/2018/12/the-contribution-of-reinsurance-markets-to-managing-catastrophe-risk_b1e60429/42497106-en., (retrieved May 28, 2026), 11.

12 Adam Pamirta Rahman and Arya Putra Rizal Pratama, "Tanggung Gugat Reasuransi Terhadap Perusahaan Asuransi Yang Tidak Terbayarkan," *UNES Law Review* 5, No. 3 (Maret 2023): 903.

13 Garry J Schinasi, *Safeguarding Financial Stability Theory and Practice: Systemic Implications of the Financial Market Activities of Insurance and Reinsurance Companies*, *International Monetary Fund* (Washington DC: International Monetary Fund Publication Services, 2006).

14 Cameron Huddleston, "What Happens If Your Insurance Company Goes Out of Business," *Forbes*, last modified 2024, accessed February 10, 2024, https://www.forbes.com/advisor/life-insurance/company-out-of-business/.

15 Reza Yamora Siregar et al., "Insurance Guarantee Schemes: Cross Countries Experiences," *Indonesia Financial Group (IFG) Progress*, No. 17 (October 2022): 2.

prolong unresolved claims payment failures.

Thus, the establishment of an insurance policy guarantee program in Indonesia is necessary for several key reasons:

1) Providing guaranteed protection and legal certainty for the insured or policyholders insolvency, or the inability to meet debt obligations, is common among insurance companies. This condition may prevent companies from fulfilling their obligations as risk bearers to policyholders. Policyholders have the right to receive compensation if the product they purchased fails to meet the contract terms, as stipulated in Article 92(2)(i) of Financial Services Authority Regulation No. 22 of 2023 on Consumer and Public Protection in the Financial Services Sector. Moreover, Article 79(2) of the Financial Sector Development and Strengthening Law (P2SK Law) mandates that the policy guarantee scheme protects policyholders from financial losses if the insurance company encounters financial difficulties or revs its license. Similar to the role of LPS in the banking sector, the Insurance Policy Guarantee Program would provide a clear legal framework for policyholders' rights during a crisis, ensuring that claims and payments are processed fairly and transparently even when the insurance company is in financial trouble.
2) Enhancing public trust in the insurance industry. Trust is a critical social component in business relationships.[16] Public trust significantly influences the products or services companies offer, such as banks and insurance firms.[17] A policy guarantee program would increase public confidence in purchasing insurance products, thus boosting market penetration and profitability in the insurance sector.[18]
3) Maintaining the Stability of the Insurance Industry. By providing financial protection, the Policy Guarantee Program can help mitigate the risk of bankruptcy for insurance companies. This contributes to the overall stability of the insurance industry and prevents significant financial losses for consumers. Furthermore, it encourages insurance companies to be more cautious in managing risks.
4) Meeting International Standards. Establishing an insurance guarantee institution is regulated by the International Association of Insurance Supervisors (IAIS), an international standard-setting body responsible for developing and implementing principles, standards, and supporting materials for insurance supervision.[19] Indonesia is a member of the IAIS, which mandates the creation of insurance policy guarantee institutions focused on providing a minimum level of protection for policyholders.[20] Many countries with policy guarantee systems have effectively addressed the issue of insurance company defaults. For example, the role of the Financial Services Compensation Scheme (FSCS) in the UK ensures that policyholders are compensated based on information provided by the practitioners handling the insurance company's insolvency.[21]

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16 Michael Zboron, "Insurance Underwriting and Broking in the London Insurance Market: The Role of Reputation and Trust in the Insurance Decision-Making Process" (*Thesis*, University of Southampton, 2015), 72, https://eprints.soton.ac.uk/374299/1/Final_20PhD_20thesis_20-_20Michael_20Zboron.pdf.

17 Saeed Mirzamohammadi and Mojtaba Hamid, "Optimization of Customers' Trust in the Insurance Industry by Data Envelopment Analysis: An Actual Case Study," *Proceedings of the International Conference on Industrial Engineering and Operations Management*, (July 2019): 990.

18 Yuniarti Fihartini, "Pengaruh Kepercayaan dan Kualitas Layanan terhadap Loyalitas Nasabah Asuransi di Bandar Lampung," in *Forum Riset Ekonomi Dan Bisnis Universitas Lampung*, 2012, 244.

19 International Association of Insurance Supervisors (IAIS), "Common Framework for the Supervision of Internationally Active Insurance Groups." accessed May 28, 2026, https://www.iais.org/ uploads/2025/06/IAIS-ICPs-and-ComFrame-December-2024.pdf, 6.

20 Annisa Novianty and Kornelius Simanjuntak, "Perbandingan Bentuk Kelembagaan Program Penjaminan Polis Asuransi Antara Indonesia Dengan United Kingdom Dan Jepang," *Wajah Hukum* 8, No. 1 (April 2024): 113.

21 Financial Services Compensation Scheme (FSCS), *Annual Report and Accounts 2023/24*, (London, 2024), 28.

5) Reducing Systemic Risk. A policy guarantee program can help reduce systemic risk arising from the failure of insurance companies, which could have far-reaching effects on the economy.[22]

Realizing a policy guarantee program in the insurance sector is crucial for supporting a safe and sustainable insurance business and strengthening the financial system's stability. In light of the above, it is evident that the establishment of an insurance guarantee scheme is not merely a policy preference, but a legal imperative. However, assigning this task to LPS introduces a new set of institutional and regulatory challenges, which will be examined in the following section.

## IV. LPS as the Implementing Institution of the Policy Guarantee Program: Permanent or Transitional Role?

The insurance sector is highly dependent on public trust.[23] Essentially, the public, as insurance policyholders, trusts that insurance companies will act by ensuring their solvency and paying claims when due. On the other hand, insurance companies trust that policyholders will consistently pay their premiums and provide accurate and complete information regarding the risks to be insured.

Therefore, the level of public trust in insurance significantly impacts the growth of the insurance sector. Insufficient trust can lead to decreased public participation in purchasing insurance products, which, in turn, will affect the expansion and profitability of the insurance business.[24]

To enhance public trust in the insurance industry, the government enacted P2SK Law, initially designed to develop and strengthen the financial sector ecosystem and improve supervision, consumer protection, and governance. To achieve these goals, the law grants LPS a new mandate to implement the Policy Guarantee Program to improve the domestic insurance industry's positive image.

However, despite the mandate granted under the P2SK Law, the institutional position of LPS in administering the Insurance Policy Guarantee Program remains an important subject of discussion. Several scholars and policy perspectives argue that policyholder protection may be more effectively administered through an independent policy guarantee institution specifically established for the insurance sector. This view is primarily based on concerns regarding the expansion of LPS's traditional mandate as deposit insurer under Law No. 24 of 2004, which was originally designed to protect bank deposits and maintain banking system stability.[25] Expanding LPS's authority into the insurance sector may create institutional overlap, increase operational burdens, and potentially affect its primary responsibility in safeguarding depositors. In addition, insurance policies and bank deposits differ fundamentally in terms of legal characteristics, risk structures, and protection objectives, requiring different supervisory and guarantee approaches.[26]

This discussion also reflects the gradual development of Indonesia's policy guarantee framework. Article 53 of the Insurance Law initially mandated the enactment of a law governing the Insurance Policy Guarantee Program within three years following the promulgation of the Insurance Law. However, a more comprehensive regulatory framework governing the implementation of the

22 IAIS, *Holistic Framework for Systemic Risk in the Insurance Sector*, (Switzerland: IAIS, 2019), https://www.iais.org/uploads/2022/01/191114-Holistic-Framework-for-Systemic-Risk.pdf, (retrieved May 20, 2026), 7.

23 Ezra Fikri Ramadhan, Syafri, and Nurhayati, "Pengaruh Kepercayaan dan Kepuasan Pelanggan terhadap Kualitas Layanan Asuransi Kesehatan," *Jurnal Ekonomi Trisakti* 3, No. 2 (Oktober 2023): 3005.

24 Yuniarti Fihartini, "Pengaruh Kepercayaan Dan Kualitas Layanan Terhadap Loyalitas Nasabah Asuransi Di Bandar Lampung," in *OJK Harapan Baru Sistem Keuangan Indonesia* (Lampung: Fakultas Ekonomi dan Bisnis Universitas Lampung, 2012), 245, http://repository. lppm.unila.ac.id/4720/1/Publikasi-Proceeding-Forum Riset-2012-OK.pdf.

25 *Putusan Mahkamah Konstitusi Nomor 85/PUU-XXII/2024*, 2024, https://www.mkri.id/ public/content/persidangan/putusan/putusan_mkri_11382_1735895792.pdf.

26 International Association of Insurance Supervisors (IAIS), *Issues Paper on Policyholder Protection Schemes*, 2013, https://www.iais.org/uploads/2022/01/Issues_paper_on_policyholder_ protection_schemes.pdf.pdf.

program was only introduced after the enactment of P2SK Law. Furthermore, Article 329 of the P2SK Law provides a transitional period before the program becomes fully effective in 2028, indicating the need for further institutional preparation and regulatory harmonization in implementing the program.

Nevertheless, another perspective supports the possibility of positioning LPS as a permanent implementing institution. This argument is grounded in the regulatory shift introduced by the P2SK Law, particularly Article 86, which explicitly mandates LPS to administer the Insurance Policy Guarantee Program. Supporters of this model also emphasize institutional efficiency, considering that integrating policyholder protection into an existing financial safety net institution may reduce administrative costs, strengthen coordination among financial authorities, and accelerate program implementation. Comparative practices in countries such as Singapore, Malaysia, South Korea, and the United Kingdom further demonstrate that integration of deposit insurance and policyholder protection within a single institution is institutionally feasible, provided that a clear legal framework, sustainable funding mechanism, and adequate institutional capacity are established.

In this regard, comparative practices from various countries demonstrate that the institutional design of a Policy Guarantee Program may differ depending on the structure of the financial system, supervisory framework, and policy objectives adopted in each jurisdiction. Implementing the Policy Guarantee Program can be adjusted according to the conditions of the insurance industry, prudential aspects, and supervision in each country.[27] No single model of a Policy Guarantee Program is universally applicable ("no one size fits all").[28] The existence of a Policy Guarantee Program, as implemented by policy guarantee institutions in other countries, varies, with some operating independently and others integrated with deposit insurance institutions.

This means that in some countries, the program is managed by two separate institutions; in others, it is combined into a single deposit insurance institution.[29] However, integrating the Policy Guarantee Institution with the Deposit Insurance Corporation is generally more efficient than establishing a new institution,[30] as demonstrated in countries such as Singapore, Malaysia, South Korea, and the United Kingdom.

**Table 1.**
Comparison of Policy Guarantee Institutions Establishment

| Country | Policy Guarantee Authority | Coverage Scope |
|---|---|---|
| Singapore | Singapore Deposit Insurance Corporation (SDIC) | Bank deposit and insurance |
| Malaysia | Perpadanan Insurans Deposit Malaysia (PIDM) | a. Bank deposits<br>b. Holders of takaful certificate<br>c. Holders of insurance policy |
| South Korea | Korea Deposit Insurance Corporation (KDIM) | a. Bank deposits<br>b. Insurance products<br>c. Securities company |

27 Deny Susanto, *Penguatan Fungsi Kepatuan Perusahaan Asuransi Jiwa Dalam Program Penjaminan Polis*, (*Dissertation*, Fakultas Hukum Universitas Jayabaya, Jakarta, 2024), 245.

28 Gita Rossiana, Lembaga Penjamin Polis Tak Miliki Fungsi Bailout, October 27, 2014, https://investor.id/banking/98337/lembaga-penjamin-polis-tak-miliki-fungsi-bailout.

29 Premita Fifi Widhiawati, Fokky Fuad, and Aris Machmud, "Implementasi Program Penjaminan Polis Asuransi di Indonesia," *Lex Jurnalica* 21, No. 2 (Agustus 2024): 184.

30 Nurul Hidayati Putri, "Bentuk Kelembagaan Program Penjaminan Polis di Indonesia (Studi Perbandingan Antara Indonesia dengan Malaysia dan Korea Selatan)," *Dharmasisya* 2, No. 1 (Maret 2022): 192.

| | | |
|---|---|---|
| | | d. Commercial banks<br>e. Mutual funds<br>f. Credit unions |
| United Kingdom | Financial Sevices Compensation Scheme (FSCS) | a. Bank deposits<br>b. Credit unions<br>c. Pension funds<br>d. Mortgages<br>e. Holder of insurance policies<br>f. Investments<br>g. Payment protection<br>h. Debt management<br>i. Funeral plans |
| United States | Federal Deposit Insurance Corporation (FDIC) and State Insurance Guaranty Associations | Separate protection schemes for bank deposits and insurance policyholder |
| Germany | Protektor Lebensversicherungs-AG and Medicator -AG | Separate policyholder protection institutions for life and health insurance |
| Indonesia | Indonesia Deposit Insurance Corporation (IDIC) | Bank deposits and holders of insurance policies |

Source: Author's processed data.

Based on the data above, the Policy Guarantee Institution in Singapore has been managed by the Singapore Deposit Insurance Corporation (SDIC) since 2011. This was implemented following the enactment of the Deposit Insurance and Policy Owner's Protection Schemes Act 2011.[31] As the latest regulation, the Deposit Insurance and Policy Owner's Protection Schemes Act 2011 consolidates the protection offered to banking and insurance customers, previously provided under separate laws.[32]

Meanwhile, Malaysia implements the Policy Guarantee Program through an institution that also administers the Deposit Guarantee Program, namely the Malaysia Deposit Insurance Corporation (PIDM).[33] PIDM was established in 2005 under the Malaysia Deposit Insurance Corporation Act (PIDM Act). The role of PIDM is to manage the Deposit Insurance System for conventional insurance program customers and the Takaful and Insurance Benefit Protection System (TIPS) for customers of Shariah-compliant insurance programs. The PIDM is responsible for protecting bank depositors and holders of takaful certificates and insurance policies in the event of an insurance company failure.[34]

The consolidation of Policy Guarantee Institutions is also carried out in South Korea through the Korea Deposit Insurance Corporation (KDIC). In this case, KDIC is the primary financial authority responsible for maintaining the country's financial stability. KDIC was established under the Depositor Protection Act in 1995 and was officially constituted as an institution on June 1, 1996. Initially, KDIC functioned solely as a bank deposit insurer, while a separate institution was designated to ensure the non-bank financial sector. However, in response to the crisis in 1997, the Depositor Protection Act was revised, and consequently,

31 Tri Budiyono, "Penjaminan Simpanan dari Waktu ke Waktu (Studi Penjaminan Simpanan di Indonesia)," *Refleksi Hukum: Jurnal Ilmu Hukum* 3, No. 2 (April 2019): 132.

32 Sandra Annette Booysen, "Deposit Insurance in Singapore: Why Have It, Who Gets It, How Does It Work?," *Singapore Journal of Legal Studies* (June 2013): 3, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2560133

33 Perbadanan Insurans Deposit Malaysia, "How PIDM Protects Financial Consumers" 1, last modified 2021, https://www.pidm.gov.my/general/about-pidm/financial-consumer-protection-authority

34 Insurance Corporation, "Law of Malaysia Act 642: Malaysia Deposit Insurance Corporation Act 2005" (2005).

the insurance funds previously guaranteed by a separate entity were merged into KDIC in April 1998. To date, KDIC covers bank deposits and guarantees deposits held by securities firms, insurance companies, commercial banks, mutual funds, savings banks, and credit unions.[35] Thus, South Korea adheres to a comprehensive and integrated single-guarantee system to enhance financial stability and ensure public confidence.

In the United Kingdom, the Policy Guarantee Program and the Deposit Guarantee Institution are operated by a single entity, the Financial Services Compensation Scheme (FSCS). FSCS is an independent body established under the Financial Services and Markets Act of 2000, replacing eight previous compensation schemes.[36] The eight compensation schemes replaced by the FSCS include the Building Societies Investor Protection Scheme, the Deposit Protection Board, the Friendly Societies Protection Scheme, the Investor Compensation Scheme, the Personal Investment Authority Indemnity Scheme, the Policyholders Protection Scheme, Section 43 (which covers businesses with money market institutions), and the compensation scheme for pension funds[37] The FSCS was established to simplify and integrate the compensation system into a single scheme encompassing various types of financial services. To this day, FSCS guarantees bank deposits, insurance policies, credit unions, investments, pension funds, and home equity loans.[38]

Several countries implement the Insurance Policy Guarantee Program through a separate and independent institution from the deposit insurance agency. In Germany, policyholder protection is administered by specialized entities, namely Protektor Lebensversicherung - AG for life insurance and Medicator AG for health insurance, both of which operate independently from the country's deposit insurance system.[39] Similarly, in the United States, policyholder protection is administered through state-based insurance guarantee associations, while deposit insurance is managed separately by the Federal Deposit Insurance Corporation (FDIC).[40] These practices demonstrates that certain jurisdictions prefer a distinct institutional arrangement in order to accommodate the different legal characteristics, risk structures, and protection objectives between insurance policies and bank deposits.

Meanwhile, establishing the Policy Guarantee Program in Indonesia under LPS is intrinsically linked to the historical context of LPS's formation. In 1998, Indonesia experienced a monetary crisis that resulted in a banking crisis characterized by the liquidation of sixteen banks, undermining public confidence in the Indonesian banking system.[41] The government issued a policy to guarantee all bank payment obligations, including public deposits (blanket guarantee), to address this monetary crisis. This policy aimed to restore public trust in the banking industry.[42] Consequently, the Indonesian government deemed it necessary to establish a Deposit Insurance Institution, which was subsequently articulated in Law No. 24 of 2004.

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35 Korea Deposit Insurance Corporation (KDIC), "The Structure of Deposit Insurance," last modified 2021, https://www.kdic.or.kr/english/overview.do.

36 Ezekiel Vergara, "United Kingdom: Financial Services Compensation Scheme," *Journal of Financial Crises* 4, No. 2 (July 2022): 645.

37 House of Commons, Depositor Protection, 2008, https://publications.parliament.uk/ pa/cm200708/cmselect/cmtreasy/56/5609.htm

38 Financial Services Compensation Scheme (FSCS), "FSCS Consumer Research: Understanding of FSCS Identifying the Gaps," last modified 2022, https://www.fscs.org.uk/globalassets/industry-resources/research/fscs-consumer-research-september-2022.pdf%3E.

39 Maria Garcia de Andres, "Policyholder Protection Schemes in Situations of Insolvency. Comparative Study between States and Jurisdictions. New Perspectives.," *Consorseguros*, No. 6 (May 2017), 5, https://www.consorsegurosdigital.com/almacen/pdf/policyholder-protection-schemes-in-situations-of-insolvency-comparative-study-between-states-and-jurisdictions-new-perspectives.pdf.

40 Federal Deposit Insurance Corporation (FDIC), "Deposit Insurance At A Glance," last modified 2024, accessed May 9, 2026, https://www.fdic.gov/deposit-insurance/deposit-insurance-glance-brochure-english.pdf.

41 Lembaga Penjamin Simpanan, "Hadirnya LPS Di Indonesia," accessed December 20, 2025, https://lps.go.id/profil/.

42 Adrian Sutedi, *Aspek Hukum Lembaga Penjamin Simpanan (LPS)*, (Jakarta: Sinar Grafika, 2010), 26.

The achievements of LPS from 2005 to 2024 are evidenced by its performance in liquidating 142 banks, of which 127 are Rural Credit Banks, 14 are Rural Islamic Credit Banks, and one is a commercial bank. Additionally, LPS successfully salvaged one commercial bank. During the same period, LPS paid deposit insurance claims to 430,362 eligible accounts. In percentage terms, LPS has resolved 95,21% of the total accounts across the 142 liquidated banks. Furthermore, LPS contributed to the payment of eligible deposits amounting to IDR 2.93 trillion, covering 83,90% of the total deposits of the 142 liquidated banks.[43]

These experiences demonstrate that LPS has developed institutional capacity and technical expertise in managing financial institution failures, handling guarantee claims, and maintaining public confidence during periods of financial distress. From the government's perspective, this institutional experience became one of the primary considerations in assigning LPS the mandate to administer the Insurance Policy Guarantee Program under the P2SK Law. The integration of policyholder protection within LPS is therefore viewed as part of a broader effort to strengthen Indonesia's financial safety net system through an existing institution with prior experience in guarantee administration and crisis resolution.

Nevertheless, regardless of whether the Insurance Policy Guarantee Program is administered through an independent institution or integrated within LPS, the most important consideration is ensuring the existence of a protection mechanism capable of strengthening policyholders' confidence in the insurance industry.[44] In this regard, the establishment of the Insurance Policy Guarantee Program is expected to provide more effective protection for policyholders while simultaneously reinforcing the overall stability of the financial sector.

## V. Challenges in Implementing the Policy Guarantee Program in Indonesia

The Policy Guarantee Program protects policyholders if an insurance company loses its operating license due to financial difficulties.[45] In Indonesia, implementing this policy guarantee will be managed by a single institution, the LPS. Integrating the Policy Guarantee Program with deposit insurance into a single institution is more efficient. It is expected to reduce the costs associated with establishing a new entity, particularly given that the initial capital required to form LPS in 2004 amounted to IDR 4 trillion.[46] Furthermore, the advantages of consolidating policy guarantees through LPS include leveraging the expertise of professionals experienced in managing financial service institutions, including handling troubled banks.

The current principles of LPS's guarantee refer to Core Principle 9 of the International Association of Deposit Insurers (IADI), which outlines the scope of insurance as a guideline for implementing limited guarantees. This principle emphasizes that deposit insurance institutions must clearly define the deposits that will be insured (insurable deposits), determine the insured deposit amount, and ensure coverage for most depositors within their jurisdiction.[47]

Following IADI's guarantee principles, Article 4 of LPS Law stipulates that LPS has two functions:

43 Lembaga Penjamin Simpanan, Laporan Tahunan: Melaksanakan Penjaminan Simpanan dan Resolusi Bank yang Efektif dalam Menjaga Kepercayaan Masyarakat dan Stabilitas Sistem Keuangan, accessed August 5, 2024, https://lps.go.id/konten/unggahan/2025/07/Laporan-Tahunan-LPS-2024.pdf, 85.

44 Sentosa Sembiring, "The Significance of Policy Guarantee Institution in Providing Legal," *Wawasan Yuridika* 7, No. 1 (March 2023): 76.

45 Amanda and Pradipta, "Risk-Based Premiums of Insurance Guarantee Schemes: A Machine-Learning Approach, 140."

46 Article 81 of Law No. 24 of 2004 on the Deposit Insurance Corporation.

47 Abu Samman Lubis, "Memahami Peran Lembaga Penjamin Simpanan Sebagai Jaring Pengaman Sistem Perbankan Nasional," accessed January 10, 2025, https://bppk.kemenkeu.go.id/ balai-diklat-keuangan-malang/ artikel/artikel-memahami-peran-lembaga-penjamin-simpanan-sebagai-jaring-pengaman-sistem-perbankan-nasional-127688.

to guarantee the deposits of depositors and to actively contribute to maintaining financial system stability in accordance with its authority. Therefore, if the government mandates that the Policy Guarantee Program falls under LPS's functions as outlined in the P2SK Law, the first challenge that requires further examination is the definition of "deposits" and whether insurance policies fall under the category of "deposits" as stated in Article 4 of the LPS Law.

To ascertain whether insurance policies are included in the definition of deposits, it is necessary first to clarify the definitions of "deposits" and "policies." The definition of deposits can be found in Article 1, Paragraph 5 of Law No. 10 of 1998 regarding Banking (hereafter referred to as the Banking Law), which states that deposits are funds entrusted by the public to banks based on a deposit agreement in the form of current accounts, time deposits, certificates of deposit, savings, and/or other equivalent forms. Meanwhile, the definition of a policy can be referenced from Article 255 of the KUHD, which states that an insurance contract must be made in writing in a document known as a policy. Therefore, a policy serves as written evidence of an insurance agreement.

According to A. Hasymi Ali, an insurance policy is a contractual document containing the rights and obligations between the insured party and the insurance company.[48] Similarly, Ketut Sendra defines a policy as proof of an agreement containing various promises, limitations, or exclusions, and the benefits assured.[49] Based on the definitions mentioned above, it can be concluded that policies do not fall within the category of "deposits" as intended in the Banking Law.

Therefore, if the Insurance Law mandates that the policy guarantee program must be regulated by legislation,[50] and the P2SK Law has stated that the policy guarantee falls under the authority of LPS,[51] it is essential to revise the LPS Law, which will serve as the legal framework for expanding its authority to administer both deposit insurance and the Policy Guarantee Program.[52]

Furthermore, IAIS, the international standard-setting body responsible for developing and overseeing the insurance sector, has emphasized three components in establishing a policy guarantee institution. First, it must facilitate the continuity of insurance. Second, it should provide financial support to insolvent insurance companies and entities intending to acquire failed insurance firms or transfer policies from failed companies. Third, IAIS serves as an intermediary when there are no direct buyers for the insolvent insurance company.[53]

Following the provisions in Chapter VIII, Section Two, Article 80 of the P2SK Law, it is stated that every insurance company must participate in the Policy Guarantee Program. By participating in this program, insurance companies agree to transfer risks to the guaranteeing institution or the entity responsible for the program. This means that if an insurance company encounters financial difficulties leading to the revocation of its business license, LPS will assume the responsibility for paying insurance claims to the policyholders.

However, the obligation to participate in the insurance guarantee program contains the stipulation that implementing the Policy Guarantee Program can only proceed if the insurance company is in sound financial condition, as regulated in Article 80, Paragraph (2) of the P2SK Law. The criteria for assessing the financial health of insurance companies are outlined in Article 9, Paragraph (2) of the Financial Services Authority of the Republic of Indonesia Regulation No. 6 of 2023 concerning the Second Amendment to Financial Services Authority Regulation No. 72/POJK.05/2016 on the Financial

48 Hasymi Ali, *Pengantar Asuransi*, (Jakarta: Bumi Aksara, 1993), 110.
49 Ketut Sendra, *Klaim Asuransi: Gampang!* (Jakarta: Badan Mediasi dan Arbitrase Asuransi Indonesia, 2009), 50.
50 Article 53, paragraph (2) of Law No. 40 of 2014 on Insurance.
51 Article 86 of Law No. 4 of 2023 on the Strengthening and Development of the Financial Sector
52 Putri, "Bentuk Kelembagaan Program Penjaminan Polis di Indonesia (Studi Perbandingan Antara Indonesia dengan Malaysia dan Korea Selatan)," 200.
53 *Ibid*.

Health of Insurance and Reinsurance Companies Based on Islamic Principles. This provision states that the financial health of an insurance company can be assessed through several indicators, such as solvency ratio, technical reserves, investment adequacy, equity, guarantee funds, permissible assets, participant investment funds, and other financial health-related criteria. The benchmark for a healthy insurance company is based on the Risk-Based Capital (RBC) minimum capital calculation. The capital adequacy ratio for insurance companies currently stands at a minimum of 120%, yet insurance companies still aspire to maintain a capital adequacy ratio of 140%.

One crucial aspect of the Policy Guarantee Program is its funding mechanism. The funding scheme within this program is of high urgency as it plays a vital role in ensuring the sustainability and effectiveness of the program. With an adequate funding mechanism, the guaranteeing institution can cover policyholder claims in the event of risks affecting the insurance company, and this funding scheme will help maintain trust and the reputation of the Policy Guarantee Program.

There are two categories of participant contribution payment methods for the policy guarantee program: *ex-ante* and *ex-post* funding schemes.[54] The *ex-ante* scheme involves establishing a reserve fund to anticipate future defaults, meaning that this reserve is formed before issues arise. The second scheme, *ex-post*, involves funding after insolvency problems have arisen, with the amount adjusted according to the total funds collected.[55] Although this categorization is precise, choosing between the two is not straightforward. Some countries, such as Singapore, Malaysia, and South Korea, have adopted the *ex-ante* funding scheme. In contrast, the United Kingdom, Australia, Canada, and the United States adopt the *ex-post* funding scheme, while Denmark and Germany employ a mixed funding scheme.[56] These countries have adopted different funding mechanisms based on their market structures and regulations.[57]

Referring to practices implemented by LPS and considering the conditions of Indonesia's insurance industry, it is ideal that premium collection is conducted on an *ex-ante* basis. Under this *ex-ante* funding scheme, insurance companies can determine the amount of contributions to be paid at the beginning of the period, allowing them to allocate their resources efficiently and making the cost estimation of this Policy Guarantee Program more measurable. Furthermore, the *ex-ante* funding scheme also benefits policyholders. By knowing that the guarantee fund contributions have been collected in advance, this provides a sense of security and legal certainty that the Policy Guarantee Institution will cover insurance claims in the event of a financial risk to the insurance company. This will undoubtedly enhance public trust in the insurance industry as a whole.[58] However, decisions regarding the contribution payment scheme for the Policy Guarantee Program must still take into account a thorough analysis of the financial stability of insurance companies, the level of protection needed by policyholders, and the ability of the guarantee institution to manage and allocate these funds effectively.

To ensure that the expansion of LPS's mandate does not jeopardize depositors in the long run, the government has introduced an implementation framework for the Insurance Policy

54 OECD, "Policyholder Protection Schemes", No. 31, accessed May 20, 2013, https://www.oecd.org/ en/publications/policyholder-protection-schemes_5k46l8sz94g0-en.html.

55 Oxera, "Insurance Guarantee Schemes in the EU: Comparative Analysis of Existing Schemes, Analysis of Problems and Evaluations of Options," Final Report Prepared for European Commision DG Internal Market and Services, last modified 2007, https://www.research gate.net/publication/40947096_Insurance_Guarantee_Schemes_in_the_EU_Comparative_Analysis_of_Existing_Schemes_Analysis_of_Problems_and_Evaluation_of_Options.

56 Seoul Center For Finance and Innovation, "Establishing Efficient and Effective Insurance Guarantee Schemes" (Washington DC: The World Bank, 2023), https://documents1.worldbank.org/curated/en/09943021123. (Sesuaikan daftar pustakanya) 2354829/pdf/IDU1b2120e4c1526d14e231bc33180f72ecc37f7.pdf.

57 James A. Ligon and Paul D. Thistle, "The Formation of Mutual Insurers in Markets with Adverse Selection," *Journal of Business* 78, No. 2 (March 2005): 521.

58 Susanto, *Penguatan Fungsi Kepatuan Perusahaan Asuransi Jiwa Dalam Program Penjaminan Polis*, 302.

Guarantee Program under the P2SK Law. Article 102 paragraph (2) of the P2SK Law stipulates that LPS must separately record the assets and liabilities related to the administration of the Insurance Policy Guarantee Program from those associated with the deposit insurance program. Consequently, the implementation will require a distinct fund management mechanism between the funds for deposits guaranteed by LPS and the funds for policy guarantees within the Policy Guarantee Program. This mechanism will ensure that funds collected from contributions to the Policy Guarantee Program are utilized transparently and effectively, following the objectives of the policy guarantees.

Thus, regulations are needed to prohibit cross-subsidization between the guarantees on deposit funds and those for policyholders. Cross-subsidization may occur when funds from one source cover shortfalls from another source. Establishing such regulations can prevent the misuse of funds and ensure that contributions collected from the Policy Guarantee Program are allocated explicitly for insurance policy guarantees. This is crucial for maintaining the integrity and stability of the guarantee system itself.[59]

This provision reflects the government's effort to ensure that the implementation of the Insurance Policy Guarantee Program does not negatively affect the existing deposit insurance system. In addition, current policy discussions indicate that the funding of the Insurance Policy Guarantee Program is intended to originate from contributions made by insurance companies in order to minimize the risk of cross-subsidization between deposit insurance funds and policy guarantee funds. This approach demonstrates the government's commitment to maintaining the sustainability of depositor protection while simultaneously strengthening policyholder protection within Indonesia's financial safety net system.

According to the provisions in Chapter VIII, Section One, Article 81, Paragraph (1) letters (b) and (c) of the P2SK Law, insurance companies are obligated to pay initial participation contributions and periodic contributions for guarantees when they become participants in the policy guarantee program. These regulations will undoubtedly impact the premium calculations the insurance customers must pay. The challenges of the policy guarantee program in Indonesia, particularly concerning the periodic guarantee contributions that insurance companies must pay, will encompass several aspects, such as:

1) Compliance of Companies.
   Not all insurance companies can pay the guaranteed contributions fully and on time. This may be attributed to issues of liquidity or inherently volatile profitability.
2) Moral Hazard Risk
   Moral hazard plays a central role in almost every narrative of financial crisis.[60] The existence of guarantees from the policy guarantee program may lead insurance companies to act with less caution in risk management,[61] potentially increasing claim possibilities and jeopardizing the program's stability. The policy guarantee program is highly reliant on contributions from insurance companies and is designed to remain sustainable. If excessive claims are filed, the available funds may be depleted quickly, threatening the program's continuity.
3) Feasibility of Contribution Determination
   An inappropriate determination of contribution amounts may affect the competitiveness of insurance companies. If the contributions are too high, insurance companies may struggle to compete with firms not bound by the policy guarantee program.

Compared to the deposit guarantee scheme in banks, the maximum deposit value currently

59 *Ibid*., 265.

60 John Crawford, *The Moral Hazard Paradox of Financial Safety Nets*, *Cornell Journal of Law and Public Policy*, vol. 25, (March 2015), 95.

61 Cassandra Jones Havard, "What Does 'Moral Hazard" Mean? A Scholar of Financial Regulation Explain Why It's Risky for The Government to Rescue Banks," *University of South Carolina*, last modified 2023, accessed June 9, 2024, https://sc.edu/uofsc/posts/ 2023/03/ conversation_moral_hazard.php.

guaranteed by LPS is IDR 2 billion per customer at one bank, provided that the deposits bear interest rates below the LPS guarantee rate.[62] Therefore, in establishing the amount of policy guarantees, LPS must conduct a thorough risk analysis, considering the risk profiles of the insured insurance companies to avoid significant losses in the event of insurance company failures.

Another challenge pertains to the limitations on the insurance products eligible for the Policy Guarantee Program. According to Articles 83, Paragraphs (1) and (2) of the P2SK Law, the Policy Guarantee Program only guarantees the protective elements of insurance products within specific lines of business, excluding social insurance programs and mandatory insurance programs from the policy guarantee. The introduction of this regulation has led to differing opinions regarding the limitations on guaranteed insurance products, with some advocating for coverage solely for traditional, health, and accident insurance. Conversely, others argue that unit-linked investments and investments with returns above the Bank Indonesia rate should not be guaranteed and should instead be the responsibility of the policyholders.

Therefore, to address the challenges mentioned above, LPS requires collaboration among lawmakers, insurance companies, and other stakeholders to ensure that the policy guarantee program can operate effectively and sustainably in the future.

## VI. Closing

### A. Conclusion

A series of insurance company defaults in Indonesia has significantly eroded public confidence in the insurance industry. This condition highlights the urgent need to establish an Insurance Policy Guarantee Program that can offer legal certainty, protect policyholders, and reinforce financial system stability. The mandate P2SK Law confirms that such a program is not merely a policy option but a legal obligation.

However, the effective implementation of this mandate depends on addressing institutional and regulatory challenges, particularly those involving the readiness and capacity of LPS. These include clarifying the scope of coverage, ensuring funding sustainability, and coordinating with supervisory authorities.

### B. Recommendation

To support the effective implementation of the Insurance Policy Guarantee Program in Indonesia, this study recommends several key measures. *First*, the scope of protection must be clearly defined by regulatory authorities to ensure legal certainty for policyholders. *Second*, a sustainable and transparent funding mechanism should be established to maintain the solvency of the guarantee fund. *Third*, institutional readiness must be enhanced, particularly in terms of the technical capacity and legal authority of LPS to manage insurance defaults. *Fourth*, regulatory coordination among LPS, the Financial Services Authority (OJK), and industry stakeholders must be strengthened to enable an integrated supervisory and recovery framework. Finally, Indonesia should refer to international best practices, such as those developed by IAIS while tailoring them to the specific characteristics of its insurance market. These recommendations aim to build a credible, accountable, and effective insurance guarantee system that ensures consumer protection and promotes long-term financial stability.

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62 Article 29 of the Deposit Insurance Corporation Regulation No. 1 of 2023 on the Deposit Insurance Program.

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