

THE REGULATORY IMPROVEMENT OF INSURANCE LAW REFORM IN ORDER TO PURSUE THE LEGAL CERTAINTY FOR THE PEOPLE AND THE INSURANCE COMPANY

Wihadi Wijanto

Dewan Perwakilan Rakyat Republik Indonesia
01657200035@student.uph.edu

Abstract

The growth of insurance sector in Indonesia so far shows a significant development. The data from the Financial Services Authority (OJK) recorded that in 2020 there were 139 insurance companies had obtained the permits to run their business in Indonesia. This number has been decreasing over the past five years due to the failure of several big insurance companies in managing the customer's insurance premium. For example, Bakrie Life and Bumi Asih Jaya Insurance. The research methods on this this research are normative with an empirical support to verify the basic research problem and to regulate an ideal formulation of legal protection for all insurance policyholders against the intentional mismanagement by the insurance companies. The results show that until now the rights of all insurance policyholders are still referring to the Commercial Law (Trade Law Book) and the Insurance Law. Both regulations do not specifically regulate the rights of insurance policyholders, especially those related to the investments or funds in the non-state-owned (non-BUMN) insurance companies with the priority of refunding if there is an intentional mismanagement or criminal acts committed by the director of the insurance company. The research concluded that the existing regulations do not provide a legal certainty for the insurance policyholders to get refunds for their deposit funds. This means, there is no legal protection for the insurance policyholders when the above mentioned crime occurs or when a violation occurs, or when there is a reinvestment failure. Therefore, it is recommended that the insurance law regulatory improvements be carried out, specifically those related to: 1) Non-litigation settlement mechanisms such as Arbitration (BANI), 2) Litigation settlement mechanisms including private law suit, force majeure, illegal act, bankruptcy suit against the investment managers, or criminal charges for embezzlement, fraud, or money laundering. In addition, it is necessary to have improvements of the technical provisions POJK No. 06/POJK.07/2022 concerning Consumer and Public Protection in the Financial Services Sector.

Keywords: *Legal Certainty; Customer Funds; The Failure of Reinvestment*

1. INTRODUCTION

The state of Indonesia is a state of law, this refers to the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This means that the state of Indonesia is based on law (*rechtstaat*) and not based on mere power (*machtstaat*). The logical consequence that arises is that law must become the " *center of action* ", all aspects of national, state and social life must refer to the applicable law. This implies that all government actions (power holders) and legal subjects are based on law, and the government has an obligation to realize the function of law in a rule of law country.¹

¹Nurul Qamar, et al ., *State of Law or State of Power (Rechtsstaat or r Machtstaat)*, (Makassar: Social Political Genius, 2018), p . 1-2

The law provides protection for the interests of the population and citizens as well as gives legitimacy to the government to act decisively in carrying out its duties and authorities, so that the government and the state do not hesitate and are not afraid to take action against anyone who tries and commits an act that violates the law (law enforcement) .

Law enforcement is an indispensable condition for the existence and functioning of basic democratic values. In addition, in law enforcement it is necessary to guarantee the independence or freedom of judicial institutions. The independence or freedom of the judiciary is a requirement and condition so that the principle of the rule of law can be fully implemented. This means that a judicial institution is independent when the actors in that institution are also independent and oriented towards a sense and voice of justice, not the pressure of power.

The problem of law enforcement seems to be a black fog that seems difficult to penetrate and almost untouched by reform. ²This is an effort that is not in line with the objectives of legal reform in Indonesia, including so that the public can regain confidence in the law, including the law enforcement system and legal apparatus, so that the implementation of development can run in a conducive and sustainable manner for the welfare of the people.

Law and economics are described as closely related, especially regarding the field of corporate economics and microeconomics, the scope of which includes business interactions between business actors. The role of law in economic development is very important not only in resolving problems that arise, but what is even more important is in laying the foundations of development itself. With the success of economic development, it is estimated that socio-economic changes will be created in the midst of society.³

High economic growth can be stimulated through a well-implemented and sustainable economic development process and the results can be enjoyed by the entire community. Apart from growth, it is necessary to get attention and maintain the essence of economic growth itself, namely law enforcement in the economic sector.

However thus , growth guiding economy ⁴ law and ethics business . Since the New Order era, Indonesia has experienced failure in building a modern, structured nation strong (*hard state*) in relationship with market development (*market mechanism*), with characteristic widespread corruption and inefficiency .⁵ Continuing in the reformation era which also tends to adopt liberalism typical of developing countries where there is a process of bureaucratization (*minimum state*) and excessive privatization. Originally intended to make government and BUMN more efficient while still handing over the engine of growth to the private sector. However, what is happening is that the state is increasingly powerless

²Boy Nurdin, *Position and Function of Judges in Law Enforcement in Indonesia* , (Bandung: PT. Alumni, 2012), p . 2

³ *Ibid* ., p . 6

⁴ guide in KBBI interpreted as /me-me-do- mani / v based on the guideline : judges should – the law written in decide matter . <https://kbbi.web.id/pedoman>

⁵ Didin S. Damanhuri . “Editor: Dualism Colonial versus Constitutional Economy ”, in Supardi, Irvan Rahardjo, *Its Collapse Our Insurance : Secure Insurance Jiwabaya , Dutch Heritage Until Absence of the State* , (Bogor: IPB Press Publisher , 2020), p . x

in playing the role of a regulator, let alone playing a corrective role in the market so that social justice occurs.⁶

This management failure also occurs in the management of the insurance business in Indonesia, where insurance companies should have a strategic role in participating in building economic growth and also the importance of maintaining the resilience and stability of the Indonesian people financially. Financial resilience and stability by starting to prepare investment funds related to self (*self*) and anticipating loss problems that involve everyday life.

Currently _ development insurance showing sufficient development _ significant . In Indonesia, a lot there is companies operating in the field insurance , companies the race For give the best service for customers user service insurance . Based on data from the Financial Services Authority (OJK), up to 2020 , there are as many as 139 companies insurance in Indonesia who get permission . the data experience decline for five years Lastly , in 2019 and 2018 there were 151 companies , then in 2017 it reached 152 companies and in 2016 it was recorded as many as 146 companies . Of 139 companies mentioned , recorded 74 companies _ insurance general , 54 companies insurance soul , 7 companies reinsurance ; 3 companies organizer insurance Wajin and 2 organizing bodies guarantee social .⁷ Decline This caused exists a number of organizer insurance problematic reputation _ with management premium from customers , including :

1. Bakrie Life, case fail pay company insurance owned by The Bakrie Group occurs in various types of Diamond Investa products *unitlink* (insurance and investment). Product the experience fail pay in 2008 because company too aggressive invest in the stock market , in those days shares fall Because triggered global crisis subprime mortgage cases in the United States (US). The Capital Market and Financial Institution Supervisory Agency (Bapepam -LK), which is now has changed Name became OJK, stated fail pay Diamond Investa reached IDR 500 billion . For finish problem This achieved the Bakrie Life deal will installments obligation . However Bakrie Life 's installments are problematic . Not all fund policy holder returned until finally in 2016, OJK revoked permission operational Bakrie Life, stated in decision no. KEP-76/D.05/2016 which was stipulated on 17 April 2017.⁸
2. Bumi Asih Jaya Insurance , Financial Services Authority (OJK) revoked permission business in the field Insurance over PT Asuransi Jiwa Bumi Asih Jaya (BAJ) on October 18 2013 because No capable Again For fulfil provision related with health finance (*Risk Based Capital*) and ratios balance investment to backup technical and debt claims . On his way after repealed , Bumi Asih Jaya has not can carry out his obligations so OJK submits lawsuit bankrupt to Court Central Jakarta Commerce .⁹
3. Bumiputera Life Insurance 1912, more problems with Bumiputera focused to *mismanagement* or error manage company . In January 2018 the company confess

⁶ *Ibid* .

⁷<https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/asuransi/Pages/Statistik-Perasuransian-2020.aspx>

⁸Irvan Rahardjo, *Collapse Our Insurance : Twilight SJB Bumiputera 1912 – Steep Road Guard Inheritance Nation* , (Bogor: IPB Press, 2020), p . 97

⁹ *Ibid* ., p . 238

experience lateness payment claim in 1 - 2 months Because minimal premium generated _ company .¹⁰

In the research that we wrote this , we will focus to cases that occurred in the company failed non-state owned insurance operate activity management of customer funds , which in the end harm its customers That Alone or happen fail pay to customers . If it happens condition so , then handling law to company BUMN insurance with non-BUMN is very far away different . Researcher will focus writing this research to BUMN insurance , for example Jiwasraya , which is because There is participation in state capital and results in state losses , then state institutions are good That attorney or Commission Eradicator Corruption (KPK), if in the activity fail pay the there is guess follow criminal corruption , will do investigation and investigation .

Referring to the existing *das turn signal* , there is a number of provision insurance that becomes base law practice insurance in Indonesia and also become base think normative (*das sollen*) in writing this research these , among others:

1. Constitution of the Republic of Indonesia;
2. UU no. 40 of 2014 concerning Insurance ;
3. Constitution Number 37 of 2004 concerning Bankruptcy and Suspension Obligation Debt Payment ;
4. Constitution Number 21 of 2011 concerning Financial Services Authority ;
5. Regulation Government Number 73 of 1992 Concerning Implementation of Insurance Business ;
6. Regulation Financial Services Authority Number 23/POJK.05/2015 Concerning Product Insurance and Marketing Product Insurance ;
7. POJK No. 28/POJK.05/2015 concerning Dissolution , Liquidation , and Bankruptcy of Insurance Companies , Sharia Insurance Companies, Reinsurance Companies , and Sharia Reinsurance Companies;
8. Regulation Financial Services Authority Number 69/POJK.05/2016 concerning Carrying out Insurance Company Business .

Maintenance activity business insurance , no just touch with provision regulation legislation in the field insurance only , but also touching with field others , like bankruptcy , because draft cooperative is exists debtor (company insurers) and creditors (clients). holder premium insurance). Implementation application related bankruptcy _ regarding Insurance Companies , Reinsurance Companies , Pension Funds , or State-Owned Enterprises Operating in the Field Public Interest states that in implementation must done and submitted to the then Minister of Finance based on its development authority the diverted to The next Financial Services Authority abbreviated become OJK.

From context solution case fail manage premium customers by the company insurance that causes fail pay company insurance the to its customers , there is difference characteristics solution between company BUMN insurance with non-BUMN, according to Writer precisely certainty law for company policyholder _ non-state-owned insurance is necessary get attention special in form renewal legislation . Therefore _ it , Author interested

¹⁰ *Ibid* , pp. 88-89

For deepen room scope business insurance in Indonesia with lift title This research this , “ Insurance Law Update For Realize Legal Certainty for Insurance Business Actors and the Community ”. Formulation Problem Based on background behind such , author identify the things studied as following : How arrangement on investment company non-BUMN insurance for policyholder funds ? How implementation arrangement certainty law on policyholder funds in the company non-BUMN insurance against exists element deliberate error management or follow crime committed by the Director , with priority policyholder refund ? _ How ideal setting that can be in a manner effective give certainty law for company policyholders _ _ non-BUMN insurance against exists element deliberate error management or follow crime committed by the Director ?.

2. RESEARCH METHODS

In this research, the author's main aim is to examine the quality of a norm so that a legal recommendation can be found in the context of legal reform, so the legal research used is a normative juridical legal research method, taking into account that the starting point of the research is how the ideal concept is regulated in relation to legal protection for policy holders at insurance companies against elements of deliberate mismanagement or criminal acts committed by the Insurance Company. Therefore, research is needed to find the context of legal protection for customers who hold insurance policies who have good intentions. In this type of legal research, law is often conceptualized as what is written in statutory regulations (*law in books*) or law is conceptualized as rules or norms which are benchmarks for human behavior that is considered appropriate ¹¹.

3. ANALYSIS AND DISCUSSION

This is related with product underlying law _ regulation and management of population data on KTP- el , for organize return in One framework think , that arrangement or base legislation on population data on e -KTP is One unity based on the Establishment Law Regulation Legislation . As for the main points arrangement storing and managing population data on e -KTPs in Indonesia, referring to Law Number 15 of 2019 concerning Changes to the Law Number 12 of 2011 concerning Formation Regulation Legislation , then explained as following :

As effort accommodate various changes that occur , then do it change after change to substance of the 1945 Constitution in 1997 – 2010, good from facet substance nor systematics . The state is obliged serve every citizens and residents For fulfil rights and needs basically in framework service public which is mandate of the 1945 Constitution . Article 26 paragraph (3) of the 1945 Constitution, reads : " Matters about citizens and residents arranged with law " . Then , Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which reads : " Every person has the right on acknowledgment , guarantee , protection , and certainty fair laws _ as well as same treatment _ in front of law ” . In essence, the Unitary State The Republic of Indonesia is based on Pancasila and the

¹¹Amiruddin & H. Zainal Asikin, *Introduction to Legal Research Methods* , (Jakarta: Raja Grafindo Persada, 2006), p. 118.

1945 Constitution of the Republic of Indonesia in essence obliged For give protection to society and actors industry service finance in matter This is insurance .

1. Act Number 40 of 2014 Concerning Insurance . Law _ Number 2 of 1992 concerning Insurance Business updated with Constitution Number 40 of 2014 concerning Insurance . Inside _ General Explanation of the Law Number 40 of 2014 stated that effort For create industry more insurance _ healthy , got reliable , trustworthy , competitive in a manner general done , fine with determination provision new nor improvement existing provisions _ there is .

2. Constitution Number 4 of 2023 Concerning Development and Strengthening of the Financial Sector . Act P2SK is effort Government and Parliament for advance well-being general with carry out sector reforms Indonesian finance . Article 326 letter O of the Law Invite Number 4 of 2023 Concerning Development and Strengthening of the Financial Sector mention that Constitution Number 40 of 2014 concerning Insurance stated Still still apply . In this P2SK Law There are 27 chapters and 341 articles contained therein . Protection Consumers in the P2SK Law are located in Chapter XVIII Literacy Finance , Inclusion Finance , and Protection Consumer Article 225 to with article 235, article 238 (Provisions Standard Agreement) , 239 (consumer data protection) , and 245 to with Article 247 (handling complaint consumers) .

3. Constitution Number 21 of 2011 concerning Financial Services Authority

4. Regulation Government Number 73 of 1992 Concerning Implementation of Insurance Business

5. Regulation Financial Services Authority

Giving permission to company insurance general For promote link units This provided by OJK through Article 7 paragraph (2) Regulations Financial Services Authority Number 69/POJK.05/2016 concerning Implementation of Insurance Company Business . Insurance link units is one _ product finance appropriate insurance _ with Article 1 Regulations Financial Services Authority Number 23/POJK.05/2015 Concerning Product Insurance and Marketing Product Insurance . In Article 2 of the Regulations Financial Services Authority Number 23/POJK.05/2015 concerning Product Insurance and Marketing Product Insurance , which contains Product Associated Insurance _ With the next Investment called PAYDI is Product Least insurance _ give protection to risk death and giving benefits refer to outcomes _ investment from special pool of funds formed For Product Insurance well stated _ in unit form or not units. In connection with mandate Article 4 paragraph (2) Regulations Financial Services Authority Number 23/POJK.05/2015 concerning Product Insurance and Marketing Product Insurance (State Gazette of the Republic of Indonesia 2015 Number 287 , Supplement State Gazette of the Republic of Indonesia Number 5770) and Article 7 paragraph (6) of the Regulations Financial Services Authority Number 69/POJK.05/2016 concerning Business Conduct of Insurance Companies, Sharia Insurance Companies , Reinsurance Companies , and Sharia Reinsurance Companies (State Gazette of the Republic of Indonesia of 2016 Number 302, Supplement State Gazette of the Republic of Indonesia Number 5992), necessary For arrange more carry on about product linked insurance _ with investment in a Circular Letter Financial Services Authority NUMBER 5 /SEOJK.05/2022 Concerning Product Associated Insurance _ with Investment.

parties _ in activity business non-state owned insurance

Agreement insurance involving 2 (two) parties that is Insurer and Insured . Insured can insure himself Alone or insure the other person ; for example parents can insure his son . Mandatory insured _ pay premium entitled submit claim is The insured inside Police called as Policy Holder (Policy Holder). Whereas Insurer is Parties that have own formal permission to do activity related business _ with taker diversion risk other party based a policy; on coverage this , underwriter risk accept premium from the other party as Insured . In accordance with a Circular Financial Services Authority Republic of Indonesia Number 5/SEOJK.05/2022 concerning product Linked insurance _ by investing in criteria companies that can market PAYDI, requirements For there are companies that market PAYDI the parties involved in product insurance this . parties the is party company insurance as insurer , insured as policy holder , party Investment Manager appointed by the company insurance Where he as power manager investment as well as Custodian Banks based on Law no. 8 of 1995 concerning Capital Markets and Article 6 Number 21/POJK.04/2017, custodian is institution provider service safekeeping portfolio and assets related with effect , good reception interest , dividends , settlement transaction securities , deputy holders accounts , and rights other .. Parties This have connection law based on agreement binding on the parties . Agreement insurance the involve company insurance as guarantor and the insured , agreement investment between company insurance with Investment Manager for the insured 's funds , as well agreement use service custodian between the Company and the Custodian Bank .

Mechanism policy reinvestment of the policyholder's funds in the company non-state owned insurance . link units or PAYDI is product insurance a non- traditional soul that combines protection to risk relative death _ limited (vs with product insurance soul traditional) with benefits refer to outcomes _ investment from special pool of funds formed For product insurance . Product insurance unit links basically is a policy that combines protection and investment programs in One product . With so , customers insurance will own freedom For determine Alone allocation of funds that will be implanted inside _ investment . Insurance link units enter to in category investment portfolio Because placement of money or planting capital through the capital market with instrument letter precious , like stocks , bonds , and deposits . Element investment in product link units is component important from product that , remember mark the policy is results investment real gain . _ Portfolio investment carried out by individuals , companies and institutions expected finances _ enhancement mark from letters precious .

Every investment Certain bear element risk , on the unit link This risk investment fully borne by the party policy holder . There are several investment returns possibility , profit gain or profit loss. In products link units This company insurance reduce risk where is the premium money ? customers part entered as guarantee risks and some Again enter to in component customized investment _ with desire customers with customers through manager selected investments , with _ thereby company insurance besides take care guarantee There are also risks involved answer in the field investment .

How it works from link units is premiums paid by insurance policy holders _ enter to instrument selected investment _ in matter This is insurance soul unit link , which is then

produce policy value . However , before That premium cut For pay a number cost especially cost acquisitions in _ early . With thus , portion incoming premium _ as investment That nett fees paid _ to company insurance .

Policy value which is results from investment is the money used For pay cost insurance , fees insurance extras , and fees administration . With thus , protection insurance paid from results investment . from here We Can Look that cutting cost in unit link done in two ways . First , premium direct cut For pay cost acquisition (only in 5 years first). Second , value investment cut in a manner routine For pay cost insurance (during the life of the policy) . After pay all cost the , the rest is policy value or mark cash you can taken by the policy holder . This is value that can melted for insurance funds soul .

As long as the policy value is sufficient For pay costs , protection insurance still active . If the policy value is not enough , automatic protection insurance stop , or often called as police lapse . In principle , an insurance policy link units will still active during consumer still do payment premium . In other words, if consumer stop do payment premium then the insurance policy link units will lapse . Before happen lapse policy , company insurance will request customers do additional funds (top up) with pay again outside _ regular premiums _ paid .

Offer insurance link units done in a manner stare advance direct between agent with consumer . In case This agent will do introduction related his company and dig information about consumer . Furthermore agent will do analysis to need consumers and profiles risk investment consumer . this _ needed agent For determine coverage insurance that consumers need and determine _ choice the most suitable investment with profile risk investment consumer . As base for agent For can do marketing insurance unit link , agent the besides must own certification licence agent seller Insurance is also mandatory own certification special unit link .

Certification the published by the Association Indonesian Life Insurance (AAJI) and mandatory updated every 2 (two) years once . Agents who have own certification the can promote insurance link units something company insurance soul on base agreement agency between company insurance soul with agent who _ general arrange provision related rights and obligations agent in do marketing insurance link units . Company agent insurance soul that has own agreement agency with One company insurance soul No can own agreement agency with company insurance soul others . With so , a agent only can promote product insurance from One company insurance soul . On agreement agency No there is period expiration time _ agreement Where agreement agency will still apply throughout marketing insurance unit link made by the agent No contradictory with provisions that have been set in the agreement agency .

As form delivery information related development investment , company insurance soul convey report transaction at least one year very to consumer through letter . it _ done in accordance with provisions of the Capital Market and Financial Institution Supervisory Agency (Bapepam LK) through the Decree of the Chairman of the Capital Market and Financial Institution Supervisory Agency Number KEP-104/BL/2006 concerning Product link units . Apart from delivery information development investment annual , some company insurance the soul also conveys report development investment in a manner monthly via

email. Consumers can too monitor development investment every moment through the web/application owned by the company insurance soul .

Comparison arrangements for reinvestment of policyholder funds in the company non-state-owned insurance . Singapore ILP (Investment-linked insurance plans) start growing in Singapore since 1990. Regulations main related _ with disclosure product finance consumers in Singapore are at the bottom Constitution Advisor Finance (FAA) . After crisis global finance , Singapore amended the FAA to enter provision firmly stipulates _ obligation advisor finance For disclose information product . ' Products designated investments ' include internal units _ scheme investment collective , insurance policy life and other products determined by MAS (the Monetary Authority of Singapore) . Violation to provision can cause punishment penalties and fines sustainable . MAS obliges company insurance soul direct to ' make sure that prepared document _ For client obey stated applicable standards __ in Constitution Insurance and notifications as well as announcement about disclosure products and information to ejected client _ based on Constitution Advisor Finance in 2001 . Netherlands Police unit link consists from component insurance soul that bears risk death and components possible investment _ used For build capital (for payment mortgage , pension or increase in general capital). Activity insurance and reinsurance especially arranged in the Act on the Financial Supervision (Wet op het finance toezicht) (AFS) and its regulations , such as the Decree Prudential Rules (Besluit prudentiële regels Wft) and the Decree on Market Conduct Supervision (Besluit Gedragtoezicht financiële ondernemingen Wft). AFS contains condition licensing For company insurance and companies reinsurance (ac collective called in chapter This as company insurance), as well condition prudence and implementation applicable business _ for them . The Decree apply regulation related with in a manner active help client with an insurance policy link units For make the right choice (The Decree) which has published . For objective this , company insurance soul required For give adequate information _ to client them . Swedish FSA Sweden is an agency under the Ministry of Finance , is responsible answer on supervision , authorization , assessment sanctions , regulations and problems reporting industry insurance . Swedish company can operate business insurance or reinsurance in Sweden only after given authority as supposedly by the Swedish FSA in accordance with Constitution Business Insurance Sweden (Swedish Insurance Business Act) (2010:2043) (Sw. försäkringsrörelselagen) (the IBA) . Authorization only given to company limited by shares _ (Sw. försäkringsaktiebolag) (company insurance), business insurance together (Sw. ömsesidigt försäkringsbolag) (company insurance together) or association insurance (Sw. försäkringsförening) (association insurance). Insurance company , company mutual insurance and associations insurance , both running _ business insurance nor reinsurance , below This in a manner together called as business insurance . Authorization by Swedish FSA necessary for the company insurance can operate business insurance in Sweden . Application given If business the considered fulfil regulatory requirements _ operation insurance . Insurance company in Sweden required For obey relevant EU regulations , Act Sweden , and regulations issued by the Swedish FSA . Indi Unit linked Insurance Plan (ULIP) is product insurance offered by the company insurance souls that combine protection risks and benefits investment . The first ULIP launched in India in 1971 by the Unit Trust of

India (UTI). decision investment part big governed by rules and regulations Insurance Regulatory Development Authority (IRDA) , ensure stable returns _ with minimal risk . Income investment distributed among _ policyholders through annual bonuses . _ The Insurance Regulatory and Development Authority of India (hereinafter called "IRDA") is guard sector Insurance Because protect interest insurance policy holders , regulate , promote and insure growth industry orderly insurance and for _ related matters _ with him . Section 26 of the IRDA Act give authority to IRDA for make consistent rules _ with Constitution For carry out objective Law . Below _ authority granted , IRDA makes 'Insurance Regulatory and Development Authority (Investment) Regulations ' at year 2000. Regulation 3 made For objective Investment arrangements . Para 3 of the Regulations give mandate to company insurance For keep the funds received as part from premium (given For objective investment) invested in accordance arrangement or pattern certain things offered , approved and not approved . North Macedonia In Law about Supervision Insurance Republic of Macedonia, insurance soul in connection with investment fund shares Where when Insured bear risk investment with change mark investments and other securities of investment funds that have determined as one _ class insurance .In the Act about Supervision Insurance Republic of Macedonia is available provision special For insurance in matter risk investment borne by the insured . According to provision this , rights originating insured _ from contract insurance in a manner direct depending on value share in one investment fund , investment fund for cover provisions special mathematics _ set aside by the company insurance in connection with contract insurance the as much as possible Possible must covers investment in share or letter valuable others considered _ as part from structure ownership of investment funds certain .

Learning Comparison Regulation with other countries

Product insurance link units is product hybrid for insurance soul that bears risk and have component savings . Every client decide about amount assets to be used For cover risks , and how much many will _ used For investment . Insured assets invested in considered “ blue-chip ” stocks as investment risky low . “ Blue-chip ” stocks are share company established and healthy in a manner finances that have record proven track record , strong balance sheet with average debt, consistent earnings , and a large market capitalization .

Solvency II (Directive 2009/138/EC) give classification product insurance soul , however No load definition about what is meant with contract insurance soul . kindly specifically , product insurance soul can subject to law about investment instead service insurance in European Union countries others . Member Countries has develop rule more carry on in national law they took _ profit from flexibility provided by the minimum harmonization of EU rules in the region . Condition addition has enforced specifically related with product insurance with function investment .

Basically, the way unit links work and are regulated in Indonesia is the same as in Singapore, the Netherlands, Sweden, India and Macedonia. Judging from several additional regulatory improvements in several countries, policy holders feel safe in choosing unit link insurance when investing. Likewise what happened in Indonesia, OJK did internal strengthening _ regulation PAYDI products . this _ aim For increase protection to PAYDI users . In practice , agents promote product link units with promising profit big investment .

_ Additionally , at the time marketing , the majority agents don't either convey accompanying risks _ product unit link . See many complaints and grievances submitted _ consumers , besides follow up complaint OJK also does this effort strengthening regulations related link units with issue a Circular Letter Financial Services Authority Number 5/SEOJK.05/2022 concerning Product Associated Insurance _ with Investment and get started effective on March 14 2022 (SE-OJK).

As has been mentioned in chapter 4.1.1 regarding strengthening regulations carried out by the Financial Services Authority with SE-OJK issuance , issuance provision This aim For increase aspect protection consumer as well as improving governance and management _ risk for company insurance , marketing order PAYDI products or link units This No raises problem later _ day . SEOJK PAYDI encourages repair at three aspect main that is practice marketing , transparency information and governance PAYDI assets . Repair practice marketing and transparency information expected can ensure that PAYDI policy holders really has understand the PAYDI purchased , incl about benefit insurance , costs and risks borne by the policy holder . this _ consider level literacy still insurance _ low , while PAYDI is product complex insurance _ Because combine element insurance and investment .

Based on discussion and analysis that has been done be delivered in Chapter IV, then can pulled conclusion above 3 (three) formulations problem , as following : Settings about rights policy holders _ normative has arranged in the Criminal Code and the Act Insurance especially For protect policyholder of _ risk or potential incident _ will happened . Therefore _ That has done renewal regulations in the field Insurance , incl arrangement about unit link marketing with based on comparison with provision similar to that implemented in Singapore; Dutch; Sweden ; India and Macedonia, which normative has integrated with good . In conclusion , settings about insurance unitlink by OJK still too weak and limited . In its development , OJK has do strengthening regulations associated unit link with issue a Circular Letter Financial Services Authority Number 5/SEOJK.05/2022 concerning Product Associated Insurance _ with investment starting apply March 14 2022 (SE-OJK). SEOJK _ intended For push repair industry service current on three aspect main includes _ arrangement about practice marketing , transparency information and governance PAYDI assets . In addition , Indonesia is also the Government Keep going strengthen regulations related with insurance with drafting and enacting Law No. 4 of 2023 concerning Development and Strengthening of the Financial Services Sector . The aim is to arrange industry finance according to what has been in accordance with the times, all at once fulfil the mandate of the Insurance Law . Indonesian government through regulation legislation has give rights and opportunities for customers policyholder for _ can submit effort law To use obtain return premiums that have deposited through lawsuit default to company failed non-state owned insurance pay consequence error management company and existence follow crimes committed by directors and management _ company non-state owned insurance . Customer policyholders too _ submit PKPU application or bankrupt to company failed non-state owned insurance pay with submit application especially formerly to OJK for Then submitted to Court Commerce . this _ based on the provisions of the UUK-PKPU and the Insurance Law , stipulate only OJK can submit PKPU application or bankrupt to company insurance . Director including management company insurance does _ follow

criminal must processed in accordance regulation applicable legislation _ based on follow crime he committed . Government together with the DPR promulgated the P2SK Law (Development and Strengthening of the Financial Sector) with Law no. 4 of 2023 concerning P2SK which is substantive has amending and perfecting Law no. 40 of 2014 concerning Insurance . this law in a manner direct touch substance arrangement improvement of the Insurance Law that provides protection law to customers holder premium in matter happen follow criminal or violation in the field insurance and/ or happen fail reinvestment management by managers investment company insurance .

4. CONCLUSION

Based on discussion and analysis that has been be delivered in Chapter IV, then can pulled conclusion on 3 (three) formulations problem , as following : Settings about rights policy holders _ normative has arranged in the Criminal Code and the Act Insurance especially For protect policyholder of _ risk or potential incident _ will happened . Therefore _ That has done renewal regulations in the field Insurance , incl arrangement about unit link marketing with base on comparison with provision similar to that applied in Singapore; Dutch; Sweden ; India and Macedonia, respectively normative has integrated with good . In conclusion , settings about insurance unitlink by OJK still too weak and limited . In its development , OJK has do strengthening regulations associated unit link with issue a Circular Letter Financial Services Authority Number 5/SEOJK.05/2022 concerning Product Associated Insurance _ with starting investment apply March 14 , 2022 (SE-OJK). SEOJK _ intended For push repair industry service current at three aspect main includes _ arrangement about practice marketing , transparency information and governance PAYDI assets . In addition , Indonesia is also the Government Keep going strengthen regulations related with insurance with prepare and enforce Law No. 4 of 2023 concerning Development and Strengthening of the Financial Services Sector . The aim is to arrange industry finance according to what has been in accordance with the times, all at once fulfil the mandate of the Insurance Law . Indonesian government through regulation legislation has give rights and opportunities for customers policyholder for _ can submit effort law To use obtain return premiums that have deposited through lawsuit default to company failed non-state owned insurance pay consequence error management company and existence follow crimes committed by directors and management _ company non-state owned insurance . Customer policyholders too _ submit PKPU application or bankrupt to company failed non-state owned insurance pay with submit application especially formerly to OJK for Then submitted to Court Commerce . this _ based on the provisions of UUK-PKPU and the Insurance Law , stipulates only OJK can submit PKPU application or bankrupt to company insurance . Director including management company insurance does _ follow criminal must processed in accordance regulation applicable legislation _ based on follow the crime he committed. The government together with the DPR promulgated the P2SK Law (Development and Strengthening of the Financial Sector) with Law no. 4 of 2023 concerning P2SK which is substantive has amending and perfecting Law no. 40 of 2014 concerning Insurance . this law in a manner direct touch substance arrangement improvement of the Insurance Law that provides protection law to customers holder premium in matter happen follow criminal or

violation in the field insurance and/ or happen fail reinvestment management by managers investment company insurance.

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