

## THE ROLE OF THE FINANCIAL SERVICES AUTHORITY (OJK) IN FOSTERING AND SUPERVISING THE INSURANCE INDUSTRY ASSOCIATED WITH THE AVAILABILITY OF OJK CONTRIBUTIONS IN INDONESIA'S ECONOMIC DEVELOPMENT CONSTRUCTION

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### Abstract:

Insurance companies as risk transfer and sharing institutions have positive benefits for society, companies, and state development. In Indonesia, insurance is one of the supports for the pace of the economy which is supervised by the Financial Services Authority (OJK). Another issue is that the insurance business cannot be separated from the issue of fraud or insurance fraud. Fraud in insurance can be done starting from the bidding/registration process to submitting a claim to get financial benefits. The ghost of fraud threatens insurance in Indonesia. In Indonesia, there are several legal cases of non-payment of insurance, such as Bumiputera 1912 Life Insurance worth 12 trillion rupiahs, Jiwasraya Insurance 17 trillion rupiahs and ASABRI 15 trillion rupiahs, for which until now there has not been the most appropriate solution. The approach method used in this research is normative juridical, and the type of research chosen is descriptive analysis. Claim settlement mechanism. The results of the study stated that the Insurance Industry industry must be canceled and dissolved. it is recommended that if it is difficult to use APBN funds, then the functions and supervision of the OJK are returned to their original functions, so that there will be no more defaults, due to the negligence of the OJK who is busy collecting the OJK. Mandatory Contribution up to a fine/penalty if late payment.

**Keywords:** Financial Services Authority Mandatory Contribution

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## INTRODUCTION

In the business world, insurance companies are always ready to accept offers from the insured to take over the risk in exchange for premium payments (Brandenburger & Nalebuff, 2011). This risk transfer is offset in the form of premium payments to the insurance company (the insurer) every month or year (Rahayu, 2021), depending on the agreement contained in the policy (Borchert & Morita-Jaeger, 2021). The consumer (the insured) obtains the benefits of this risk transfer are obtained by the consumer (the insured) (Jing, 2021).

In developed countries, the insurance service industry plays a large role in the country's economy (Oliinyk, Bilan, Mishchuk, Akimov, & Vasa, 2021). Insurance companies as institutions of risk transfer and sharing have positive benefits for the community (Fava, Jensen, Sina, Mude, & Maher, 2021), companies, and the country's development (Fauziah, Mukhtar, & Nurjanah, 2021). In Indonesia, insurance is one of the supporters of the economy's pace (Liu, Xie, Hafeez, & Usman, 2021). It is undeniable that insurance plays an important role in several industrial and trade activities in Indonesia (Fajrina & Waspiah, 2021).

For the development of the State, the premiums collected in an insurance company can be managed (Cummins, Dionne, Gagné, & Noura, 2021) and used as funds for development efforts (Hall & Kanaan, 2021). Therefore, the results will be enjoyed by the community. However, it is

undeniable that in its implementation, what is hoped for by the existence of an insurance institution is not always following the expectations of the community (Mandrell et al., 2021); there are many shortcomings in the implementation of the insurance industry that result in losses for the community as insurance customers, including insurance customers (Kar & Navin, 2021) who do not get their rights following the agreement that has been made stated in the insurance policy (Jaramillo & Willging, 2021), and the difficulty of customers making insurance claims (Hanafy & Ming, 2021).

Important issues that occurred were as follows:

1. Government Regulation Number 11 of 2014 concerning levies by the Financial Services Authority (OJK), where this regulation was made to implement the provisions contained in article 37 paragraph (6) of Law no. 21 of 2011 concerning OJK OJK levies are used to finance operational, administrative, asset procurement and other supporting activities. Type of levy, the amount of levy is 0.03% of the Insurance company's Assets (Rp. 768.49 Trillion).
2. Another issue is that the insurance business cannot be separated from the issue of fraud or insurance fraud. Fraud in insurance can be carried out from the bidding/registration process to filing a claim to obtain financial benefits where the ghost of fraud threatens insurance in Indonesia. In Indonesia, there are several legal cases of non-payment of insurance, such as Bumiputera 1912 Life Insurance for 12 trillion Rupiah, Jiwasraya Insurance for 17 trillion rupiahs and ASABRI for 15 trillion rupiahs for which until now there is no most appropriate solution.

In connection with the background of the problem and to find out more about the role of the financial services authority (OJK) in fostering and supervising the insurance industry concerning the mandatory contributions of the fsa in the contribution of Indonesia's economic development, then the problem in this research is formulated as follows:

1. What is the role of the Financial Services Authority in guiding and supervising insurance companies in the legal insurance system in Indonesia?
2. How is the effectiveness of OJK contributions in contributing to economic development in Indonesia?
3. Are OJK mandatory contributions beneficial for the Insurance Industry and contribute to the Indonesian economy?

## **METHODS**

The writing of this journal uses the type of normative research. The type of normative juridical research basically has the aim of reviewing the applicable laws and regulations and is associated with theoretical concepts and is related to the problems in the subject matter of this journal. The problem approach used as a discussion in this journal is using a statutory approach (statute approach), conceptual approach (conceptual approach), and case approach (case approach). The legislative approach is looking for solutions to the proposed problem formulation by basing it on the provisions of legislation and regulations in Indonesia. A conceptual approach is an approach to solving problems by referring to relevant legal concepts and principles. The case approach is solving problems by referring to other cases similar to the cases studied in this journal. The data needed in this dissertation research were collected through data collection methods in the form of library research and interviews.

## **RESULT AND DISCUSSION**

In this dissertation proposal and where the analysis pen will use the following theories:

- a. Legal Systems Theory (Lawrence W Friedman)

“We now have a preliminary idea of what we mean when we talk about our legal system. Other ways are to analyze this complicated and important piece of the social world. To begin with, the legal system has structure. The system is continuously changing but part of a changer of different speed and not very part changer as fast as certain of the parts. Nevertheless, there are persistent

long-term patterns – aspects of the system that we were here yesterday. (or even in the last century) and I will be around for a long time to come. It is the structure of the Legal System.

It is three elements in American Law: Structure, Substance and Culture.

The theory of this legal system is used as an analytical pen that analyzes and describes problems in order to be able to answer questions and formulate problems no. 1 above.

Law enforcement in the legal system, according to the theory of Lawrence W Friedman's theory to be effective, includes three legal systems, namely:

#### 1. Legal Structure

The legal structure can be stated to be related to institutions or law enforcement, including the implementation of the law (performance)

#### 2. Legal substance

The legal substance is related to norms, rules, and behavior patterns, real humans, as a reference in law enforcement. More specifically, the emphasis is on living law, not just laws and regulations. "The substance is a reference in law enforcement in carrying out its authority which is very important as a guide for law enforcers. It means that the weakness of the content of the law will result in law enforcement being ineffective in achieving the objectives to be achieved.

#### 3. Legal culture

Legal culture is defined as a system of beliefs, values, ideas and assumptions, namely legal culture, which refers to the culture of general culture, ways of conducting opinions and social forces and definite social forces from the law in a certain way, in other words, what is the climate of social thought? And social forces inevitably determine how the law is used, avoided, or abused.

Satjipto Raharjo's Theory of Legal Protection.

This consumer protection legal theory is used as an analytical pen to analyze and outline the questions in the formulation of the second problem and get the answers. Several experts explain this discussion regarding the Theory of Legal Protection, including Fitzgerald, Satjipto Raharjo, Phillipus M. Hanjin, and Lily Rasyidi.

Fitzgerald explains Salmond's theory of legal protection that the law aims to integrate and coordinate various interests in society because, in a traffic of interests, protection of certain interests can only be done by limiting various interests on the other hand. The interest of the law is to take care of human rights and interests so that the law has the highest authority to determine human interests that need to be regulated and protected. Legal protection must look at the stages, namely legal protection born of a legal provision and all legal regulations provided by the community, which are basically an agreement by the community to regulate behavioral relations between community members and between individuals and the government, which is considered to represent the interests of the community.

According to Satjipto Rahardjo, legal protection protects human rights that others have harmed and that protection is given to the community so that they can enjoy all the rights granted by law. Meanwhile, according to Phillipus M. Hadjon, legal protection is the protection of dignity and worth, as well as the recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will be able to protect one thing from another. Concerning consumers, it means that the law protects customers' rights from something that results in the non-fulfillment of these rights.

According to Law Number 40 of 1999 concerning the Press, legal protection guarantees the protection of the government and or society to citizens in carrying out their functions, rights, obligations and roles following the provisions of the applicable laws and regulations. While the legal protections contained in Government Regulation no. 2 of 2002 concerning Procedures for Protection of Victims and Witnesses in Serious Human Rights Violations, protection is a form of service that law enforcement officers or security forces must carry out to provide a sense of security, both

physically and mentally, to victims and witnesses, from threats. Harassment, terror, and violence from any party are given at the stage of investigation, investigation, prosecution, and or examination in courts. Meanwhile, according to Lili Rasjidi and I.B Wysa Putra, the law can be functioned to realize protection that is adaptive and flexible and predictive and anticipatory.

John Rawls' Theory of Justice:

John Rawls's Theory of Justice is used as an analytical pen to analyze, describe, and answer questions in the third formulation of the problem.

John Rawls Theory:

"A Theory of Justice" is John Rawl's interpretation of the social contract theory. In determining "justice," Rawls uses the social contract theory, utilitarianism, theological explanations, and other interpretations. By using a "veil of ignorance" and a rational person standard, he devises two principles of justice.

"First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all".

At first, these principles seem outlandish. However, using a rational actor, the laws are logically sound. First, Rawls uses economics, specifically game theory, to determine the actions of a hypothetical group of rational actors. Second, he describes how institutions are used to promulgate a just society. Third, he describes why individuals will rationally submit to justice.

The American philosopher put forward several concepts of justice at the end of the 20th century, John Rawls, such as A Theory Of Justice, Political Liberalism, and The Law of Peoples, which gave a considerable influence of thought on the discourse of justice values. While the concept of "veil of ignorance" is translated by John Rawls that everyone is faced with the closure of all facts and circumstances about himself, including certain social positions and doctrines, thus blinding the concept or knowledge of developing justice. With this concept, Rawls leads the community to obtain the principle of fair equality with his theory referred to as "Justice as fairness".

John Rawls, who is seen as a "Liberal-Egalitarian of Social Justice" perspective, argues that justice is the main virtue of the presence of social institutions (social institutions). However, virtue for the whole community cannot override or challenge everyone who has obtained a sense of justice. Especially the weak people are seeking justice.

This conceptual framework is used as an analytical pen in analyzing, describing, and discussing theoretical applications, which will be combined with legal theories used to obtain research results.

Reform in the field of law in Indonesia. Some of the conceptual frameworks are as follows:

#### A. Financial Services Authority (OJK).

##### 1. Its functions and duties are:

- a. OJK has the function of organizing an integrated regulatory and supervisory system for all activities in the Financial Services sector.
- b. Regulating and supervising financial activities in the overall financial sector (Banking, Capital Market and Non-Bank Financial Industry (IKNB)

##### 2. OJK Contribution Obligations

Specifically for the Insurance sector, a mandatory contribution of 0.03% of the company's Assets is imposed.

Insurance comes from the English language, insurance, which means dependents. Initially, insurance was the possibility of a major risk occurring in the future, so all risks were transferred to insurance. The purpose of insurance is to prepare supplies to face the dangers that befall human life and affairs. The term insurance comes from the word insurance, which means coverage and

protection against a threat of danger causing loss. If the word insurance is given a role suffix, then the term insurance appears, which means all businesses related to insurance. Risk is a part of everyday human life. The definition of risk is dangerous, due to consequences that can occur in ongoing processes or future events.

What is the role of the Financial Services Authority in guiding and supervising insurance companies in the legal insurance system in Indonesia?

Law enforcement in the legal system, according to the theory of Lawrence W Friedman's theory to be effective, includes three legal systems, namely:

1. Legal Structure

OJK tends to carry out its coaching and supervisory duties in terms of sharp downwards but blunt upwards

2. Legal substance

The legal substance carried out by the OJK tends to be against the targets they set and is busy with these conditions and tends to neglect its function of nurturing, regulating and supervising the insurance industry, specifically in this study.

3. Legal culture

The legal culture that is built tends to be one-sided, namely how the Mandatory Contribution runs based on quarters 1,2,3, and 4, so that the contribution target is achieved. Meanwhile, in the aftermath of negligent supervision, there have been defaulting cases in Bumiputra Insurance, Ji was Raya Insurance and ASABRI.

How is the effectiveness of OJK contributions in contributing to economic development in Indonesia?

In terms of consumer protection, Satipto Raharjo can be analyzed as follows:

The effectiveness of OJK contributions (based on insurance assets) only impacts OJK's mandatory operational costs. Meanwhile, due to the unbalanced amount of contribution on the insurance function, it collects public funds, which must maintain the level of solvency and Risk Base Capital (RBC), so that they can still pay claims obligations to consumers. Where the OJK was formed so that the OJK could specifically control the activities of the financial services sector, in fact, what happened was the House of Representatives (DPR), which decided the establishment of OJK instead began to ask OJK to be dissolved. Its previous functions, such as banking, be returned to Bank Indonesia. The insurance industry, in particular, returned to BAPEPAM LK Under the supervision of the Ministry of Finance of the Republic of Indonesia.

Are OJK Mandatory Contributions beneficial for the Insurance Industry and contribute to the Indonesian economy?

The concept of "the veil of ignorance" is translated by John Rawls that everyone is faced with the closure of all facts and circumstances about himself, including certain social positions and doctrines, thus blinding the concept or knowledge of developing justice.

From the OJK Mandatory Contribution case, it can be analyzed as follows the determination of OJK Contributions based on a percentage, 0.03% of Insurance Assets makes it more difficult for the insurance industry to maintain a minimum RBC of 120%, as a basis so as not to default on its customers, the OJK Mandatory Contribution deserves to be disbanded due to poor governance, which will make OJK even more neglectful in fostering the Insurance industry, OJK's operational costs should be budgeted through the APBN, so that the supervisory and coaching function will be more stringent and focused because it uses APBN funds which an audit can properly monitor by the Financial Supervisory Agency of the Republic of Indonesia (BPK RI).

## CONCLUSION

The OJK Mandatory Contribution to the Insurance Industry should be canceled and dissolved. The funds used by OJK are APBN funds, which are closely monitored by BPK RI so as not to cause a conflict of interest with OJK actors who are sharp downwards and blunt upwards. In comparison, the OJK in the US, Japan and Singapore uses APBN funds to oversee financial services, is under the supervision of the Ministry of Finance and has so far been successful in these three countries. Therefore, it is recommended that if it is difficult to use APBN funds, then OJK's functions and supervision should be returned to their original functions, so that there will be no further defaults in payment, due to negligence by OJK, who are busy collecting OJK Mandatory Contributions to the point that a fine/finalty if late pay.

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