

AUTHORITY OF DEPOSIT INSURANCE CORPORATION IN BANK GUARANTEE AND RESOLUTIONS POST LAW NUMBER 4 OF 2023 CONCERNING DEVELOPMENT AND STRENGTHENING OF FINANCIAL SECTOR

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ABSTRACT

In the banking world, the institution of LPS is strengthened because LPS is one of the supporters of economic stability, strengthening the authority of LPS in carrying out the functions of deposit guarantor and bank resolution, and a new mandate is also given to LPS as the organizer of the insurance policy guarantee program, then followed by an increase in supervisory and regulatory functions by the insurance supervision authority. The purpose of the study was to determine the nature of the existence of the Deposit Insurance Corporation, and to find out the Resolution of Failed Banks by LPS After the Issuance of the Law on the Development and Strengthening of the Financial Sector. The method used is the method of writing law. The government wants the P2SK Law to be the first step in financial sector reform. LPS is domiciled as part of the financial safety net that can minimize the adverse impact of the banking crisis. Another function and role played by LPS in shaping the stability of the banking system is to implement bank resolutions, both regarding failed banks that must be liquidated and those that must be saved.

KEYWORDS Banking; deposite insurance; financial sector



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INTRODUCTION

Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector, which is shortened to the P2SK Law, was officially passed on January 12, 2023. The background for the birth of the P2SK Law was due to the

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increasing urgency to reform the financial sector, including strengthening the resilience of the national financial system.

In the general explanation of the P2SK Law, it is explained that the financial sector in Indonesia is still experiencing many fundamental problems. The proportion of assets in the national financial sector is not evenly distributed. The domination of the banking sector can still be seen in one source of short-term financing. P2SK Law to realize efforts to reform the financial sector as a whole, because the P2SK Law is a legal basis that is in accordance with the latest developments in the financial industry through reforming laws and regulations which are carried out in a comprehensive and integrated manner in 1 (one) law concerning the financial sector with using the omnibus method through laws on the development and strengthening of the financial sector.

Based on the description in the general explanation of the P2SK Law it can be understood, the P2SK Law also regulates institutional and financial system stability and industrial development and strengthening. The P2SK Law regulates the strengthening of supervisory and regulatory relations between institutions in the financial sector in order to create financial system stability in this case between the Financial Services Authority (OJK), Bank Indonesia (BI), the Deposit Insurance Corporation (LPS) and the Ministry of Finance.

In the banking world, the LPS institution has strengthened its authority because the LPS is one of the supporters of economic stability, strengthening the authority of the LPS in carrying out the deposit insurance and bank resolution functions, and a new mandate has also been given to the LPS as the organizer of the insurance policy guarantee program, followed by an increase in the supervisory and arrangements by insurance supervisory authorities.

The Minister of Finance (Minister of Finance) Sri Mulyani Indrawati explained, the government and the DPR agreed on 5 (five) scopes of matters regulated in the P2SK Law, namely: (1) institutional strengthening of financial sector authorities while taking into account independence, (2) strengthening governance and increasing trust public (3) encouraging the accumulation of long-term financial sector funds for welfare and financing support for sustainable development, (4) consumer protection, and (5) financial sector literacy, inclusion and innovation. The P2SK Law consists of 27 chapters and 341 articles contained therein. This law will replace, among others, 17 laws related to the financial sector that have been in effect for quite a long time, even up to 30 years (Heriani, 2023).

In the course of the history of the banking industry in Indonesia, especially public trust in this case the existence of guarantees for banks as providers of credit facilities and other banking services, and guarantees for customers who keep their funds in banks, fundamentally has changed a lot. This is evident in several laws and regulations which explicitly stipulate the establishment of an institution that functions as a guarantor for customer deposits. Article 30 of Law Number 13 of 1968 concerning Central Banks issued on December 7, 1968 in the elucidation section stipulates that: in the framework of banking development, if circumstances allow it, to better guarantee third party money entrusted to banks, it can held a deposit insurance with the aim of fostering public trust in banks.

Government Regulation Number 34 of 1973 concerning Money Deposit Guarantees at Banks on August 22, 1973 was issued as a follow-up to Law Number 13 of 1968. This Government Regulation among other things stipulates: that all banks except foreign banks are required to guarantee money deposits to third parties. in the form of current accounts, deposits and savings. Then this regulation states that Bank Indonesia is the organizing body for money deposit guarantees at banks, bearing in mind that Bank Indonesia's duties are as a supervisor and bank supervisor. Bank Indonesia acting as liquidator and support in the event of bank liquidation. At that time, guarantees for bank deposits were limited to a maximum of IDR 1.000.000.- (one million rupiah), an amount that is currently considered small. However, the provisions stipulated in these government regulations were never realized until the issuance of Law Number 7 of 1992 concerning Banking. This was caused by the many rejections from the banking industry because it would create additional costs for banks. While the banking industry at that time was still in the consolidation stage (Sitompul, 2007).

Providing direct protection to depositors, for example in the form of deposit insurance, is also not regulated in Law Number 7 of 1992 concerning Banking. This law only provides indirect (implicit) guarantees which cover bank supervision and supervision as well as prudential regulation. The absence of guarantees for these customers forced the government to issue a Decree of the President of the Republic of Indonesia Number 26 of 1998 concerning Guarantees for Payment Obligations of Commercial Banks during the 1997 banking crisis (Sutiawan et al., 2018).

From various studies related to financial and banking crises, it can be concluded that to avoid similar incidents, a Financial Safety Net (FSN) or Financial Sector Safety Net (JPSK) is needed. Efforts to empower financial institutions to function more efficiently and effectively through various deregulations are the focus for the generic programs recommended for FSN or JPSK in general. From an operational perspective, one of the activities of the FSN or JPSK is empowering lenders of last resort in an effective and efficient manner as well as optimizing the functions and roles of deposit insurance institutions.

The concept of financial system stability or financial stability is much broader than monetary stability. Monetary stability only refers to price stability. In other words, monetary stability is a concept of stability that has a smaller scope but has an important role. Monetary stability is defined as price stability in which the economy experiences relatively small inflation of 1-2% a year. Meanwhile, financial system stability has a broad scope, even though there is no agreed standard definition. In simpler sentences, financial stability can be interpreted as the absence of a crisis, which means that the financial system is resistant to economic shocks, so that the intermediary function, the payment system, and the spread of risk continues to run properly (Mongids, 2010).

According to Fuentes and friends, there is no doubt that the deposit insurance corporation is part of the FSN or JPSK which can minimize the adverse impact of a banking crisis. Various countries have utilized the Financial Sector Safety Net (JPSK) or the Financial Safety Net (FSN) as an instrument to deal with various types of financial crises. In general, the FSN in various countries is intended to create a detection system that must be implemented in the event of a financial crisis.

At least this approach can deal with crises more quickly, precisely and efficiently (Napitupulu, 2021). As a results, study aims to determine the nature of the existence of the Deposit Insurance Corporation, and to find out the Resolution of Failed Banks by LPS After the Issuance of the Law on the Development and Strengthening of the Financial Sector.

RESEARCH METHOD

In research writing, the method is one of the tools to determine the path to be traveled in writing. As for this study, the author uses a legal writing method with a juridicalnormative approach. Juridically it is meant that this thesis study uses legal instruments while with Normative it is meant that this research study uses the application of laws in the form of norms and rules or rules that are binding for all citizens, both government and society.

RESULT AND DISCUSSION

The Nature of the Existence of a Deposit Insurance Corporation

Many studies have been conducted on Deposit Insurance Corporation, including research conducted by Marton, Busaer, Diamond, Dybvi Chaari, Jagannathan, Kane, Calomiris, Allen and Gate and finally research conducted by Kunt and friends. In general, these studies come to the same conclusion that the advantage gained by the State by having a deposit guarantor is that it can prevent "waste" costs in liquidating a Failing Bank.

There is agreement among researchers that the existence of a Deposit Insurance Corporation, which is associated with its role in protecting the banking system, is still a research topic that raises pros and cons. The pros and cons that arise in general apart from the view that the existence of a deposit guarantee can disrupt market discipline due to a moral hazard. The decline in market discipline and the presence of moral hazard will not directly trigger instability in the banking sector.

The problem of moral hazard relates to who will deviate, why deviate and who will be harmed by the deviance. For example, an ownership structure that is dominated by majority shareholders will be able to reduce agency conflicts, but this can lead to disaster because majority ownership can potentially cause moral hazard. Minority shareholders and management are pressured by majority shareholders to act on their behalf at the expense of minority shareholders or risk bearers of guarantee institutions. The relationship between capital owners or investors and bank management (administrators) is often called an agency relationship. Agency relationship is a contract in which one or more principals (owners) use another person or agent (management) to carry out bank activities (Taswan, 2009).

According to Demirguc-Kunt and Detragiache the design of a Deposit Insurance Corporation will influence market discipline. Demirguc-Kunt and Huiziga Hal also stated the same thing. Vasso P Ioannidou and Jan de Dreu in research on the Deposit Insurance case in Bolivia for the 1998-2003 period found

that Deposit Insurance Corporations would reduce savers to participate in supervising banks when banks offer high interest rates. This will affect the level of bank discipline in managing its business (Napitupulu, 2021).

A study conducted by the World Bank found that weak corporate governance implementation was a determining factor in the severity of the crisis in Asia. These weaknesses can be seen, among others, from the lack of reporting on financial performance and company obligations, the lack of supervision by commissioners and auditors on management activities, and the lack of external incentives to encourage efficiency in companies through fair competition mechanisms. Systemic failure in implementing corporate governance as a result of a weak legal framework system, inconsistent accounting standards and auditing standards, poor banking practices, ineffective board of directors oversight, and lack of consideration for the rights of minority shareholders led to the economic crisis in Asia East (Sutedi, 2006).

Furthermore, Vasso P Ioannidou and Jan de Dreu in their research concluded that the existence of a Deposit Insurance Corporation has a significant effect on market discipline. According to the two, this is caused by guaranteed deposits so that banks tend to increase the attractiveness of deposit products by raising interest rates which are far different from market rates. Vasso P Ioannidou and Jan de Dreu conducted an analysis using criteria that can assess the level of market discipline through several banking performance indicators such as leverage ratio, non-performing loans. The increase in these ratios reflects the higher level of risk of a bank which, if carried out through the interest rate mechanism, will tend to reduce market discipline.

In general, there are 3 (three) elements of governance for savings institutions, namely: (1) internal governance of owners, board of directors and managers; (2) market discipline of savers, creditors, and even borrowers; and (3) controlling the rules imposed by law-making institutions and regulatory agencies, and carried out by supervisors. But all three can be hampered by a poorly designed deposit insurance system. Moral hazard is the most obvious danger that could arise when the protection provided to depositors (savers) makes them less careful in choosing a bank at first and further hinders/ complicates them from transferring their savings to a safer place. In addition, bank owners and bank managers who are guaranteed, those who know that it is impossible to take money on a large scale, can take additional risks in their asset portfolio, reducing the amount of capital and liquid reserves they have to enable them to solve problems (Garcia, 2000).

Weaknesses in the elements of bank governance in Indonesia are mainly related to supervision and the lack of application of prudential principles seen in the Bank Duta case which occurred long before the 1997/1998 banking crisis. Deputy Main Director/Executive Director of Bank Duta, namely Achmad Sidik Mauladi alias Dicky Iskandar Di Nata, was charged with committing an unlawful act, namely enriching himself or another person or a corporation to the detriment of state finances or the country's economy. Dicky Iskandar Di Nata is assigned to handle foreign exchange trading with certain restrictions and other provisions stipulated in Memorandum No. 030/Memo/UTLN/VII/1998, dated 30 March 1988.

Dicky, who acts as Deputy Main Director/Executive Director as well as Treasury Supervision, conducts foreign exchange (forex) trading as a legal representative for Edwin Boy Adam's customers. In practice, Dicky only acts as a legal representative but can already be considered as a private owner, and has transferred the position of a large Edwin Boy Adam customer to the position of Duta Bank. Dicky traded \$200,000,000, far above client Edwin Boy Adam's margin deposit of only \$1,000,000. With a deposit of this size, he can only trade as much as \$20,000,000, so the margin deposit is managed by bank couriers to bank correspondents overseas, including NBKS. Without written approval from the commissioners, Dicky agreed to transfer the margin deposit to NBKS through the money market. This action is considered unlawful resulting in losses to Bank Duta (Dewi, n.d.).

From corner view *moral hazard*, writer argue that Dicky Iskandar Dinata responsible answer on Wrong One conflict moral between administrator (bank) with depositors (savers). Dicky abuses his power to trade *foreign exchange* and ignore the interests of savings customers (depositors).

Other researchers tried to use a different approach to research this problem. For example, Peria and Schumukler used a quantitative approach to examine the relationship between interest rate growth and bank risk. Meanwhile, Harsono conducted an analysis based on interest rates and deposit growth on bank risk.

Wrong One conclusion interesting taken by Harsono among others is that guarantee savings country No influence height level credibility. This must interpret with Be careful, remember in case Indonesia, guarantee savings new introduced after crisis. Therefore, Harsono argue that existence guarantee savings characteristic limited And openness information about guarantee savings very important For increase discipline market (Sitompul, 2007).

Besides That, cull, Senbet And Sorge explain that guarantee savings impact on system finance, especially when something country own system institutional finance Which weak. System institution finance Which weak on Finally increase *moral hazard* (moral hazard). Because Good owner nor manager feel that There is somebody Which ensure they in side debt.

Parties directly affected by the savings protection agreement also have the potential to experience moral hazard. As an example, decrease scared to borrow in amount big cause they Which No in a manner official become part from agreement guarantee For change behavior. Sadly, sometimes borrower choose For borrow from institution problem than deliver his business to banks and avoid risk having a loan decided by an acquirer or liquidator from a bank that failed to pay. Supervisors who may not obtain or provide sufficient information about their banking clients may also experience moral hazard, making them reluctant to ask unhealthy banks to take remedial action due to the low or no threat of market discipline forcing them to act. Moral hazard can also affect politicians when a Deposit Insurance Corporation provides protection, if they interfere with a supervisory system that requires patience (Garcia, 2000).

In line with Hasono, Greg Caldwell stated that market discipline is related to the probability of bank failure and the ability of the deposit insurance to deal with it. Therefore, banks must be able to provide clear and transparent information

regarding the financial status of banks to the general public so that they can respond appropriately and relevantly.

As explained above, for the deposit insurance to work effectively, issues of financial stability, information disclosure and market discipline should be properly resolved. Financial stability can be achieved with maintained economic growth and controlled inflation rates, information disclosure that is useful for knowing changes that have occurred in the banking industry and technological advances, while market discipline can prevent banks from moral hazard.

There are some of the most common and most realistically achievable objectives for a normal period limited deposit guarantee, three of which are: (1) to protect small savers; (2) to explain the rules underpinning the operation of good savings institutions and the closure or management of failing institutions; and (3) to help stabilize the financial system by creating an incentive structure that will encourage good banking practices.

Bank Resolution Failed by LPS After the Law on the Development and Strengthening of the Financial Sector Was Issued.

Another function and role played by the Deposit Insurance Corporation in establishing banking stability is implementing bank resolutions, both regarding failed banks that must be liquidated and systemic failed banks that must be rescued. In general, all Deposit Guarantees in various countries have the authority to carry out bank resolutions. The problem of moral hazard arising from banks and their impact which includes uncertainty towards the Deposit Insurance Corporation cannot be avoided in the handling of failed banks. In addition, moral hazard will have an impact on banking instability because the Deposit Insurance Corporation can provide certainty guarantees.

Basically, bank resolutions cover all efforts or steps to resolve the bank's problems, by improving the performance and financial condition of the bank as well as revoking the business license and liquidating the bank. There is still a misunderstanding that thinks that bank resolutions only cover efforts to save or restore the bank, while revocation of business licenses and liquidation are not part of bank resolutions (Prasetya, 2016).

The best advice given is that in normal periods the deposit insurance system must be clearly defined in laws and regulations, mandatory, independent yet accountable and maintain good relations with the lender of last resort and bank supervisors, others in the safety net. In most cases, it is the government agency that implements the deposit insurance system, not the private sector. In order for supervisors to take corrective steps quickly, address problems of failing institutions promptly, provide low coverage, and pay or transfer deposits quickly, a good deposit insurance system is needed. Options for accumulating funds may appear. The deposit insurance system must have good access to information about the conditions of its members, charge sufficient fees, prioritize risk-adjusted premiums, invest funds wisely, and seek government support to avoid insolvency in the face of unforeseen failures, to protect resources. Starting a deposit insurance system when the financial system is sound and when the legal, judicial, accounting,

auditing, financial and political infrastructure supports economic activity strongly is the best way to ensure such success (Garcia, 2000).

Deposit insurance companies or Deposit Insurance Corporations are usually established by the government, but some are also established by private parties, such as deposit insurance institutions in Germany; Argentina and Switzerland, and there are also countries that have several guarantee institutions, although in general each country has a deposit insurance corporation.

According to UU Banking, business mainrun byBank is collect fund public in form savings and channel it to public in form loan and/or form other For increase level life public. Collection of funds from the public is carried out through depository agreements between bank with savings customers. The conclusion is that the relationship between a bank and a savings customer is an interpersonal relationship that is included in the scope of civil law (contractual relationship). In addition, there is a non-contractual relationship between the bank and the savings customer which is called the special principle of the relationship between the customer and the bank. These special principles include fiduciary relations, confidential relations, prudential relations (Tutik, 2008).

According to the provisions of Article 2 Paragraph (2), LPS is a legal entity as referred to in Article 2 Paragraph (3) that LPS is responsible to the President, LPS is a public legal entity. An institution is a State Administrative agency if the agency exercises public authority. With the character of this authority, the actions of State Administrative bodies are included in public legal actions.

State Administrative regulations and decisions are included in public legal actions. LPS' actions are public legal actions, therefore it can be said that the legal relationship between LPS and depositors is a public legal relationship. For example, Article 5 Paragraph (1) of the IDIC Law states that the IDIC's task is to formulate and establish policies for implementing deposit insurance; and implementing deposit insurance. Article 6 paragraph (1) letters a and f of the LPS Law states that LPS has the authority to determine and collect loan premiums, as well as determine terms, procedures and conditions for payment of claims (Tutik, 2008).

The conclusion that can be drawn based on the description above is that the task of LPS in administering deposit insurance is a form of customer protection aimed at strengthening public trust in banks. This is in line with the aim of establishing a safe and sound banking system.

In general, it is very important for banking authorities to consider customer protection. This is a special issue that arises in the relationship between banks and bank customers. As a financial institution, a bank is a place where people save their money based on the belief that they can get their money back on time and with interest (Damayanti, 2010).

As experienced by America, establishment Institution Guarantor Savings achieve success objective mainfromreform banking at least during One century, that is prevent panic bank. For example, with exists guarantee savings, disclosure information negative about bank certain No influence bank other so that No raises chaos general, Because market can see problem finance bank certain And consequence for each bank And industry banking in a manner whole. There is guarantee savings Also is effort For make it easy settlement bank Which

problematic, for example Because revoked permission banking, so that can cause descent trust customers Which on turn can trigger panic banking whichas soon as possiblecan prevented.

Reason And condition the underlying stance institution guarantor savings based on UU No. 24 years old2004about the Institute Guarantor Savings. Viewed from excess and weakness Institution Guarantor savings, system protection customers bring Lots profit, although also own weakness, like happening failure discipline market (moral hazard). The supervision and regulation which effective is part important from net safety system finance for control moral hazard. Matter This supported in a manner empirical by study Demirguc-Kunti And Detragiarche (1980-1997) who take sample 61 country develop (emerging) and proceed. Results study show that absence regime regulation caution And supervision Which effective worsen crisis banking, especially when scheme protection customers like guarantee savings already run (Damayanti, 2010).

The FDIC plays an important role in terms of its ability to overcome banking panic, namely preventing a "bank run" by providing confidence and guarantees to savings owners that their savings will definitely return. The role of the FDIC then developed not only as a deposit insurance agency, but also as an institution that regulates and inspects banks within its jurisdiction. The FDIC is led by a Board consisting of three people, one of whom comes from the Comptroller of the currency (Sitompul, 2007).

At a time bank bankrupt, FDIC Act as receiver (curator) And own a number of option For deal with bank the. FDIC can liquidate bank, sell part or whole bank to bank other, arrange merger, or in a number of case help guard so that bank still endure. Between year 1930 And 1933, amount bank Which failreachmore from 9,000, or average 2,200 per year, counted 40% from total amount bank, and loss customers reach \$1.3 billion. Between year 1934 And 1942 amount bank Which closed down become average 54 bank per year.

FDIC Also can establishbank bridgeFor Work in lower supervision federal If bank too big for resolved quickly. FDIC can monitor bank problem and own authority For state bank bankrupt. AuthorityFDIC For save bank To use protect interest customer on basically there are three (Sitompul, 2007):

- 1) Give permission to the bank to stop its business activities and pay all insured savings
- 2) Provide direct assistance to the bank to prevent its collapse.
- 3) Assist banks or other institutions to take over banks that fail to pay or close them.

In the third part concerning the Deposit Insurance Corporation in the P2SK Law, Article 1 number 7: Banks in Resolution are Banks designated by OJK as Banks that:

- 1) Experiencing financial difficulties;
- 2) Endanger business continuity; and
- 3) Cannot be healed by OJK in accordance with its authority

Compared to the LPS Law before the amendment, in Article 1 point 7, there is a difference in terminology, namely using the term failing bank. The definition of a Failing Bank is a bank experiencing financial difficulties and endangering the

continuity of its business and is declared to be no longer healthy by the Banking Supervision Agency in accordance with its authority.

In Article 1 point 8 of the P2SK Law, the definition of a Systemic Bank is a bank whose size of assets, capital and liabilities, network area or complexity of transactions for banking services, as well as linkages with other financial sectors can result in the failure of some or all of other banks or the financial services sector both operationally and financially, if the bank is disrupted or fails. While the LPS Law does not provide the definition of a Systemic Bank, the definition of a Systemic Bank can be found in the Regulation of the Deposit Insurance Corporation (PLPS) No.5/PLPS/2006 concerning Handling of Failing Banks with Systemic Impact, namely failed banks declared to have systemic impact by the Coordinating Committee submitted handling by LPS.

Article 4 of the LPS Law has been amended by the P2Sk Law, namely: the LPS function is added to the function of guaranteeing insurance policies, carrying out bank resolutions and the function of resolving problems with insurance companies and sharia insurance companies whose business licenses have been revoked by the OJK. In the LSS Law prior to the amendment, the functions of the LPS were: (a) guaranteeing the deposits of depositors; (b) participate actively in maintaining the stability of the banking system in accordance with their authority. The function of carrying out bank resolutions, in the P2SK Law, is described as the duties of LPS: (a) to formulate, determine and carry out preparations for bank resolution actions including due diligence on banks as well as on other banks or investors; and (b) formulate, stipulate and implement bank resolution policies designated as Banks in Resolutions. In article 6 of the third part regarding LPS in the P2SK Law, The LPS has the authority to, among other things, carry out bank audits either alone or together with the OJK, appointing statutory managers at banks that receive funding determinations from LPS. These three powers have not been stipulated in the old LPS Law, besides that there is also a new authority related to the LPS function in guaranteeing insurance policies.

Banks are expected to be more active and responsible for customer deposit data as described in article 9 A of the P2Sk Law. The third part is part of LPS. Banks are required to submit customer-based deposit data to LPS to determine eligible deposits, and banks are responsible for the accuracy and completeness of customer-based deposit data submitted to LPS. LPS can check customer-based deposit data. Submission of customer-based deposit data from banks to LPS in determining which deposits are eligible to be paid if the bank becomes a Bank in Resolution. Furthermore, Article 10 A provides space for LPS to guarantee customer deposits for customer groups. Underwriting arrangements for customer groups will be regulated in a government regulation after consultation with the DPR. The data and information received by IDIC to determine the source, so it is necessary to carry out a process to compare, match, determine and ensure the data and information that will be used. This process requires time before payment of guarantee claims can begin. In connection with the policy of handling national economic problems in critical conditions, the funds obtained by the government at the bank will be taken into account when calculating the guarantee premium.

Article 21 of the LPS Law, namely regarding decision making, has been deleted in the third part of the P2SK Law concerning LPS. In article 21 which was deleted, it is explained that LPS receives notifications from the Banking Supervisory Agency (LPP) regarding problem banks that are currently undergoing restructuring efforts as referred to in laws and regulations in the banking sector. LPS carries out settlements for Failing Banks that do not have a systemic impact after the LPP or the Coordinating Committee submits the settlement to LPS. LPS handles Failing Banks with systemic impacts after the Coordinating Committee submits their handling to LPS. The Coordinating Committee consists of the Minister of Finance, LPP, BI and LPS which decides the policy for settlement and handling of a Failing Bank which is suspected of having a systemic impact. The coordination committee has been replaced by the Financial System Stability Committee (KSSK). The duties of the KSSK include handling the problems of the Systemic Bank, both in conditions of normal financial system stability and in conditions of financial system crisis (Stefany et al., 2018). In systemic banks where solvency problems cannot be resolved, the OJK requests that a KSSK meeting be held accompanied by recommendations for steps to resolve problems in systemic banks. The KSSK meeting is held to determine the steps for solving the solvency problems of the Systemic Bank (Ramadhani, 2021).

The KSSK meeting is chaired by the Minister of Finance as the KSSK coordinator. Decision making at the KSSK meeting is carried out based on deliberation to reach a consensus. In the Financial System Crisis Prevention and Management Law (PPKSK Law), the Chairman of the LPS Board of Commissioners is concurrently a member of the KSSK, the same is true for the Governor of BI as a member, the chairman of the OJK Board of Commissioners as a member, but the chairman of the LPS Board of Commissioners does not have voting rights, in contrast to The Minister of Finance, the Governor of BI and the chairman of the OJK Board of Commissioners all have voting rights. Based on the P2SK Law, the Chairman of the LPS Board of Commissioners has been given voting rights, as stated in Article 4 paragraph 3 of the second part of the P2SK Law concerning the Financial System Stability Committee.

The settlement or handling of Banks in Resolution is carried out by LPS by means of (a) the settlement of banks other than systemic banks designated as banks in resolution is carried out by rescuing or not rescuing banks in resolution, or (b) handling systemic banks designated as banks in resolution is carried out by making rescues involving old shareholders or excluding old shareholders. The provisions contained in Ps 22 of the third part of the P2SK Law concerning LPS, are the same as the provisions in article 22 paragraph (1) of the LPS Law. The difference is that the addition to Article 22 of the LPS Law with paragraph (2) which outlines the selection of settlement or handling of the Bank in the Resolution is carried out based on considerations: (a) the estimated cost of resolution; and (b) other factors which include: (1) economic conditions ;(2) complexity of bank problems; (3) the bank's market share of the banking system ;(4) the need for handling time ;(5) the availability of investors ;(6) the effectiveness of handling bank problems ;(7) other conditions. Explanations of other conditions are not found in the explanation of article 22 paragraph (2). In paragraph (3), further provisions regarding the

completion or handling of the Bank in the Resolution are set out in the LPS regulations. It can be interpreted that provisions regarding other conditions are also further regulated in LPS regulations.

The third part of the P2SK Law on LPS uses bank terminology other than systemic banks, while in the LPS law the terminology used is: Banks that do not have a systemic impact. Amendments to Article 24 of the LPS Law, namely LPS rescues a Bank other than a systemic Bank that is designated as a Bank in Resolution in terms of the considerations referred to in Article 22 paragraph (2) have been fulfilled. Shareholders, members of the board of directors and members of the board of commissioners as well as employees and former employees of a Bank other than a systemic Bank designated as a Bank under Resolution are required to provide all data and information required by LPS at any time.

Subsequent amendments to Article 30 of the LPS Law, namely LPS are required to sell all shares owned by LPS and the old Controlling Shareholders (PSP) of Banks other than systemic Banks designated as Banks in Resolution within a maximum period of 3 (three) years from the time LPS stipulates to save the Bank in Resolution. Before being amended, the LPS Law had a maximum period of 2 (two) years. The next stipulation in Article 30 is that if the optimal return from the sale of shares cannot be realized within a maximum period of 3 (three) years, it can be extended for a maximum of 2 (two) times with each extension for the next 1 (one) year. In the LPS Law before the amendment, if the optimal rate of return could not be realized within a maximum period of 2 (two) years,

Changes in the handling of Failing Banks that have a systemic impact, namely in Article 34 paragraph (3) of the P2SK Law which previously did not exist in the LPS Law. Paragraph (3) describes the old bank's shareholders and management cannot sue LPS or a party appointed by LPS in the context of handling Banks in Resolution, as long as LPS performs its duties in good faith in accordance with statutory provisions and good governance. Thus, there is attention to good faith which is an emphasis for LPS or parties appointed by LPS so that they are not prosecuted for carrying out their duties. Likewise, as stated in article 40 of the third part of the P2SK Law concerning LPS, shareholders or management of old banks cannot sue LPS or parties appointed by LPS in the context of handling Banks in Resolution, as long as LPS and/or parties appointed by LPS carry out their duties in good faith in accordance with the provisions of laws and regulations and good governance, starting from the time LPS receives written notification of the determination of a systemic bank as a Bank under Resolution from the OJK. The provisions in Article 34 and Article 40 relate to the handling of Systemic Failing Banks with equity participation by shareholders and without capital contribution by shareholders.

Based on the description above, in terms of the theory of the authority to carry out the tasks and authority of the IDIC based on existing legal provisions (UU LPS), so that this authority is a legitimate authority. Officials (organs) in issuing decisions are supported by this authority. Stroink explained that sources of authority can be obtained for government officials or organs (institutions) by way of attribution, delegation and mandates. The authority of government organs (institutions) is an authority strengthened by positive law to regulate and defend it. Without authority,

a correct judicial decision cannot be issued (Talib, 2018). LPS has also received additional duties based on Law no. 9 of 2016 concerning Prevention and Management of Financial System Crisis (PPKSK Law). These new duties and responsibilities are very strategic in supporting the stability and continuity of the financial and banking system. LPS is designated as the organizer of the Banking Restructuring Program (PRP), if in a financial system crisis, a problem occurs in the banking sector which endangers the national economy. Recommendations for organizing PRP were given by KSSK to the President and in carrying out PRP LPS received support from the ministry of finance, BI and OJK. The granting of new authority to LPS is provided by laws and regulations that are at the same level, namely the PPKSK Law, to the LPS which was also formed based on a law so that the LPS has greater authority. After the birth of the P2SK Law, LPS also received new authority, namely to become an insurance guarantor. Along with the stronger and greater authority of the LPS, the LPS also has voting rights in the KSSK. According to the Legality Theory / Authority Theory, authority originating from laws and regulations can be obtained through attribution, namely the granting of new government authority by a provision in laws and regulations (Ridwan, 2011). The authority obtained by LPS attribution is original, originating from statutory regulations, namely the LPS Law, the PPKSK Law and the P2SK Law.

CONCLUSION

The government wants the P2SK law to be the first step in financial sector reform. LPS is located as part of the financial safety net (financial system safety net) which can minimize the adverse impact of a banking crisis. Another function and role played by LPS in establishing stability in the banking system is implementing bank resolutions, both regarding failed banks that must be liquidated and those that must be rescued. After the birth of the P2SK Law, the LPS has greater authority, which can be seen in indications of guarantees by the LPS for the insurance sector, the position of the LPS in the KSSK which already has voting rights, is equal in position to other members of the KSSK. The LPS's authority also includes conducting bank checks either alone or with the OJK, add funds to banks under restructuring based on requests from the OJK and can guarantee deposits for customer groups. Along with the increasingly stronger authority, the P2SK Law places special emphasis on LPS by providing protection for LPS against claims from shareholders and old bank management, as long as LPS performs its duties in good faith, in accordance with statutory provisions and good governance.

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