

THE AUTHORITY OF THE FINANCIAL SERVICES AUTHORITY IN THE CASE OF A BANKRUPTCY APPLICATION FOR A FINANCING COMPANY IN THE INSURANCE FIELD

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Abstract: In the context of bankruptcy cases involving finance companies in the insurance industry, OJK's authority is strictly regulated in various applicable legal provisions. According to applicable provisions, the OJK has the authority to file a bankruptcy petition against an entity under its supervision, such as an insurance company, if it meets certain requirements. Therefore, the role of the OJK in the bankruptcy of finance companies in the insurance sector is very important to protect the interests of policyholders and creditors, and overall financial stability. The authority to initiate insolvency proceedings rests with the OJK, and ensures that any such action is considered within a comprehensive regulatory framework designed to safeguard market integrity. This research uses secondary data which is analyzed descriptively qualitatively to produce solutions to the problems studied. This study takes a normative juridical approach, because in this article the author discusses the regulations regarding the authority of the OJK in filing bankruptcy applications for insurance companies and the role of the OJK in company bankruptcy cases. The results show that the Financial Services Authority (OJK) has significant authority in insurance company bankruptcy cases. OJK as an independent institution, is responsible for the regulation and supervision of the financial services sector, including insurance. OJK receives the duties and authority to regulate and supervise financial services activities from the Ministry of Finance. OJK has an important role in filing bankruptcy applications for financial service institutions that it supervises, such as insurance companies. In the case of insurance company bankruptcy, OJK can submit a bankruptcy petition to the Commercial Court after obtaining approval from creditors. The process of filing for bankruptcy for an insurance company involves various stages, including an assessment from the OJK and the OJK Board of Commissioners, as well as a study of the financial stability and condition of the insurance company concerned. Thus, the OJK plays an important role in handling insurance company bankruptcy cases to protect consumer interests, maintain financial sector stability, and ensure order in the insurance industry.

Keywords: Authority of OJK; Bankruptcy Application; Insurance company

I. INTRODUCTION

The Indonesian Financial Services Authority, better known as the Financial Services Authority (OJK), has a very important role in regulating the financial sector, including the insurance industry.(Umam & Kimberly, 2021)In the context of bankruptcy cases involving finance companies in the insurance industry, OJK's authority is strictly regulated in various applicable legal provisions. According to applicable regulations, the OJK has the authority to file a bankruptcy petition against an entity under its supervision, such as an insurance company, if it meets certain requirements. There are several important points related to the OJK's authority in this matter: First, regarding the authority to submit bankruptcy applications, initially the Ministry of Finance had the authority to submit bankruptcy applications to insurance companies. However, this responsibility has been transferred to the OJK, which has further expanded the complexity regarding legal protection for policyholders and creditors. Second, the legal basis regarding OJK's authority has undergone evolution, and special procedures regarding bankruptcy applications are regulated by OJK in accordance with the new Insurance Law. This transfer of authority from the Ministry of Finance to the OJK reflects the development and specialization of financial services regulation in Indonesia. Third, OJK's role in maintaining financial stability is further strengthened by new Law Number 4 of 2023 concerning Financial System Development and Strengthening (PPSK), where OJK is given broad authority, including as a financial crime investigator, adjusting the responsibilities and reach of the institution. to maintain the integrity of the financial industry.

Fourth, OJK's commitment to creating an orderly, fair, transparent and efficient market is confirmed through the issuance of bankruptcy applications, as happened in the case of PT Asuransi Jiwa Nusantara which was legally declared bankrupt by OJK. Fifth, the transfer of OJK's authority in filing bankruptcy applications aims to provide a balanced approach in safeguarding the interests of creditors and policyholders, who may be adversely affected by the financial instability of insurance entities. Sixth, it should be noted that insurance companies themselves do not have the authority to file bankruptcy applications. This is a deliberate step to prevent conflicts of interest and protect the broader financial markets and their participants.(Hutapea, 2020)

Therefore, the OJK's role in the bankruptcy of finance companies in the insurance sector is very important to protect the interests of policy holders, creditors and overall financial stability. The authority to initiate insolvency proceedings rests with the OJK, and ensures that any such action is considered within a comprehensive regulatory framework designed to safeguard market integrity.

The authority of the Financial Services Authority in the context of bankruptcy applications for insurance financing companies is a crucial aspect in financial regulation. The Financial Services Authority, also known as the Financial Services Authority (OJK), plays an important role in supervising and regulating financial activities in Indonesia. Based on Financial Services Authority Regulation no. 29/POJK.05/2014, the scope of activities of finance companies is getting wider, this shows the greater authority and responsibility of the OJK in regulating these entities.(Esomar, 2021)Apart from that, OJK has the legal standing to file bankruptcy petitions against insurance companies as regulated in regulations.(Buchori, 2022)Furthermore, OJK's authority comes from the Financial Services Authority Law which gives it the authority to supervise and regulate the financial services sector, including insurance financing companies.(Nova et al., 2020)This underlines the important role of the OJK in ensuring the stability and compliance of financial institutions. In addition, the OJK regulatory framework also covers public companies, emphasizing the importance of supervision and requiring a minimum proportion of independent commissioners, which emphasizes the OJK's commitment to governance and supervision.(Abriatika & Mutmainah, 2022)The OJK's role in regulating auditors and public accountants can be seen by issuing

regulations that mandate the use of public accounting services and public accounting firms in financial activities.(Kerina et al., 2022)In addition, OJK's involvement in the company's IPO process, from completing documents to listing shares, shows comprehensive supervision of financial activities.(Fanther & Taqiyuddin, 2022)Furthermore, OJK's authority is not only limited to insurance financing companies, but also includes other financial entities such as venture capital companies as stated in the regulation.(Sofia et al., 2021)The regulatory framework also includes consumer protection in the financial sector, as evidenced by the issuance of regulations aimed at safeguarding consumer rights in the financial services sector.(Amalia, 2020)OJK's role in supervising and regulating various financial institutions, including banking, insurance, pension funds and financial institutions, increasingly illustrates the breadth of OJK's authority and responsibility in the financial sector.(Yoga & Dinarjito, 2019)Therefore, this literature provides a comprehensive understanding of the OJK's authority in regulating and supervising financial activities, including bankruptcy applications for insurance finance companies. The OJK's regulatory framework and legal standing underscore its important role in ensuring stability, compliance and stakeholder protection in the financial sector.

II. RESEARCH METHOD

This research uses qualitative methods with references taken from various previous books and journals that are relevant to this research topic. This research refers more to a literature study where the source comes from existing studies rather than conducting a direct survey.(Soekanto, 1983). This research uses secondary data which is analyzed descriptively qualitatively to produce solutions to the problems studied. This study takes a normative juridical approach, because in this article the author discusses the regulations regarding the authority of the OJK in filing bankruptcy applications for insurance companies and the role of the OJK in company bankruptcy cases. Descriptive research is intended to explore and clarify a phenomenon or social reality, by describing variables relating to the problem and unit to be studied. The data obtained was analyzed using qualitative methods. This analysis method functions to understand the regulations regarding the authority of the Financial Services Authority in submitting applications for bankruptcy declarations as well as the authority of the Financial Services Authority in bankruptcy cases for Insurance Companies.

III. DISCUSSION

OJK's Authority in Insurance Company Bankruptcy Cases The Financial Services Authority (OJK) is an independent institution that is not influenced by other parties. OJK in Indonesia is responsible for regulating, supervising, examining and investigating all activities in the financial services sector. The aim of establishing the OJK is to improve the performance of the financial services sector so that consumer rights and interests can be protected. OJK operates a comprehensive regulatory and supervisory system for all activities in the financial services sector, including insurance(Chofifah et al., 2023). For the insurance sector, OJK will automatically assume the duties and authority previously held by the Minister of Finance to regulate and supervise non-bank service activities. This is as intended in Article 55 paragraph (1) of the OJK Law which states that: "Since December 21 2012, the functions, duties and authority for the regulation and supervision of financial services activities in the Capital Market, Insurance, Pension Fund, Financing Institutions and Other Financial Services Institutions from the Ministry of Finance and the Capital Market and Financial Institution Supervisory Agency to the OJK." The existence of the OJK institution influences the authority to submit a bankruptcy application based on the provisions of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations,

which was previously the responsibility of the Minister of Finance and whose functions have now been transferred to the OJK. OJK, through the OJK Committee, has the authority to file bankruptcy for the financial services institutions it supervises. However, in practice, the OJK committee has the power delegated by the OJK to the party entrusted with it to represent and act on behalf of its attorney when filing a bankruptcy petition. The Role and Authority of the Financial Services Authority (OJK) in Insurance Company Bankruptcy Cases

As the party authorized to file a bankruptcy statement, OJK needs a juridical reason to submit it. One of the juridical reasons is to protect the interests of consumers, namely customers who hold insurance policies. The role of the OJK in bankruptcy cases is to represent creditors whose appointment is based on a special power of attorney from the OJK Board of Commissioners who can then submit a request for a bankruptcy declaration to the Commercial Court within the scope of the debtor's legal domicile. In the case of insurance company bankruptcy cases such as the Bumi Asih Jaya Insurance Company case. This case began when the OJK, which was originally known as the Capital Markets and Financial Institutions Supervisory Agency (Bapepam-LK), imposed Business Activity Restrictions (PKU) on Bumi Asih Insurance in April 2009.(Idrus, 2023). At that time, the company was deemed not to have fulfilled its obligation to increase capital and the solvency ratio requirement which was set at 120%. Bapepam, which has joined the OJK, decided to revoke Bumi Asih Insurance's business license through Decree No. 2000, 4 years after the PKU sanctions. KEP-112/D.05/2013 18 October 2013. Due to this worrying situation, OJK placed Bumi Asih Insurance under special supervision to oversee the restructuring process. Unhealthy, OJK also revoked the company's business license. In the decision to revoke its business license, Bumi Asih Insurance must pay all its obligations to its policy holder customers. However, this obligation was never fulfilled, which ultimately led the OJK to file a bankruptcy lawsuit against Bumi Asih Insurance in 2015, until the Supreme Court overturned the original decision.

The Supreme Court granted the request of the Financial Services and Insurance Industry Regulator Bumi Asih and thus was officially declared bankrupt and bankrupt since August 2015. Apart from the Bumi Asih insurance company case, there is also another insurance company that was declared bankrupt by the OJK, namely PT Jiwasraya (Persero). PT Asuransi Jiwasraya (Persero) is the oldest life insurance company in Indonesia that has faced liquidity pressure, with the company's equity recorded at negative IDR 23.92 trillion in September 2019. In 2006, the Ministry of State-Owned Enterprises and the Financial Services Authority (OJK) stated that ownership Jiwasraya shares were recorded at negative 3.29 trillion rupiah. In October-November 2018, the public began to notice the problem of Jiwasraya's liquidity pressure. The company stated that they were no longer able to pay JS Saving customers' mature policy claims amounting to 208 billion. As a result, Jiwasraya's equity was negative by IDR 27.24 trillion. Meanwhile, the problematic JS Saving Plan liabilities were recorded at IDR 15.75 trillion(Christian & Julyanti, 2022). This was done after the government looked in detail at the company's financial reports which were evaluated as not transparent. After that, the OJK intervened to provide a decision regarding the insurance company's declaration of bankruptcy.

Insurance Bankruptcy Filing Mechanism Basically, the procedures that must be followed by the OJK through the OJK Board are the same as the procedures for other parties which are carried out in accordance with the provisions of the UUK-PKPU. However, before the UUK-PKPU process begins, there are other provisions regarding insurance company bankruptcy. Based on Article 51 of Insurance Law no. 40 of 2014, namely:

- 1) Creditors submit an application to the Financial Services Authority to submit a bankruptcy application to the commercial court.

- 2) The financial institution accepts or rejects the request submitted by the lender as intended in paragraph 1 "within 30 (thirty) days after receiving the complete application. "Creditors submit a request to the Financial Services Authority to submit a request for a bankruptcy declaration to the commercial court."
- 3) The Financial Services Authority approves or rejects the application submitted by the Creditor as intended in paragraph (1) no later than 30 (thirty) days after the application is received in full.
- 4) In the event that the Financial Services Authority rejects the application submitted by the creditor as intended in paragraph (2), the rejection must be made in writing and include the reasons.
- 5) Further provisions regarding the procedures and requirements for applications from creditors as intended in paragraph (1), paragraph (2), paragraph (3) are regulated in the Financial Services Authority Regulation.

Based on the procedures described above, it is known that there are several mechanisms for submitting a bankruptcy application for an Insurance Company, namely:

1. The creditors of the Insurance Company submitted a request to the OJK for OJK to then conduct a study regarding the possibility of filing a bankruptcy statement application against the Insurance Company concerned. The Role and Authority of the Financial Services Authority (OJK) in Insurance Company Bankruptcy Cases
2. OJK, through the OJK Board of Commissioners, can immediately submit a request for a bankruptcy statement to the insurance company concerned if there are considerations regarding the stability and financial condition of the insurance company.

In bankruptcy cases, there are 4 (four) types of Debtors who can apply for bankruptcy to the Court, namely: 1. Individuals, whether married or not; 2. Business Entities in the form of Non-Legal Entities; 3. Business Entities in the form of Legal Entities; and 4. Inherited assets, where the application will later be submitted to those entitled to the inherited assets. An insurance company is a business entity in the form of a legal entity.

IV. CONCLUSION

So it can be concluded that the Financial Services Authority (OJK) has significant authority in insurance company bankruptcy cases. OJK as an independent institution is responsible for the regulation and supervision of the financial services sector, including insurance. OJK receives the duties and authority to regulate and supervise financial services activities from the Ministry of Finance. OJK has an important role in filing bankruptcy applications for financial service institutions that it supervises, such as insurance companies. In the case of insurance company bankruptcy, OJK can submit a bankruptcy petition to the Commercial Court after obtaining approval from creditors. The process of filing for bankruptcy for an insurance company involves various stages, including an assessment from the OJK and the OJK Board of Commissioners, as well as a study of the financial stability and condition of the insurance company concerned. Thus, the OJK plays an important role in handling insurance company bankruptcy cases to protect consumer interests, maintain financial sector stability, and ensure order in the insurance industry.

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