

## Joint Business Insurance After the Enactment of the Financial Sector Development and Strengthening Law

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### Abstract

The presence of the Financial Sector Development and Strengthening Law is a strategic key to the health of joint venture insurance in Indonesia. This research found that the emphasis of the Financial Sector Development and Strengthening Law on governance and risk management of joint venture insurance has a holistic positive effect on the fulfillment of the basic objective of the existence of an insurance company, namely as guarantor of the interests of policyholders. This research is a juridical-normative research that uses secondary data as a reference, with a classification of research objectives in the form of descriptive research. This research shows that the unhealthy problem of joint business insurance in Indonesia so far is due to the absence of an adequate legal basis as a guideline in joint business insurance governance so that the existence of the Financial Sector Development and Strengthening Law and its derivative regulations have a great opportunity to encourage the implementation of insurance. good joint venture in Indonesia. Furthermore, good coordination is needed from all related parties in implementing this regulation so that the desired improvements to joint business insurance can be achieved properly.

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### Abstrak

Kehadiran Undang-Undang Pengembangan dan Penguatan Sektor Keuangan menjadi kunci strategis terhadap penyehatan asuransi usaha bersama di Indonesia. Penelitian ini menemukan bahwa penekanan Undang-Undang Pengembangan dan Penguatan Sektor Keuangan terhadap tata kelola dan manajemen risiko dari asuransi usaha bersama berpengaruh positif secara holistik terhadap terpenuhinya tujuan dasar dari eksistensi suatu perusahaan asuransi, yaitu sebagai penanggung atas kepentingan para pemegang polis. Penelitian ini adalah penelitian yuridis-normatif yang menggunakan data sekunder sebagai acuan, dengan klasifikasi tujuan penelitian berupa penelitian deskriptif. Penelitian ini menunjukkan bahwa permasalahan ketidaksehatan asuransi usaha bersama di Indonesia selama ini salah satunya disebabkan tidak adanya landasan hukum yang memadai sebagai pedoman dalam tata kelola asuransi usaha bersama sehingga keberadaan Undang-Undang Pengembangan dan Penguatan Sektor Keuangan dan peraturan turunannya berpeluang besar dalam mendorong terciptanya penerapan asuransi usaha bersama yang baik di Indonesia. Lebih lanjut, dibutuhkan koordinasi yang baik dari seluruh pihak terkait dalam implementasi peraturan ini untuk perbaikan yang dicita-citakan terhadap asuransi usaha bersama dapat tercapai dengan baik.

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## 1. INTRODUCTION

Joint business insurance is one of three forms of legal entity carrying out insurance business as mandated in Article 6 of Law Number 40 of 2014 concerning Insurance ("Insurance Law"). The explanation regarding the provisions for joint business insurance in the Insurance Law is further equated using the word 'or' with a legal entity in the form of a cooperative. This shows that from the basics the nature and characteristics of joint business insurance are fundamentally different from the form of legal entity that carries out insurance business in general, namely a Limited Liability Company ("PT").

The basic difference that can be understood between a legal entity administering an insurance business in the form of a PT and a joint insurance business is that in a PT business entity, the company is owned by the shareholders so that it functions like the management of a PT in general. This influences the main control in corporate governance to be shareholders. In contrast to this management, in the governance of joint business insurance, the highest power lies

with the members who are also policy holders. Therefore, policyholders carry out insurance management for themselves.

Currently, there is only one legal entity providing insurance business in the form of a joint venture in Indonesia, namely Asuransi Jiwa Bersama Bumiputera 1912 ("AJB Bumiputera"). The presence of AJB Bumiputera itself is not an insurance business that has appeared recently. AJB Bumiputera is the first life insurance in Indonesia which was founded in 1912 and was previously named OL Mij PGHB (Orderlinge Levens verzekering Maatschappij PGHB). The form of joint venture was chosen because it is in accordance with the views and mutual cooperation way of life of Indonesian society.

Even though AJB Bumiputera's presence has exceeded a century, regulations relating to joint venture insurance companies are still far behind. As regulated in Article 6 paragraph (3) of the Insurance Law, further provisions regarding joint business legal entities are mandated to be regulated through Government Regulations. This provision then gave rise to Government Regulation Number 87 of 2019 concerning Insurance Companies in the Form of Joint Ventures ("PP No. 87 of 2019"). This provision is the first legal umbrella that specifically and comprehensively regulates joint business insurance after more than a hundred years of existence. However, problems have arisen again in line with the Decision of the Constitutional Court of the Republic of Indonesia No. 32/PUU-XVIII/2020 dated 14 January 2021 which declared Article 6 paragraph (3) of the Insurance Law unconstitutional so that PP no. 87 of 2019 is no longer binding.

Even before this decision, regulations related to joint business insurance were still considered not strong enough to be used as a legal basis, one of which was related to additional capital by foreign investors. This is because the provisions relating to joint venture insurance are in the form of Government Regulations which are under the Law so they are deemed to provide less legal certainty and the nature of Government Regulations which can be amended, makes it less convincing for foreign investors to invest in joint venture insurance companies in Indonesia .

This problem was answered through the enactment of Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector ("UU PPSK"). The PPSK Law is seen as a starting point in efforts to advance general welfare through financial sector reform in Indonesia. The presence of the PPSK Law was designed to strengthen the financial sector through joint business insurance. Reforms in joint insurance business governance through the PPSK Law emphasize improving joint insurance business governance, so that it can carry out its functions effectively and avoid losses that could be caused to its members or policy holders.

The presence of the PPSK Law then gave birth to Financial Services Authority Regulation Number 7 of 2023 concerning Governance and Institutions of Insurance Companies in the Form of Joint Ventures ("POJK 7/2023"). These provisions are formulated comprehensively to protect the interests of policy holders. Through the presence of this POJK, which is based on the PPSK Law which specifically regulates joint business insurance, this is an opportunity for AJB Bumiputera to carry out restructuring and renewal in its management.

This article will discuss how joint insurance businesses are regulated after the enactment of the PPSK Law and the impact of the presence of new regulations relating to joint insurance businesses on the condition of AJB Bumiputera in particular. Next, we will explain the steps that can be taken regarding the implementation of this regulation. It is hoped that the availability of a legal umbrella which can ultimately cover joint business insurance well, can be the first step in improving and developing joint business insurance in Indonesia. In particular, the presence of this regulation is expected to help resolve the problems currently being experienced by AJB Bumiputera.

## **2. RESEARCH METHODS**

The research method used in writing this article is a juridical-normative research method which is carried out based on a study of library materials or secondary data. This article was written by exploring related laws and regulations, followed by various theories and literature that discuss joint venture insurance in Indonesia. Therefore, the type of data used in writing this article

is secondary data through literature research. As for the research objectives of the article, the research carried out is in the form of descriptive research aimed at describing a situation carefully, which in this research is in the form of the relationship between AJB Bumiputera after the passing of the PPSK Law.

### **3. DISCUSSION**

#### **1. Joint Insurance Business Post Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector**

The PPSK Law exists with the aim of regulating and strengthening the financial sector in various fields, including joint venture insurance, which previously did not have an adequate legal basis. The presence of the PPSK Law as the first statutory regulation at the law level that regulates the explanation and management of joint venture insurance, emphasizes governance and risk management mechanisms, both internally and in supervision.

With its principles and policy direction which emphasize the health of joint venture insurance companies through governance and risk management, there are several crucial provisions regulated by the PPSK Law relating to the role and authority of the Financial Services Authority ("OJK") as a financial supervisory authority. For example, the OJK is given the authority to approve changes to the articles of association of joint business insurance and can order joint business insurance companies to make changes to the articles of association where based on this order, joint business insurance is required to make changes as ordered. In connection with the General Meeting of Members ("RUA") as part of a Joint Business Organ, the agenda and materials to be discussed and decided at the RUA must be previously notified to the OJK and the OJK has the authority to order an extraordinary RUA to be held. Furthermore, the crucial and significant authority given to the OJK is that the OJK cancels the RUA decision if it is deemed to have the potential to endanger business interests, potentially endanger the insurance industry, or is not in accordance with the provisions of statutory regulations.

Furthermore, OJK is given the authority to strictly implement regulations relating to the operations of joint venture insurance companies, ensure the fulfillment of financial requirements and compliance as regulated in the PPSK Law, and can carry out monitoring to prevent failure to pay, where the ability to pay is closely related to governance of an insurance company. Supervision of the company's financial health condition can be carried out through examining and monitoring financial reports, risk analysis, or assessing the insurance company's capital to see the insurance company's ability to carry out its payment obligations. With the authority given to the OJK, this is a strategic and measurable effort in seeking changes to joint venture insurance companies through external authority mechanisms.

The next effort to strengthen governance and risk management brought about by the PPSK Law is related to transparency and financial reporting. Mutual insurance businesses are required to apply the principle of transparency in the entire chain of corporate governance. In its implementation, aspects of transparency that must be complied with by joint venture insurance companies include, among other things, accurate disclosure of relevant financial information and a review of good corporate governance. Furthermore, the PPSK Law specifically regulates the financial reports that must be completed by joint venture insurance companies and stipulates that these financial reports must be audited by a public accountant who must be registered with the OJK.

However, the most important element after the passing of the PPSK Law is the aim of protecting policy holders as the main focus of this regulation. Through POJK 7/2023, obligations and mechanisms related to information disclosure have been regulated in detail, where joint venture insurance is required to have an open financial reporting system so that supervision can be carried out transparently. Protection for policy holders has been regulated and mapped out in detail up to the stage when joint business insurance reaches the stage of

bankruptcy. For example, through POJK 7/2023, a mechanism for resolving disputes and targeted claims has been regulated for policy holders, including how to distribute losses between policy holders. All of these provisions are intended to provide greater certainty and as a preventive measure in fulfilling the rights of policy holders.

The presence of the PPSK Law is in line with the objective and fundamental basis of the existence of the insurance company itself, where the basic objective of the existence of insurance is as insurance, namely the delegation of responsibility in carrying the burden of a risk, with the basic function being an effort to overcome uncertainty regarding possible losses. arise. Insurance companies are a manifestation of this basis, where two parties are involved in insurance, namely the insured party and the insurance company as the insured party. Therefore, the presence of an insurance company must be able to provide protection and hope to policy holders.

In ensuring that this protection is achieved, the strengthening provided by the PPSK Law also takes the form of strengthening supporting institutions in the form of a policy guarantee program as regulated in Article 79 of the PPSK Law. Through the PPSK Law, apart from the OJK as the supervisory authority, the government and the Deposit Insurance Corporation ("LPS") will also take part in implementing the policy guarantee program. The PPSK Law expands LPS to not only guarantee banking customer deposits, but will also include guarantees for insurance policies.

Like two coins that go hand in hand, the fulfillment of policyholder rights is positively correlated with the development of the insurance company itself. The success of an insurance company in paying its obligations to policyholders shows the company's good governance and risk management. The health of insurance companies will also create trust in the community and increase the number of policy holders.

As previously mentioned, the presence of the PPSK Law has also given rise to the presence of POJK 7/2023 which regulates in more detail the governance and institutions of insurance companies in the form of joint ventures. OJK as the institution authorized to supervise joint venture insurance, through this POJK requires joint venture insurance companies to implement good corporate governance, including directed investment structuring, risk management and internal control in carrying out business activities.

The presence of POJK 7/2023 provides a legal basis and sufficient guidance for joint venture insurance to obtain direction in its management. The presence of POJK 7/2023 answers the legal vacuum that has been faced by joint business insurance and with its level being an implementable derivative regulation of the PPSK Law, the implementation of these two regulations becomes easy to implement. With the presence of derivative regulations that technically regulate the implementation of joint business insurance management, this condition should have an impact on the ease of implementation of the regulated provisions.

## **2. The Impact of Reforming Mutual Insurance Business Regulations on Bumiputera Mutual Life Insurance 1912**

The implementation of the PPSK Law is the key and door in efforts to improve the overall management of AJB Bumiputera. Seeing that previously there was no legal basis that could accommodate the management of joint business insurance, the presence of the PPSK Law to the implementation of governance and risk management up to the formulation stage of POJK 7/2023, although only an initial step, shows significant progress towards insurance reform joint ventures.

As AJB Bumiputera is the only joint venture insurance company in Indonesia currently, the presence of the PPSK Law is the basic capital and main capital for AJB Bumiputera in fundamentally strengthening its operational activities. This includes overall institutional improvements. As previously mentioned, improving the governance and risk management of an insurance company, which is also the objective of the regulations in the PPSK Law and

POJK 7/2023, is the main element in the health of an insurance company and achieving the objectives of its existence, namely as a risk bearer.

With the presence of a legal basis that can seek and affirm improvements in joint business insurance management, a strategic and measurable restructuring strategy exists through the implementation of related regulations. It should be noted that the presence of these regulations as guidelines for the governance and risk management of joint venture insurance can have a very positive impact on AJB Bumiputera, which has recently experienced various kinds of problems, all of which are rooted in deficiencies in the company's governance and risk management mechanisms.

As an illustration, the problems in AJB Bumiputera's governance have been going on for quite a long time and it is increasingly crucial for the presence of a grounded and implementable solution. AJB Bumiputera 1912 has on several occasions faced liquidity problems so that the protection of the rights of all stakeholders is threatened. Then, based on the financial report in 2021, the assets owned by AJB Bumiputera 1912 were recorded at IDR 9.5 trillion, but the liabilities reached IDR 32.8 trillion, so there is a significant difference and AJB Bumiputera has not been able to reach the financial health requirements for life insurance companies as stated in regulated in POJK Number 1/POJK.05/2018 concerning Financial Health for Insurance Companies in the Form of Joint Business Legal Entities.

In relation to these financial conditions, as previously mentioned regarding capital constraints, the reason is not entirely due to poor governance and risk management. In the condition of AJB Bumiputera as the only joint venture insurance which previously did not have a legal basis that holistically regulated it, the absence of this legal basis was one of the big drivers of the difficulty in obtaining capital, which also had an impact on AJB Bumiputera's financial condition. The hope is that with the presence of a complete and implementable legal basis through the PPSK Law and POJK 7/2023, it can expand access to capital for AJB Bumiputera and carried out in conjunction with good governance, it can improve the condition of AJB Bumiputera as a whole.

Through the PPSK Law, OJK can intensively carry out preventive actions as anticipation and early detection of obstacles or discrepancies in insurance companies so that corrective actions can be taken as early as possible. For insurance companies like AJB Bumiputera, which have been around for a very long time and frequently encounter problems, with this anticipatory action, various problems can be immediately addressed early on so as not to add to the various crucial problems that have already accumulated.

With the presence of the PPSK Law, AJB Bumiputera and all policy holders who are also members of the company, the main aim of insurance to protect policy holders has become easier to implement and brings more benefits to all related parties. Through the PPSK Law, apart from OJK playing an active role, the government and LPS also take part in implementing the policy guarantee program. Therefore, by implementing this provision, AJB Bumiputera itself seeks to provide protection and improvement to its own members.

Furthermore, POJK 7/2023 requires AJB Bumiputera to implement good corporate governance, including investment structuring, risk management and internal control as well as the obligation to apply the principles of prudence, transparency, accountability, accountability, professionalism and fairness. . Then it is also mandatory for AJB Bumiputera to fulfill what was promised to policyholders, provide good service to policyholders, disclose information that is material and relevant to policyholders, and act with integrity, competence and good faith. These things are all a road map for AJB Bumiputera in making improvements to its governance. Therefore, the presence of the PPSK Law is an opportunity for AJB Bumiputera to carry out health improvement based on adequate and supportive guidelines.

It should also be noted that AJB Bumiputera's business sector is focused and limited to life insurance. The presence of the PPSK Law and POJK 7/2023 is in line with the aims and interests of life insurance business activities, where the main aim of the existence of life insurance is to offer hope protection services in the future, after a family member dies, so that

its existence provides protection. long-term. Compliant implementation of these two regulations will enable AJB Bumiputera to fulfill these various goals.

Then it relates to the interests of life insurance business activities, namely interests in a person's life, interests in family relationships, and financial interests in the event of death, all of which are needs that can be said to be 'primary' in life. In this way, life insurance management cannot be carried out without adequate guidelines and legal basis. After the presence of these two legal bases, AJB Bumiputera should be able to gradually revitalize its business activities and be able to run the life insurance business as well as possible in order to fulfill the protection required by policy holders.

#### 4. CLOSING

##### 1. Conclusion

The PPSK Law is the key and door to the health of AJB Bumiputera. The presence of a legal basis that can provide guidance and a legal basis for the existence of joint business insurance is very necessary for restructuring and as an effort to maintain the joint business insurance itself.

Before the presence of the PPSK Law, AJB Bumiputera did not have an adequate legal basis and guidelines that encouraged its health. Through the presence of the PPSK Law which has comprehensively provided the necessary legal basis, it can have an impact on making it easier for AJB Bumiputera to gain access to capital, good internal governance mechanisms, monitoring and prevention mechanisms that support all risk mitigation efforts, transparency, the presence of aid funds, as well as insurance institutions, where all of these provisions have a positive impact and encourage affirmatively the health and growth of AJB Bumiputera as the only joint venture insurance in Indonesia that has been established for more than a century.

##### 2. Suggestion

Even though the presence of the PPSK Law and POJK 7/2023 has provided a roadmap for the improvement, health and growth of joint business insurance, the implementation of these laws and regulations must continue to be ensured that they are implemented well. There are various different parties who take part in the supervision and guarantee function of joint insurance businesses. Good and clear coordination is needed so that the entire process of monitoring, anticipating and resolving problems related to joint insurance businesses can be carried out smoothly. In the future, apart from restructuring efforts through company management, various practical efforts can also be taken to increase community participation and membership in joint insurance businesses, which will correlate with member welfare and each member's risk management.

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