

LEGAL INSIGHTS

OMNIBUS LAW FOR FINANCIAL SECTOR

PART 2 - Law on Indonesia Deposit Insurance Corporation



May 2023

I Background

In the early 2023, the Government has issued Law Number 4 of 2023 regarding the Financial Sector Development and Strengthening ("Law 4/2023"). The Indonesia Deposit Insurance Corporation (Lembaga Penjamin Simpanan - LPS), which is one of the institutions in the financial sector pursuant to the Law Number 24 of 2004 regarding the Indonesia Deposit Insurance Corporation, has undergone several changes of its provisions since the enactment of the Law 4/2023.

Should you need more information about the topic, or you need support regarding legal matter, kindly contact our legal partners:

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II. The Amendments in Law Number 24 of 2004 on the Indonesia Deposit Insurance Corporation ("Law 24/2004")

A. Indonesia Deposit Insurance Corporation

- (1) The Changes in understanding and the terms in the provisions of Law 24/2004
 - Deposit and Depositor referred to in this Law are deposits based on the Banking Law and Sharia Banking Law;
 - The use of the term Failed Bank changed to Bank in Resolution. Banks in Resolution are the Banks who determined by OJK as a Banks experiencing financial difficulties; jeopardize the continuity of its business; and cannot be recovered by OJK in accordance with their authority;
 - There is the term regarding the Systemic Bank, namely as a Bank which, due to the size of its assets, capital and liabilities; network area or transaction complexity for banking services; and linkages with other financial sectors can result in the failure of part or all of other banks or the financial services sector, both operationally and financially, if the said bank experiences disruption or failure.
- (2) Organs, Aims, Functions, Duties, Authorities and Wealth of LPS
 - LPS organ is consist of a Board of Commissioners.

- LPS aims to guarantee and protect public funds placed in banks and insurance companies and sharia insurance
- LPS has the function of guaranteeing Depositor Deposits; guarantee the insurance policy; participate actively in maintaining Financial System Stability in accordance with their authority; conduct Bank resolutions; and settle the problems of insurance companies and sharia insurance companies whose business licenses have been revoked by the OJK.

- There are several changes to the provisions related to the Duties and Authorities of LPS as stipulated in Article 5 and Article 6.
- Funds which used by LPS to carry out its duties and authorities originate from LPS assets in the form of investments and not investments.



(3) LPS can verify the premium calculation by the Bank before the 10 (ten) year period. In the event that verification is carried out by LPS, the result of the said premium verification shall constitute the final premium calculation. Meanwhile, if there are differences in the results of premium calculations by the Bank. Banks are required to adjust the premium amount at the time of premium payment for the next period. In calculating the Guarantee premium, IDIC takes into account the funds placed by the Government at the Bank in the context of policies to address national economic problems in crisis conditions.

(4) Payout of Insurance Claim

- LPS is required to pay of Insurance claims to depositors from banks whose business licenses have been revoked;
- Banks are required to submit customer-based deposit data to LPS and LPS can examine the data to determine which deposits are eligible to be paid.
- In the event that a Depositor objects to a decision to determine that a Deposit is not eligible for payment, the Depositor may submit an objection to LPS supported by clear and concrete evidence no later than 180 (one hundred and eighty) calendar days from the announcement of the decision. LPS makes a decision on objections submitted by depositors within 180 (one hundred and eighty) calendar days. The Depositor can file a legal remedy through the court against a decision on an objection.
- In the event that an objection is not filed, the Depositor is deemed to have accepted the decision to determine that the Deposit is not eligible to be paid.

(5) Resolutions and Remedies of Banks in Resolution

Selection of the resolutions or remedies of Banks in Resolution is carried out based on the considerations, it is the estimated cost of resolution and other factors which include: economic conditions; the complexity of the Bank's problem conditions; Bank's market share in the banking system; handling time requirements; availability of investors; the effectiveness of Bank handling; and/or other conditions.

(6) Banks other than Systemic Banks designated as Banks in Resolution

► The Bailed Out

- Starting from the time LPS received written notification of the determination of a Bank other than a Systemic Bank as a Bank in Resolution from OJK, LPS took over the rights and authority of the GMS, ownership, management and other interests in the Bank.
- The LPS is required to sell all the shares owned by the LPS and the former shareholders of Banks other than Systemic Banks designated as Banks in Resolution within a maximum period of 3 (three) years from the time LPS decides to bail-out.

► Not to proceed with the bail-out

In the event that LPS decides not to proceed with the bail-out process, LPS shall request a revocation of the bank business license in accordance with laws and regulations.

B. Dispute Resolution in Bank Liquidation Process

Settlement of disputes is resolved through a lawsuit filed in a commercial court in the jurisdiction where the defendant resides or is domicile. In the event that one of the parties resides outside the territory of the Unitary State of the Republic of Indonesia, a lawsuit shall be filed with the Head of the Central Jakarta Commercial Court. The examination session until the decision on the lawsuit shall be completed no later than 90 (ninety) working days and can be extended for a maximum of 30 (thirty) working days with the approval of the Chief Justice of the Supreme Court. There is an appeal for cassation against the commercial court's decision which shall be completed no later than 90 (ninety) working days from the date the cassation request was received by the cassation panel. Legal efforts to review the cassation decision are carried out based on statutory provisions.

C. Deposit Insurance Corporation Supervision Body

Pursuant to Law 4/2023 a Deposit Insurance Corporation Supervision Body was formed to assist the DPR in carrying out its oversight function in certain areas of the Deposit Insurance Corporation. The Deposit Insurance Corporation Supervision Body is tasked with assisting the DPR in:

- Prepare an evaluation report on the institutional performance of the Deposit Insurance Corporation;
- Conduct monitoring to increase the accountability, independence, transparency, and institutional credibility of the Deposit Insurance Corporation; and compiling performance reports.
- Make a report on the implementation of the tasks to the DPR periodically 1 (one) time in 3 (three) months and at any time if necessary.

Further arrangements regarding the Deposit Insurance Corporation Supervision Agency are regulated in Chapter XA of this Law.

