

**OPTIMIZATION OF THE FINANCIAL SERVICES AUTHORITY (OJK) AS A
REGULATOR AND SUPERVISOR OF INSURANCE RELATED TO THE
ISSUANCE OF SHIPPING INSURANCE POLICY GUARANTEE REGULATIONS
TO SUPPORT INDONESIA'S ECONOMIC DEVELOPMENT**

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Abstract

This study aims to determine the function of the Financial Services Authority in guiding and supervising insurance companies related to shipping insurance in the insurance legal system in Indonesia, and the effectiveness of the contribution of the Financial Services Authority in contributing to economic development in Indonesia. This research is normative juridical research with a focus on analyzing relevant laws and regulations. The approach includes a statutory approach, a conceptual approach, and a case approach to explain and solve problems. Data is obtained from library research and interviews. The results of this study show that: 1) Friedman's theory identifies OJK's imbalance in insurance law enforcement, prioritizing market players over large entities, with inconsistent policies and suboptimal consumer protection; 2) Raharjo's analysis underscores the necessity of a shipping insurance policy guarantee law to bolster OJK's role. Rawls' theory emphasizes the ignorance of justice. Troubled insurance cases emphasize the need for policy guarantees to alleviate consumer burden and attract investment, though OJK's operational costs from the state budget may tighten supervision. The research conclusion shows the importance of OJK's function for consumers, prompting the need for a shipping insurance policy guarantee law. FSAs in the US, Japan, and Singapore use state budget funds to supervise financial services, with success in all three countries.

Keywords: Financial Services Authority, Marine Insurance Policy, Economic Development

INTRODUCTION

Indonesia is an archipelagic country located at the crossroads of the Asian and Australian continents. As the world's largest maritime nation, two-thirds of its territory consists of water. The maritime nature of Indonesia leads to significant shipping activity across its waters (Firmansyah et al., 2022). The shipping business sector holds great potential to be optimized to support national economic growth. Within the shipping industry, there is a need for marine insurance that provides legal certainty and protection for ship owners. A marine insurance policy is a type of civil contract in which the insurer agrees, in exchange for an insurance premium (a set fee), to compensate the insured party (the beneficiary of the contract) for losses resulting from any hazards or accidents covered by the policy (Kajwang, 2022). This insurance covers various risks that may be encountered during operations, including vessel damage, legal liability to third parties, and losses from natural disasters or human actions. Marine insurance policies are essential in the shipping industry as they provide financial security, allowing ship owners to operate with greater peace of mind (Kajwang, 2022; Nneji, 2021).

Insurance companies continually communicate to consumers that they accept the insured party's offer to transfer risk in exchange for premium payments (Ganie, 2023). This process is known as risk transfer, in which the consumer (the insured) shifts the potential financial burden of unforeseen events to the insurance company (the insurer). In return, consumers are required to pay a periodic premium to the insurance company, whether monthly, quarterly, or annually, as agreed upon in the insurance policy (Kavya & M. Kavitha, 2023). This risk transfer process provides several significant benefits for consumers, including financial protection against losses like accidents, illnesses, or natural disasters covered by the policy, a sense of security, better financial planning through affordable premiums that avoid sudden high costs, and efficient claims handling by the insurance company's team of experts, ensuring quick and accurate compensation following policy terms.

In developed countries, the insurance industry plays a significant role in contributing to the nation's economy (Lee et al., 2022). Insurance companies, as institutions for risk transfer and sharing, offer positive benefits to society as consumers, whether individual ship owners, businesses, or corporations (Dayour et al., 2020). The insurance industry not only

protects individuals and companies but also plays a vital role in national development. Funds collected from insurance premiums can be reinvested into the economy, for instance, through infrastructure investments, healthcare sector development, and other projects supporting economic growth. Moreover, by providing risk guarantees, the insurance industry helps create a more stable and predictable business environment, which is critical for investors and entrepreneurs. In Indonesia, insurance is one of the pillars of economic growth. Specifically, marine insurance plays a crucial role in Indonesia's industry and commerce (Simanjuntak, 2023). As an archipelagic country with thousands of islands, the shipping industry is the backbone of both domestic and international trade and is essential for the distribution of goods. Marine insurance helps mitigate risks like accidents, vessel damage, and cargo loss, facilitating smoother trade and maritime operations (Kajwang, 2022). This also supports the sustainability of shipping and logistics businesses, creates job opportunities, and enhances the global competitiveness of Indonesia's maritime industry.

The Financial Services Authority (OJK), as the supervisory and regulatory body for the financial services industry, including insurance, is responsible for ensuring that the marine insurance industry in Indonesia operates in a healthy, efficient, and orderly manner (Mulyanti et al., 2014). One of OJK's critical roles in this regard is issuing regulations that guarantee marine insurance policies (Simanjuntak et al., 2022). Optimal marine insurance policy regulations provide extensive benefits to various parties. One of the primary benefits is the assurance of insurance policyholders' rights, including claims for losses. Strong regulations also boost public confidence in the insurance industry, encouraging more people to use its services (Ho et al., 2020). As a result, the marine insurance industry grows, attracting investors and supporting Indonesia's economy by facilitating maritime activities and creating jobs (Firdausy, 2021; Ibrahim & Halkam, 2021; Indrawanto, 2024).

The importance of insurance companies in national development cannot be denied. With the premiums collected, insurance companies can provide funds to support development efforts that benefit society. However, in reality, public expectations sometimes do not align with outcomes. Shortcomings in the insurance industry often led to losses for policyholders, such as difficulties in making claims in line with policy terms. Several significant issues have emerged, highlighting the imperfections in the insurance system. First, there have been disappointing legal cases where insurance companies have failed to pay

substantial claims, such as in the cases of Asuransi Jiwa Bumiputera 1912, Asuransi Jiwasraya, and ASABRI, with total claims reaching trillions of Rupiah. To date, adequate solutions have not been found, and there seems to be a tendency to offer suboptimal returns to consumers, creating uncertainty, especially in the marine insurance sector. Second, the issue of insurance fraud poses a serious threat to the insurance industry in Indonesia. Fraud can occur at any stage, from policy issuance to claims, with the intent of obtaining undue financial gains. Cases involving Asuransi Jiwa Bumiputera 1912, Asuransi Jiwasraya, and ASABRI demonstrate the negative impact of these fraudulent practices, with no adequate solution in place. Additionally, regulations such as Government Regulation No. 11 of 2014 on OJK levies have also come under scrutiny. Although intended to fund operational and administrative activities, the high levy, reaching 0.03% of insurance companies' assets, may pose an added burden to these companies.

Given the issues outlined above, OJK's role becomes crucial in ensuring that regulations issued are truly effective and implemented well to address these shortcomings, so the marine insurance industry can provide optimal benefits to all members of society. Thus, this study aims to examine OJK's function in guiding and supervising insurance companies related to marine insurance within Indonesia's insurance legal system and to assess the effectiveness of OJK's contributions toward supporting Indonesia's economic development.

RESEARCH METHOD

This research uses normative research. This type of normative juridical research basically has the aim of examining the applicable laws and regulations and is associated with theoretical concepts, as well as related to the problems in the subject matter of this research. The problem approach used as a discussion in this research is to use a statute approach, a conceptual approach, and a case approach. The legislative approach is to find a solution to the formulation of the problem by basing it on the provisions of laws and regulations in Indonesia. Conceptual approach, which is a problem-solving approach by referring to relevant legal concepts and principles. The case approach involves solving the problem by referring to other cases similar to the cases studied in this research. The data needed for this

research were collected through data collection methods in the form of library research and interviews.

RESULTS AND DISCUSSION

The Role of OJK in Guiding and Supervising Insurance Companies in the Maritime Insurance Sector within Indonesia's Legal Insurance System

Lawrence W. Friedman's theory posits that effective law enforcement requires a balance among three main components in the legal system: Legal Structure, Legal Substance, and Legal Culture. The following is a discussion on how these three components are applied by OJK in the context of supervising the insurance industry, particularly marine insurance.

Legal Structure

The legal structure refers to the institutions and mechanisms that enforce the law. In Indonesia, the Financial Services Authority (OJK) has the primary role in overseeing and regulating the financial services industry, including banking, capital markets, and insurance. OJK was established to ensure that the financial services industry operates transparently, fairly, and efficiently while protecting consumer interests. However, there is significant criticism of OJK's performance, particularly regarding law enforcement. The main criticism is that OJK tends to exercise its duties in a way that is "harsh on the weak but lenient on the powerful." This statement means that OJK's supervision and enforcement are stricter towards smaller entities or small-scale financial institutions, while larger players or major financial institutions often receive more lenient treatment.

Stricter oversight of smaller entities can be seen as an injustice in law enforcement. Smaller entities may lack sufficient resources to comply fully with complex regulations, while larger entities with influence and financial power often escape severe sanctions despite significant violations. This creates an imbalance in the financial services industry. Additionally, such disparity in law enforcement can lead to public distrust of OJK. If the public perceives that large institutions committing violations are not adequately penalized while smaller players are harshly sanctioned, confidence in OJK's integrity and effectiveness may diminish. This distrust could foster a perception that OJK is not independent and objective in carrying out its duties. Inequity in law enforcement also reduces the effectiveness of overall supervision, as larger players may feel they can avoid harsh sanctions and continue

harmful practices without serious consequences. This could create systemic risks in the financial services industry, as major players have a more extensive impact on economic stability.

If inequity in law enforcement persists, it could disrupt the stability of the financial system. Large players who feel immune to the law may continue unethical or illegal actions, potentially triggering a financial crisis. This inequity may also hinder the healthy, sustainable growth of the financial services industry. Small players who feel discriminated against may struggle to grow, while under-supervised large players could dominate the market without contributing positively to innovation and healthy competition.

Legal Substance

Legal substance includes the rules, regulations, and policies established. The legal substance applied by OJK to regulate the insurance industry, including marine insurance, is often criticized for being misaligned with established targets. As the financial regulatory body in Indonesia, OJK should play an essential role in maintaining stability and public confidence in the insurance industry. However, criticisms arise because of discrepancies between policy goals and actual results, as well as neglect of optimal supervisory functions.

Inappropriate regulation or a lack of clarity in the legal substance applied by OJK to the marine insurance industry often leads to a mismatch between the policies and their intended goals. For example, policies regulating premium levels, claims provisions, or financial capacity requirements may not adequately consider the unique characteristics of marine insurance. Sometimes, OJK's policies may reflect noble aspirations, such as increasing financial inclusion or improving consumer protection, but they fail to account for the real market conditions in the insurance sector. This can create a significant gap between what is desired and what the insurance industry can realistically achieve.

OJK is often criticized for a lack of strict rule enforcement in the insurance industry. Violations of provisions on capital adequacy, unfair claims practices, or unauthorized policy cancellations may not be followed up with adequate sanctions, which can harm consumers. OJK's supervisory function is often seen as insufficiently active in monitoring insurance company performance. Ineffective supervision increases the risk of insurance company failures or misuse of premium funds, ultimately harming policyholders and eroding public trust.

Discrepancies between policy and market realities, along with neglect of optimal supervisory functions, can result in direct consumer losses. For instance, delays or unfair practices in claims processing or an insurer's failure to pay claims due to a lack of funds can harm consumers. A lack of appropriate regulation and consistent law enforcement can harm the insurance industry as a whole, creating an environment where irresponsible companies can persist and damage the industry's overall reputation.

Legal Culture

Legal culture reflects the values, attitudes, and perceptions of society towards the law and regulatory institutions. In the context of OJK, the legal culture built by this institution is crucial because it influences how the public views and trusts the financial industry, including marine insurance. However, criticism of the legal culture adopted by OJK highlights an imbalance in consumer protection, especially within the marine insurance sector.

The legal culture established by OJK is considered suboptimal in protecting consumers, particularly in marine insurance. This shortfall is evident in policies that lack progressiveness in strengthening consumer rights, enforcing insurer obligations, and providing fair resolutions in claim cases. Furthermore, a biased legal culture indicates an imbalance in addressing industry interests over consumer interests. OJK may focus more on the needs and interests of insurance companies than on consumer rights and welfare, potentially creating inequality in the legal system.

A legal culture that does not support consumer protection can lead to public distrust in the insurance industry as a whole. If consumers feel that a regulatory body like OJK does not look after their interests, confidence in that institution may erode. A lack of consumer protection caused by an inadequate legal culture can lead to significant consumer losses. For instance, if claims are not processed promptly or fairly, or if there is misuse of premium funds by insurance companies, consumers may face severe financial losses.

The Role of OJK in Contributing to Economic Development in Indonesia

In the dynamic context of the marine insurance industry, Satjipto Raharjo's theory on consumer protection offers valuable insights for OJK policies. Based on Raharjo's theory, it can be interpreted that OJK's effectiveness in consumer protection, especially within the insurance industry, is not yet optimal. Criticisms toward OJK in this regard underscore the need to strengthen its role in carrying out supervisory and regulatory functions. With the

issuance of a law guaranteeing marine insurance policies, this theory views it as a step to optimize OJK's function in developing the financial services sector, particularly in insurance. This law aims to provide legal certainty for consumers and encourage investors to participate in the shipping industry. Referring to John Rawls' concept of the "veil of ignorance," which emphasizes equality and fairness in access to insurance protection, this underscores the importance of creating an environment where everyone has equal access to insurance protection, regardless of position or social status. The prevalent issues in marine insurance can be analyzed as follows:

Marine insurance policy guarantees have the potential to reduce financial burdens on shipowners. With such guarantees, shipowners will feel safer and protected from risks related to their vessel operations, such as damage, loss, or third-party claims. Marine insurance policies also offer legal certainty for shipowners, providing clear legal protection regarding potential claims. Additionally, marine insurance guarantees could attract both domestic and international investors, as they would feel more confident investing in the maritime industry with protection against potential risks. This, in turn, would stimulate investment growth in the shipping industry, which would positively impact the nation's overall economic growth.

Funding for OJK's operational costs through the State Budget (APBN) holds substantial potential to enhance the quality of supervision and guidance in the financial services sector, including the insurance industry. With direct funding from APBN, OJK will have adequate resources to carry out its supervisory and regulatory functions more effectively and efficiently. The use of APBN funds also opens up opportunities for closer monitoring by the Financial Supervisory Agency of the Republic of Indonesia (BPK RI) through regular audits. These audits ensure that funds are utilized in compliance with applicable regulations and are used efficiently to improve the quality of OJK's services. With funding provided through APBN, OJK can focus on its duties without the constraints of insufficient funds. This will enable OJK to increase its capacity in supervising and guiding the insurance industry, including identifying and responding to potential issues or risks.

With the introduction of a Law on marine insurance policy guarantees and allocation of OJK operational costs through APBN, consumer protection is expected to be strengthened, investor confidence boosted, and OJK's function optimized in supervising and guiding the insurance industry overall.

The Role of OJK in Guiding and Supervising Insurance Companies Related to Marine Insurance in Indonesia's Insurance Law System

According to Lawrence W. Friedman's theory, effective law enforcement within a legal system involves three main aspects: legal structure, legal substance, and legal culture.

First, in terms of legal structure, the Financial Services Authority (OJK) tends to carry out its guidance and supervision duties with greater sharpness in the downward direction, which is related to market players or individuals in the insurance industry. However, this tendency becomes blunt towards the top, which means a lack of effective supervision of entities or institutions that have an important role in the insurance industry, such as large companies or financial institutions.

Second, in terms of legal substance, the policies implemented by OJK tend to be inconsistent with the targets that have been set. Moreover, the policies may contradict principles that should be upheld, such as the function to maintain, regulate, and supervise the insurance industry in particular.

Third, in terms of legal culture, the culture built by OJK tends to be "one-sided" or unbalanced. This means that OJK's role in protecting consumers, especially in the context of shipping insurance, has not been fully optimized. Consumer protection efforts may still lack the attention that is comparable to the protection of the interests of larger industries or institutions.

In the context of Lawrence W. Friedman's theory of effective law enforcement, the evaluation of OJK reveals imbalances in legal structure, legal substance, and legal culture, which influence law enforcement in the insurance industry. Structurally, OJK tends to focus more intensively on monitoring market players or individuals rather than on entities or institutions with significant impacts, such as large corporations or financial institutions. This tendency creates gaps in effective supervision over entities that substantially impact the stability of the insurance industry as a whole. In terms of legal substance, OJK's policies may not always align with established goals and may even contradict principles meant to preserve the stability and integrity of the insurance industry. Lastly, from the perspective of legal culture, OJK should evaluate whether the cultural practices it has fostered support fairness and balanced consumer protection alongside larger institutional interests. The absence of

such balance can result in inadequate consumer protection, especially in marine insurance (D. J. Ibrahim et al., 2023; Febrian et al., 2021).

To improve OJK's effectiveness in guiding and supervising insurance companies, particularly in marine insurance, enhancements are needed in three key aspects of the legal system, as outlined by Lawrence W. Friedman. First, within the legal structure, it is essential to ensure that oversight is conducted fairly and consistently, regardless of the size of the entity being supervised. This will prevent inequity or imbalance in law enforcement within the insurance industry. Second, legal substance should align with the intended objectives and optimize regulatory and supervisory functions. This entails a comprehensive evaluation of existing regulations and policies, along with necessary adjustments to ensure they meet the needs of the industry and society. Third, in building legal culture, it is crucial to focus on equality and fairness, particularly in consumer protection. Building a balanced legal culture will help ensure that the interests of all parties, including consumers, are fairly considered in law enforcement processes. By making improvements in these three areas, OJK can enhance its effectiveness in fulfilling its duties and ensure that the insurance industry, especially marine insurance, operates transparently, fairly, and in alignment with public needs.

The Role of OJK in Contributing to Economic Development in Indonesia

In terms of consumer protection, Satjipto Raharjo can be analyzed as understanding that OJK's role has not yet been optimized, especially in the insurance industry, including marine insurance. The issuance of the Marine Insurance Policy Guarantee Law is expected to optimize OJK's role in guiding the financial services sector in insurance. John Rawls' "veil of ignorance" concept, which he describes as a situation where individuals do not know all the facts about themselves, can be related to consumers' lack of understanding of their insurance rights, which at times strengthens the insurance providers' position.

The many insurance issues can be analyzed in two ways. First, marine insurance guarantees can reduce the burden on consumers, providing legal certainty and attracting both domestic and foreign investors to the shipping industry, which would, in turn, contribute to national economic growth. Second, with OJK's operational costs funded through APBN, its regulatory and supervisory functions can become stricter and more focused, as funding from APBN can be effectively monitored through audits by the Indonesian Financial Supervisory

Agency (BPK RI). This would increase public and industry confidence in OJK's transparency and accountability in performing its duties.

According to Satjipto Raharjo's Legal Protection Theory, the essence of legal protection is to safeguard individuals' human rights that may be infringed upon by others, providing individuals the opportunity to enjoy rights guaranteed by law. In this context, the application of this theory is relevant for analyzing and understanding consumer protection challenges within the insurance industry, particularly in marine insurance (Karimuulah, 2023).

In the framework of legal protection theory introduced by Satjipto Raharjo, there is an emphasis on human rights that must be protected by law. In the context of insurance, consumers have the right to obtain protection and legal certainty for their insurance policies (Lahaling, 2021). However, in practice, weaknesses in OJK's role in guiding and supervising insurance companies can result in losses for consumers, with uncertainty or abuse in the insurance policies they buy.

Applying this theory, it can be concluded that improvements in the legal structure, legal substance, and legal culture in the insurance industry, particularly regarding marine insurance, are essential to ensure the protection of consumer rights. Measures such as the issuance of a Law on marine insurance policy guarantees, which are expected to provide legal certainty to consumers, are in line with the principles of legal protection theory introduced by Satjipto Raharjo.

Similarly, in the context of law enforcement and consumer protection, the principles of legal protection emphasized by Satjipto Raharjo can be linked to the concept of the "veil of ignorance" introduced by John Rawls. The application of these principles strengthens the argument for increased transparency, fairness, and legal certainty in the insurance industry, so that consumers can be more dignified and protected according to their rights.

CONCLUSION

Based on the research findings and discussion, it can be concluded that the Financial Services Authority (OJK) plays a crucial role in safeguarding consumer interests within the financial services sector. Given its significant function, there is a compelling need to establish

a clear legal framework for the enforcement of shipping insurance policy guarantees under OJK's supervision.

Comparative analysis reveals that the OJK counterparts in the United States, Japan, and Singapore operate under the Ministry of Finance and are funded through their respective state budgets. This governance structure has contributed to their institutional effectiveness and regulatory success. These international practices offer valuable insights for enhancing the OJK's operational model in Indonesia.

REFERENCES

- Dayour, F., Adongo, C. A., & Kimbu, A. N. (2020). Insurance uptake among small and medium-sized tourism and hospitality enterprises in a resource-scarce environment. *Tourism Management Perspectives*, 34, 100674. <https://doi.org/10.1016/j.tmp.2020.100674>
- Febrian, Nurhidayatulloh, Zuhir, M. A., & Y., A. (2021). The Implementation of Friedman's Theory in the Context of Legal System in Indonesia. *International Journal of Psychosocial Rehabilitation*, 4(6), 10362–10371.
- Firdausy, C. M. (2021). *Memajukan logistik Indonesia yang berdaya saing*. Yayasan Pustaka Obor Indonesia.
- Firmansyah, R., Sihabudin, S., & Sudirman, M. (2022). Pengaturan Klausul Pilihan Hukum dan Pilihan Forum dalam Perjanjian Asuransi Kapal di Indonesia. *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan*, 7(1), 77. <https://doi.org/10.17977/um019v7i1p77-86>
- Ganie, A. J. (2023). *Hukum Asuransi Indonesia*. Sinar Grafika.
- Ho, C. W. L., Ali, J., & Caals, K. (2020). Ensuring trustworthy use of artificial intelligence and big data analytics in health insurance. *Bulletin of the World Health Organization*, 98(4), 263–269. <https://doi.org/10.2471/BLT.19.234732>
- Ibrahim, D. J., Hermanto, A. B., & Marbun, R. (2023). Tracking The Validity Of Coercive Urgency In The Job Creation Act (Issue ICoLGaS). Atlantis Press SARL. https://doi.org/10.2991/978-2-38476-164-7_28
- Ibrahim, H. R., & Halkam, H. (2021). *Perdagangan Internasional & Strategi Pengendalian Impor*. Lembaga Penerbitan Universitas Nasional (LPU-UNAS).
- Indrawanto, S. (2024). *Merajut Keberlanjutan Usaha: Panduan Hukum Dagang dan Bisnis*. PT Indonesia Delapan Kreasi Nusa.
- Kajwang, B. (2022). Role of Marine Insurance on Marine Trade Growth: a Critique of Literature. *Journal of Strategic Management*, 7(2), 49–58. <https://doi.org/10.47672/jsm.1134>

- Karimuulah. (2023). *Perlindungan Hukum Terhadap Pemegang Ekspresi Budaya Tradisional Sebagai Bagian Dari Kekayaan Intelektual Komunal Di Provinsi Jambi*. Universitas Batanghari Jambi.
- Kavya, T., & M. Kavitha. (2023). A Study on Life Insurance Policies as an Investment Option for Investors. *International Journal of Economic Perspective*, 17(04), 69–75. <https://ijeponline.com/index.php/journal>
- Lahaling, H. (2021). *Pemenuhan hak-hak anak pekerja migran Indonesia dalam perspektif hak asasi manusia*. Deepublish.
- Lee, H., YONG, Z.-J., & LIM, Q.-M. (2022). Insurance Development and Economic Growth. *Financial Statistical Journal*, 5(1). <https://doi.org/10.24294/fsj.v5i1.1057>
- Mulyanti, A. S., Murwadji, T., Mulyati, E., & Permata, R. R. (2014). Electronic Money Supervision for the Creation of Monetary Stability in the Development of Economic Law in Indonesia. *Researchgate.Net*, August, 686–698. <https://doi.org/10.5281/zenodo.6670351>
- Nneji, W. A. (2021). Overview of the importance of marine insurance to inland water transport in Nigeria. *Renaissance University Law Journal (RNULJ)*, 1(1), 50–60.
- Simanjuntak, M. (2023). *Legal Protection for Consumers in Marine Hull Insurance in an Effort to Develop the Indonesian Economy*. Universitas Kristen Indonesia.
- Simanjuntak, M., Widiarty, W. S., & Damian, E. (2022). Legal Protection Consumers Associated with Insurance Regulations Especially Claims Settlement in Indonesia's Economic Development (Case Study of Marine Hull Insurance). *Journal of Positive Psychology and Wellbeing*, 6(1), 1220–1235. <http://journalppw.com>