PRISAINS JOURNAL LawSains JOURNAL
Volume 01 Nomor 03, Maret (2026)
Website : https://journal.prisains.com/index.php/law

When Insurance Fails: Bankruptcy Law and Policyholder Protection in Indonesia

Ketika Asuransi Gagal Bayar: Hukum Kepailitan dan Perlindungan Pemegang Polis di Indonesia

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Submission: 09/02/2026
Review: 02/03/2026
Acceptance: 30/03/2026
Publication: 31/03/2026

Abstract

Insurance failures reveal a fundamental legal tension between financial stability and policyholders' private-law rights to timely benefit payments. In Indonesia, this tension is intensified by a gatekeeping model that channels insurer insolvency proceedings exclusively through the financial regulator, limiting direct court access for creditors. This study employs doctrinal legal research supported by case-study evidence from major failures, including Jiwasraya, Wanaartha Life, and Kresna Life, and adopts a comparative approach drawing on the Netherlands, the United States, and Singapore. The findings identify a "protection paradox": although policyholders are formally prioritized in insolvency distribution, effective protection remains uncertain due to asset shortfalls, delayed regulatory intervention, and restricted judicial pathways. To address these shortcomings, the article proposes a three-layered reform model comprising strengthened early intervention, an operational policyholder guarantee mechanism, and a calibrated court-supervised insolvency framework. This model aims to balance systemic stability with legal certainty and effective policyholder protection.

Keywords: access to justice; insurance insolvency; OJK Authority; policyholder protection

Pengiriman Berkas: 09/02/2026
Reviu: 02/03/2026
Diterima: 30/03/2026
Publikasi: 31/03/2026

Abstrak

Kegagalan perusahaan asuransi menimbulkan ketegangan mendasar antara stabilitas sistem keuangan dan hak keperdataan pemegang polis untuk memperoleh pembayaran manfaat secara tepat waktu. Di Indonesia, ketegangan ini diperkuat oleh model gatekeeping yang menempatkan otoritas regulator sebagai satu-satunya pihak yang berwenang mengajukan kepailitan, sehingga membatasi akses langsung kreditor ke pengadilan. Penelitian ini menggunakan metode hukum doktrinal yang didukung studi kasus pada Jiwasraya, Wanaartha Life, dan Kresna Life, serta pendekatan perbandingan dengan Belanda, Amerika Serikat, dan Singapura. Hasil penelitian menunjukkan adanya "paradoks perlindungan", yaitu pemegang polis secara normatif diprioritaskan, namun dalam praktik menghadapi ketidakpastian akibat keterbatasan aset, keterlambatan intervensi, dan terbatasnya akses peradilan. Penelitian ini mengusulkan model reformasi tiga lapis, yaitu penguatan intervensi dini, pembentukan penjaminan polis yang operasional, dan mekanisme insolvensi yang diawasi pengadilan secara terukur. Model ini bertujuan menyeimbangkan stabilitas sistem dengan kepastian hukum dan perlindungan efektif bagi pemegang polis.

Kata Kunci: *akses keadilan; insolvensi asuransi; kewenangan OJK; perlindungan pemegang polis*

1. INTRODUCTION

Large-scale insurance distress tends to manifest not merely as a private contractual failure between insurer and policyholder, but rather reflects a broader disruption within the financial intermediaries that pool and manage public funds (Clark, 1976). In this context, policyholders occupy a particularly vulnerable position as “public suppliers of capital,” whose financial exposure is not only widespread but also socially significant due to the collective nature of risk distribution embedded in insurance mechanisms (Clark, 1976). Consequently, the failure of insurance companies carries implications that extend beyond individual losses, potentially undermining public confidence and destabilizing financial markets. This systemic dimension justifies a strong regulatory presence in insolvency processes, where state authorities traditionally exercise significant control over the initiation and resolution of financial institution failures to mitigate broader economic consequences (Skeel, 1998). Furthermore, in an increasingly interconnected global financial system, the effectiveness of insolvency regimes becomes essential not only for ensuring equitable treatment of creditors but also for maintaining financial stability, reducing uncertainty, and preserving trust in the financial infrastructure (Krimminger, 2008).

The systemic risks inherent in the insurance sector are not merely theoretical but have been vividly demonstrated in major insurance failures in Indonesia, particularly in the cases of PT Asuransi Jiwasraya and PT Asuransi Jiwa Kresna (Kresna Life). The Jiwasraya case, for instance, revealed profound governance failures characterized by mismanagement of investment funds, manipulation of financial statements, and high-risk investment strategies that ultimately rendered the company unable to fulfill its obligations to policyholders (Cahyadi et al., 2023). This failure was not incidental but developed over a prolonged period, marked by liquidity problems, insolvency conditions, and the use of financial engineering practices such as “window dressing” to obscure the company’s actual financial condition (Sayekti, 2020). Furthermore, empirical findings indicate that fraudulent practices within Jiwasraya encompassed corruption, asset misappropriation, and financial statement fraud, leading to massive losses not only for policyholders but also for the state, reaching approximately IDR 16.8 trillion (Alimirruchi & Chariri, 2023; Adiyat, 2021).

Second, the OJK’s revocation of Wanaartha Life’s license illustrates a classic solvency failure narrative, under-capitalization relative to obligations and a product strategy that creates structural mismatch. In its official press release, Otoritas Jasa Keuangan (OJK) attributes the revocation to persistent inability to meet solvency requirements, highlighting the insurer’s inability to close the gap between liabilities and assets, including through shareholder capital injection or new investors; OJK also links the gap to accumulated losses and the sale of “saving plan”-type products promising fixed returns without commensurate investment capacity (OJK, 2022).

Similarly, the Kresna Life case reflects structural weaknesses in regulatory oversight and corporate governance, where the company experienced prolonged liquidity issues and failed to meet its obligations to policyholders, resulting in delayed claim payments and eventual regulatory intervention by the Financial Services Authority (Vedora et al., 2025). The subsequent revocation—and later judicial annulment—of its business license further highlights the legal and institutional complexities in resolving insurance distress, particularly concerning the balance between regulatory authority, corporate survival, and policyholder protection. These cases collectively demonstrate that insurance failures in Indonesia are not isolated incidents but indicative of deeper systemic vulnerabilities involving weak supervision, governance failures, and regulatory gaps, thereby reinforcing the need for a more robust legal framework to ensure accountability and protection of policyholders.

Against this background, the legal architecture governing insurance insolvency emerges as the central object of inquiry. In Indonesia, insurer failure is not regulated solely under the general bankruptcy regime. Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations introduces a special procedural rule for certain categories of debtors, including insurance companies, whereby bankruptcy petitions cannot be filed directly by creditors but must be submitted through a designated authority. This institutional design was later reinforced and reconfigured under Law No. 40 of 2014 on Insurance, which explicitly positions the Financial Services Authority (Otoritas Jasa Keuangan/OJK) as the sole entity authorized to initiate bankruptcy proceedings against insurance companies, while simultaneously providing a mechanism through which creditors may submit requests to the regulator.

Such a gatekeeping model is commonly justified on the basis of systemic stability. Insurance companies, as institutions managing public funds and long-term liabilities, are perceived to require a controlled and coordinated resolution process to prevent disorderly collapse, contagion effects, and erosion of public trust. However, this institutional arrangement simultaneously generates a structural tension. By conditioning access to the courts on regulatory discretion, policyholder-creditors may be deprived of timely and effective legal remedies when administrative action is delayed, withheld, or oriented toward macro-stability considerations rather than individual justice. This reflects a fundamental conflict between financial system stability and access to justice—particularly significant given that OJK's statutory mandate encompasses not only market stability but also consumer protection.

In this context, this article addresses three interrelated questions concerning the Indonesian insurance insolvency framework. It examines how legal protection for policyholder-creditors is currently structured and identifies the practical limitations that arise in insurer failure cases; analyzes the legal and institutional implications of granting OJK exclusive authority to initiate bankruptcy proceedings, particularly in relation to access to justice and legal certainty; and develops a reform-oriented framework aimed at reconciling systemic stability with effective creditor protection, drawing on comparative experiences from jurisdictions such as the Netherlands, the United States, and Singapore.

The objectives of this study follow directly from these inquiries. First, it seeks to map and critically assess the existing legal protection framework for policyholder-creditors under Indonesian law. Second, it analyzes the normative consequences of regulatory monopoly over insolvency initiation, particularly its impact on the balance between public interest regulation and private rights enforcement. Third, it proposes a prescriptive reform model that is both legally coherent and institutionally feasible, while aligning with principles of financial stability and rights-based protection.

Notwithstanding the growing body of scholarship on insurance failures, much of the existing literature remains focused on ex post outcomes—such as recovery rates, duration of settlement, or criminal accountability—rather than on the underlying design of the legal system itself. Fundamental questions concerning who may trigger judicial intervention, what preventive or early-intervention mechanisms are mandated, and what institutional safeguards exist when assets are insufficient, remain underexplored. In contrast, comparative jurisdictions conceptualize insurance insolvency as a regulatory continuum, encompassing supervision, early intervention, resolution or transfer, and ultimately liquidation, supported by structured mechanisms such as public interest tests, the "no creditor worse off" principle, policyholder guarantee schemes, and standardized resolution frameworks.

Indonesia's regulatory framework exhibits partial alignment with this continuum, including provisions on creditor priority and emerging policyholder protection mechanisms. However, critical components remain either incomplete or not yet fully operational. In particular, the mandate to establish a policyholder guarantee function—introduced under the post-2023 financial sector strengthening framework—has yet to be fully implemented, creating an interim legal vacuum in which policyholder protection relies heavily on liquidation processes, ad hoc restructuring measures, and administrative interventions without the support of a fully functional guarantee system.

Accordingly, the central research gap addressed in this article does not lie in the mere absence of formal legal protection, but rather in the discrepancy between the normative promise of legal certainty and policyholder protection, and the practical effectiveness of available mechanisms when insurer failures occur. This gap is further exacerbated by the gatekeeping role of OJK in restricting direct court access and the delayed operationalization of institutional protection schemes, thereby raising fundamental questions about the adequacy of Indonesia's current legal framework in balancing stability and justice.

2. METHODS

This study employs doctrinal legal research (legal-dogmatic analysis), complemented by limited empirical inputs through a structured case-study approach to insurer failures. The research is prescriptive in character, aiming not only to describe existing legal framework but also to propose a normative reconstruction to guide future legislative and regulatory reform.

Data source and collection. Secondary data consist of statutes, implementing regulations, and official explanatory materials; regulatory documents and press releases; and court/insolvency materials where available. Key Indonesian legal instruments, include: first, Law No. 37 of 2004 on Bankruptcy and PKPU (with its special debtor provisions), second, Law No. 40 of 2014 on Insurance (including its bankruptcy-channeling provisions and policyholder priority), and third, subsequent modifications and implementing OJK regulations—particularly on dissolution, liquidation, and bankruptcy governance.

Empirical inputs are incorporated through selected case studies of insurer distress in Indonesia, supported—where feasible—by field insights from practitioners and commercial court actors. This empirical layer functions to assess how formal legal norms operate in practice, particularly in relation to procedural delays, evidentiary constraints, and institutional coordination.

Methodological approaches. The doctrinal analysis applies four approaches. First, statutory approach, examining the structure of legal authority, procedural mechanisms, and creditor protection rules; Second, conceptual approach, focusing on legal certainty, legal protection, and access to justice within a gatekeeping regulatory model; Third a comparative approach, drawing insights from the Netherlands, the United States, and Singapore; and fourth, a case-based policy analysis, evaluating how insurer failures are managed in practice as an indicator of systemic effectiveness.

Analytical technique. Data are analyzed qualitatively through structured legal reasoning, combining deductive interpretation of legal norms with inductive insights derived from case patterns. In line with the theory of legal reasoning, interpretation and construction are used to bridge the gap between abstract legal norms and concrete cases (Mawar, 2016). Comparative findings are treated as adaptable design references rather than direct legal transplants.

3. RESULTS AND DISCUSSION

3.1 Policyholder-Creditor Protection for Insurers in Distress in Indonesia

Indonesian insurance law formally recognizes policyholders as a protected class of creditors within insolvency proceedings. This is reflected in Article 52 of Law No. 40 of 2014 on Insurance, which explicitly prioritizes the claims of policyholders, insured parties, and beneficiaries over other creditors in the distribution of assets. Such provision doctrinally elevates policyholder claims beyond ordinary contractual status, placing them within a special-priority framework designed to address the structural vulnerability of consumers in the insurance sector.

From a doctrinal standpoint, this priority mechanism represents an attempt to embed legal protection within the insolvency regime. However, as identified in prior research, including Dedy's dissertation, the effectiveness of such protection is highly contingent upon the availability of sufficient assets and the timing of regulatory intervention. In practice, policyholders frequently remain exposed due to structural imbalances in insurer finances, where liabilities significantly exceed realizable assets, rendering priority rules insufficient to ensure full recovery (Dedy, 2026).

This condition reveals a fundamental limitation within the Indonesian framework. While the law guarantees priority in a formal sense, it does not guarantee substantive recovery. As emphasized in Dedy's analysis, policyholders, despite being positioned as creditors, often do not receive optimal protection due to the absence of a comprehensive and predictable insolvency mechanism, thereby undermining legal certainty and fairness (Dedy et al., 2024).

A further structural issue arises from the institutional design of insurance insolvency. Unlike general bankruptcy proceedings, the authority to initiate bankruptcy against insurance companies is exclusively vested in the Financial Services Authority (OJK). This arrangement shifts the orientation of insolvency from a private debt-collection mechanism toward a public-interest regime focused on financial system stability. Consequently, the protection of policyholders as individual creditors may become secondary to broader systemic considerations (Dedy et al., 2024).

In response to these structural weaknesses, Indonesian law has introduced the concept of a policyholder protection scheme (program penjaminan polis). The enactment of Law No. 4 of 2023 on Financial Sector Development and Strengthening (P2SK Law) mandates the Deposit Insurance Corporation (LPS) to administer such a scheme. The program is intended to guarantee the fulfillment of policyholder rights in cases where insurers are liquidated due to financial distress. However, its implementation is deferred, with an operational timeline of up to five years following enactment (P2SK Law, 2023).

This delayed implementation creates what may be described as an interim protection gap. During this transitional period, the existing legal framework relies primarily on supervisory actions, administrative measures, and case-specific restructuring mechanisms. As observed in several Indonesian insurance failures, such approaches tend to be ad hoc and lack standardized procedural safeguards, thereby contributing to uncertainty among policyholders.

Empirical cases, such as Jiwasraya, illustrate an alternative model based on portfolio transfer and business continuity rather than strict liquidation. While such measures may preserve the value of insurance contracts, they also raise concerns regarding transparency, accountability, and the extent to which policyholder consent and rights are adequately protected.

Accordingly, the Indonesian system reflects a hybrid model combining elements of insolvency distribution and administrative resolution. However, in the absence of a fully operational guarantee scheme and clearly defined early-intervention mechanisms, the system remains vulnerable to unpredictability. This condition ultimately weakens the practical realization of legal certainty, particularly from the perspective of policyholders who expect insurance contracts to provide not only formal rights but also substantive financial security.

3.2 OJK as the Sole Petitioner for Insurer Bankruptcy and Its Access-to-Justice Implications

The most distinctive feature of Indonesian insurer insolvency lies in the institutional channeling of court access. Under Law No. 40 of 2014 on Insurance, creditors are not permitted to directly petition the commercial court for insurer bankruptcy; instead, they must submit an application to the Financial Services Authority (Otoritas Jasa Keuangan/OJK), which then decides whether to file the petition. Article 51 regulates this mechanism by requiring creditors to apply to OJK, mandating OJK to approve or reject within a specified period, and obligating the authority to provide written reasons in case of refusal. This procedural design must be read together with Article 50, which explicitly provides that bankruptcy petitions against insurance companies may only be filed by OJK. The official explanation confirms that this authority, previously held by the Minister of Finance under the Bankruptcy Law, has been transferred to OJK as the integrated regulator of the financial sector (Undang-Undang No. 40 Tahun 2014; Dedy, 2026).

From a systemic-stability perspective, such gatekeeping is normatively justifiable. Insurance companies manage public funds and long-term liabilities, and premature or uncoordinated bankruptcy filings may trigger value destruction, contagion, and erosion of public confidence. As noted in comparative practice, regulators often prioritize controlled resolution over immediate liquidation. For instance, the Dutch framework recognizes resolution as a coordinated mechanism used when ordinary bankruptcy would create excessive social or financial disruption, with decisions influenced by factors such as the size of the insurer, the number of policyholders, and systemic interconnectedness (Brinkhoff et al., 2022; Dedy, 2026).

However, comparative models also demonstrate that stability-oriented intervention does not eliminate judicial safeguards. Instead, it is typically accompanied by structured legal protections, including public-interest tests, "no creditor worse off" principles, and defined compensation mechanisms when resolution outcomes deviate from ordinary insolvency distribution. Similarly, in the United States, insurance insolvency is regulator-led but remains court-administered through state receivership regimes, supported by guaranty associations that provide an additional layer of policyholder protection (Sunarmi, 2004; Dedy, 2026).

In contrast, the Indonesian gatekeeping model raises several acute legal concerns. First, access to the court becomes conditional upon administrative discretion. Creditors, including policyholders, must rely on OJK to initiate proceedings, and while the statute requires written reasons for refusal, it does not provide a clear alternative pathway for creditors to directly access judicial remedies. This creates uncertainty as to whether such refusals constitute reviewable administrative decisions and what form of relief may be available within the urgent context of insolvency proceedings, thereby undermining legal certainty (Dedy, 2026).

Second, the model generates potential incentive-alignment problems and delay risks. OJK is mandated to balance consumer protection, financial stability, and market confidence—objectives that may conflict in practice. Empirical observations from Indonesian insurance failures indicate that regulatory intervention may be prolonged while insolvency conditions worsen, reducing the residual asset base available to creditors. As noted in the WanaArtha Life case, the gap between liabilities and assets accumulated over time, reflecting delayed or insufficient corrective measures (Dedy, 2026).

Third, the scope of gatekeeping appears to be expanding beyond bankruptcy into restructuring mechanisms. Recent regulatory developments suggest that the suspension of debt payment obligations (PKPU) for insurance companies is also increasingly treated as an exclusive domain of OJK. Such restriction potentially removes a critical restructuring tool that could otherwise preserve enterprise value and improve creditor recovery outcomes. In the absence of accessible restructuring pathways, the system risks defaulting to liquidation-oriented solutions that may not be optimal for either stability or creditor protection (Dedy, 2026).

Fourth, the gatekeeping model may weaken the role of courts as independent arbiters. Judicial oversight traditionally ensures that insolvency criteria are objectively tested and that creditor rights are protected through due process. When court access depends entirely on regulatory initiation, the external control function of the judiciary is diminished, raising concerns about accountability and the potential prioritization of systemic considerations over individual rights (Dedy, 2026).

These concerns do not imply that regulatory leadership should be abandoned. Rather, they highlight the need for a calibrated framework in which regulatory control is complemented by structured judicial pathways and clearly defined early-intervention triggers. Such recalibration is essential to ensure that the pursuit of systemic stability does not inadvertently result in the erosion of access to justice for policyholder-creditors.

3.3 Reform Concept for Insurer Bankruptcy and PKPU to Realize Legal Certainty and Legal Protection

This study proposes a three-layered reform model for insurer insolvency in Indonesia. The model departs from a binary understanding of insolvency (solvent versus bankrupt) and instead conceptualizes insurer distress as a staged continuum requiring differentiated legal tools, institutional responses, and protection mechanisms at each phase. Such an approach is consistent with comparative jurisdictions, where insurer failure is managed through a sequence of supervision, early intervention, resolution, and ultimately liquidation, complemented by consumer-protection mechanisms such as guarantee schemes and compensation frameworks (Dedy, 2026; Brinkhoff et al., 2022).

Layer One: Strengthened Early Intervention and Recovery Planning

The first layer focuses on ex ante regulatory intervention aimed at preventing insolvency from reaching an irreversible stage. Indonesian law already incorporates prudential supervision tools, including solvency requirements such as Risk-Based Capital (RBC), and OJK has demonstrated enforcement capacity through license revocation in cases where financial recovery is no longer feasible, as illustrated in WanaArtha Life (Dedy, 2026). Similarly, the Jiwasraya case demonstrates the use of portfolio transfer mechanisms as a means of preserving policy continuity under regulatory supervision (Dedy, 2026).

However, these interventions remain largely discretionary. Reform at this stage should aim to enhance predictability, timeliness, and transparency. Comparative experience from the Netherlands shows that resolution authorities establish ex ante recovery and resolution planning frameworks, enabling early and effective intervention before insolvency deepens (Brinkhoff et al., 2022).

A workable Indonesian adaptation would include:

1. Mandatory recovery plans once an insurer breaches defined solvency triggers (e.g., RBC below supervisory thresholds), with public disclosure at least in aggregated form to build market discipline without triggering panic.

2. A statutory early-intervention ladder (supervisory measures escalating from corrective orders to restricted marketing to portfolio transfer), with time-bound milestones and transparent criteria for escalation. Jiwasraya's experience indicates that portfolio transfer can be a crucial stability-preserving mechanism, but its deployment should be rule-guided rather than exceptional.

3. Independent valuation and governance accountability to reduce the chance that financial deterioration is masked by reporting or misvaluation. Public reporting about enforcement actions against professionals in insurer failures illustrates the relevance of this dimension.

The legal objective of this layer is to minimize the probability that insurer distress escalates into unavoidable liquidation, thereby preserving asset value and protecting policyholder interests (Dedy, 2026).

Layer Two: Operational Policyholder Guarantee and Resolution Capacity

The second layer addresses the structural limitation of insolvency distribution rules. Although Article 52 of Law No. 40 of 2014 prioritizes policyholders and mandates the use of insurance funds to satisfy their claims, such priority does not guarantee full recovery when assets are insufficient. This limitation has been identified as a core weakness in the Indonesian system, where legal protection remains largely declarative (Dedy, 2026).

To address this, Indonesian law has introduced the concept of a policyholder guarantee program (Program Penjaminan Polis). The enactment of Law No. 4 of 2023 (P2SK Law) assigns the Deposit Insurance Corporation (LPS) the mandate to administer such a scheme, with implementation scheduled within five years of enactment (P2SK Law, 2023; Dedy, 2026).

Comparative experience underscores the importance of such mechanisms. In Singapore, policyholder protection is operationalized through a funded protection scheme administered by the Singapore Deposit Insurance Corporation, providing defined coverage limits and clear consumer guidance. In the United States, insurer insolvency is managed through state receivership systems supported by guaranty associations, coordinated by the National Organization of Life & Health Insurance Guaranty Associations (NOLHGA), which ensures continuity of coverage and payment of benefits within statutory limits. Meanwhile, the Netherlands illustrates that the absence of a guarantee scheme creates policy debates regarding affordability and consumer risk exposure (Brinkhoff et al., 2022; Sunarmi, 2004; Dedy, 2026).

This layer represents the critical interface between systemic stability and substantive consumer protection.

From these models, Indonesia's crucial implementation tasks at Layer Two, are:

1. Operationalize the PPP with clear rules on covered benefits, caps (if any), eligibility, insurer levies, and coordination with OJK supervision—so that policyholders know ex ante what "protection" means

2. Build a resolution playbook that standardizes transfers/run-offs/liquidations. The NAIC's receivership materials exemplify how operational detail (checklists, claims processing protocols, guaranty association obligations) supports effective crisis handling.

3. Adopt a no-worse-off principle (or its functional equivalent) to ensure that administrative resolution does not generate arbitrary redistribution compared to bankruptcy outcomes—an explicit safeguard used in Dutch resolution logic.

Layer Two is, in effect, the bridge between stability and justice: it is where systemic solutions and consumer compensation meet. These structural weaknesses necessitate a systematic reconstruction of the insolvency framework.

Layer Three: Calibrated Court Access with Regulatory Primacy

The third layer addresses the access-to-justice deficit arising from the exclusive gatekeeping role of OJK. While regulatory leadership should be maintained, the current system requires recalibration to restore limited judicial access without undermining financial stability. A feasible reform model would introduce a dual-key system, in which OJK remains the primary authority, but courts serve as a secondary accountability mechanism. This can be achieved through several measures.

First, a default-to-court mechanism should be introduced. Article 51 of Law No. 40 of 2014 already imposes a time limit for OJK to respond to creditor requests. Reform could stipulate that failure to act within this period allows creditors to file directly with the court, subject to mandatory notification to OJK and judicial consideration of OJK's position (Undang-Undang No. 40 Tahun 2014; Dedy, 2026).

Second, a limited standing rule should be established, restricting direct access to specific creditor classes, particularly policyholders and beneficiaries, consistent with their prioritized legal status under Article 52 (Dedy, 2026).

Third, courts should apply a public-interest screening mechanism, drawing from comparative models such as the Netherlands, where insolvency actions are assessed in light of systemic impact and the availability of alternative resolution tools (Brinkhoff et al., 2022).

Fourth, the relationship between bankruptcy and PKPU should be clarified. While recent regulatory developments indicate a trend toward exclusive OJK control over PKPU, a complete exclusion of restructuring mechanisms risks eliminating a potentially value-preserving tool. Instead, PKPU could be permitted under strict regulatory oversight, including actuarial validation, court supervision, and explicit policyholder protection safeguards (Dedy, 2026).

Taken together, the proposed model transforms Indonesia's insurer insolvency framework from a single-gate system into a balanced, multi-layered structure. Comparative jurisdictions differ in institutional design but converge on a shared functional logic: insurer failure requires staged intervention, regulatory coordination, and robust consumer protection mechanisms.

Indonesia's reform pathway can therefore be understood as a convergence toward this functional logic, while retaining its institutional characteristics—namely, OJK leadership, an evolving LPS-based guarantee system, and a recalibrated judicial accountability mechanism. Such a model is essential to ensure that the pursuit of financial stability does not come at the expense of legal certainty and effective protection for policyholder-creditors (Dedy, 2026).

The comparative jurisdictions examined here do not converge on a single institutional blueprint, but they do converge on a functional logic: insurer failure requires staged tools and consumer backstops. The Netherlands emphasizes separation between supervision and resolution, use of resolution tools (bail-in, transfer, bridge structures, asset-liability vehicles), and public-interest thresholds. The United States emphasizes state law receivership rather than federal bankruptcy, with insurance commissioners often acting as receivers, guided by standardized handbooks and supported by guaranty associations.

Singapore emphasizes an operational PPF scheme governed by specific rules and public guidance on what benefits are protected, with formal levies and disclosure requirements—and with consumers able to understand protection ex ante through official guidance. Indonesia's reform pathway can therefore be framed as convergence toward this functional logic while retaining its own institutional choices: OJK leadership, a developing LPS-run policy guarantee system, and a strengthened court accountability layer.

4. CONCLUSION

Indonesia's insurer insolvency framework formally recognizes policyholders as a protected class of creditors through statutory priority and the allocation of insurance funds for their benefit. However, this study finds that such normative protection is not matched by effective and predictable outcomes in practice. Structural limitations—particularly the imbalance between liabilities and assets, the absence of an operational guarantee mechanism, and the institutional design that centralizes insolvency initiation in OJK—have resulted in suboptimal protection for policyholder-creditors. While the gatekeeping model may be justified from the perspective of financial system stability, it simultaneously creates an access-to-justice deficit and legal uncertainty, especially when regulatory intervention is delayed or does not translate into timely resolution. Accordingly, the Indonesian system reflects a broader misalignment between formal legal guarantees and their practical enforceability, demonstrating that the issue lies not in the absence of legal norms, but in the design and operation of the insolvency framework itself.

To address these limitations, this study recommends a comprehensive reform based on a three-layered model that integrates stability-oriented regulation with rights-based protection. First, early intervention mechanisms must be strengthened through mandatory recovery planning, clear solvency triggers, and transparent supervisory escalation to prevent deterioration of insurer financial conditions. Second, the policyholder guarantee program (PPP) mandated under Law No. 4 of 2023 should be promptly operationalized with clear coverage rules, funding structures, and coordination with OJK, ensuring that policyholder protection is substantive rather than merely declarative. Third, the insolvency gateway should be recalibrated by introducing limited and conditional court access for policyholder-creditors when regulatory action is delayed or denied, supported by a public-interest screening mechanism that preserves financial stability. Through this integrated approach, Indonesia can develop an insurer insolvency framework that not only safeguards systemic stability but also ensures legal certainty and effective protection for policyholders.

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