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LEGAL FRAMEWORK AND EFFECTIVENESS OF BANK RESOLUTION BY THE INDONESIA DEPOSIT INSURANCE CORPORATION

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ABSTRACT

Bank failures pose serious systemic risks to financial stability and public confidence. In Indonesia, the Deposit Insurance Corporation plays a crucial role in resolving troubled banks to maintain financial system stability and protect customers. This study aims to analyze the legal framework for bank resolution, specifically the Deposit Insurance Corporation authority, responsibilities, and mechanisms for dealing with troubled banks, and the extent to which Law Number 24 of 2004 and Law Number 9 of 2016 provide legal certainty and support systemic stability. The research method uses a normative legal approach, examining relevant laws and regulations, including early intervention mechanisms, resolution planning, and resolution strategies such as purchase and assumption, bridge banking, and liquidation. The interaction between Deposit Insurance Corporation, Bank of Indonesia, and the Financial Services Authority is also examined to understand inter-authority coordination in crisis scenarios. The findings indicate that the current legal framework is flexible enough to handle troubled banks, but still faces challenges in coordination, transparency, and legal certainty. In conclusion, Deposit Insurance Corporation has a central role, but the effectiveness of resolution depends on clear mechanisms, good coordination, and a strengthened legal framework to maintain the credibility and stability of the Indonesian financial system.

1. Introduction

Bank failures represent one of the most serious threats to the stability of a country's financial system. This risk not only impacts the sustainability of the banking sector but can also have a domino effect on public trust, macroeconomic stability, and the global financial system. In the Indonesian context, the experience of the 1997–1998 monetary crisis demonstrated the banking sector's vulnerability to shocks, necessitating a legal framework capable of anticipating and resolving bank failures quickly, effectively, and while still providing legal certainty.¹

The deposit insurance corporation, established under Law Number 24 of 2004, was established as an independent institution with the primary mandate of protecting public deposits and implementing the resolution of failed banks.² Subsequent developments through Law Number 9 of 2016 expanded the deposit insurance corporation authority by placing it within the framework of the financial system stability committee in conjunction with the Ministry of Finance, Bank of Indonesia, and the financial services authority. This demonstrates the importance of collaboration between authorities in addressing potential systemic crises.

The main problem of this research is the extent to which Law Number 24 of 2004 and Law Number 9 of 2016 provide a comprehensive basis for deposit insurance corporation to implement effective bank resolution while ensuring legal certainty. This is crucial because the effectiveness of resolution depends not only on the availability of legal instruments, but also on clarity, predictability, and protection for all parties involved.

Several factors influence its implementation. Legal certainty, as emphasized by Radbruch³ and Lastra⁴ through the theory of legal certainty, requires clear, consistent, and predictable laws to protect the rights and obligations of depositors, creditors, and shareholders. Another factor is inter-institutional coordination, where the synergy between the deposit insurance corporation and Bank of Indonesia, financial services authority, and the Ministry of Finance within financial system stability committee often faces the potential for overlapping authority.⁵ Furthermore, resolution effectiveness is also determined by the choice of

¹ Julia Black., *The Oxford Handbook of Regulation*, Oxford, Oxford Academic, 2010, page.302. See too, Charles Goodhart, Philipp Hartmann, David T. Llewellyn, Liliana Rojas-Suarez, and Steven Weisbrod., *Financial Regulation: Why, How and Where Now?*, London, Routledge, 2013, page.78.

² Josandy Eugene Jivly Lisungan., Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank Dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004, *Lex Privatum*, Vol.7, no.5, 2019, page.752.

³ Gustav Radbruch., *Legal Philosophy*, Oxford, Oxford University Press, 2006, page.56.

⁴ Rosa Maria Lastra., *Legal Foundations of International Monetary Stability*, Oxford, Oxford University Press, 2006, page.123.

⁵ Niharotul Faizah, Dewi Ratih, Kamelia Elima'ana Mafudloh, and Muhammad Tufiq Abadi., Peran Otoritas Jasa Keuangan dan Lembaga Penjamin Simpanan dalam menjaga stabilitas dan keamanan sistem keuangan, *Jurnal Ilmiah Research and Development Student*, Vol.2, no.1, 2024, page.135. See too, Hengki Heriyadi., Tinjauan Yuridis Peran Dan Fungsi Otoritas Jasa Keuangan (Ojk) Dalam Sistem Keuangan di Indonesia, *Jurnal Hukum Progresif*, Vol.11, no.1, 2023, page.36; Rustam Magun Pikahulan., Implementasi fungsi pengaturan serta pengawasan pada Bank Indonesia dan Otoritas Jasa Keuangan (OJK) terhadap perbankan, *Jurnal Penegakan Hukum Dan Keadilan*, Vol.1, no.1, 2020, page.41.

instruments such as purchase and assumption, liquidation, bridge banking, or bail-in, which must consider cost efficiency and system stability.⁶ Finally, the institutional capacity of the deposit insurance corporation, both technically and independently, plays a crucial role in resisting political pressure and ensuring the success of the resolution.⁷

According to Aribowo⁸, although two laws served as the legal basis for previous research, there are both normative and practical gaps that require further analysis. One is the gap in legal certainty. Although deposit insurance corporation has resolution authority, there is still the potential for multiple interpretations regarding the priority of protection between depositors, creditors, and shareholders. Furthermore, there is a gap in inter-institutional coordination. Although financial system stability committee was established to strengthen synergy, in practice there is still the potential for overlapping authority between the deposit insurance corporation, financial services authority, and Bank of Indonesia.⁹ For example, differences in assessing bank health or in determining when a bank should be declared failed can lead to delays in decision-making.¹⁰ Additionally, resolution instruments are limited. Although Law Number 9 of 2016 introduced instruments such as bridge banks and bail-ins, their technical implementation remains minimal.¹¹

⁶ Niharotul Faizah, Dewi Ratih, Kamelia Elima'ana Mafudloh, and Muhammad Tufiq Abadi., Peran Otoritas Jasa Keuangan dan Lembaga Penjamin Simpanan dalam menjaga stabilitas dan keamanan sistem keuangan, *Jurnal Ilmiah Research and Development Student*, Vol.2, no.1, 2024, page.137. See too, Dian Kartika., Efektifitas Lembaga Penjamin Simpanan (LPS) Dalam Menjalankan Fungsinya Di Indonesia, *Adzkiya: Jurnal Hukum dan Ekonomi Syariah*, Vol.8, no.2, 2020, page.251.

⁷ Mathias Dewatripont, and Jean Tirole., *The Prudential Regulation of Banks*, Cambridge, MA, MIT Press, 1994, page.45.

⁸ Fitrio Aribowo., Analisis Penerapan Metode Resolusi Bank dalam Tinjauan Akuntansi Keuangan di Indonesia, *Jurnal Sosial Teknologi*, Vol.1, no.12, 2021, page.1683.

⁹ Agus Saiful Abib, B. Rini Heryanti, and Dhian Indah Astanti., Konsep Lembaga Penjamin Simpanan Pada Koperasi Indonesia, *Arena Hukum*, Vol.13, no.3, 2020, page.461. See too, Bernando Aldo Yosua Tambunan, Intan Harahap, Rizsa Nabillah, and Putri Sari Silaban., Peranan dan Strategi Bank Indonesia Serta Pemerintah Dalam Menjaga Stabilitas Sistem Keuangan di Indonesia, *Journal of Law, Education and Business*, Vol.2, no.1, 2024, page.174.

¹⁰ Siti Nur Aini, Lala Yunitasari, and Rini Puji Astuti., Pengaruh Kebijakan Moneter Bank Sentral Terhadap Stabilitas Sistem Keuangan di Indonesia, *Menulis: Jurnal Penelitian Nusantara*, Vol.1, no.5, 2025, page.293. See too, Zulfikar Hasan., The Position of Bridge Banks as Instruments for Resolving Bank Failures in Indonesia, *Journal of Central Banking Law and Institutions*, Vol.2, no.2, 2023, page.223.

¹¹ Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) Dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.201. See too, Suhardiono, Roy Sembel, and Suwandi Suwandi., Peran Lembaga Penjamin Simpanan dalam Menjaga Stabilitas Sektor Perbankan di Indonesia: Systematic Literature Review, *Ekonomis: Journal of Economics and Business*, Vol.9, no.1, 2025, page.146; Chessa Stefany., Kewenangan Lembaga Penjamin Simpanan dalam Menyelesaikan Permasalahan Solvabilitas Bank Diluar Bank Sistemik Ditinjau dari Undang-Undang No. 9 Tahun 2016 Tentang Pencegahan dan Penanganan Krisis Sistem Keuangan (PhD diss., Universitas Sumatera Utara, 2018), page.33.

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Furthermore, many studies discuss Indonesia's banking system, there are still major normative and practical gaps in the legal framework that governs bank resolution under Law Number 24 of 2004 and Law Number 9 of 2016. Previous research shows that deposit insurance corporation plays an important role in protecting deposits, but legal certainty remains weak, especially in determining the priority of protection among depositors, creditors, and shareholders.¹² Studies on institutional coordination also show that overlapping authority between deposit insurance corporation, financial services authority, Bank of Indonesia, and financial system stability committee often causes delays in handling bank failures.¹³ In addition, although Law Number 9 of 2016 introduces new instruments such as bridge banks and bail-ins, their technical implementation has not been properly studied or applied.¹⁴ Other studies on sharia deposit insurance and credit union protection reveal unequal treatment but do not connect these issues to the deposit insurance corporation resolution framework.¹⁵

Thus, the novelty of this research lies in its comprehensive normative legal analysis that reinterprets the framework of Law Number 24 of 2004 and Law Number 9 of 2016 to strengthen the legal certainty and effectiveness of Indonesia's bank resolution system. While previous studies have discussed deposit protection and institutional coordination separately,¹⁶ this research integrates these aspects to

¹² Fitrio Aribowo., Analisis Penerapan Metode Resolusi Bank dalam Tinjauan Akuntansi Keuangan di Indonesia, *Jurnal Sosial Teknologi*, Vol.1, no.12, 2021, page.1684. See too, Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.205.

¹³ Hengki Heriyadi., Tinjauan Yuridis Peran dan Fungsi Otoritas Jasa Keuangan (OJK) dalam Sistem Keuangan di Indonesia, *Jurnal Hukum Progresif*, Vol.11, no.1, 2023, page.38. See too, Benny Hutahayan, Moh Fadli, Satria Amiputra Amimakmur, Reka Dewantara, Manumpun S. Tumanggor, and Hadrian Geri Djajadikerta., Legal Certainty in Green Bonds: The Role of Coherence, Legitimacy, Economic Benefits, and Government Authority, *Jurnal Hukum*, Vol.40, no.2, 2024, page.341; Bernard Nainggolan, and Kostruba Anatoliy., The Going Concern Paradigm in Bankruptcy Process Reviewed from Regulations in Indonesia, *Jurnal Hukum*, Vol.40, no.1, 2024, page.272; Rustam Magun Pikhulan., Implementasi fungsi pengaturan serta pengawasan pada Bank Indonesia dan Otoritas Jasa Keuangan (OJK) terhadap perbankan, *Jurnal Penegakan Hukum Dan Keadilan*, Vol.1, no.1, 2020, page.43; Bernardo Aldo Yosua Tambunan, Intan Harahap, Rizsa Nabillah, and Putri Sari Silaban., Peranan dan Strategi Bank Indonesia Serta Pemerintah Dalam Menjaga Stabilitas Sistem Keuangan di Indonesia, *Journal of Law, Education and Business*, Vol.2, no.1, 2024, page.175.

¹⁴ Suhardiono, Roy Sembel, and Suwandi Suwandi., Peran Lembaga Penjamin Simpanan dalam Menjaga Stabilitas Sektor Perbankan di Indonesia: Systematic Literature Review, *Ekonomis: Journal of Economics and Business*, Vol.9, no.1, 2025, page.148.

¹⁵ Nun Harrieti, A. Ahmad, Eidy Sandra, and Fatmi Utarie., Now and forward: Customer deposit insurance of Sharia bank in Indonesia, *Udayana J Law Cult*, Vol.7, no.2, 2023, page.159. See too, Uswatun Hasanah, Djulaeka Djulaeka, Nurus Zaman, Erma Rusdiana, and Bakhouya Driss., The Indonesian Consumer Protection Law for Credit Union Depositors in Credit Union Failures: Quo Vadis?, *jhbhc*, Vol.2, no.1, 2025, page.108.

¹⁶ Fitrio Aribowo., Analisis Penerapan Metode Resolusi Bank dalam Tinjauan Akuntansi Keuangan di Indonesia, *Jurnal Sosial Teknologi*, Vol.1, no.12, 2021, page. 1684. See too, Rustam Magun Pikhulan., Implementasi fungsi pengaturan serta pengawasan pada Bank Indonesia dan Otoritas Jasa Keuangan (OJK) terhadap perbankan, *Jurnal Penegakan Hukum Dan Keadilan*, Vol.1, no.1, 2020, page.43; Bernardo Aldo Yosua Tambunan, Intan Harahap, Rizsa Nabillah, and Putri Sari

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9 build a more coherent legal foundation for deposit insurance corporation within financial system stability committee. The study introduces a new perspective by applying the theory of legal certainty together with institutional independence theory to evaluate how overlapping authority and ambiguous interpretation hinder effective bank resolution.¹⁷

33 Thus, this research seeks to bridge this gap by conducting a legal analysis that emphasizes legal certainty and the effectiveness of inter-institutional coordination.¹⁸ Its focus is on bridging the normative gap between legal rules and technical implementation, particularly regarding new resolution instruments such as bridge banks and bail-ins.¹⁹ It proposes a refined legal framework that ensures clearer protection for depositors, creditors, and shareholders, while reinforcing coordination between deposit insurance corporation, financial services authority, Bank of Indonesia, and the Ministry of Finance. Through this approach, the study contributes to developing a more certain, efficient, and resilient legal system for maintaining financial stability in Indonesia

34 This study aims to assess the authority and mechanisms of deposit insurance corporation in implementing bank resolution, both non-systemic and systemic, and to examine the extent to which the legal framework in Law Number 24 of 2004 and Law Number 9 of 2016 is able to guarantee legal certainty, efficiency, and stability of the financial system. Furthermore, this study also aims to identify practical and normative challenges in implementing bank resolution in Indonesia. This research is expected to enrich the study of economic law, particularly on aspects of bank resolution and the role of the deposit insurance corporation within the framework of national financial stability. Practically, the results of this study can provide recommendations for policymakers to strengthen legal certainty in bank resolution regulations and clarify inter-institutional coordination mechanisms.²⁰

Silaban., Peranan dan Strategi Bank Indonesia Serta Pemerintah Dalam Menjaga Stabilitas Sistem Keuangan di Indonesia, *Journal of Law, Education and Business*, Vol.2, no.1, 2024, page.175.

2 2 ¹⁷ Mathias Dewatripont, and Jean Tirole., *The Prudential Regulation of Banks*, Cambridge, MA, MIT Press, 1994, page.45. See too, Rosa Maria Lastra., *Legal Foundations of International Monetary Stability*, Oxford, Oxford University Press, 2006, page.124; Gustav Radbruch., *Legal Philosophy*, Oxford, Oxford University Press, 2006, page.58.

¹⁸ Fitrio Aribowo., Analisis Penerapan Metode Resolusi Bank dalam Tinjauan Akuntansi Keuangan di Indonesia, *Jurnal Sosial Teknologi*, Vol.1, no.12, 2021, page.1685.

6 ¹⁹ Suhardiono, Roy Sembel, and Suwandi Suwandi., Peran Lembaga Penjamin Simpanan dalam Menjaga Stabilitas Sektor Perbankan di Indonesia: Systematic Literature Review, *Ekonomis: Journal of Economics and Business*, Vol.9, no.1, 2025, page.151. See too, Chessa Stefany., Kewenangan Lembaga Penjamin Simpanan dalam Menyelesaikan Permasalahan Solvabilitas Bank Diluar Bank Sistemik Ditinjau dari Undang-Undang No. 9 Tahun 2016 Tentang Pencegahan dan Penanganan Krisis Sistem Keuangan (PhD diss., Universitas Sumatera Utara, 2018), page.34;

49 ²⁰ ANTARA News. 367,769 UMKM Telah Terdaftar sebagai Binaan Jakpreneur, *www.antaraneews.com*, March 15, 2024.

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2. Research Methods

This research uses a descriptive normative approach with the aim of gaining a deeper understanding of the legal framework governing deposit insurance corporation authority in resolving troubled banks, as defined by Law Number 24 of 2004 and Law Number 9 of 2016. This normative approach was chosen because the research focuses on analyzing positive legal norms, doctrines, and legal principles that underlie the implementation of bank resolution in Indonesia. Through this approach, the research not only seeks to describe the applicable legal regulations but also analyzes their consistency, clarity, and adequacy in providing legal certainty and maintaining financial system stability.

The primary data collection technique in this research is a literature review. Data were collected through various literature sources and relevant legal documents, including laws and regulations, legal books, scientific articles, research journals, and official government documents related to the role and authority of the deposit insurance corporation.

In its analysis, this research focuses on secondary legal materials as the primary object. Secondary legal materials include basic norms, laws and regulations, and interpretations by legal experts that can help explain the meaning and implications of the regulated provisions. In other words, this research does not conduct direct field observations, but rather emphasizes literature review to build a comprehensive understanding of the issues under study.

Data analysis was conducted qualitatively by compiling, interpreting, and connecting the various legal sources collected. The data was then mapped to identify alignments and differences between legal theories regarding legal certainty, inter-institutional coordination, and bank resolution practices in Indonesia. Based on this analysis, this research seeks to identify strengths and weaknesses in the existing legal framework, allowing conclusions to be drawn regarding the extent to which laws and regulations provide an adequate basis for the deposit insurance corporation to exercise its authority. Through this normative descriptive research method, it is hoped that this research will contribute to the development of academic discourse on banking and financial law and offer practical input for strengthening the legal framework for bank resolution in Indonesia.

3. Results and Discussion

3.1. Authority and Mechanisms of Deposit Insurance Corporation in Non-Systemic and Systemic Bank Resolution

Law Number 24 of 2004 the deposit insurance corporation, established under Law Number 24 of 2004, plays a key role in maintaining public confidence in the financial system by providing deposit insurance and managing the resolution of failing banks.²¹ The law offers a strong basis for addressing non-systemic bank failures that do not endanger the overall financial system. Later, Law Number 9 of

²¹ Josandy Eugene Jivly Lisungan., Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004, *Lex Privatum*, Vol.7, no.5, 2019, page.755.

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2016 expanded the role of deposit insurance corporation to handle systemic crises by adding more advanced resolution instruments and promoting coordination among financial authorities.

21 Law Number 24 of 2004 officially established deposit insurance corporation as an independent institution with two main responsibilities: protecting public deposits and resolving failing banks to ensure financial stability. Articles 30 to 38 of this law provide a detailed framework for handling non-systemic bank failures, which are defined as cases that do not endanger the wider financial system. In such situations, deposit insurance corporation has full authority to evaluate the condition of a troubled bank and choose the most suitable resolution method without needing prior consent from other financial regulators, such as Bank of Indonesia or financial services authority. This independence allows faster decisions, preventing deeper crises and maintaining public trust.

47 The law grants deposit insurance corporation discretion to select from several resolution options tailored to non-systemic failures, each designed to balance cost efficiency, protection of insured deposits, and legal certainty. The first option, Purchase and Assumption (P&A), involves transferring selected assets and liabilities of the failed bank to a sound acquiring bank. This method ensures continuity of banking services for depositors while minimizing disruption. For instance, insured deposits are prioritized, and the acquiring bank assumes these obligations, reducing the financial burden on deposit insurance corporation and maintaining depositor trust. The second option, liquidation, entails selling the bank's assets to satisfy creditor claims, following a clear hierarchy of claims to uphold legal certainty. This process is particularly suited for banks with no viable recovery prospects, ensuring an orderly wind-down. The third option, temporary operations, allows deposit insurance corporation to manage the bank's operations for a limited period to stabilize its condition before final resolution. This approach is used when immediate liquidation or P&A is impractical, providing a buffer to assess the bank's assets and liabilities.²² Each mechanism is guided by principles of cost efficiency and depositor protection, reflecting a commitment to financial stability while respecting stakeholder rights.

35 The operational independence of deposit insurance corporation in non-systemic cases is a key strength, as it avoids bureaucratic delays and enables swift action to contain risks.²³ By not requiring external approvals, deposit insurance corporation can act decisively, aligning with international principles of effective resolution regimes, such as those outlined by the Financial Stability Board (FSB),

²² Josandy Eugene Jivly Lisungan., Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004, *Lex Privatum*, Vol.7, no.5, 2019, page.764.

²³ Mei Susanto, Mario Angkawidjaja, and Susi Dwi Harijanti., Teoretisasi Konstitusionalisme Moneter di Indonesia dalam Bingkai Pluralisme Konstitusi: Theorizing Monetary Constitutionalism in Indonesia through Constitutional Pluralism, *Jurnal Konstitusi*, Vol.22, no.2, 2025, page.206.

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which emphasize speed and autonomy to prevent contagion.²⁴ However, this independence must be balanced with legal certainty, ensuring that resolution actions are predictable and protect the rights of depositors, creditors, and shareholders, as emphasized by legal scholars like Radbruch²⁵ and Lastra.²⁶ The framework under Law Number 24 of 2004 achieves this by mandating transparent procedures and adherence to a claim hierarchy, ensuring equitable treatment of stakeholders.

The enactment of Law Number 9 of 2016 on the Prevention and Resolution of Financial System Crises marked a significant evolution in Indonesia's bank resolution framework, particularly for systemically important banks whose failure could destabilize the broader financial system. This law expands deposit insurance corporation role beyond non-systemic resolutions to include systemic crisis management, integrating it into a multi-agency framework through financial system stability committee, which comprises the Ministry of Finance, Bank of Indonesia, financial services authority, and deposit insurance corporation. The financial system stability committee role is to assess and declare a bank as failing or likely to fail based on comprehensive evaluations of its systemic impact, thereby triggering deposit insurance corporation authority to implement resolution measures.²⁷

Under Law Number 9 of 2016, deposit insurance corporation is equipped with a broader set of resolution tools tailored to systemic crises, designed to mitigate contagion, preserve public confidence, and ensure systemic stability. These tools include capital injection, asset and liability transfers, bridge banks, and bail-ins, each representing an advancement over the conventional methods available under Law Number 24 of 2004.²⁸ Capital injection involves providing temporary financial support to stabilize a bank, often in coordination with financial system stability committee members, to prevent immediate collapse.²⁹ Asset and liability transfers allow deposit insurance corporation to transfer viable assets and liabilities to a healthy institution, similar to P&A but on a larger scale to address systemic risks. These mechanisms ensure continuity of critical banking functions while isolating problematic assets.³⁰

A key innovation introduced by Law Number 9 of 2016 is the bridge bank

²⁴ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, *www.fsb.org*, October 14, 2014.

²⁵ Gustav Radbruch., *Legal Philosophy*, Oxford, Oxford University Press, 2006, page.61.

²⁶ Rosa Maria Lastra., *Legal Foundations of International Monetary Stability*, Oxford, Oxford University Press, 2006, page.128.

²⁷ Rudy Susanto, and Zainal Arifin H. Masri., Peran Lembaga Penjamin Simpanan Dalam Pengelolaan Sistem Stabilitas Keuangan Indonesia, *Relasi: Jurnal Ekonomi*, Vol.16, no.2, 2020, page.249.

²⁸ Pidari Sinaga., Peranan Lembaga Penjamin Simpanan Terhadap Simpanan Nasabah Dalam Penanganan Likuidasi Bank, *Tanjungpura Law Journal*, Vol.5, no.2, 2021, page.115.

²⁹ Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.198.

³⁰ Fitrotul Fardila, and Muhammad Rudi Nugroho., Macroeconomic Strest Testing terhadap Risiko Kegagalan Perbankan di Indonesia, *Journal of Business and Political Economy: Biannual Review of The Indonesian Economy*, Vol.2, no.1, 2020, page.75.

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mechanism, which involves creating a temporary, state-owned entity to assume the operations of a failing systemic bank. Bridge banks maintain essential banking services, such as guaranteed deposits and payment systems, while separating non-performing assets to minimize disruptions to the financial system.³¹ According to Ismail³², bridge banks are critical for preserving public trust and ensuring credit market stability by allowing time for an orderly resolution through sale, merger, or liquidation. Their operations are subject to strict financial system stability committee coordination, adherence to prudential norms, corporate governance standards, and specific time limits, ensuring legal certainty and cost efficiency.³³ For example, the bridge bank must comply with regulations that protect creditor rights and maintain fair valuation of transferred assets, aligning with the principle of equality unless systemic stability necessitates intervention.

Bail-ins represent another advanced tool, aligning with FSB's key attributes of Effective Resolution Regimes by internalizing losses among shareholders and creditors through equity conversion or claim reduction.³⁴ This reduces moral hazard by ensuring that private stakeholders bear losses rather than relying on public funds, a principle also reflected in the EU's Bank Recovery and Resolution Directive. However, bail-ins in Indonesia require transparency and creditor protections, including judicial or administrative oversight, to maintain legal certainty and avoid disputes.³⁵ Asset segregation, or the transfer of troubled assets to a "bad bank" entity, further supports systemic resolutions by preserving the core operations of the failing bank. This process adheres to principles of fair valuation, complete documentation, and oversight to ensure equitable treatment

³¹ Tofik Yanuar Chandra, Mohammad Belayet Hossain, Mohd Zakhiri Md Nor, and Mohammad Abu Taher., Economic Opportunities of Offshore Banking and Regulatory Responses to Money Laundering Risks: A Comparative Study, *Jurnal Hukum*, Vol.40, no.2, 2024, page.153. See too, Darmadi Durianto, Dahniarti Hasana, Nur Fareha, and Dewi Nadya Maharani., The Challenges of Sharia Fintech Regulation in Indonesia: A Global Comparative Analysis, *Jurnal Hukum*, Vol.41, no.1, 2025, page.21; Sebastiana Viphindartin., Dampak Makro Ekonomi Terhadap Stabilitas Keuangan Di Indonesia: Indonesia, *Jurnal Manajemen Jayanegara*, Vol.13, no.1, 2021, page.15; Kateryna Yashchenko., Bridge Bank as a bank failure management tool: Ukraine's case, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.98.

³² Haitham Abdul Khalek Ismail., The supervisory role of the central bank to create a bridge bank as an option after Trusteeship Dar AL Salam Bank for Investment-case study, *Baghdad College of Economic Sciences University Journal (BCESUJ)*, Vol.68, no.4, 2022, page.125.

³³ Afifah Ismi Aulia, Yuladul Fitriah, and Rini Puji Astuti., Analisis Hubungan Kelembagaan Antara Bank Sentral, Pemerintah, dan Perbankan dalam Stabilitas Keuangan Indonesia, *Menulis: Jurnal Penelitian Nusantara*, Vol.1, no.5, 2025, page.325.

³⁴ Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., Perlindungan Hukum Terhadap Nasabah Penyimpan Dana di Bank oleh Lembaga Penjamin Simpanan, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.110. See too, Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, *www.fsb.org*, October 14, 2014.

³⁵ Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.201.

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of stakeholders, mirroring international standards.³⁶

The systemic resolution framework under Law Number 9 of 2016 emphasizes inter-agency coordination through the financial system stability committee, ensuring that deposit insurance corporation actions are executed in a timely and legally accountable manner.³⁷ Unlike non-systemic resolutions, systemic cases require financial system stability committee oversight, reflecting a shift toward a multi-agency crisis management regime that integrates legal certainty, institutional readiness, and systemic stability.³⁸ This coordination distinguishes Indonesia's approach from the EU's Bank Recovery and Resolution Directive, which emphasizes cross-border resolution and a single resolution fund, by focusing on domestic collaboration to balance stability with stakeholder rights.

Both Laws Number 24 of 2004 and No. 9 of 2016 empower deposit insurance corporation with sufficient authority and mechanisms to address non-systemic and systemic bank failures effectively. The non-systemic framework under Law Number 24 of 2004 provides operational independence and flexible tools like P&A, liquidation, and temporary operations, ensuring rapid resolution while prioritizing depositor protection and cost efficiency.³⁹ The systemic framework under Law Number 9 of 2016 enhances deposit insurance corporation role with advanced tools like bridge banks, bail-ins, and asset segregation, supported by financial system stability committee coordination to mitigate systemic risks.⁴⁰ These mechanisms align with international standards, such as FSB's principles, by emphasizing loss internalization and stability, while domestic adaptations ensure legal certainty through clear procedures and stakeholder protections.⁴¹

3.2. Challenges in Inter-Institutional Coordination and Their Impact on Resolution Implementation

Law Number 24 of 2004 created deposit insurance corporation as an independent institution with the dual function of providing deposit insurance and managing non-systemic bank failures. Articles 30 to 38 of the law provide a structured framework

³⁶ Fitrotul Fardila, and Muhammad Rudi Nugroho., Macroeconomic Strest Testing terhadap Risiko Kegagalan Perbankan di Indonesia, *Journal of Business and Political Economy: Biannual Review of The Indonesian Economy*, Vol.2, no.1, 2020, page.76.

³⁷ Rudy Susanto, and Zainal Arifin H. Masri., Peran Lembaga Penjamin Simpanan Dalam Pengelolaan Sistem Stabilitas Keuangan Indonesia, *Relasi: Jurnal Ekonomi*, Vol.16, no.2, 2020, page.250.

³⁸ Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., Perlindungan Hukum Terhadap Nasabah Penyimpan Dana di Bank Oleh Lembaga Penjamin Simpanan, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.111.

³⁹ Josandy Eugene Jivly Lisungan., Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank Dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004, *Lex Privatum*, Vol.7, no.5, 2019, page.764.

⁴⁰ Pidari Sinaga., Peranan Lembaga Penjamin Simpanan Terhadap Simpanan Nasabah dalam Penanganan Likuidasi Bank, *Tanjungpura Law Journal*, Vol.5, no.2, 2021, page.119. See too, Sebastiana Viphindartin., Dampak Makro Ekonomi Terhadap Stabilitas Keuangan di Indonesia: Indonesia, *Jurnal Manajemen Jayanegara*, Vol.13, no.1, 2021, page.16.

⁴¹ Kateryna Yashchenko., Bridge Bank as a bank failure management tool: Ukraine's case, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.99. See too, Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, *www.fsb.org*, October 14, 2014.

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that ensures resolution procedures are efficient and legally certain. When a bank is found non-viable based on financial indicators such as capital adequacy and liquidity ratios, deposit insurance corporation can directly initiate the resolution process without needing approval from Bank of Indonesia or financial services authority.⁴² This independence enables quick decision-making and meets the FSB's recommendation for prompt intervention to prevent systemic contagion.⁴³

14 Once a bank is declared failing, deposit insurance corporation may choose among three main strategies: Purchase and Assumption (P&A), liquidation, or temporary operations. Under the P&A method, deposit insurance corporation transfers selected assets and liabilities of the failing bank, especially in deposit insurance corporation red deposits, to a healthy acquiring bank to preserve customer confidence and continuity of service.⁴⁴ The process involves finding an acquirer, valuing assets, and executing transfers efficiently to minimize disruption. When no acquirer is available, deposit insurance corporation may opt for liquidation, selling the bank's assets to repay creditors following a strict order of priority that places insured depositors first, followed by unsecured creditors and shareholders. Temporary operations allow deposit insurance corporation to manage a bank for a limited time to stabilize its condition before deciding on liquidation or P&A.⁴⁵

These mechanisms operate under tight timelines and transparent procedures. The deposit insurance corporation must complete its assessment and initiate resolution within 90 days of identifying a failing bank to prevent prolonged uncertainty. Stakeholder protection is central to this process. Depositors are insured up to a limit of IDR 2 billion per depositor, providing reassurance and maintaining trust during crises.⁴⁶ Creditors and shareholders are protected by transparent valuation and adherence to the legal hierarchy of claims, ensuring fairness and reducing disputes, in line with the FSB's principles of equitable treatment and legal certainty.⁴⁷

Law Number 9 of 2016 expands deposit insurance corporation authority to include systemic bank resolutions and introduces financial system stability committee, which coordinates deposit insurance corporation, financial services authority, Bank

42 Josandy Eugene Jivly Lisungan., Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank Dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004, *Lex Privatum*, Vol.7, no.5, 2019, page. 765.

43 Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

44 Pidari Sinaga., Peranan Lembaga Penjamin Simpanan Terhadap Simpanan Nasabah Dalam Penanganan Likuidasi Bank, *Tanjungpura Law Journal*, Vol.5, no.2, 2021, page.119.

45 Josandy Eugene Jivly Lisungan., Peranan Lembaga Penjamin Simpanan Terhadap Perlindungan Bank dan Nasabah Menurut Undang-Undang Nomor 24 Tahun 2004, *Lex Privatum*, Vol.7, no.5, 2019, page.770.

46 Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., Perlindungan Hukum Terhadap Nasabah Penyimpan Dana di Bank Oleh Lembaga Penjamin Simpanan, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.115.

47 Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

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of Indonesia, and the Ministry of Finance. When a bank is identified as systemically important and failing or likely to fail, financial system stability committee conducts a coordinated assessment based on its size, interconnectedness, and potential impact on financial stability.⁴⁸ The deposit insurance corporation can then apply advanced resolution tools, including capital injections, bridge banks, asset and liability transfers, and bail-ins, to manage systemic risks.⁴⁹

The bridge bank tool is one of the main innovations in systemic resolution. It involves establishing a temporary institution to take over the core operations of a failing bank, while non-performing assets are separated for specialized management.⁵⁰ This mechanism requires financial system stability committee approval and must comply with prudential standards such as adequate capitalization and sound governance. The bridge bank operates for a limited period, typically between 12 and 24 months, before being sold, merged, or liquidated.⁵¹ Another tool, the bail-in, allows deposit insurance corporation to convert creditor claims into equity, transferring losses to shareholders and certain creditors instead of taxpayers, in line with FSB's emphasis on minimizing moral hazard.⁵² Asset and liability transfers follow the same principles as P&A but on a larger scale, ensuring that fair valuation and transparency guide the process.⁵³

Systemic resolutions require balancing stability and fairness. Insured depositors remain protected, ensuring that public confidence is maintained even in large bank failures. Creditors and shareholders are safeguarded through transparent valuation and oversight, although temporary suspensions of creditor rights may occur during bail-ins to preserve system stability.⁵⁴ The FSB highlights the importance of such safeguards for maintaining confidence and reducing legal disputes, a goal achieved in Indonesia through financial system stability committee oversight and detailed procedural rules.⁵⁵ These steps contribute to the effectiveness of both laws, which strengthen stakeholder protection and financial stability, with deposit insurance corporation ensuring depositor protection and equitable treatment in non-systemic cases, and using bail-ins and bridge banks in systemic cases to reduce moral

⁴⁸ Rudy Susanto and Zainal Arifin H. Masri., Peran Lembaga Penjamin Simpanan dalam Pengelolaan Sistem Stabilitas Keuangan Indonesia, *Relasi: Jurnal Ekonomi*, Vol.16, no.2, 2020, page.254.

⁴⁹ Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.205.

⁵⁰ Kateryna Yashchenko., Bridge Bank as a bank failure management tool: Ukraine's case, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.100.

⁵¹ Sebastiana Viphindartin., Dampak Makro Ekonomi Terhadap Stabilitas Keuangan di Indonesia: Indonesia, *Jurnal Manajemen Jayanegara*, Vol.13, no.1, 2021, page.16.

⁵² Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., Perlindungan Hukum Terhadap Nasabah Penyimpan Dana di Bank oleh Lembaga Penjamin Simpanan, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.115.

⁵³ Fitrotul Fardila, and Muhammad Rudi Nugroho., Macroeconomic Strest Testing terhadap Risiko Kegagalan Perbankan di Indonesia, *Journal of Business and Political Economy: Biannual Review of The Indonesian Economy*, Vol.2, no.1, 2020, page.83.

⁵⁴ Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.201.

⁵⁵ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

hazard, combining procedural clarity, efficiency, and fairness.⁵⁶

However, despite these strengths, practical challenges remain in coordination and role clarity, which can slow decision-making and reduce the effectiveness of resolution measures. One of the primary challenges within Indonesia's bank resolution system is the overlapping authority among deposit insurance corporation, financial services authority, BI, and the financial system stability committee. According to Article 7 of Law Number 21/2011, financial services authority is responsible for micro prudential supervision and early intervention to prevent bank failures.⁵⁷ Deposit insurance corporation, on the other hand, is mandated under Law Number 24 of 2004 to handle non-systemic bank resolutions and under Law Number 9 of 2016 to manage systemic resolutions under financial system stability committee coordination. Meanwhile, BI oversees macroprudential policy and provides liquidity support, while financial system stability committee, comprising these entities and the Ministry of Finance, leads crisis coordination during systemic events. However, this division of roles often results in jurisdictional ambiguities, particularly when determining the exact point at which a bank transition from financial services authority supervisory control to deposit insurance corporation resolution authority.

Differences in assessment standards, such as capital adequacy or liquidity thresholds, can lead to disagreements that delay crucial decisions.⁵⁸ The World Bank has noted that such overlaps are common in emerging financial systems, where institutional mandates evolve faster than coordination mechanisms, thereby increasing systemic risk. Lastra⁵⁹ emphasizes that unclear institutional boundaries undermine legal certainty and can weaken the predictability of resolution outcomes. In Indonesia, inconsistent criteria for identifying bank failures, such as variations in defining non-performing loan ratios or solvency benchmarks, have contributed to delays, allowing bank distress to worsen.⁶⁰ This problem is especially serious among regional banks, where concentrated funding sources

⁵⁶ Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., *Perlindungan Hukum Terhadap Nasabah Penyimpan Dana di Bank oleh Lembaga Penjamin Simpanan*, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.119. See too, Rudy Susanto and Zainal Arifin H. Masri., *Peran Lembaga Penjamin Simpanan Dalam Pengelolaan Sistem Stabilitas Keuangan Indonesia*, *Relasi: Jurnal Ekonomi*, Vol.16, no.2, 2020, page.256; Kateryna Yashchenko., *Bridge Bank as a bank failure management tool: Ukraine's case*, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.102.

⁵⁷ Serlika Aprita., *Kewenangan Otoritas Jasa Keuangan (OJK) Melakukan Penyidikan: Analisis Pasal 9 Huruf C Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan*, *Jurnal Ilmiah Universitas Batanghari Jambi*, Vol.21, no.2, 2021, page.551.

⁵⁸ Bernardo Aldo Yosua Tambunan, Intan Harahap, Rizsa Nabillah, and Putri Sari Silaban., *Peranan dan Strategi Bank Indonesia Serta Pemerintah dalam Menjaga Stabilitas Sistem Keuangan di Indonesia*, *Journal of Law, Education and Business*, Vol.2, no.1, 2024, page.179.

⁵⁹ Rosa Maria Lastra., *Legal Foundations of International Monetary Stability*, Oxford, Oxford University Press, 2006, page.133.

⁶⁰ Zulfikar Hasan., *The Position of Bridge Banks as Instruments for Resolving Bank Failures in Indonesia*, *Journal of Central Banking Law and Institutions*, Vol.2, no.2, 2023, page.227.

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make them more vulnerable to liquidity shocks, requiring rapid and unified responses.⁶¹

Efficient coordination among financial authorities requires transparent and consistent information exchange. However, Indonesia's framework still faces major shortcomings in this regard. Despite joint regulations between BI and financial services authority issued between 2016 and 2023, real-time data exchange on bank conditions remains fragmented. The financial services authority supervisory data, such as reports on liquidity risk or asset quality, are not always integrated into deposit insurance corporation resolution planning systems, delaying coordinated responses.⁶² The FSB⁶³ stresses that timely and standardized information sharing is fundamental for effective resolution, especially when systemic risks emerge. In practice, delays in data transfer between financial services authority, deposit insurance corporation, and financial system stability committee have slowed the declaration of systemic failures, leading to inefficient responses during crises.⁶⁴

This deficiency not only affects crisis management but also weakens preventive measures. Without synchronized access to supervisory and financial data, early warning indicators may be overlooked, resulting in reactive rather than proactive interventions. For example, small and rural banks, whose liquidity positions depend heavily on interbank funding, are particularly affected, as delays in data verification can prevent timely capital or liquidity support.

Procedural inconsistencies between the mandates of deposit insurance corporation, financial services authority, BI, and financial system stability committee further complicate coordination, especially in systemic bank resolutions under Law Number 9 of 2016. While deposit insurance corporation operates independently in non-systemic cases, systemic cases require collective approval through financial system stability committee, where each institution follows its own internal protocols and timelines.⁶⁵ This often creates bureaucratic delays. For instance, disputes can arise over the type of liquidity support to be provided, whether BI's short-term loans or deposit insurance corporation resolution funds should be prioritized, which can postpone critical decisions like capital injections

⁶¹ Siti Nur Aini, Lala Yunitasari, and Rini Puji Astuti., Pengaruh Kebijakan Moneter Bank Sentral Terhadap Stabilitas Sistem Keuangan di Indonesia, *Menulis: Jurnal Penelitian Nusantara*, Vol.1, no.5, 2025, page.293.

⁶² Niharotul Faizah, Dewi Ratih, Kamelia Elima'ana Mafudloh, and Muhammad Tufiq Abadi., Peran Otoritas Jasa Keuangan dan Lembaga Penjamin Simpanan dalam menjaga stabilitas dan keamanan sistem keuangan, *Jurnal Ilmiah Research and Development Student*, Vol.2, no.1, 2024, page.139.

⁶³ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, *www.fsb.org*, October 14, 2014.

⁶⁴ Afifah Ismi Aulia, Yuladul Fitriah, and Rini Puji Astuti., Analisis Hubungan Kelembagaan Antara Bank Sentral, Pemerintah, dan Perbankan Dalam Stabilitas Keuangan Indonesia, *Menulis: Jurnal Penelitian Nusantara*, Vol.1, no.5, 2025, page.326.

⁶⁵ Rudy Susanto, and Zainal Arifin H. Masri., Peran Lembaga Penjamin Simpanan Dalam Pengelolaan Sistem Stabilitas Keuangan Indonesia, *Relasi: Jurnal Ekonomi*, Vol.16, no.2, 2020, page.258.

or asset transfers.⁶⁶ The World Bank has highlighted similar inefficiencies in other emerging economies, where multi-agency coordination without unified procedures tends to prolong crises rather than resolve them efficiently.

These coordination challenges directly affect the implementation of both non-systemic and systemic resolution strategies. In non-systemic cases, deposit insurance corporation independence enables swift use of tools such as Purchase and Assumption (P&A) or liquidation.⁶⁷ However, when financial services authority early intervention overlaps with deposit insurance corporation authority, the transition from supervision to resolution can be delayed, allowing contagion to spread and increasing the risk that the bank becomes systemically significant. In systemic cases, delays in financial system stability committee decision-making hinder the timely deployment of complex resolution tools such as bridge banks or bail-ins.⁶⁸ For instance, prolonged debates over asset valuation or the timing of bridge bank establishment can escalate costs and erode public trust.⁶⁹ Rural banks, which are more exposed to funding concentration risks, are especially vulnerable to these inefficiencies, as delayed interventions can worsen insolvency.⁷⁰

Moreover, poor coordination may contribute to moral hazard, as unclear institutional responsibilities foster the perception that large banks will receive government bailouts in the event of failure.⁷¹ Such expectations weaken market discipline and increase risk-taking behavior. The financial system stability committee 2024 policy statements highlight these coordination challenges and stress the need for anticipatory policies, better role clarity, and stronger inter-agency protocols to ensure timely action during financial stress.

3.3. Normative and Practical Gaps in the Legal Framework and Recommendations for Improvement

Normative gaps A significant normative gap in Laws Number 24 of 2004 and Number 9 of 2016 lies in the ambiguous prioritization of stakeholder protections, particularly among depositors, creditors, and shareholders. While both laws prioritize insured depositors, the hierarchy of claims for unsecured creditors and

⁶⁶ Sebastiana Viphindartin., Dampak Makro Ekonomi Terhadap Stabilitas Keuangan di Indonesia: Indonesia, *Jurnal Manajemen Jayanegara*, Vol.13, no.1, 2021, page.21.

⁶⁷ Pidari Sinaga., Peranan Lembaga Penjamin Simpanan Terhadap Simpanan Nasabah Dalam Penanganan Likuidasi Bank, *Tanjungpura Law Journal*, Vol.5, no.2, 2021, page.120.

⁶⁸ Kateryna Yashchenko., Bridge Bank as a bank failure management tool: Ukraine's case, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.102.

⁶⁹ Haitham Abdul Khalek Ismail., The supervisory role of the central bank to create a bridge bank as an option after Trusteeship Dar AL Salam Bank for Investment—case study, *Baghdad College of Economic Sciences University Journal (BCESUJ)*, Vol.68, no.4, 2022, page.128.

⁷⁰ Chaerani Nisa, Tia Ichwani, Dewi Kurniawati, and Ameilia Damayanti., Determinants of Bankruptcy Probability in Indonesian Rural Banks, *Banks and Bank Systems*, Vol.20, no.2, 2025, page.51.

⁷¹ Muyanja Ssenyonga Jameaba., Deposit insurance and financial intermediation: The case of Indonesia Deposit Insurance Corporation, *Cogent Economics & Finance*, Vol.6, no.1, 2018, page.146.

shareholders lacks clarity, leading to potential inequities.⁷² For instance, in non-systemic resolutions under Law Number 24 of 2004, the principle of equality is intended to ensure equitable treatment, but multiple interpretations of claim priorities can result in disputes, undermining legal certainty.⁷³ In systemic resolutions, bail-in mechanisms under Law Number 9 of 2016 may disproportionately affect certain creditors, as the criteria for claim reduction or equity conversion are not explicitly defined, risking unfair outcomes.⁷⁴ The FSB emphasizes that resolution frameworks must clearly delineate stakeholder protections to maintain trust and avoid litigation, a standard Indonesia's framework partially meets.⁷⁵

Another critical gap is the absence of robust judicial review mechanisms for deposit insurance corporation decisions. Law Number 9 of 2016 allows deposit insurance corporation to make swift decisions, such as forced restructurings or bail-ins, to mitigate systemic risks, but it lacks clear pathways for stakeholders to challenge these actions.⁷⁶ Article 53 provides "good faith" immunity for deposit insurance corporation actions, yet this provision does not sufficiently protect stakeholders' due process rights, particularly when decisions involve equity write-offs or asset transfers to bridge banks.⁷⁷ This gap risks violating legal certainty, as stakeholders, including minority shareholders and creditors, may perceive resolutions as arbitrary, potentially leading to litigation that destabilizes the financial sector.⁷⁸ The World Bank notes that effective resolution regimes require limited judicial review to balance speed with accountability.

Liability protections for deposit insurance corporation officials are conditional and vaguely defined, creating uncertainty that may deter decisive action. Both laws grant immunity for actions taken in "good faith," but the lack of clear procedural standards or legal aid mechanisms exposes officials to personal lawsuits, especially in contentious resolutions like bail-ins or forced mergers.⁷⁹ For example, decisions involving systemic banks require high discretion, such as assessing systemic risk

⁷² Fitrio Aribowo., Analisis Penerapan Metode Resolusi Bank dalam Tinjauan Akuntansi Keuangan di Indonesia, *Jurnal Sosial Teknologi*, Vol.1, no.12, 2021, page.1686.

⁷³ Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., Perlindungan Hukum Terhadap Nasabah Penyimpan Dana Di Bank Oleh Lembaga Penjamin Simpanan, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.120.

⁷⁴ Yehezkiel Steferd Kristo Hitalessy, Putri Balqis Nuril Hakim, and Kaila Intan Fatihah., Peran Lembaga Penjamin Simpanan (LPS) Otoritas Jasa Keuangan (OJK) dan Bank Indonesia (BI) dalam Proses Likuidasi Bank, *Jurnal Ilmiah Wahana Pendidikan*, Vol.11, no.6, 2025, page.205.

⁷⁵ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

⁷⁶ Rahmadi Indra Tektona, and Choirur Roziqin., Kepastian Hukum Kewenangan Otoritas jasa Keuangan Terhadap Kepailitan Lembaga Perbankan Menurut Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan, *Pakuan Law Review*, Vol.6, no.1, 2020, page.120.

⁷⁷ Hamzah Rauf., Kajian Yuridis Tentang Perlindungan Hukum Terhadap Nasabah Ditinjau Dari Undang-Undang Nomor 24 Tahun 2004 Sebagaimana Telah diubah menjadi Undang-Undang Nomor 7 Tahun 2009 tentang Lembaga Penjamin Simpanan, *Lex Privatum*, Vol.9, no.6, 2021, page.115.

⁷⁸ Rosa Maria Lastra., *Legal Foundations of International Monetary Stability*, Oxford, Oxford University Press, 2006, page.137.

⁷⁹ Mathias Dewatripont, and Jean Tirole., *The Prudential Regulation of Banks*, Cambridge, MA, MIT Press, 1994, page.47.

or valuing assets for bridge banks, yet the absence of indemnification clauses increases operational risks for deposit insurance corporation.⁸⁰ The FSB advocates for robust liability protections to ensure resolution authorities act decisively without fear of legal repercussions, a principle Indonesia's framework currently falls short of.⁸¹

Transparency remains a significant challenge, as information about resolution processes, including financial system stability committee systemic risk assessments and deposit insurance corporation decision-making criteria, is often confined to internal circles.⁸² This lack of public disclosure fosters moral hazard, as depositors and creditors may assume government bailouts, and fuels market speculation, eroding trust.⁸³ For instance, unclear communication about bail-in terms or bridge bank operations can lead to creditor uncertainty, increasing the risk of panic or litigation.⁸⁴ The FSB underscores that transparent communication is essential to maintain market confidence and ensure stakeholder acceptance of resolution outcomes.⁸⁵

These normative gaps manifest practically in the limited implementation of resolution tools and coordination inefficiencies, particularly in rural bank contexts. Weak governance and high non-performing loans in rural banks exacerbate bankruptcy risks, yet ambiguous claim priorities and delayed interventions due to coordination issues hinder effective resolutions.⁸⁶ For example, the minimal use of bridge banks in systemic cases stems from unclear financial system stability committee protocols, slowing asset transfers and increasing costs.⁸⁷ Similarly, the lack of judicial review discourages stakeholder engagement, as seen in rural bank liquidations where creditors face challenges contesting deposit insurance

⁸⁰ Mei Susanto, Mario Angkawidjaja, and Susi Dwi Harijanti., Teoretisasi Konstitusionalisme Moneter di Indonesia dalam Bingkai Pluralisme Konstitusi: Theorizing Monetary Constitutionalism in Indonesia through Constitutional Pluralism, *Jurnal Konstitusi*, Vol.22, no.2, 2025, page.209.

⁸¹ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

⁸² Yulianti., Perlindungan Nasabah Bank dari Tindakan Kejahatan Skimming di Tinjau dari Undang Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan, *Widya Yuridika*, Vol.3, no.2, 2020, page.195.

⁸³ Mulyana Ssenyonga Jameaba., Deposit insurance and financial intermediation: The case of Indonesia Deposit Insurance Corporation, *Cogent Economics & Finance*, Vol.6, no.1, 2018, page.148.

⁸⁴ Haitham Abdul Khalek Ismail., The supervisory role of the central bank to create a bridge bank as an option after Trusteeship Dar AL Salam Bank for Investment—case study, *Baghdad College of Economic Sciences University Journal (BCESUJ)*, Vol.68, no.4, 2022, page.133.

⁸⁵ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

⁸⁶ Chaerani Nisa, Tia Ichwani, Dewi Kurniawati, and Ameilia Damayanti., Determinants of Bankruptcy Probability in Indonesian Rural Banks, *Banks and Bank Systems*, Vol.20, no.2, 2025, page.52.

⁸⁷ Kateryna Yashchenko., Bridge Bank as a bank failure management tool: Ukraine's case, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.99.

corporation decisions.⁸⁸ Transparency issues further complicate resolutions, as limited disclosures about asset valuations or resolution timelines fuel market uncertainty, particularly in sharia banking, where specific protections for social funds remain underdeveloped.

To address the normative and practical gaps in Indonesia's bank resolution framework under Laws Number 24 of 2004 and Number 9 of 2016, policymakers must implement reforms that align with international best practices, such as those outlined by the Financial Stability Board, and cater to domestic needs. A primary reform should focus on resolving ambiguities in stakeholder protection priorities to enhance legal certainty. Laws Number 24 of 2004 and Number 9 of 2016 lack explicit regulations on claim hierarchies, particularly for unsecured creditors and shareholders, leading to potential inequities during resolutions.⁸⁹ Policymakers should introduce detailed guidelines specifying the order of claims in non-systemic and systemic resolutions, ensuring depositors are prioritized followed by a clear hierarchy for creditors and shareholders. Adopting the FSB's "no creditor worse off" (NCWO) principle would ensure that stakeholders are not disadvantaged compared to a liquidation scenario, reducing disputes and fostering trust.⁹⁰ For instance, clear bail-in criteria under Law Number 9 of 2016, detailing which claims are subject to conversion or reduction, would align with international standards and minimize legal challenges, as seen in other jurisdictions.⁹¹ This reform is critical in rural bank resolutions, where governance weaknesses amplify stakeholder uncertainty.⁹²

The absence of robust judicial review mechanisms for deposit insurance corporation decisions risks violating due process, particularly in systemic resolutions involving forced restructurings or bail-ins.⁹³ To balance speed with accountability, policymakers should establish expedited administrative appeals or independent review boards to allow stakeholders, such as creditors and shareholders, to challenge deposit insurance corporation decisions without delaying critical interventions. These mechanisms could include time-bound processes, such as 30-day appeal windows, to maintain resolution efficiency. The World Bank highlights that such limited review pathways strengthen trust in emerging markets by ensuring fairness while preserving systemic stability. For

⁸⁸ Lena Erdawati, Hamidah Hamidah, Gatot Nazir Ahmad, and Dede Sunaryo., Rural Bank Resilience and Performance: A Study of Governance, Risk Management and Compliance, *Risk Governance and Control Financial Markets and Institutions*, Vol.15, no.3, 2025, page.205.

⁸⁹ Fitrio Aribowo., Analisis Penerapan Metode Resolusi Bank dalam Tinjauan Akuntansi Keuangan di Indonesia, *Jurnal Sosial Teknologi*, Vol.1, no.12, 2021, page.1687.

⁹⁰ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

⁹¹ Ila Rusmiati Kinot, Hari Sapto Adji, Rahmat Setiawan, and Asis Harianto., Perlindungan Hukum Terhadap Nasabah Penyimpan Dana di Bank oleh Lembaga Penjamin Simpanan, *Jurnal Yustisiabel*, Vol.6, no.1, 2022, page.124.

⁹² Chaerani Nisa, Tia Ichwani, Dewi Kurniawati, and Ameilia Damayanti., Determinants of Bankruptcy Probability in Indonesian Rural Banks, *Banks and Bank Systems*, Vol.20, no.2, 2025, page.56.

⁹³ Rahmadi Indra Tektona, and Choirur Roziqin., Kepastian Hukum Kewenangan Otoritas jasa Keuangan Terhadap Kepailitan Lembaga Perbankan Menurut Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan, *Pakuan Law Review*, Vol.6, no.1, 2020, page.124.

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example, an independent board could review decisions like asset transfers to bridge banks, addressing concerns raised in cases where stakeholders felt excluded.⁹⁴

Inadequate liability protections for deposit insurance corporation officials, coupled with vague “good faith” provisions in Laws Number 24 of 2004 and Number 9 of 2016, deter decisive action and increase operational risks.⁹⁵ Policymakers should introduce explicit indemnification clauses and establish legal aid funds to shield officials from personal lawsuits arising from resolution decisions, such as asset valuations or bail-in executions. Clear procedural standards for “good faith” assessments, overseen by internal review boards, would further reduce risks by providing a transparent framework for evaluating official actions.⁹⁶ The FSB emphasizes that robust liability protections are essential to encourage resolution authorities to act swiftly without fear of legal repercussions, a principle critical for Indonesia’s high-stakes systemic resolutions.⁹⁷

Moreover, transparency issues, where information is confined to internal circles, foster moral hazard and market speculation, eroding public trust.⁹⁸ To address this, policymakers should mandate post-resolution disclosures, including detailed reports on asset valuations and resolution outcomes, and conduct stakeholder consultations during the process. Clear financial system stability committee criteria for systemic risk assessments should be publicized to reduce uncertainty, as seen in Ukraine’s effective communication during bridge bank resolutions.⁹⁹ These measures would align with FSB’s call for transparent communication to maintain market confidence and stakeholder acceptance. For instance, publicizing bail-in terms could mitigate creditor uncertainty, particularly in sharia banking, where social fund protections remain underdeveloped.¹⁰⁰

Finally, to address coordination inefficiencies, particularly in rural bank failures, a comprehensive Resolution Planning Framework is essential. This framework should

⁹⁴ Hamzah Rauf., Kajian Yuridis Tentang Perlindungan Hukum Terhadap Nasabah Ditinjau Dari Undang-Undang Nomor 24 Tahun 2004 Sebagaimana Telah Diubah Menjadi Undang-Undang Nomor 7 Tahun 2009 Tentang Lembaga Penjamin Simpanan, *Lex Privatum*, Vol.9, no.6, 2021, page.119.

⁹⁵ Mathias Dewatripont, and Jean Tirole., *The Prudential Regulation of Banks*, Cambridge, MA, MIT Press, 1994, page.49.

⁹⁶ Mei Susanto, Mario Angkawidjaja, and Susi Dwi Harijanti., Teoretisasi Konstitusionalisme Moneter di Indonesia dalam Bingkai Pluralisme Konstitusi: Theorizing Monetary Constitutionalism in Indonesia through Constitutional Pluralism, *Jurnal Konstitusi*, Vol.22, no.2, 2025, page.210.

⁹⁷ Financial Stability Board., Key Attributes of Effective Resolution Regimes for Financial Institutions, www.fsb.org, October 14, 2014.

⁹⁸ Yulianti., Perlindungan Nasabah Bank dari Tindakan Kejahatan Skimming di Tinjau dari Undang Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan, *Widya Yuridika*, Vol.3, no.2, 2020, page.197.

⁹⁹ Kateryna Yashchenko., Bridge Bank as a bank failure management tool: Ukraine’s case, *Visegrad Journal on Human Rights*, Vol.4, no.1, 2023, page.100.

¹⁰⁰ Nun Harrieti, A. Ahmad, Eidy Sandra, and Fatmi Utarie., Now and forward: Customer deposit insurance of Sharia bank in Indonesia, *Udayana J Law Cult*, Vol.7, no.2, 2023, page.160.

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include pre-approved resolution strategies, such as P&A or bridge banks, and standardized inter-agency protocols for deposit insurance corporation, financial services authority, BI, and financial system stability committee. A centralized data-sharing system, as recommended by the World Bank, would enable real-time exchange of bank health data, reducing delays in systemic risk assessments. Regular joint simulation exercises among these institutions would enhance preparedness, addressing issues like delayed asset transfers observed in rural bank resolutions.¹⁰¹ Such a framework would streamline tool implementation, ensuring efficiency and alignment with global standards.¹⁰²

4. Conclusion

This study emphasizes the importance of Indonesia's dual legal framework, Law Number 24 of 2004 and Law Number 9 of 2016, as the foundation for deposit insurance corporation in carrying out bank resolution. The findings show that although the framework is relatively strong, it still faces gaps in legal certainty, clear inter-agency roles, and accountability mechanisms. Academically, the paper contributes a critical analysis of the development of Indonesian banking resolution law, highlighting the need to balance effective state intervention with fundamental legal principles, including due process and proportionality. From a policy perspective, the study shows that without clear legal coordination and limited judicial review, interventions during financial crises risk legitimacy challenges and potential legal disputes.

The study also identifies practical implications. It recommends adopting formal inter-agency coordination protocols, implementing limited review mechanisms to prevent abuse of authority, and establishing compensation arrangements for resolution authorities acting in good faith. Developing a Resolution Planning Framework is another key recommendation, covering pre-approved resolution strategies, stakeholder consultation, and post-resolution transparency to strengthen the credibility and preparedness of the financial system.

Limitations of this study include its normative focus, which does not examine empirical implementation of bank resolution in practice. Future research should investigate the practical effects of coordination and judicial review mechanisms through case studies of restructured banks or comparative analyses with jurisdictions such as the European Union or the United States, aiming to improve equitable and effective resolution policies. Additionally, the legislature should consider adopting explicit indemnification clauses alongside an internal review board to assess whether actions meet the legal standard of good faith. Indonesia would benefit from a Resolution Planning Framework that integrates pre-approved strategies, structured stakeholder consultations, and post-resolution transparency requirements, while preserving confidentiality during critical implementation periods.

¹⁰¹ Chaerani Nisa, Tia Ichwani, Dewi Kurniawati, and Ameilia Damayanti., Determinants of Bankruptcy Probability in Indonesian Rural Banks, *Banks and Bank Systems*, Vol.20, no.2, 2025, page.58.

¹⁰² Muyanja Ssenyonga Jameaba., Deposit insurance and financial intermediation: The case of Indonesia Deposit Insurance Corporation, *Cogent Economics & Finance*, Vol.6, no.1, 2018, page.151.

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