PROTECTION OF EMPLOYMENT SOCIAL SECURITY FUND INVESTMENT THROUGH SOVEREIGN WEALTH FUND (SWF)

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Abstract: The Indonesian state guarantees the survival of its people so that they remain prosperous when social risks occur such as death, work accidents, old age, and retirement. Indonesia established the Social Security Administering Body (BPJS Ketenagakerjaan) which organizes and manages employment social security funds through accident, death, old-age, and pension programs. However, in 75 Years of Independent Indonesia, the number of workers protected through employment social security is only 36% of the total workers in Indonesia and the management of labor social security investment funds has not been optimal. Employment social security investment funds can be optimized through collaboration with the Sovereign Wealth Fund regarding direct investment, but the factors that need to be considered are the protection of the labor social security investment funds to keep them safe and the returns from the benefits of the cooperation as well as accountability for the employment social security funds. This study will analyze the laws and regulations, the implementation of fund protection in the management of Indonesia's employment social security funds, and the security of labor social security funds in direct investment instruments. The approach used is a normative juridical approach and a comparison with qualitative analysis. The results of this study indicate that it is necessary to create a concept for the security of employment social security funds and increase direct investment participation from 5% to 20% through the renewal of legal rules regarding the management of labor social security assets so that the amount of funds will increase which aims for the welfare of workers in Indonesia

Keyword: Direct Investment, Sovereign Wealt Fund, Employee Welfare
INTRODUCTION

One of the efforts of a State to realize welfare for the people by developing an employment social security system, the State was established, one of which is to realize social justice. Welfare with social justice can be realized through the development of a social security system. The Government is responsible for protecting welfare and justice for all people as formulated in the fourth paragraph of the Preamble to the 1945 Constitution, that:

"Then from that to form a Government of the State of Indonesia that protects the entire Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life, and participate in carrying out world order based on independence, eternal peace and social justice, the Indonesian National Independence was drawn up. That is in a Constitution of the State of Indonesia, which is formed in an arrangement of the Republic of Indonesia which is sovereign by the people based on God Almighty, just and civilized Humanity, Indonesian Unity and Democracy led by wisdom in Deliberation/Representation, and by realizing a social justice for all Indonesian people”. (Opening of the 1945 Constitution).

Furthermore, Article 3 of the 1945 Constitution states that the Indonesian state is a state of law so that the state's efforts to provide legal protection (Haranto, 2021) must be based on law. However, 75 years of Indonesia's independence, the investment in the social security program for employment is still not optimal in providing welfare to all Indonesian workers, it should be noted that the number of workers in Indonesia in the period of February 2020 was 131.03 million workers (BPS Indonesia, 2020 ). In 2011 through Law Number 24 of 2011 concerning Social Security Administering Bodies, the State of Indonesia established an agency that administers employment social security programs, namely the Employment Social Security Administering Agency (BPJS Ketenagakerjaan), until now workers who have been protected by BPJS Employment has 49.86 million workers consisting of 38.63 million workers in the wage-earning sector, 2.53 million workers in the non-wage/self-employed sector, and 8.6 million workers in the construction services sector or 36% of newly protected workers.

BPJS Employment social security program. There are still 81.17 million workers who can potentially be protected through the employment social security program, this figure shows that there are still many workers in Indonesia who have not been protected by the employment social security program to date, compared to workers who have been protected by the employment social security program.

Workers who have not been protected by the employment social security program will be vulnerable to poverty in the future, especially workers who have middle to lower economic abilities, if there are social risks that occur to workers, it will be very detrimental to workers and their families, increasing poverty and unemployment which will become responsibility of the State of Indonesia (TEMPLIN, 2016). The social security program can be used as a tool to prevent the downturn of the people who suffer from the financial crisis so that they do not become poorer than their previous normal conditions (Yermo, 2018). BPJS Ketenagakerjaan must be able to optimally provide protection and services to all workers in Indonesia, including the management of workers' social security funds managed by BPJS Ketenagakerjaan through direct investment instruments in shares and mutual funds. Investments in stocks and mutual funds are one of the most influential instruments in developing workers' social security funds so that more and more benefits can be enjoyed by workers throughout Indonesia (PERWIRA, et. al., 2003). Of course, direct investment managed by BPJS Ketenagakerjaan must be based on the rules stipulated through Government Regulation Number 99 of 2013 concerning Management of Employment Social Security Assets Juncto Government Regulation Number 55 of 2015 concerning Amendments to Government Regulation Number 99 of 2013 concerning Management of Employment Social Security Assets There are things that are allowed and prohibited in making direct investments in the management of workers' social security funds.

Until April 2021, the total managed fund for Indonesia's employment social security program reached Rp. 490 trillion with a total of 28 million active workers, still lagging behind when compared to several other countries, for example in Malaysia the amount of funds under management is Rp. 2.600 Trillion out of 15 million workers, even in South Korea the amount of funds under management is Rp. 5,000 trillion (BPJS Employment, 2021). The implementation and management of the social security fund managed by BPJS Ketenagakerjaan can still be optimized for the welfare of workers through investment instruments. Considering that there are still many workers in Indonesia who are not protected by the Indonesian state through the BPJS Employment social security program. The principle of the advancement of the employment social security fund is that when there are more workers who can be protected by BPJS Employment, of course, the number of contributions collected by BPJS Ketenagakerjaan will increase and the employment social security fund will grow bigger and can be invested more with the aim of being able to be enjoyed by workers and can provide the maximum welfare for workers (Asher, et. al., 2000).
Employment social security funds are wholly owned by Indonesian workers so that in managing it through direct investment, BPJS Ketenagakerjaan must ensure that every investment made can provide security for the employment social security fund and can provide the maximum benefit to all Indonesian Workers (World Bank, 2000).

BPJS Employment to develop managed funds for the employment social security program can place employment social security funds through non-banking financial institutions such as the Sovereign Wealth Fund or abbreviated as (SWF) (Kemenkeu, 2018). The SWF is a state-owned investment fund made up of money generated by the government, often from surplus state reserves. SWF provides benefits to the economy of a country and its citizens. Sources of funds for sovereign wealth funds are quite diverse, but in general are from the surplus reserves of the State (Estevez, 2021).

In addition, sovereign wealth funds also manage the central bank's foreign exchange reserves, funds from accumulated trade surpluses and budget surpluses, funds resulting from privatization, as well as state income from exports, and much more. Sovereign wealth funds are owned by many countries, but not all have them. In fact, one country can have more than one sovereign wealth fund (Rahmalia, 2021). Indonesia has just established the Sovereign Wealth Fund through Law Number 11 of 2020 concerning Job Creation, which was revealed through implementing regulations, namely Government Regulation (PP) Number 73 of 2020 concerning Initial Capital for Investment Management Institutions and Government Regulation (PP) Number 74 of 2020 concerning Management Agencies Investment (LPI) was then stipulated by Presidential Decree (Kepres) Number 128/P of 2020 concerning the Establishment of the Selection Committee for the Selection of Candidates for the LPI Supervisory Board from Professional Elements.

The Sovereign Wealth Fund in the State of Indonesia is a new thing, so BPJS Employment must really measure the level of risk, security of funds, and benefits if the employment social security fund is placed in SWF (Halim, 2021). Employment social security funds must provide the maximum welfare for workers because these funds belong to workers managed by BPJS Ketenagakerjaan in accordance with the mandate of the Constitution and its derivative regulations. The precautionary principle in managing the employment social security fund must be paid attention to because it relates to the risks, security, protection, supervision and accountability of the workers' social security funds to be invested in the SWF which will be investigated further in this study in order to provide input in particular, for security and development in the management of investment funds for employment social security programs in Indonesia in order to realize welfare for workers in Indonesia (Braunstein, J., & Caoili, A., (2016).

**RESEARCH METHODS**

This research was conducted using a normative juridical approach, namely legal research using an approach/theory/concept method and an analytical method included in dogmatic legal disciplines (Soemitro, 1990). The theory used in this study is the Theory of the Welfare State (Welfare State), Theory of Development Law, and Theory of Pancasila Law. The use of these methods and approaches is in accordance with the main objectives of the study, namely to study, describe, analyze data, and information regarding the protection of investment in social security funds through the Sovereign Wealth Fund (SWF). Data collection techniques used in this research are literature and field studies. The location of this research will be carried out at BPJS Employment Head Office, Investment Management Institute, and the Central Statistics Agency (BPS) of the Republic of Indonesia. Data were taken from interviews, Forum Group Discussion, and literature study using qualitative analysis.

**ANALYSIS AND DISCUSSION**

Employment social security is part of the national social security program established by the State of Indonesia through the 1945 Constitution, then a social security system was established through Law number 40 of 2004 concerning the National Social Security System (SJSN). has a State institution that specifically manages employment social security programs and funds, the State institution was then formed through Law Number 24 of 2011 concerning the Social Security Administering Body and can be abbreviated as (BPJS). BPJS was formed to administer national social security programs such as health insurance programs, work accident insurance, death insurance, old age insurance, and pension benefits. Law 24/211 BPJS separates the
management of the program into two organizing bodies, namely, the first is BPJS Health which organizes health insurance programs, the second is BPJS Employment which organizes work accident insurance, death insurance, old age insurance, and pension insurance programs (1999).

Social security has actually been declared by the United Nations or abbreviated (UN) on Human Rights (HAM) in 1948 (Article 22 of the Universal Declaration of Human Rights, 1948), and ILO Convention No. 102 of 1952. In line with Preamble to the ILO Constitution that “Universal and lasting peace can only be built if it is based on social justice and justice” (Blackett, 2020). Social security is defined as protection against socio-economic risks that result in loss of income due to old age, disability, death or unemployment, and the need for additional living costs for treatment when sick or experiencing an accident (Kertanegoro, 1987). Since 1889, Chancellor Otto von Bismarck initiated a social security program for Germany, countries have struggled with the level of assistance to be provided to individuals in need of health care or income security (Pineiro, 2020). One form of the success of a country in providing welfare to its people is when all its people have been protected by social security, including social security for employment (Jutting, 2000).

Employment social security provides protection to workers in the event of social risks that befall workers in the event of risks such as work accidents, death, old age, and entering retirement age (Asyhadie, 2013). Here the role of the State is very influential to overcome the social risks that will occur to workers. The State of Indonesia to reduce poverty and overcome social risks for workers, continues to optimize the implementation of the employment social security program. For the optimal implementation of employment social security, of course, it is influenced by how many workers have been protected by the employment social security program and how much funds have been collected and managed through BPJS Ketenagakerjaan to be able to provide the maximum benefit to workers whose ultimate goal is to realize social welfare for workers. One of the success factors for implementing social security for employment is how much funds can be managed and how optimally the funds are developed through the investment mechanism managed by BPJS Ketenagakerjaan (Pambudi, 2019).

Investments in the employment social security fund carried out by BPJS Ketenagakerjaan must pay attention to the level of risk, security of funds, and the benefits of the employment social security fund, because if there is negligence that causes losses to the management of the employment social security fund, the workers will be harmed (Asyhadie, 2013). .

Throughout 2020 and 2021, many countries experienced difficulties, including in the economic sector caused by the spread of the Covid-19 virus that hit almost the entire world including Indonesia, including BPJS Employment who also felt the impact of the spread of the Covid-19 virus which caused BPJS Employment difficulties in managing investments. employment social security fund and culminate in an examination conducted by the Attorney General's Office of the Republic of Indonesia regarding the employment social security investment fund managed by BPJS Ketenagakerjaan (Halim, 2021).

The Attorney General's Office of the Republic of Indonesia has raised the status of the alleged corruption case at BPJS Ketenagakerjaan from investigation to investigation based on the investigation letter Number: Print-02/F.2/Fd.02/2021. The investigating prosecutor searched the BPJS Employment Office in South Jakarta on January 18, 2021, then seized a number of data and documents. Investigators at the Attorney General's Office suspected that there had been irregularities in the management of BPJS Ketenagakerjaan funds into stock and mutual fund investments. Jampidsus Investigation Director Febrie Adriansyah once said that BPJS Employment manages investment funds from customers of around Rp. 400 trillion. Investigators found that investments in stocks and mutual funds amounted to around Rp. 43 trillion and lost around Rp. 20 trillion. However, the Rp20 trillion figure has not been declared a state loss. However, Febrie said, investigators believe that there are allegations of criminal acts in BPJS Employment's decision to manage and conduct stock and mutual fund investment transactions. Although the alleged corruption case at BPJS Ketenagakerjaan has been raised for investigation since February 2021, the AGO has not named a suspect (BPJS Ketenagakerjaan, 2021). BPJS Ketenagakerjaan manages employment social security funds in a transparent and open manner, so far no one has been named as a suspect. For information only, according to data, in August-September 2020 BPJS-TK experienced an unrealized loss of up to Rp43 trillion. Then, at the end of December 2020 the figure fell to Rp22.31 trillion, and in January 2021 the unrealized loss was only Rp14.42 trillion. This means that the potential for losses can go up and down, depending on the stock price in the capital market that is part of the BPJS-TK portfolio. Capital Market Legal Observer Indra Safitri views that the case experienced by BPJS Ketenagakerjaan (BPJS-TK) is not a criminal act of state loss such as corruption, but only a decrease in
investment value (unrealized loss) caused by market turmoil in the capital market (Suheriadi, 2021). This influence is caused by the Covid-19 virus pandemic throughout 2020 and 2021.

BPJS Ketenagakerjaan, on May 24, 2021, signed a memorandum of understanding between BPJS Ketenagakerjaan and the Indonesia Investment Authority (INA) regarding Investment Cooperation. INA is Indonesia's Sovereign Wealth Fund, an investment management institution that was recently formed by Indonesia. This collaboration is a new hope for the advancement of the employment social security fund so that it can develop optimally and can increase security and reduce the risk of loss related to investment in the employment social security fund. The Sovereign Wealth Fund is one of BPJS Employment's choices in addition to investing in stocks and mutual funds to increase employment social security funds.

**Implementation of Employment Social Security Fund Investment in Indonesia**

Investments in employment social security funds managed by BPJS Ketenagakerjaan are specifically regulated through a Government Regulation or abbreviated as PP, BPJS Ketenagakerjaan in managing and investing in employment social security funds have limitations regulated by PP 99/2013 Employment Social Security Assets Juncto Government Regulation No. 55 2015 concerning Amendments to Government Regulation Number 99 of 2013 concerning Management of Employment Social Security Assets, the limits allowed in PP 55/2015 Article 37 which contain the following:

<table>
<thead>
<tr>
<th>No</th>
<th>Instrument</th>
<th>Highest Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Time deposit</td>
<td>25% (twenty five percent) of the total Investment for each State Bank; and</td>
</tr>
<tr>
<td>2.</td>
<td>Corporate debt securities listed &amp; traded on the Stock Exchange</td>
<td>15% of total Investment for each Bank other than Government Bank</td>
</tr>
<tr>
<td>3.</td>
<td>Shares listed on the Stock Exchange</td>
<td>5% /issuer</td>
</tr>
<tr>
<td>4.</td>
<td>Mutual Fund</td>
<td>50% of total investment</td>
</tr>
<tr>
<td>5.</td>
<td>Asset-backed securities</td>
<td>5% /issuer</td>
</tr>
<tr>
<td>6.</td>
<td>Real estate</td>
<td>50% of total investment</td>
</tr>
<tr>
<td>7.</td>
<td>Repurchase agreement</td>
<td>15% investment amount/investment manager</td>
</tr>
<tr>
<td>8.</td>
<td>Direct participation</td>
<td>50% of total investment</td>
</tr>
<tr>
<td>9.</td>
<td>Land, buildings, land and buildings</td>
<td>10% investment amount/investment manager</td>
</tr>
</tbody>
</table>

The above limitations serve as guidelines for BPJS Employment to place employment social security funds in various investment instruments, meaning that if BPJS Ketenagakerjaan invests outside the regulations of PP 99/2013 and PP 55/2015, it will cause legal repercussions that can ensnare the BPJS Employment Board of Directors.

The total employment social security fund managed by BPJS Ketenagakerjaan until April 2021 is Rp. 490 Trillion. Investment and placement of employment social security funds can be seen, as follows:

**Table 2. BPJS Investment Funds (Enterprise Assets) & Program Investment Funds (DJS) in February 2021**

<table>
<thead>
<tr>
<th>No</th>
<th>Asset Investment Fund (Agency) &amp; Social Security Fund Asset (DJS)</th>
<th>Total Investment Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>BPJS Investment Fund</td>
<td>Rp. 11.6 Trillion</td>
</tr>
<tr>
<td>2.</td>
<td>(BPJS Assets)</td>
<td>Rp. 342.05 Trillion</td>
</tr>
<tr>
<td>3.</td>
<td>JHT Program Investment Fund</td>
<td>Rp. 81.54 Trillion</td>
</tr>
<tr>
<td>4.</td>
<td>(DJS Assets)</td>
<td>Rp. 40.31 Trillion</td>
</tr>
</tbody>
</table>
Financial Performance and Investment Development Results of the Employment Social Security Fund for the 2016-2021 Period

Financial Performance of BPJS Ketenagakerjaan which manages the Employment Social Security Fund in Indonesia to date. As of February 2021, Rp. 489 trillion and the target until the end of 2021 is Rp. 559 Trillion of course the challenge of BPJS Ketenagakerjaan as the agency that manages employment social security funds in Indonesia is quite heavy, in the last 5 (five) years the employment social security fund has been quite developed but this development is not optimal, we can see the table below the development of social security funds employment since 2016:

Table 3. Financial Performance and Investment Development Results of Employment Social Security Funds managed by BPJS Ketenagakerjaan

<table>
<thead>
<tr>
<th>No</th>
<th>Year</th>
<th>Total Employment Social Security Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2016</td>
<td>Rp. 261 Trillion</td>
</tr>
<tr>
<td>2.</td>
<td>2017</td>
<td>Rp. 317 Trillion</td>
</tr>
<tr>
<td>3.</td>
<td>2018</td>
<td>Rp. 364 Trillion</td>
</tr>
<tr>
<td>4.</td>
<td>2019</td>
<td>Rp. 431 Trillion</td>
</tr>
<tr>
<td>5.</td>
<td>2020</td>
<td>Rp. 467 Trillion</td>
</tr>
<tr>
<td>6.</td>
<td>Feb/2021</td>
<td>Rp. 489 Trillion</td>
</tr>
</tbody>
</table>

CONCLUSIONS

The labor social security fund is a mandated fund belonging to workers so that the State is obliged to manage these funds transparently and prioritize the precautionary principle. BPJS Ketenagakerjaan as a State institution that manages employment social security funds in Indonesia has an obligation to invest in employment social security funds based on instruments that have been stipulated by laws and regulations in Indonesia, one of which is investment instruments that have been specifically regulated by law in Indonesia.

Direct investment in labor social security funds managed by BPJS Ketenagakerjaan in Stock and Mutual Fund Investment Instruments has experienced obstacles that have caused the eroding of employment social security funds in Indonesia, has been required by the State for every worker in Indonesia. Based on the constraints of stock investment and unstable BPJS Ketenagakerjaan mutual funds, BPJS Ketenagakerjaan collaborated with the Sovereign Wealth Fund regarding direct investment in May 2021. BPJS Ketenagakerjaan's direct investment to SWF is Rp. 24 Trillion and will be reviewed periodically whether the value of this investment can be increased considering that the Sovereign Wealth Fund in Indonesia is a new thing and the Investment Management Institute (LPI) or SWF Indonesia has just formed since 2020.

The security of labor social security funds is borne by SWF/LPI as a State institution established by law to manage Investment Funds in Indonesia so that the employment social security funds that have been distributed to SWF through a cooperation mechanism will be safe and the SWF is fully responsible so that the mandated funds belong to These workers will be safe. In addition, BPJS Ketenagakerjaan can develop competence on direct investment and can learn investment patterns through the SWF business process to develop the quality of Human Resources at BPJS Ketenagakerjaan regarding the knowledge of direct investment.

REFERENCES


Pasal 22 *Deklarasi Universal Hak-Hak Asasi Manusia*, yang diterima dan diumumkan oleh Majelis Umum PBB pada tanggal 10 Desember 1948 melalui resolusi 217 A (III).


