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LEGAL PROTECTION FOR CUSTOMER FUNDS AT VILLAGE CREDIT INSTITUTIONS (LPD) THROUGH A DEPOSIT GUARANTEE SCHEME BY THE EMPOWERMENT INSTITUTION FOR LPD

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Abstract

In the relevant Governor's Regulations regarding LPD, it is not regulated regarding the value of guaranteed deposits for each customer at an LPD that is a participant in the deposit guarantee. The absence of legal regulations governing the value of deposits guaranteed through the LPD customer fund guarantee scheme has led to the need for a study of the extent of protection obtained by LPD customers for their deposit funds under this scheme. This research aims to examine deposit guarantee schemes for LPD customers and legal protection for customer funds at LPD through the loan fund scheme organised by LPLPD. This research is conducted using a normative juridical research method by conducting an analysis on primary legal materials and secondary legal materials related to the present research problems. Based on the analysis, it was found the LPD customer deposit guarantee scheme has not been able to provide legal protection to the customers. This is because in the deposit guarantee scheme, membership is discretionary so not all LPD customers in Bali get protection. The absence of regulation regarding the criteria to determine the amount of contribution and guarantee premium paid and the amount of customer deposits protected by the LPD customer deposit guarantee scheme has resulted in the absence of legal certainty regarding the amount of protected LPD customer funds.

Keywords: guarantee fund scheme; legal protection; lpd

1. INTRODUCTION

In carrying out their lives, Balinese people are highly attached to customs, so in acting, they are not only subject to applicable national laws but also to customary laws. This gives rise to village dualism, that is to say, the existence of an official village and a traditional village. Traditional villages are authorized to manage their own assets in compliance with the provisions stated in Article 24 of the Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages

(which is referred to as *Peraturan Daerah Desa Adat* or Traditional Village Regional Regulations); one of which is realised in the form of the establishment of a traditional village-owned financial institution called the *Lembaga Pengkreditan Desa (LPD)* or Village Credit Institution.

In carrying out its operations, each LPD is required to comply with *awig-awig* (customary rules), *pararem* (customary decision-making institution rules) and Local Regulation of Bali Province Number 3

of 2017 concerning Village Credit Institutions (which is referred to as *Peraturan Daerah LPD* or Regional Regulations on LPD). LPDs in carrying out their operations are not subject to national laws and regulations because they are excluded from microfinance institutions based on Article 39 paragraph (3) of Law Number 1 of 2013 concerning Microfinance Institutions (hereinafter referred to as *Undang-undang LKM* or is MFI Law). As a financial institution belonging to the Traditional Village, LPD has a business field that is clearly regulated in Article 7 of the Regional Regulations on LPD. LPD's main line of business is to receive/collect funds from village communities in the form of *dhana sepelan* and *dhana sesepelan* and providing loans to their own village communities and those of other traditional villages on condition that cooperation between the villages in question has been formed. As a financial institution that provides credit to the public, LPDs also often experience credit risks as those experienced by banks and other microfinance institutions. Credit risk that is often experienced by LPDs is in the form of non-performing loans, which results in the LPD's cash flow from receiving interest and loan principals being insufficient to service the cash flow of problematic fund withdrawals, causing bankruptcy of the LPD itself. In addition, cases of LPD going bankrupt because the LPD management embezzled LPD funds have often occurred. This is proven based on data from the LPD Special Committee of the Regional Representatives Council (DPRD) of the Province of Bali – of a total of 1,433 LPDs in Bali 158 LPDs were declared bankrupt (ARW, 2021).

The bankruptcy of the LPD will cause losses for customers. Therefore, LPD customers need a deposit insurance institution as is the case with conventional banks. Since 2017, the Government of Bali Province has established a deposit guarantee, through a Regional Regulation on LPD, which is organised by the *Lembaga Pemberdayaan Lembaga*

Perkreditan Desa (which is referred to as *LPLPD*) or Empowerment Institution for Village Credit Institutions. Based on the provisions of Article 22 paragraph (2) of Regional Regulation on LPD, LPLPD administers a Deposit Guarantee Fund Scheme for LPD customers which is determined for the benefit of depositors. Further regulations regarding the LPD customer deposit guarantee scheme are prescribed in the Governor's Regulations, that is, the Bali Province Governor's Regulations Number 44 of 2017 concerning the Implementing Regulation of the Regional Regulations Number 2 of 2017 concerning the Village Credit Institution (hereinafter referred to as *Pergub LPD* or Governor's Regulations on LPD). In Article 1 number 20 of the Governor's Regulation on LPD, the LPD customer deposit guarantee fund scheme is defined as funds formed jointly by the LPD that can be used to guarantee the deposits of LPD customers who are members of the guarantee. The establishment of this deposit guarantee fund scheme is intended to protect LPD customer funds, but in the Governor's Regulations on LPD, LPD participation as a customer deposit guarantee participant is not mandatory. This can be seen from the provisions of Article 70 of the Governor's Regulation on LPD which stipulates that each LPD can become a participant in the guarantee of LPD customer deposits.

Customer deposit guarantee essentially functions to guarantee depositors' deposits at a certain value. Therefore, according to the provisions of Article 11 paragraph (1) of Law Number 24 of 2004 concerning Deposit Insurance Corporation which is the legal basis for guaranteeing deposits for Bank and BPR customers, there are provisions that clearly stipulate that the guaranteed deposit value for each customer at one bank is a maximum of 100,000,000 IDR (one hundred million rupiah). Meanwhile, in the Regional Regulations on LPD and the Governor's Regulations on LPD which is the legal basis for deposit insurance for LPD customer

funds, there are no provisions governing the value of guaranteed deposits for each customer in an LPD that is a member in the deposit insurance. The absence of legal regulations regarding the value of guaranteed deposits through the LPD customer fund guarantee scheme has resulted in the absence of legal certainty regarding the guaranteed value of LPD customer deposits and the extent of protection obtained by LPD customers for their deposit funds.

The previous related studies that conducted about the legal protection for LPD customer have been examined by Yasa et al. (2013) that discussed the efforts that are being made by customers to get a refund is deposited at Village Credit Institutions (LPD). The results showed that Village Credit Institutions (LPD) has shown rapid development, Given Regulation Number 8 of 2002 does not clearly regulate the legal protection against customer funds deposited at the LPD, then in case of bankruptcy of LPD due to financial difficulties, very small probability be money (funds) can be accounted for by going back unless Pakraman as owner LPD. At LPD no deposit insurance agency (LPS) as well as banking. Efforts should be made by the customer to get a refund is deposited on the LPD and mediation efforts in court. In addition, Adnyana & Sudantra (2020) also conducted the similar study that examined the legal certainty aspects of deposit guarantor in statutory regulations and customary law. The results showed that most of the matters related to the technical operations of the LPD are regulated by the state law, in this case, is regional regulation about LPD. Based on the results of the study on the norms of local regulations on LPD and the nine *awig-awig* as a form of customary law from representatives of the nine regencies and city in Bali, there is no regulation on deposit guarantor institutions for LPD customers in Bali to provide legal protection. So that, regulating LPDs in Bali with two legal systems, namely the state

law and the customary law system, does not guarantee legal certainty for the safety of customer's deposits.

Based on the background and the previous studies above, this research aims to examine deposit guarantee schemes for LPD customers and legal protection for customer funds at LPD through the loan fund scheme organised by LPLPD

2. METHOD

The research design used in this research is normative juridical research. Normative juridical research is legal research that puts the law as a building system of norms. The system of norms in question is regarding principles, norms, rules of laws and regulations, agreements and doctrines. This normative research is a research on legal systematics - in other words, research whose main purpose is to identify the notions or basics in law (Amirudin & Asikin, 2004). This type of research is chosen because the researchers examine everything related to legal protection of customer funds at village credit institutions (LPD) through a deposit guarantee scheme by an empowerment institution for LPD.

3. DISCUSSION

Deposit Guarantee Schemes for LPD Customers Organised by LPLPD

In general, financial institutions in Indonesia are grouped into two groups, namely bank financial institutions and non-bank financial institutions. Village Credit Institutions (LPD) are a non-bank financial institution whose business entity is developed by the Traditional Village (formerly known as *Desa Pakraman*) in Bali. There is a uniqueness of LPD as a non-bank financial institution, that is to say, in their operation, they are based on Balinese customary law called *awig-awig*, both written and unwritten and managed based on the principle of kinship and guidance (Kurniasari, 2007).

Substantively, LPD is like a bank financial institution that collects funds from

the public and distributes the funds back in the form of assistance, loans to the community. In Bali, LPDs carry out their duties in pursuance of the provisions of Article 3 of the Regional Regulations of the Province of Bali Number 3 of 2017 concerning the Village Credit Institution, which reads: "The LPD carries out its business operational activities in the Village environment and for the *Krama* (community) of the Village". One of the assets and sources of income for the Traditional Village is to encourage the LPD to have good management by the LPD *prajuru* (managers) and *panuriksa* (internal supervisory body). The purpose of the LPD itself is to improve the standard of living and welfare of the community of the Traditional Village and to preserve the existence of the Traditional Village by carrying out its functions in the form of capital accumulation efforts that can support the economy of the Traditional Village community. LPD has differences with Banks and BPRs. One of the prominent differences is the LPD only provides services to the Traditional Village community in the place where the LPD is located. This is different from Banks and Rural Banks which can serve the interests of the general public regardless of the domicile of the community (Raydika, 2013). LPDs can only provide loans to the communities of other villages on the condition that there has been cooperation between the borrowing Village and the Village where the loaning LPD is established, as regulated in the provisions of Article 7 of the Governor's Regulations on LPD.

One of the activities to raise funds as a form of *dhana sepelan* and *dhana sesepelan* of the village community's funds can be misused by certain parties, causing several LPD cases that have stalled and went bankrupt. There are some *dhana sepelan* and *dhana sesepelan* of the communities of villages which cannot be returned by the LPD management. This can be detrimental to customers who deposit funds at the LPD. Given these

risks, legal certainty is needed regarding the protection of LPD customer funds. In this regard, there is a need for a rule in the Regional Regulations regarding LPDs to ensure the legal certainty aspect of the security of deposit funds for LPD customers in Bali. According to C.S.T Kansil, juridically, legal certainty is legislation that is made and promulgated which must be able to contain a thing with clear and logical conditions, that is to say, that it does not cause multiple interpretations and does not cause conflict between one norm and another.

In an effort to provide legal certainty for the guarantee of customer funds stored in the LPD, the government through the Regional Regulations on LPD prescribes the protection scheme for the funds of village communities which in the banking world is referred to as customers. The management provisions are presented as an effort to provide protection to the funds of the village communities. The provisions of Article 1 number 17 of the Regional Regulations on LPD prescribes that: "Skim is a requirement or condition for managing funds needed to provide LPD with protection, guarantee LPD customer deposits, LPD credit guarantees and LPD liquidity buffers". The definition of the LPD customer deposit guarantee fund scheme is exclusively specified in Article 1 number 20 of the Governor's Regulations on LPD which defines the LPD customer deposit guarantee fund scheme as funds formed jointly by the LPD that can be used to guarantee the deposits of customers of LPDs that are members of the guarantee.

In order for the Deposit Guarantee fund scheme to work, an institution that can implement deposit insurance whose authority needs to be regulated in the applicable laws and regulations is needed. For this purpose, the Government of the Province of Bali, in this case the Governor of Bali, established an empowerment institution known as the Empowerment Institution for Village Credit Institutions (LPLPD). Based on Article 22 paragraph (2) of Regional Regulations, LPDs are

given the authority to carry out a scheme of LPD customer deposit guarantee funds that are determined for the benefit of depositors which are formed jointly by LPDs who are (registered) members to guarantee the deposits of LPD customers who are members of the guarantee for saving purposes (Adnyana & Sudantra, 2020).

The LPD customer deposit guarantee fund scheme is regulated in more detail in the Governor's Regulations on LPD, by stipulating it in a special chapter regarding the LPD Customer Deposit Guarantee Fund Scheme. With the regulations regarding the guarantee fund scheme, not all LPD customer funds in Bali are guaranteed. To obtain a guarantee, an LPD may register as a member of the LPD customer deposit guarantee fund scheme with the requirement that the LPD must be in the healthy category and meet the membership requirements as stipulated in the provisions of Article 70 to Article 71 of the Governor's Regulations on LPD. In order to carry out its function to guarantee customer deposits, the LPD customer deposit guarantee fund scheme definitely requires a source of funds, so Article 72 paragraph (1) stipulates that the LPD customer deposit guarantee fund scheme comes from: a. distribution of deposited funds for LPD empowerment; b. contribution; c. guarantee premium; d. service income and/or interest on guarantee fund savings; and e. other non-binding sources. Sources of funds originating from contributions and loan premiums must be paid by member LPDs as a form of responsibility as a member. Regarding the amount of fees paid, the Governor's Regulations on LPD does not provide definite provisions because the amount of the contribution and the payment guarantee premium is decided by deliberation by the LPD members, as has been prescribed in the provisions of Articles 73 and 74 of the Governor's Regulations on LPD.

The aim of LPDs, that are members, to participate in this customer deposit

guarantee fund scheme is to protect customers if conditions posing a risk of harming customer deposit funds arise. Therefore, based on the provisions of Article 77 of the Governor's Regulations on LPD, if needed, member LPDs shall submit a claim to the head of the LPLPD and then the head of the LPLPD shall make a decision on which customer deposits are eligible to be paid. Then the decision is submitted to the Village concerned accompanied by the procedures and deadline for payment of customer claims. Regarding the amount of LPD customer deposits that are guaranteed through the LPD customer deposit guarantee fund scheme, there is no rule regarding a fixed nominal value, because in the provisions of Article 75 paragraph (2) the calculation is determined by deliberation by the LPDs that are members.

Legal Protection for Customer Funds at LPD through the Loan Fund Scheme Organised by LPLPD

LPDs, as a traditional village-owned financial institution, have their own characteristics that are different from conventional financial institutions, such as banks or other microfinance institutions. LPDs are an institution that is *sui generis* (special), that is to say, there is only one of its kind or is very different from the others in a similar environment (Nurjaya et al., 2011). LPDs are a very specialized financial institution – they are a community financial institution that is basically specifically formed for the benefit of the customary *karma* (community) of traditional villages in Bali. Based on regulations in national law, LPDs are also placed in a special position. LPDs are different from conventional microfinance institutions, because they are excluded from those based on the provisions of Article 39 paragraph (3) of Law Number 1 of 2013 concerning Microfinance Institutions (hereinafter referred to as *Undang-Undang LKM* or MFI Law), which stipulates that:

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Pitih Nagari as well as similar institutions that existed before this Law came into effect are declared to be recognized for their existence under customary law and are not subject to this Law.

As a special credit institution, in its operations LPD also carries out efforts to raise money from the public (funding). People can save funds in the form of *dhana sepelan* and *dhana sesepelan*. *Dhana sepelan* is a deposit in the form of voluntary savings and other forms and *dhana sesepelan* is a time deposit or deposit. Public trust in placing their funds in the LPD is quite high. This is evident from the success of LPDs in collecting public funds which has increased from year to year (Nurjaya et al., 2011) – by 2020 LPD assets in Bali reached 23.6 trillion (Tabelak, 2022). Customers depositing funds in LPD aims to have the funds they have protected to be more secure, but LPD in managing funds collected from the public also cannot be separated from various risks that may occur, such as the risk of experiencing bankruptcy; therefore, customer funds stored in the LPD need protection.

Dhana sepelan and *dhana sesepelan* collected from customers must obtain legal protection if the LPD where the customer keeps the funds is no longer operating or goes bankrupt. Legal protection according to Hadjon is an act of protecting or providing assistance to legal subjects with legal instruments. Referring to this understanding, the elements of legal protection consist of the protecting subject, the object whose instrument will be protected, the instrument and the measures used to achieve the intended protection (Hadjon, 2005). Additionally, Hadjon divides legal protection into two (2) types, namely preventive legal protection and repressive legal protection. Preventive legal protection is intended to prevent disputes from occurring, while repressive legal protection is intended to deal with disputes (Cahyani et al., 2022). Legal protection for LPD customers must meet these three elements of protection.

Thus, there must be clear arrangements regarding the subject of protecting LPD customer funds, what deposits are the object of protection and the extent of the protection, as well as which instruments and measures are used to protect LPD customer deposits.

In the Regional Regulations on LPD and the Governor's Regulations on LPD, there is an institution tasked with empowering the LPD, namely the LPLPD. The provisions of Article 22 paragraph (2) authorize the LPLPD to administer the Deposit Guarantee Fund Scheme for LPD customers which is determined for the benefit of the depositors. Adnyana and Sudantra, in their research, explained that Article 22 paragraph (2) implies that LPLPD has a function to facilitate registered LPDs to collect Deposit Guarantee Funds for LPD customers. Furthermore, the results of the study found that if the regulations in the Regional Regulations on LPD, the Regulations of Bali Governor on LPD to the Attachment to the Regulations of the Bali Governor on LPD are analysed, the LPLPD does not have a function as an institution that guarantees deposits for LPD customers in Bali, but it is an empowerment institution for LPD customers. The LPD in the province is to provide guarantees for the deposits of LPD customers in the area (Adnyana & Sudantra, 2020). With reference to the regulations in the Regional Regulations on LPD, the Governor's Regulation on LPD and the results of the research, it can be claimed that in guaranteeing LPD customer funds there is no subject that clearly has a special function of protecting LPD customer funds.

Regarding the element of object protection, the provisions of Article 75 of the Governor's Regulations on LPD prescribes the objects protected by the LPD customer deposit guarantee fund schemes. In the provisions of the article, it is regulated that the guaranteed deposits in the LPD include *dhana sepelan* and *dhana sesepelan* collected by the LPD.

Elucidation of Article 7 of the Regional Regulations on LPD defines *dhana sepelan* as savings in the form of voluntary savings and other forms from the public, and what is meant by *dhana sesepelan* are Time Deposits from the public. Referring to this explanation, the objects protected through the protection fund scheme are LPD customer funds that are stored in various forms of savings up to term savings.

Efforts used to protect LPD customer deposit funds are to establish a LPD customer deposit guarantee fund scheme – a fund formed jointly by the LPD that can be used to guarantee the deposits of LPD customers who are guarantee members. The deposit guarantee fund scheme is regulated in Chapter XI of the LPD Customer Deposit Guarantee Fund Scheme. The Chapter XI regulates participation, sources of guarantee funds, guaranteed deposits, reconciliation and verification of guaranteed deposits and decisions to file a claim.

Regulations Regarding Membership

Article 70 paragraph (1) of the Governor's Regulations on LPD prescribes that each LPD can become a member of the LPD customer deposit insurance. "can" is a word to express the discretionary nature of an authority given to a person or institution (Pusdik MKRI). Discretionary means that there is freedom to make their own decisions in every situation encountered. Thus, not all LPDs are required to be participants in the customer deposit guarantee fund scheme. Freedom to participate in the LPD customer deposit guarantee fund scheme has a juridical consequence that the customer funds protected are only the LPD customer funds who are members. The concept of membership is far different when compared to the concept of membership in a bank in a *lembaga penjaminan simpanan* (LPS) or deposit insurance corporation. Article 8 paragraph (1) of Law Number 24 of 2004 concerning the Deposit Insurance Corporation (referred to as *UU LPS*) stipulates that every Bank conducting business activities in the territory of the

Republic of Indonesia is obligated to become a guarantee participant. The provisions in Article 8 use the word "obligated" which means that all banks are obliged to become participants of the LPS and the legal consequences if banks do not become LPS participants are they can subject to sanctions.

Regulations Regarding Source of Funds

Source of funds for the deposit guarantee scheme is regulated in Articles 72 to 74 of the Governor's Regulations on LPD. Article 72 stipulates that:

LPD customer deposit guarantee funds shall be sourced from:

- distribution of deposited funds for LPD empowerment;
- contribution;
- guarantee premium;
- service income and/or interest on the guarantee fund savings; and
- other non-binding sources.

The LPD Customer Deposit Guarantee Fund reserves are placed in a bank in the form of an LPD Customer Deposit Insurance Deposit savings account.

The services and/or interest obtained from the placement of funds as referred to in paragraph (2) are accumulated as a guarantee fund for LPD customer deposits.

Based on the provisions of Article 72, there are two sources of funds that come directly from LPDs that are members of the LPD customer deposit guarantee fund schemes – contributions and guarantee premiums. The source of funds through contributions is regulated in Article 73 of the Governor's Regulations on LPD. In order to become a member in the guarantee fund scheme, the LPD must pay a contribution. The contribution paid by the LPD is calculated from the capital of the participating LPD. The amount of contribution to be paid by the LPD is decided by deliberation by the participating LPDs. Furthermore, the obligation to pay the guarantee premium is regulated in Article 74 which stipulates

that the participating LPDs pay the guarantee premium once a year. Just like the contribution of the guarantee premium amount that must be paid, it is decided by deliberation by the participating LPDs. Based on the provisions of Articles 73 and 74, it can be stated that there are no definite regulations regarding the amount of contributions and guarantee premiums that must be paid by participating LPDs. This is because the amount is determined based on the results of deliberation.

Regulations Regarding Guaranteed Deposits

The deposit guarantee fund scheme based on the provisions of Article 75 of the Governor's Regulations on LPD is intended to guarantee *dhana sepelan* and *dhana sesepelan* collected by LPDs. In Article 75, there are two important things that are regulated – first, regarding the amount of guaranteed LPD customer deposits and the calculation procedure; second, the regulation regarding the amount of guaranteed deposit balance for each customer in one LPD. Article 75 paragraph (1) stipulates that the determination of the value of guaranteed LPD customer deposits and the calculation procedure is carried out by deliberation by the participating LPDs. From the provisions of the article, it can be seen that there are no provisions concerning a definite nominal regarding the guaranteed value of LPD customer deposits. The Governor's Regulations on LPD provide very general provisions by submitting their stipulations to be carried out by deliberation. There are no regulations regarding the criteria for customers whose deposits are guaranteed if a dissolution is carried out by the LPD.

The logical consequence of this regulation is legal uncertainty regarding the amount of customer funds deposited. Although the LPD is a credit institution that is *sui generis*, in terms of the purpose of its formation and operational regulation which has its own legal basis, in reality the purpose of the community to save funds in the LPD is not only for the interests of

improving the welfare of the community – in this case the traditional village – but also for obtaining protection for the funds stored in the LPD. Protection of customer funds through a deposit guarantee scheme can be provided if there are clearer regulations regarding the amount of the guaranteed deposit balance and the criteria for obtaining the guarantee.

The scheme for guaranteeing customer deposits at the LPD is very different when compared to the scheme for guaranteeing deposits in conventional banking implemented by the LPS. The provisions of Article 11 of the LPS Law, after the amendment, clearly stipulates that the guaranteed deposit value for each customer at one bank is at most 100,000,000.00 IDR (one hundred million rupiah). And the value of the guaranteed deposit can be changed if one or more of the criteria specified in the LPS Law are met. Regulations regarding the criteria in laws and regulations to determine the value of guaranteed deposits are very important in a deposit guarantee scheme, because the main starting point for obtaining legal certainty is the existence of a juridical basis that can be used as a guide in granting rights to customers.

Regulations Regarding Reconciliation, Guaranteed Deposit Verification and Claims Decisions

The authority to reconcile and verify deposits guaranteed by Article 76 of the Governor's Regulations on LPD is granted to the LPLPD. This authority is owned by the LPLPD as a form of carrying out the task of empowering the LPD through activities to manage LPD deposit guarantee funds. In its implementation, LPLPD may appoint, authorize and/or assign other parties to conduct reconciliation and verification. If the participating LPD is in need of customer deposit guarantee funds, by referring to the provisions of Article 77 the LPD concerned may submit a claim for guaranteeing customer funds to the head of the LPLPD. With regard to the decision regarding deposits that are eligible to be

paid, it is decided by the LPLPD based on the operational technical provisions of the LPD customer deposit guarantee fund, which are regulated in the Technical Instructions for the Operation of the LPD customer deposit guarantee fund which has been determined by the Head of the LPLPD.

Speaking of legal protection for LPD customer funds with a deposit guarantee fund scheme, if it is associated with the notion of preventive legal protection according to Hadjon, the scheme must be able to provide certainty that customer funds are guaranteed, so as to prevent disputes regarding the liability of customer funds whenever the concerned LPD goes bankrupt and then dissolved. However, when viewed from the regulations as described above, there are still two main problems in the regulations regarding the LPD customer deposit guarantee fund scheme. The first problem is related to participation. The regulation of participation that is not mandatory for all LPDs in Bali causes not all LPD customers in Bali to obtain legal protection from this deposit guarantee fund scheme – only customers of LPDs who become members obtain legal protection. Such provisions do not provide justice and legal certainty for all LPD customers in Bali.

The second problem concerns the determination of contributions, loan premiums and the amount of guaranteed LPD customer deposits based on the results of deliberation of the LPDs who are members of the LPD customer deposit guarantee fund scheme, because it does not involve the criteria stipulated in the governor's regulations, especially regarding the basics that can be used in determining the amount of contributions paid and the amount of customer deposits protected. A clear determination of the amount is needed in order to guarantee legal certainty. According to Van Apeldoorn, legal certainty has two aspects, namely determination of the law in concrete terms and legal security. This means that parties seeking justice want to

know what is the law in a particular case before starting a case and protection for justice seekers (Julyano & Sulistyawan, 2019). The view on legal certainty is also expressed by Mertokusumo, who views legal certainty as one of the conditions that must be met in law enforcement (Mertokusumo, 2005). Referring to this doctrine, in order to provide legal certainty for LPD customers, the Regional Regulations on LPD and the Governor's Regulations on LPD - as the legal basis for the LPD customer deposit guarantee fund scheme - must be able to function as a means for customers to obtain certainty in the protection of their deposits.

4. CONCLUSION

LPD customer deposit guarantee schemes which are organised by the LPLPD is regulated in the Regional Regulations on LPD and the Governor's Regulations on LPD. LPLPD as an empowerment institution is given the authority to administer the LPD Customer Deposit Guarantee Fund Scheme. In this scheme, LPD customers only obtain protection if the LPD at which the funds are deposited is registered as a member of the deposit guarantee fund scheme. Participating LPDs have an obligation to pay contributions and guarantee premiums, the amount of which is determined through the participating LPD's deliberation. If there are participating LPDs who are in need of guarantee funds, they must submit a guarantee fund claim to the head of the LPLPD. Regarding the amount of guaranteed LPD customer deposits, if the LPD goes bankrupt, the calculation is determined by the participating LPDs by deliberation.

Legal protection for LPD customer deposits should meet three elements of protection, such as there must be clear arrangements regarding the subject that protects LPD customer funds, which deposits are the object of protection, the extent of the protection, and which instruments and measures are used to protect the deposit funds of LPD

customers. In the Governor's Regulations on LPDs, there is no rule regarding a deposit guarantee institution that is specifically the subject of guaranteeing customer deposits because the LPLPD does not have a function as a deposit guarantee institution for LPD customers in Bali; it is an empowerment institution for LPDs in Bali to provide guarantees for the deposits of LPD customers in Bali. Furthermore, related to protected objects, the Governor's Regulations on LPDs prescribes that the object of protection is *dhana sepelan* and *dhana sesepelan*. The third important element in legal protection of customer funds is the existence of instruments and measures used. The instruments and legal measures referred to in this case are carried out by establishing a deposit guarantee fund scheme for LPD customers which is regulated in the Regional Regulations on LPDs and the Governor's Regulations on LPDs.

Based on the analysis of primary and secondary legal materials, it can be concluded that the LPD customer deposit guarantee fund scheme has not been able to provide legal protection to customers. This is because the deposit guarantee scheme with a membership system is discretionary, that is to say, there is freedom to make decisions in registering as a participant in the scheme. Thus, not all LPD customers in Bali obtain protection as it depends on the participation of the LPD at funds are saved in the LPLPD. Furthermore, in this protection fund scheme, there is no regulations regarding the criteria for determining the amount of contributions paid and the amount of customer deposits protected by the LPD customer deposit guarantee fund scheme. This results in the absence of legal certainty regarding the amount of LPD customer funds protected.

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