Fiduciary Security Arrangements and Issues in Indonesia

M. Jamil

1 Faculty of Law, Universitas 17 Agustus 1945, Semarang, Indonesia
✉️ jamilncera@gmail.com

ABSTRACT

In this paper, the author explores the law of fiduciary security. Fiduciary guarantees have been used in Indonesia since the Dutch colonial era as a form of guarantee born of jurisprudence. This form of guarantee is widely used in lending and borrowing transactions because the loading process is considered simple, easy, and fast, but it does not guarantee legal certainty. Before the Fiduciary Guarantee Act, in general, Fiduciary guarantees were regulated in Oogstverband (Staatsblad 1886 Number 57) and jurisprudence based on the Hooggerechtsb of (HGH) decision dated August 18, 1932. In 1999 the Fiduciary Guarantee Law was born (UU No. 42/1999). The research method used in this paper is a juridical-normative research method with a conceptual approach and a statutory approach.

Keywords: Fiduciary; Security; Guarantee.

INTRODUCTION

Indonesia has a very large population. Based on the Semester I 2020 Population Data released by the Directorate General of Population and Civil Registration of the Ministry of Home Affairs of the Republic of Indonesia (Dukcapil Kemendagri), the total population of Indonesia as of June 30 was 268,583,016 people. The large population of Indonesia has the effect that there are also legal needs that need to be regulated for the needs of the community. The legal aspects needed by the community are very broad. In general, there are those related to criminal law, constitutional law, and also civil law. The smallest part of civil law is the law of guarantees, in the context of this paper, the author discusses the law of guarantees related to fiduciary guarantees. To guarantee legal certainty, the state must be present to regulate certain aspects related to the lives of the people, because that is also the mandate of the Indonesian Constitution. This is also in line with what M. Jamil said in his writings, "The Indonesian Constitution explicitly states that the State of Indonesia is a state of law". The principle of legal certainty is one of the principles that need and must exist in a state of law. What is meant by the "principle of legal certainty" is

the principle in a state of law that prioritizes the basis of the provisions of laws and regulations, propriety, constancy, and justice in every policy of government administration.\(^3\) To strengthen legal certainty in the regulation of Fiduciary Guarantees in Indonesia, in 1999 the Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees (the Fiduciary Guarantee Law) was enacted in Jakarta by the President of the Republic of Indonesia Bacharuddin Jusuf Habibie on September 30, 1999. The philosophical basis for the existence of the Fiduciary Guarantee Law is based on 4 important considerations as follows:

a. that the enormous and ever-increasing need for the business world for the availability of funds, needs to be balanced with the existence of clear and complete legal provisions governing guarantee institutions;

b. that Fiduciary Guarantee as a form of guarantee institution is still based on jurisprudence and has not been regulated in legislation in a complete and comprehensive manner;

c. that in order to meet legal needs that can further spur national development and to guarantee legal certainty and be able to provide legal protection for interested parties, it is necessary to establish complete provisions regarding Fiduciary Guarantees and such guarantees need to be registered with the Fiduciary Registration Office;

d. that based on the considerations as referred to in letters a, b, and c it is deemed necessary to enact a Law on Fiduciary Guarantees;

The Fiduciary Guarantee Law is intended to accommodate the needs of the community regarding the arrangement of Fiduciary Guarantees as a means to assist business activities and to provide legal certainty to interested parties. As has been explained that Fiduciary Guarantee provides convenience for the parties who use it, especially for Fiduciary Givers. On the other hand, because the Fiduciary Guarantee is not registered, it does not guarantee the party receiving the Fiduciary. The Fiduciary Giver may guarantee objects that have been burdened with Fiduciary to another party without the knowledge of the Fiduciary Recipient. Before this law was enacted, in general, objects that became the object of Fiduciary Security were movable objects consisting of objects in inventory, merchandise, receivables, machine tools, and motor vehicles. Therefore, to meet the growing needs of the community, according to this Law the object of Fiduciary Security is given a broad understanding, namely movable objects, tangible or intangible, and immovable objects that cannot be burdened with dependents as stipulated in the Act. Number 4 of 1996 concerning Mortgage Rights. This Law, it is regulated about the registration of Fiduciary Guarantees to provide legal certainty to interested parties and the registration of Fiduciary Guarantees gives priority to Fiduciary Recipients to other creditors. Because the Fiduciary Guarantee gives the right to the Fiduciary Giver to continue to control the object that is the object of the Fiduciary Guarantee based on trust, it is hoped that the registration system regulated in this Law can provide guarantees to the Fiduciary Recipient and parties who have an interest in the object.\(^4\)

Fiduciary guarantees have been used in Indonesia since the Dutch colonial era as a form of guarantee born of jurisprudence. This form of guarantee is widely used in lending and borrowing transactions because the loading process is considered simple, easy, and fast, but it does not guarantee legal certainty. The Fiduciary Guarantee Institution allows the Fiduciary Giver to control the collateralized object, to carry out business activities financed by the loan using the Fiduciary Guarantee. At first, the object that became a fiduciary object was limited to movable property in the form of equipment. However, in further developments, objects that become

---

\(^3\) The definition of the principle of legal certainty. See in explanation Article 10 paragraph (1) huruf a Undang-Undang Republik Indonesia Nomor 30 Tahun 2014 of Government administration.

\(^4\) explanation point 3 Undang-Undang Republik Indonesia Nomor 42 Tahun 1999 of Fiduciary.
fiduciary objects include the wealth of intangible movable objects, as well as immovable objects. From the description above, the author is interested in writing security legal issues with the theme, "Regulation and Problems of Fiduciary Guarantees in Indonesia". The formulation of the problem in this article is: (1) What is the legal basis used in the regulation of Fiduciary Security in Indonesia? (2) What are the problems that arise in the Practice of Fiduciary Guarantees in Indonesia?

**METHOD**

The research method used by the author in this study is a juridical-normative research method with a conceptual approach and a statutory approach. The data used is secondary data obtained through a literature study. The collected data is then analyzed and presented in an analytical descriptive way.

**RESULTS & DISCUSSION**

*Definition of Fiduciary Guarantee*

Fiduciary guarantee is one of the material guarantees known in positive law. The full term Fiduciary in Dutch is called "Fiduciaire Eigendoms Overdracht" (FEO), and in English it is known as "Fiduciary Transfer of Ownership". In Roman law, this fiduciary institution was known as fiducia cum contracta (meaning a promise of trust made by creditors). The content of the promise made by the debtor with his creditor is that the debtor will transfer ownership of an object as collateral for his debt with an agreement that the debtor will still physically control the object and the creditor will transfer the ownership back to the debtor when the debt has been paid in full.

This fiduciary comes from the word fiduciary or fides, which means trust, namely the surrender of ownership rights to objects in trust as collateral (collateral) for the settlement of creditors' receivables. Following the meaning of this word, the relationship between the fiduciary giver (the debtor) and the fiduciary recipient (the creditor) is a legal relationship based on trust. The fiduciary giver believes that the fiduciary recipient wants to return the property rights to the goods that have been handed over after the debt has been paid off. On the other hand, the fiduciary recipient believes that the fiduciary giver will not abuse the collateral that is under his control.

Menurut Tan Kamelo, a fiduciary is "the transfer of ownership rights to an object based on trust provided that the object with the ownership rights transferred remains in the control of the owner of the object". While the definition of fiduciary guarantee is "Security rights to movable objects, both tangible and intangible and buildings/houses on other people's land, both registered and unregistered, which cannot be encumbered with mortgage rights, which remain in the control of the fiduciary giver as collateral for the settlement of certain debts. which gives priority to the fiduciary recipient over other creditors."

---

5 General Explanation point 2 of the Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees.
In Article 1 point 1 of the Fiduciary Guarantee Law it has been stated that what is meant by Fiduciary is "the transfer of ownership rights to an object on the basis of trust provided that the object whose ownership is transferred remains in the control of the owner of the object". Thus, it means that in a fiduciary there has been surrender and transfer in ownership of an object which is carried out on a fiduciary basis on the condition that the object whose ownership rights are handed over and transferred to the fiduciary recipient remains in the control of the owner of the object (the fiduciary giver). In this case, what is handed over and transferred from the owner to the creditor is the ownership right to an object that is used as collateral, so that the juridical ownership rights to the guaranteed object are transferred to the creditor. Meanwhile, the economic ownership rights to the guaranteed object remain in the hands or the control of the owner. The law also provides an understanding of Fiduciary Guarantees, which can be found in Article 1 point 2 of the Fiduciary Guarantee Law, it is explained that "Fiduciary Guarantees are security rights for movable objects, both tangible and intangible and immovable objects, especially buildings that cannot be encumbered with rights. dependents as referred to in Law Number 4 of 1996 concerning Mortgage Rights which remain in the control of the Fiduciary Giver, as collateral for the repayment of certain debts, which gives priority to the Fiduciary Recipient over other creditors". The definition of Fiduciary Guarantee as regulated in Article 1 point 2 of the Fiduciary Guarantee Law, can be found in Article 1 paragraph 1 of Government Regulation of the Republic of Indonesia Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds, and there are also provisions in Article 1 paragraph 1 Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 10 of 2013 concerning Procedures for Electronic Fiduciary Guarantee Registration.

**History and Arrangement of Fiduciary Guarantees in Indonesia**

Fiduciary Security Arrangements before the enactment of the Fiduciary Guarantee Law in Indonesia. In the 19th century, the crisis that occurred in Europe had an impact on Indonesia as a Dutch colony. To overcome this problem, regulations regarding harvest bonds or Oogstverband were born (Staatsblad 1886 Number 57). This regulation regulates the borrowing of debts that are given as collateral for movable goods, or at least later become movable goods, while the goods remain in the control of the debtor. As in the Netherlands, the existence of a fiduciary in Indonesia is recognized by jurisprudence based on the decision of the Hooggerechtsch of (HGH) dated August 18, 1932.

Economic development, as part of national development, is one of the efforts to achieve a just and prosperous society based on Pancasila and the 1945 Constitution. In order to maintain and continue sustainable development, development actors, both government and society, both individuals and entities law, require and the great. Along with the increase in development activities, the need for funding also increases, most of the funds needed to meet these needs are obtained through lending and borrowing activities. Until now, lending and borrowing activities involving mortgage or collateral rights have been regulated by Law No. 4 of 1996 on Mortgages, which implements Article 51 of Law No. 5 of 1960 on the Basic Agrarian Law and serves as a

---

15 General Explanation of point 1 of the Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees.
substitute for land mortgages and credietverband. Additionally, other security interests that are widely used today include pawn, non-land mortgages, and fiduciary guarantees. Fiduciary Security is governed by Article 15 of Law No. 4 of 1992 on Housing and Settlements, which provides that houses constructed on land owned by third parties may be encumbered by Fiduciary Guarantees. Additionally, Law No. 16 of 1985 on Flats regulates ownership rights to flat units that can be used as fiduciary debt guarantees if the land is state land. Since the Dutch colonial era, fiduciary guarantees have been used in Indonesia as a form of guarantee born of jurisprudence.\(^\text{16}\) Although this type of guarantee is frequently used in lending and borrowing transactions due to the loading process’s perceived simplicity, ease, and speed, it does not provide legal certainty. The Fiduciary Guarantee Institution enables the Fiduciary Giver to exercise control over the collateralized item in order to conduct business activities financed by the Fiduciary Guarantee. Initially, the fiduciary object was restricted to movable property in the form of equipment. However, as time passes, objects that become fiduciary objects include a plethora of intangible movable and immovable objects.\(^\text{17}\) More precisely, the legal framework governing Fiduciary Guarantees is as follows:

a. Republic of Indonesia Law No. 42 of 1999 on Fiduciary Guarantees. President of the Republic of Indonesia, Bacharuddin Jusuf Habibie, ratified the Fiduciary Guarantee Law on September 30, 1999, in Jakarta. The existence of the Fiduciary Guarantee Law is philosophically justified on the basis of four significant considerations: a) that the business world’s growing need for funding must be balanced against the existence of clear and comprehensive legal provisions governing guarantee institutions; and b) that the Fiduciary Guarantee as a type of guarantee institution is still based on jurisprudence and has not been regulated in a comprehensive and comprehensive manner by legislation and regulation. The Fiduciary Guarantee Law is comprised of eight chapters and forty-one articles. CHAPTER I, which consists of one article and ten paragraphs, regulates General Provisions. CHAPTER II regulates the Scope, which is comprised of two Articles, namely Articles 2 through 3. CHAPTER V, from Article 29 to Article 34, regulates the Execution of Adusia Security. CHAPTER VI, beginning with Article 35 and ending with Article 36, regulates Criminal Provisions. CHAPTER VII governs Transitional Provisions, beginning with Article 37 and ending with Article 38. CHAPTER VIII, beginning with Article 39 and ending with Article 41, regulates Closing Provisions.


c. Decree No. M.08.PR.07.01 of 2000 of the Minister of Justice and Human Rights of the Republic of Indonesia on the Establishment of a Fiduciary Registration Office.

d. Decree No. M.03.PR.07.10 of 2000 of the Minister of Justice and Human Rights of the Republic of Indonesia Establishing Fiduciary Registration Offices in All Regional Offices of the Ministry of Justice and Human Rights of the Republic of Indonesia.


---


\(^{17}\) General Explanation of point 2 of the Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees.

g. Internal Regulation No. C.UM.01.10-11 of the Director General of General Legal Administration of the Republic of Indonesia's Ministry of Justice and Human Rights regarding the Standardization of Fiduciary Registration.

h. Government Regulation No. 21 of 2015 of the Republic of Indonesia on the Procedures for the Registration of Fiduciary Guarantees and the Fees for the Execution of Fiduciary Deeds (PP No. 21/2015). PP No. 21/2015 was stipulated in Jakarta on April 6, 2015 by President of the Republic of Indonesia Joko Widodo. The Philosophical Justification for the Presence of PP No. 21/2015 is founded on three critical considerations:

1) that electronic fiduciary guarantee registration services are necessary to improve the ease, speed, and cost of fiduciary guarantee registration services;

2) that the provisions governing the procedure for registering fiduciary guarantees as regulated in Government Regulation No. 86 of 2000 concerning the Procedures for Registering Fiduciary Guarantees and Fees

3) that, in light of the foregoing considerations and in order to carry out the provisions of Article 5 paragraph (2) and Article 13 paragraph (4) of Law No. 42 of 1999 concerning Fiduciary Guarantees, it is necessary to enact a Government Regulation establishing the Procedures for Registration of Fiduciary Guarantees and the Fee for Creating Fiduciary Guarantee Deed.

PP No. 21/2015 is comprised of eight chapters and twenty-three articles. Chapter I governs the General Provisions, which are comprised of Articles 1–2. Chapter II, which consists of Articles 3 to 10, regulates the Registration of Fiduciary Guarantees. Chapter III, beginning with Article 11, regulates the Amendment of Fiduciary Guarantee Certificates. Chapter IV, beginning with Article 16, regulates the abolition of fiduciary security. Article 18 contains Chapter V, which regulates the Cost of Creating a Fiduciary Guarantee Deed. Chapter VI, beginning with Article 19, regulates Other Provisions. Transitional Provisions are governed by Chapter VII, which is contained in Article 21. Chapter VIII governs the Closing Provisions, beginning with Article 22 and ending with Article 23.

Following the enactment of PP No. 21/2015, a previous similar regulation, namely the Government Regulation of the Republic of Indonesia Number 86 of 2000 concerning the Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds, has lapsed. This is in accordance with the concluding provisions of Article 22 PP No. 21/2015, which states, "At the time this Government Regulation enters into force, Government Regulation Number 86 of 2000 concerning the Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds (State Gazette of the Republic of Indonesia Number 170 of 2000, Supplement to the State Gazette of the Republic of Indonesia Number 170 of 2000.

i. Minister of Law and Human Rights of the Republic of Indonesia Regulation No. 10 of 2013 on Electronic Fiduciary Registration Procedures (Regulation of the Minister of Law and Human Rights No. 10/2013).

On March 5, 2013, Minister of Law and Human Rights of the Republic of Indonesia Amir Syamsudin ratified Regulation of the Minister of Law and Human Rights No. 10/2013 in Jakarta. The Philosophical Justification for the Presence of Regulation of the Minister of Law and Human Rights No. 10/2013 is founded on three critical considerations: a) that electronic registration of fiduciary guarantees is necessary to improve legal services for fiduciary guarantee registration easily, quickly, affordably, and conveniently; b) that the regulation governing the registration of fiduciary guarantees contained in Minister of Justice and Human Rights Decree M.01.UM.01.06 of 2000 on the Forms and Procedures for the Registration of Fiduciary Guarantees is no longer adequate to meet the community’s legal needs, and thus must be replaced; c) that, in light of the considerations set forth in letters a and b, a Regulation of the Minister of Law and Human Rights establishing Procedures for Electronic Fiduciary Guarantee Registration is necessary.19

No. 10/2013 of Regulation of the Minister of Law and Human Rights contains seven chapters and ten articles. CHAPTER I, which consists of one article and seven paragraphs, regulates General Provisions. CHAPTER II governs the Electronic Registration of Applications for Fiduciary Security, as defined in Article 3. Chapter III, beginning with Article 4, regulates Electronic Registration of Changes in Fiduciary Guarantees. Article 6 of Chapter IV regulates the Procedures for Registration of the Elimination of Fiduciary Guarantees. Other Provisions are governed by Chapter V, which is contained in Article 7. Transitional Provisions are governed by Chapter VI, which is found in Article 8. Chapter VII, beginning with Article 9, regulates Closing Provisions. Following the enactment of Regulation of the Minister of Law and Human Rights No. 10/2013, a previous similar regulation, namely the Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.01.UM.01.06 of 2000 concerning the Forms and Procedures for the Registration of Fiduciary Guarantees, has been declared invalid. This is in accordance with the concluding provisions of Article 9 of the Minister of Law and Human Rights No. 10/2013, which states, "At the time this Ministerial Regulation enters into force, the Minister of Justice and Human Rights Decree Number M.01.UM.01.06 of 2000 concerning Forms and Procedures for Registration of Fiduciary Guarantees is revoked and declared invalid."

**Indonesian Issues Regarding the Practice of Fiduciary Guarantees**

To date, the obligation to register a fiduciary guarantee can be fulfilled not only by a notary, but also by financial institutions and the general public. This may allow for the waiver of fiduciary registration requirements. This opportunity must be immediately addressed by reconstructing the rules establishing that a notary is the only party authorized to access/register fiduciary guarantees under the provisions of Article 5 paragraph (1) of the Fiduciary Guarantee Law.20 Issues Relating to the Office of Fiduciary Registration. A fiduciary guarantee is born on the same date as it is recorded in the fiduciary register book, as specified in Article 14 point 3 of the Fiduciary Guarantee Law. The registration is handled by the Office of Fiduciary Registration. However, the

---

19 Syahlan, ‘Effective and Efficient Synchronization in Harmonization of Regulations Indonesia’, 1.1 (2021), 54–70.
registration office has been unable to operate in its entirety until now. In this case, the implementing regulations for the Fiduciary Guarantee Law should also be issued immediately.\(^{21}\)

Issues Concerning Fiduciary Re-Fiduciary. According to Article 17 of the Fiduciary Guarantee Law, the Fiduciary Giver is prohibited from re-fiduciary on registered fiduciary guarantees. Additionally, as stated in the explanation of Article 17 of the Fiduciary Guarantee Law, the prohibition is in place because the object's ownership rights have been transferred to the fiduciary recipient. Meanwhile, Article 28 of the Fiduciary Guarantee Law states that "if the same object becomes a fiduciary guarantee for more than one (one) fiduciary guarantee agreement, the party who first registered it with the Fiduciary Registration Office receives the priority rights referred to in Article 27." The logic is that if re-fiduciary agreements are prohibited, there can be no more than one fiduciary guarantee.\(^{22}\)

Issues Concerning Fiduciary Objects Abroad. According to Article 11 paragraph 2 of the Fiduciary Guarantee Law, contents are objects that are subject to fiduciary guarantees but are located outside the Republic of Indonesia's territory. They must still be registered.\(^{23}\) This article makes no mention of the registration office's location in Jakarta or elsewhere. Additionally, how is it carried out?\(^{24}\) Arrangements in the Fiduciary Guarantee Law's Transitional Provisions. While Article 37 paragraph 1 states that the loading of Objects that were the subject of the previous Fiduciary Guarantee continues to apply, this provision is broad in scope and is limited by the provisions of Article 37 (2), namely within 60 days of the establishment of the Fiduciary Registration Office. The Fiduciary Guarantee agreement must adhere to the provisions of the Fiduciary Guarantee Law, with the exception of the provisions relating to the obligation to execute a Fiduciary Guarantee deed, as defined in Article 5 (1), namely the obligation to execute a Notarial Fiduciary Guarantee deed. Thus, for remaining Fiduciary Guarantees, it is sufficient to make changes and adjustments to the agreement's contents in accordance with Article 6 of the Fiduciary Guarantee Law, but must be registered with the Fiduciary Registration Office (after existing). Article 38 of the Fiduciary Guarantee Law, which incorporates all fiduciary laws and regulations, remains in force until repealed, replaced, or renewed. As is the case with general law, there is no revocation of the provisions that apply explicitly by displaying the revoked provisions in this Fiduciary Guarantee Law (at least the existing jurisprudence).\(^{25}\)

At the Fiduciary Services Coordination Meeting between the Directorate General of General Legal Administration and the Regional Offices of the Ministry of Law and Human Rights throughout Indonesia, Supreme Court Justice Sudrajad Dimyati discussed the legal issues that arise when fiduciary guarantees are applied, including:\(^{26}\):

a. There are still recipients of Fiduciary Guarantee Deeds who have not registered them with the Fiduciary Registration Office. As required by the Fiduciary Guarantee Law and its various implementing regulations, the fiduciary recipient must register the Fiduciary Guarantee Deed with the Fiduciary Registration Office in order to obtain an executive title Fiduciary Guarantee certificate. Indeed, some individuals may continue to execute the Fiduciary Guarantee Deed without the presence of a notary. This could be to avoid incurring costs, namely the 2.5 percent fee for preparing a deed with a guarantee value of up to Rp. 100 million and the registration fee to the Fiduciary Registration Office.


\(^{22}\) *Ibid*, p. 62.

\(^{23}\) Arifin Ma'ruf, ‘Legal Aspects of Environment in Indonesia : An Efforts to Prevent Environmental Damage and Pollution’, 1.1 (2021), 18–30.

\(^{24}\) *Ibid*, p. 62.


Additionally, there are those who prepare and register the Fiduciary Guarantee Deed when consumers demonstrate signs of inability to make installment payments. "The legal consequences for a fiduciary recipient who does not execute a notary deed or register with the Fiduciary Registration Office are that he cannot immediately file for execution but must first file a lawsuit in District Court, which is a lengthy process. However, for disputes with a value of less than Rp. 200 million, the Supreme Court has recently issued PERMA Number 2 of 2015 on Simple Lawsuit Settlement. Without a certificate of Fiduciary Guarantee, the Fiduciary Guarantee cannot be executed in accordance with the provisions of Article 29 of Law No. 42 of 1999 "Sudrajad Dimyati stated Tuesday (3/5/2016) in Bogor."

b. There are still fiduciary recipients who execute collateral object withdrawals. He explained that in order for the fiduciary recipient to withdraw the collateral, certain requirements must be met first, including the possession of a Fiduciary Guarantee Certificate, registration of the fiduciary, and the issuance of a previous warning. The withdrawal mechanism would then require assistance from the police.

c. The provisions of Article 36 of Law No. 42 of 1999, which is a specialist lex, but with less severe sanctions than Article 327 of the Criminal Code. This is also one of the reasons why Fiduciary Recipients are hesitant to register with the Fiduciary Registration Office, according to Sudrajad. Article 36 of the Fiduciary Guarantee Law regulates the criminal penalties applicable to fiduciary givers who pawn or transfer the object of fiduciary security, as follows: "Fiduciary givers who transfer, pledge, or lease objects that are objects of fiduciary security as defined in Article 23 paragraph (2) without first obtaining written approval from the Fiduciary Recipient shall be sentenced." 27

d. There is a link between the BPSK settlement method and the filing of a lawsuit in District Court. In general, the Fiduciary Guarantee deed and the main agreement continue to be standard agreements with standard clauses. Thus, it enables fiduciary givers to submit these issues to BPSK.

The public is still unaware of how to access the Web in order to obtain information about an object registered as a Fiduciary Guarantee. The general public's ability to determine whether an item has been registered is critical. That is, assuming that community members continue to pawn fiduciary collateral.

CONCLUSION

Based on the author's description and explanation of the discussion, it can be concluded that the legal basis for the regulation of Fiduciary Guarantees in Indonesia can be traced back to the period prior to 1999 (before the Fiduciary Guarantee Law was enacted) and also to the period following the enactment of the Fiduciary Guarantee Law. Arrangements made prior to the existence of Fiduciary Guarantees are governed by the Oogstverband (Staatsblad 1886 Number 57) and jurisprudence based on the August 18, 1932 Hooggerechtsch of (HGH) decision. In 1999, the President of the Republic of Indonesia Bacharuddin Jusuf Habibie signed the Law of the Republic of Indonesia No. 42 of 1999 concerning Fiduciary Guarantees into law in Jakarta on September 30, 1999. Additionally, there is Presidential Decree 139/2000 and Presidential Proclamation 21/2015. Three Ministerial Decrees on Justice and Human Rights exist, as do two Circulars from the Director General of AHU at the Ministry of Justice and Human Rights, as well as Permenkumham No. 10/2013. Several issues arise in the practice of fiduciary guarantees

27 See Article 36 UU Jaminan Fidusia.
in Indonesia, including the following: (1) issues regarding re-fiduciary; (2) issues regarding Fiduciary Objects Abroad; (3) overlapping provisions in the Transitional Provisions of the Fiduciary Guarantee Law; and (4) fiduciary recipients who have not registered the Fiduciary Guarantee Deed with the Fiduciary Registrar.

REFERENCES

Gunawan Widjaja & Ahmad Yani, 2000, Jaminan Fidusia, Rajagrafindo Persada, Jakarta.
Kartini Mulyadi dan Gunawan Widjaya, 2005, Hak Istimewa, Gadai dan Hipotek, Prenada Media, Jakarta.
Ma’ruf, Arifin, ‘Legal Aspects of Environment in Indonesia: An Efforts to Prevent Environmental Damage and Pollution’, 1.1 (2021), 18–30
Syahlan, ‘Effective and Efficient Synchronization in Harmonization of Regulations Indonesia’, 1.1 (2021), 54–70
Keputusan Menteri Kehakiman dan Hak Asasi Manusia Republik Indonesia Nomor M.08.PR.07.01 Tahun 2000 tentang Pembukaan Kantor Pendaftaran Fidusia.
Keputusan Menteri Kehakiman dan Hak Asasi Manusia Republik Indonesia Nomor: M.03.PR.07.10 Tahun 2000 tentang Pembukaan Kantor Pendaftaran Fidusia diseluruh Kantor Wilayah Departemen Kehakiman dan Hak Asasi Manusia Republik Indonesia.
Keputusan Menteri Kehakiman dan Hak Asasi Manusia Republik Indonesia Nomor M.02.PR.07.10 Tahun 2000 tentang Perubahan Atas Keputusan Menteri Kehakiman dan Hak Asasi Manusia Republik Indonesia No. M.03. PR.07.10 Tahun 2000 tentang Pembukaan Kantor Pendaftaran Fidusia diseluruh Kantor Wilayah Departemen Kehakiman dan Hak Asasi Manusia Republik Indonesia.
Peraturan Menteri Hukum dan Hak Asasi Manusia Republik Indonesia Nomor 10 Tahun 2013 Tentang Tata Cara Pendaftaran Jaminan Fidusia Secara Elektronik.
Peraturan Pemerintah Republik Indonesia Nomor 21 Tahun 2015 Tentang Tata Cara Pendaftaran Jaminan Fidusia dan Biaya Pembuatan Akta Jaminan Fidusia (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 80, Tambahan Lembaran Negara Republik Indonesia Nomor 5691)


Surat Edaran Direktur Jenderal Administrasi Hukum Umum Departemen Kehakiman dan Hak Asasi Manusia Republik Indonesia Nomor C.UM.01.10-11 tentang Penghitungan Penetapan Jangka Waktu Penyesuaian dan Pendaftaran Perjanjian Fidusia.

Surat Edaran Direktur Jenderal Administrasi Hukum Umum Departemen Kehakiman dan Hak Asasi Manusia Republik Indonesia Nomor C.UM.01.10-11 tentang Standarisasi Pendaftaran Fidusia.


Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (UUD 1945).

Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 168, Tambahan Lembaran Negara Republik Indonesia Nomor 3889).

Undang-Undang Republik Indonesia Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.