

DOI: 10.5281/zenodo. 121126170

PERFORMANCE GUARANTEE: REFORMING THE MODERN GUARANTEE SYSTEM IN INDONESIA

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Received: 12/08/2025
Accepted: 12/12/2025

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ABSTRACT

Security law plays a pivotal role in ensuring legal certainty within credit and financing relationships, thereby supporting national economic stability and public trust in the banking system. However, the Indonesian security law framework—primarily governed by Law No. 4 of 1996 on Mortgage Rights, Law No. 42 of 1999 on Fiduciary Guarantees, and the Civil Code—remains conventional, asset-oriented, and fragmented. This framework has proven inadequate in responding to the dynamics of modern economic activities characterized by large-scale project financing, digital transformation, cross-border transactions, and the increasing importance of intangible assets. Moreover, the existing system tends to prioritize creditor protection excessively, resulting in inefficiency, high transaction costs, and inequitable treatment of debtors with strong performance and credibility. This study aims to examine the urgency of implementing a Performance Guarantee System as a core component of security law reform in Indonesia and to formulate strategic directions for transforming the traditional collateral-based system into a modern, fair, and performance-oriented framework. Employing a normative juridical approach complemented by empirical juridical analysis, this research analyzes prevailing security law regulations, banking practices, and comparative models from jurisdictions such as Singapore and Malaysia. Data are examined using descriptive-qualitative and comparative methods to identify structural weaknesses and reform opportunities. The findings indicate that the Performance Guarantee System—centered on debtor performance, credibility, and business feasibility through comprehensive 5C credit analysis—offers a more adaptive, efficient, and equitable model of legal protection. This system enhances legal certainty while promoting economic efficiency, competitiveness, and sustainable national development. Consequently, security law reform grounded in a performance-based paradigm is not merely an optional policy choice but an urgent strategic necessity to strengthen Indonesia's banking sector and position it competitively within the global digital economy.

KEYWORDS: Security Law Reform, Performance Guarantee System, Banking Law, Credit Risk, Economic Sustainability, Indonesia.

1. INTRODUCTION

Security law is one of the legal instruments that has a very strategic position in the national economic system. It serves as a legal basis that guarantees certainty in the relationship between creditors and debtors in lending and borrowing transactions, as well as being the main pillar of the national financing system. In modern economic practice, financing activities through banking and non-banking financial institutions have become the driving force behind economic growth, particularly in supporting the productive sector, investment, and infrastructure development. Therefore, strong, clear, and adaptive security law is an absolute prerequisite for financial stability and public confidence in the banking system. Without an effective security law system, both creditors and debtors are in a vulnerable position: creditors are at risk of losing their rights if debtors default, while debtors face legal uncertainty in carrying out their economic activities.

In the Indonesian context, the current security law system is still conventional and fragmented. The main regulatory framework, namely Law No. 4 of 1996 concerning Mortgage Rights, Law No. 42 of 1999 concerning Fiduciary Guarantees, and provisions concerning pawnbroking in the Civil Code (KUHPerdata), is still oriented towards classical forms of collateral. These regulations basically only accommodate collateral on tangible objects such as land, buildings, vehicles, or other movable objects of relatively small value. In other words, the legal framework for collateral in Indonesia has not been able to respond to the increasingly complex needs of the times, where modern economic activities often involve large-scale project financing, cross-border transactions, and intangible assets such as intellectual property rights, shares, or digital technology systems. This situation creates a serious gap between the fast-moving dynamics of the economy and a legal system that remains static.

In addition to being substantively outdated, Indonesia's collateral law system is also considered to lack fairness and balance between the interests of creditors and debtors. The mindset adopted in the current collateral system is still oriented solely towards the security of creditors. Banks or financing institutions require collateral whose value often exceeds the amount of credit provided. As a result, prospective debtors, especially large-scale businesses with good reputations and performance, are disadvantaged because they have to bear high costs in providing collateral. In fact, in the principle of modern financing, the sustainability of the debtor's

business is the best guarantee for loan repayment. In other words, the traditional collateral system, which focuses on the physical aspects of collateral, has failed to place trust and debtor performance as key elements in credit risk analysis.

Another weakness of the current collateral system lies in its inability to cope with the complexity of large-scale project financing. In high-value infrastructure or corporate investment projects, the value of collateral in the form of land, buildings, or vehicles is often not commensurate with the total financing required. This forces businesses to provide numerous collateral documents, which actually slows down the credit disbursement process. In addition, many Indonesian companies have established legal entities abroad, such as in Singapore, Hong Kong, or Kuala Lumpur, in order to obtain financing with more efficient procedures. This phenomenon raises a new issue, namely the problem of cross-jurisdictional collateral enforcement, where Indonesian collateral law is not always compatible with the legal systems of other countries. Often, these differences cause the enforcement process to be complicated, expensive, and time-consuming.

The collateral law system in Indonesia has also been unable to adapt to dynamic social and economic conditions. The value of infrastructure projects often changes due to fluctuations in land and building material prices, while collateral is not easily adjusted. In such situations, the process of changing the value of collateral requires a revision of the credit agreement and a reassessment of assets, which naturally requires additional time and costs. In addition, external risk factors such as natural disasters, changes in land use, and security disturbances from outside parties further weaken the position of conventional collateral law. As a result, the collateral law system, which was originally intended to create legal certainty, has the potential to create new uncertainties in practice.

This fundamental problem shows that Indonesian collateral law is no longer relevant to modern economic needs and the demands of globalization. Dependence on the Dutch colonial legal system has resulted in collateral regulations in Indonesia that tend to be rigid, bureaucratic, and insufficiently responsive to global economic dynamics. In fact, amid global competition and regional economic integration such as the ASEAN Economic Community (AEC), a guarantee law system is needed that can provide flexibility without sacrificing legal certainty. Therefore, it is necessary to carry out a comprehensive reform of guarantee law, not only at the normative level, but also in terms of

the paradigm of thinking, risk analysis approach, and implementation mechanisms in the field.

One of the ideas for reform that has emerged in response to the weaknesses of the conventional system is the concept of a Performance Guarantee System. This concept places the performance, credibility, and feasibility of the debtor's business at the core of the guarantee itself. Unlike the traditional system, which emphasizes collateral, this system focuses on a comprehensive analysis of the debtor's capabilities and performance through the 5C analysis method, namely Character, Capacity, Capital, Condition of Economy, and Collateral. In this system, the first four elements play a dominant role in determining creditworthiness, while Collateral (security) only serves as a reinforcement, not the main determinant. If the analysis shows that the debtor has integrity, capacity, and good business prospects, then credit can be granted without requiring large physical collateral ().

With this new paradigm, collateral shifts from being merely a risk mitigation tool to an indicator of confidence in business performance and debtor responsibility. The Performance Collateral System offers a fairer and more productive approach by balancing the interests of creditors and debtors. Creditors remain protected through comprehensive risk analysis, while debtors are no longer burdened with providing physical assets that often hinder business growth. This approach is also more in line with the nature of the modern business world, which is fast-paced, innovation-oriented, and often based on intangible assets.

Within the framework of national economic development, the implementation of the Performance Guarantee System is of great urgency. It not only strengthens the guarantee legal system to be responsive to the times, but also encourages the improvement of the competitiveness of national companies in the global arena. With a more efficient and fair system, Indonesian banks can transform from traditional institutions into modern intermediary institutions capable of serving the financing needs of the digital business world and large industries.

Based on this background, this study aims to answer two main questions. First, how urgent is the implementation of the Performance Guarantee System in the renewal of guarantee law in Indonesia as a response to the inability of the conventional system to face modern economic challenges? Second, what is the appropriate transformation strategy in the process of renewing the guarantee system in Indonesia from a traditional system oriented towards

formal certainty to a modern, fair, competitive system oriented towards national economic sustainability?

2. RESEARCH METHOD

This research uses a normative juridical approach, which is legal research that focuses on the study of applicable positive legal norms. This approach focuses on analyzing the laws and regulations governing security law in Indonesia, such as Law Number 4 of 1996 concerning Mortgage Rights, Law Number 42 of 1999 concerning Fiduciary Guarantees, and the Civil Code (KUHPerdata). Through this approach, the study aims to understand the principles and structure of security law that form the basis for national banking practices. This normative juridical approach also allows researchers to examine the gaps, weaknesses, and inconsistencies in the applicable security law norms with the needs of the economy and developments in modern financial technology, thereby providing direction for future reforms to security law.

In addition to the normative juridical approach, this study also uses an empirical juridical approach to complement the normative findings with factual data in the field. This approach is used to understand how collateral law is applied in banking practice and the extent of its effectiveness in supporting large-scale project financing. Empirical data was obtained through in-depth interviews and observations of national banking practices, notaries, financial institutions, and parties involved in the implementation of credit guarantees. Secondary data was obtained from annual banking reports, Financial Services Authority (OJK) policies, and relevant previous research results. Thus, this empirical approach was used to examine the extent to which the implementation of conventional guarantee law can provide fair legal protection for creditors and debtors and how the performance guarantee system can be applied realistically.

The data analysis method in this study is descriptive-qualitative, combining normative and comparative analysis techniques. Descriptive analysis is used to describe the actual conditions of the security law system in Indonesia as a whole, while comparative analysis is used to compare the Indonesian security law system with other countries such as Singapore and Malaysia, which have implemented modern performance security systems. The results of this analysis are then used to formulate the concept of adaptive, effective guarantee law reform that is in line with the challenges of economic globalization and the era of industry 4.0. With this

legal research method, it is hoped that the research will be able to provide conceptual and practical contributions to the formation of a Performance Guarantee System as a modern and fair guarantee law model.

2.1. The Urgency of the Performance Guarantee System in the Reform of the Guarantee System in Indonesia

The collateral law system currently in force in Indonesia is still conventional, rigid, and unable to meet the financing needs of the modern era. The main regulations governing guarantee law, namely Law Number 4 of 1996 concerning Mortgage Rights, Law Number 42 of 1999 concerning Fiduciary Guarantees, and the provisions on pawn in the Civil Code, were basically designed within the framework of a traditional economy. At that time, economic financing was based on tangible assets such as land, houses, and movable objects that could be used as physical collateral for loans. However, the reality of the global economy today has changed fundamentally. Business activities and investment projects no longer depend entirely on physical assets, but are increasingly supported by intangible assets such as company reputation, technology systems, intellectual property rights, innovation, and business networks. Thus, a collateral system that relies solely on the value of objects as a measure of credit security is no longer adequate to support modern economic activities.

In banking practice, the collateral provisions as regulated by current legislation have created a number of structural obstacles. Banks, as financial intermediary institutions, still require collateral whose value often exceeds the credit limit requested by the debtor. This results in many companies, including those with good financial track records, having to bear additional costs in the form of providing large amounts of physical collateral. This system creates injustice because it treats all debtors equally, without distinguishing between bona fide, healthy, and well-intentioned companies and those that are newly established and high-risk. Large companies with strong reputations, which should have access to easy financing, instead face obstacles due to the administrative and financial burdens imposed by the conventional collateral system. This provision not only hinders economic efficiency, but also has the potential to reduce the competitiveness of national companies in the international arena.

The conventional guarantee system also shows its weakness in terms of flexibility. The value of physical guarantees () such as land, buildings, or vehicles is

highly vulnerable to changes in economic and social conditions. In large projects, such as infrastructure or energy projects, fluctuations in land and building material prices can cause the value of the project to change significantly. As a result, credit agreements and guarantee documents need to be readjusted, which means additional time and costs. Not to mention the issue of cross-jurisdictional collateral enforcement, which often raises new legal issues when debtors establish legal entities abroad, such as in Singapore, Malaysia, or Hong Kong. This situation confirms that collateral law in Indonesia has not been designed to deal with the increasingly integrated and digital nature of the global economy.

In facing the major changes brought about by the Industrial Revolution 4.0 and the transformation towards the Industrial 5.0 era, Indonesian banks must make fundamental adjustments to their legal paradigms and systems. The business world is now moving at a rapid pace, utilizing information technology, artificial intelligence, and digital systems that enable business processes to run efficiently and across national borders. In such conditions, speed and trust are the main factors that determine the success of financing. Banks that still rely on traditional guarantee procedures, which are complicated and time-consuming, will lag behind other financial institutions such as financial technology (fintech) companies that are able to provide fast, efficient, and digital performance-based financing. Therefore, updating the legal guarantee system is an urgent necessity so that Indonesian banks do not fall behind in the global transformation.

The concept of the Performance Guarantee System was born out of the need to overhaul this old paradigm. This system offers a new approach to providing guarantees, where guarantees are no longer interpreted solely as tangible objects, but as a form of confidence in the performance and ability of debtors to repay their obligations. In this system, debtors are assessed comprehensively through the 5Cs of Credit Analysis, namely Character, Capacity, Capital, Condition of Economy, and Collateral. The first four elements are the main priorities in assessing financing eligibility, while Collateral is considered a complement, not an absolute requirement. If the analysis shows that the debtor has high integrity, strong financial capabilities, and promising business prospects, then the provision of collateral is no longer a requirement. This approach is far more rational and in line with modern economic principles that place performance and credibility as the main benchmarks.

The urgency of implementing a Performance Guarantee System becomes increasingly clear when

viewed from the perspective of distributive justice. In sound economic practice, each party should be treated according to their capabilities. Large companies with good reputations, stable financial statements, and clean payment records should receive different legal treatment than small companies that are just starting out and do not yet have a track record. However, the current conventional guarantee system does not distinguish between the two. All debtors, whether high or low risk, are required to provide large amounts of physical collateral. This pattern not only causes injustice but also leads to inefficient allocation of economic resources. In the long term, this condition can reduce national competitiveness because large companies that are actually capable of contributing more to the economy are hampered by rigid regulations.

In addition to fairness, the implementation of the Performance Guarantee System is also very important in terms of legal and economic efficiency. This system is able to cut various costs arising from conventional guarantee procedures, such as appraisal costs, notary fees, guarantee binding costs, and fiduciary registration fees. On the other hand, the time required for the credit analysis process can be shortened because banks are more focused on evaluating business performance and financial risks. Thus, this system not only provides legal certainty for creditors but also creates significant economic efficiency for the business world. In the long term, this efficiency will encourage increased investment and strengthen the competitiveness of the national financial sector.

From a philosophical and sociological perspective, the Performance Guarantee System reflects a very important shift in legal values. While the old system emphasized formal legal certainty, the new system emphasizes substantive justice oriented towards balancing interests. The law is no longer positioned solely as a means of protection for creditors, but also as a means of economic development and empowerment of the business world. Thus, security law in this context is not only a means of securing transactions, but also an instrument of economic development that fosters mutual trust between creditors and debtors. From a Pancasila economic perspective, this principle is in line with the ideals of social justice and equal opportunities for business.

In the global context, the urgency of reforming the security law system cannot be separated from the demands of regional economic integration. Countries such as Malaysia and Singapore have already

implemented a performance-based financing system, in which financial institutions assess debtors based on managerial capabilities, performance reports, and future profit potential, rather than solely on physical assets. This approach has proven to increase banking efficiency, reduce credit risk, and accelerate economic growth. If Indonesia continues to maintain an outdated collateral law paradigm, the national banking sector will find it difficult to compete with foreign banks that are more progressive in providing performance-based credit. As a result, the domestic business world will lose its competitiveness because access to financing will become more expensive and complicated.

The Performance Collateral System not only benefits financial institutions and the business world, but also the government within the framework of national economic policy. With this system, the government can assess the performance of banking institutions through more objective and transparent indicators. In addition, this system can be used to support the distribution of government funds to banks that demonstrate good performance and sound risk management. Thus, this system has the potential to strengthen the stability of the financial sector and accelerate the achievement of national economic development goals.

Through all of the above explanations, it can be understood that the implementation of the Performance Guarantee System is not only a policy option, but also an urgent strategic necessity. This system is expected to become the foundation for the formation of modern guarantee laws in Indonesia that not only ensure legal certainty but also create justice, efficiency, and economic sustainability. In an era of globalization characterized by the acceleration of information and market integration, a progressive guarantee law system will be a determining factor in Indonesia's ability to compete and stand on par with other countries in the Southeast Asian region and the world.

2.2. Strategies in the Process of Reforming the Security System from Traditional to Modern

A paradigm shift in national economic policy is both a historical necessity and an inevitable demand of the times. The world is currently moving towards a global economic order that is fully supported by technological innovation, digital efficiency, and artificial intelligence. The Industrial Revolution 4.0 has fundamentally changed the relationship between businesses, financial institutions, and consumers. The economic system is no longer centered on the control of natural resources or a large population, but

rather on a country's ability to create and manage value through technology, creativity, and knowledge. It is in this context that the statement by the former President of the Republic of Indonesia, Joko Widodo, finds its relevance: that the countries that will win the global competition are not those rich in natural resources, but those that are the fastest to develop a digital economy and creative businesses based on information technology.

This statement should be a critical reflection for the Indonesian government to transform its economic policies, including the national banking and guarantee legal system. The economic paradigm that is still tied to the conventional model, which places banks as mere intermediary institutions, is no longer adequate to face global challenges. The banking system, which relies on collecting public funds through savings, deposits, or bonds, now faces a serious threat from the emergence of non-bank financial institutions and even non-formal digital-based institutions that are capable of functioning like banks. The phenomenon of shadow banking has emerged as a new force in the global financial industry. By utilizing digital technology, online payment systems, and algorithm-based data analysis, these non-bank institutions are able to perform financial intermediation functions quickly, efficiently, and with lower operational risks than traditional banks.

Such rapid changes in the global financial landscape require the Indonesian government to not only adapt, but also build a proactive and visionary legal system. Legal regulations on collateral, which are still based on a colonial paradigm and oriented towards property, need to be reviewed in order to accommodate modern financial innovations such as digital lending, peer-to-peer financing, and digital asset-based derivative instruments. The renewal of the collateral system can no longer be viewed as a technical administrative effort, but rather as part of a grand strategy for national economic development based on digital transformation. Therefore, the reform of the collateral law system must be accompanied by the strengthening of digital legal infrastructure, such as electronic collateral registration, digital signatures, and information technology-based legal audit systems that are integrated with the banking ecosystem.

If the government does not immediately change the paradigm and regulations in the banking and collateral law sectors, it is not impossible that the role of national banking as a main pillar of the economy will be displaced. The digital non-banking sector, which is more flexible, quicker to adapt, and more

innovative, will take over the strategic function of banks as financial intermediary institutions. Under these conditions, the sustainability of the conventional banking system in Indonesia could be threatened on two fronts: first, competitive pressure from non-bank financial institutions that utilize technology; and second, the inability of the collateral law system () to adapt to the increasingly complex and cross-jurisdictional dynamics of modern financing.

The pressure on the national banking sector does not only come from within the country, but also from outside. In the ASEAN region, particularly Singapore and Malaysia, the banking system has developed more advanced by implementing a Modern Performance Guarantee System. Banks in both countries have placed the performance, credibility, and business prospects of debtors as the main parameters in assessing creditworthiness, rather than collateral whose value fluctuates. With this approach, the financing process becomes more efficient, and the risk of bad credit can be minimized through a systematic performance analysis mechanism.

In contrast to this situation, Indonesian banks still apply the Conventional Guarantee System, which places tangible assets as the main collateral for credit. This disparity makes the national financial system less competitive and less adaptive to global business needs. In addition, the emergence of private international financing institutions that have implemented modern guarantee systems further widens this gap. They offer financing with faster and simpler procedures, based on business performance evaluations. Their presence in Indonesia is a strong signal that the national guarantee law system needs to be updated immediately so that it not only provides legal certainty but is also able to compete with more efficient global financial law systems.

In an effort to catch up, the government and financial authorities must begin to direct policies towards the implementation of a Modern Performance Security System that emphasizes the feasibility of the business, track record, and digital adaptation capabilities of prospective debtors. This approach will encourage a paradigm shift from an asset-based security system to a performance-based security system. In addition to providing efficiency in the financing process, this system will also strengthen the principle of prudential banking because risk assessment is carried out comprehensively through analysis of the character, capacity, and business performance of the debtor. This step not only strengthens the national collateral

legal structure but also prepares a financial ecosystem that is compatible with the international legal system.

The institutional design of national banking as stipulated in Article 3 of Law Number 10 of 1998 concerning Banking, which states that "the main function of Indonesian banking is to collect and distribute public funds," is no longer relevant to modern economic developments. This formulation of functions was born in the context of the past economy, when banking institutions still played a traditional role as intermediaries between parties with excess funds and parties in need of funds. In the digital economy, this intermediary function has been taken over by technology that enables the transfer of funds, investment, and even credit to be carried out directly between users without the intermediary of a bank. Thus, maintaining the conventional intermediary function means maintaining a system that is structurally vulnerable and weak in the face of public confidence turmoil.

The weakness of the intermediation system is also evident in its high dependence on public funds. When public confidence declines due to negative issues or the spread of hoaxes, a bank run or occurs, resulting in a massive withdrawal of funds in a short period of time. This phenomenon not only threatens the solvency of banks, but can also shake the stability of the national financial system. In a digital world, where information spreads in seconds, reputational risk is a decisive factor. No country in the world can withstand the destructive effects of a bank rush without strong policy support and guarantee systems. Therefore, a modern performance-based guarantee legal system is an important part of creating sustainable public trust in the banking sector.

Reform of the guarantee legal system must go hand in hand with strengthening the national banking governance and risk management systems. Technology-based supervision, the application of the Know Your Customer (KYC) principle digitally, and the integration of debtor data between financial institutions are important parts of the modern guarantee system architecture. With the application of analytical technology and machine learning, banks can predict potential defaults more accurately without relying solely on collateral. In addition, the government needs to develop a legal framework that regulates data security and legal responsibility in the use of analytical technology so that the performance-based collateral system is not only efficient but also has strong legitimacy and legal certainty.

To overcome these weaknesses, the government

needs to carry out comprehensive reforms of the banking and collateral systems through business reengineering policies. Banks should no longer rely solely on passive intermediation functions but should be directed to increase service-based or fee-based income activities. This change will encourage banks to become more dynamic, innovative, and service-oriented, as well as to form strategic partnerships with business actors. The government can play an active role in strengthening bank capital through the provision of loans or liquidity support, which is assessed based on a Performance Guarantee System. With this system, the government has an objective basis for measuring the health and performance of recipient banks. This means that performance guarantees are not only applied by banks to their customers, but also used by the government to assess banks as recipients of loans or capital support.

Through the implementation of this system, there will be a fundamental transformation in banking functions. Banks that were previously weak due to their dependence on public funds will be transformed into strong, independent, and productive institutions. The relationship between the government and banks will no longer be administrative in nature, but performance-based. Banks that perform well will receive greater support, while unhealthy banks will be automatically eliminated by market mechanisms based on performance evaluation.

The implementation of the performance guarantee system will also bring major changes to the internal structure of the banking world. Bank managers are required to be more active in establishing strategic partnerships with the business world, especially with large companies and bona fide holding companies. By offering performance guarantees, banks can attract large companies to collaborate, as this system provides greater flexibility and legal security. On the other hand, large companies also benefit from cost efficiency, speed of service, and stable long-term relationships with credible financial institutions.

However, the implementation of this system requires strong institutional prerequisites, especially in terms of transparency, supervision, and integrity. Risks arising from weak internal control systems, such as collusion, gratification, or data manipulation in the performance assessment process, can damage the entire system if not anticipated from the outset. Therefore, it is important for the banking world to strengthen internal oversight mechanisms through the presence of compliance directors, internal

auditors, and independent legal quality assurance teams.

It is in this context that the concept of legal quality culture becomes very important. Legal quality culture is a state in which all elements of the financial and legal systems share the same paradigm regarding the importance of quality, honesty, and continuous improvement. In the industrial world, the application of quality standards such as ISO 9000 has become a measure of professionalism and credibility. Unfortunately, most national banks have not yet implemented such quality systems. In fact, if these quality principles are applied gradually and continuously, a strong legal culture will emerge, namely a legal culture that upholds the values of freedom from defects, user satisfaction, and endless quality improvement.

This legal quality culture will be an important pillar in supporting the success of the Performance Assurance System. When all business actors, financial institutions, and legal officials have the same awareness of the importance of legal quality and integrity, public trust will increase. This trust is a major factor in maintaining the stability of the national financial system. Conversely, ignorance and unprofessionalism among legal practitioners can become serious obstacles, increase country risk and reducing the interest of foreign investors in investing in Indonesia.

Thus, the renewal of the legal guarantee system and the implementation of the Performance Guarantee System are not merely technical or administrative in nature, but constitute a national strategy for facing the era of the digital economy and global integration. This system is not merely a tool for assessing debtor eligibility, but a new paradigm that changes the way financial institutions operate, how the law provides certainty, and how the economy creates value. Through the implementation of this system, banks in Indonesia will no longer be merely vulnerable intermediary institutions, but will transform into modern financial institutions that are resilient, efficient, competitive, and contribute significantly to national economic development.

3. CONCLUSION

Based on the description and analysis presented, it can be concluded that the renewal of the collateral law system in Indonesia is a legal necessity and a national strategic need that cannot be delayed any longer. The conventional collateral system, which is still oriented towards tangible collateral and rigid administrative procedures, has proven incapable of keeping pace with the rapid development of the

business world and global economic dynamics moving towards the digital era. In the context of the Industrial Revolution 4.0, where information technology, artificial intelligence, and digital transformation are the main pillars of economic development, the national collateral law system must be able to provide certainty, fairness, and flexibility. Security law should no longer be merely a formal instrument to protect the interests of creditors, but must be a system capable of encouraging economic growth through an approach oriented towards the performance, credibility, and sustainability of the debtor's business ().

The Performance Guarantee System is a solution to the limitations of the traditional guarantee system, as it places the debtor's performance, reputation, and business capacity as the main basis for granting credit. This system not only provides security for creditors but also creates fairness and efficiency for debtors. The implementation of this system means that guarantees no longer function merely as risk coverage, but as a representation of confidence in the debtor's ability to consistently fulfill their obligations. Furthermore, the Performance Guarantee System also has great potential to strengthen the national financial structure because it can be used as an evaluation tool for the government in assessing the performance of banks receiving capital loans, so that policies on providing financial support become more objective, transparent, and performance-based.

The transformation of this guarantee system also has very important implications for the future of Indonesian banking. By changing the paradigm from traditional intermediation functions to a service-based system (fee-based income), national banks can escape the trap of structural weaknesses that have long depended on public funds and been vulnerable to fluctuations in public confidence. Through the implementation of the Performance Guarantee System, banks will be encouraged to innovate, expand strategic partnerships with the business world, and enhance their role as modern financial institutions that not only collect and distribute funds but also play an active role in building a digital economic ecosystem.

The implementation of this system must also be accompanied by the establishment of a strong legal quality culture. This culture must grow throughout all levels of financial institutions, law enforcement agencies, and business actors in order to create synergy between the legal and business worlds. By applying legal quality principles that are oriented towards freedom from defects, user satisfaction, and continuous improvement, the guarantee legal system

will have the moral and professional strength to build public trust and attract global investment. Conversely, if the legal system is allowed to remain stagnant without paradigm reform and a strong legal culture, Indonesia has the potential to experience country risk that could undermine international investor confidence and hamper national economic growth.

Thus, it can be asserted that the Performance Guarantee System is a new paradigm that not only guarantees legal certainty but also promotes economic efficiency, strengthens banking stability, and fosters a competitive and sustainable business climate. This guarantee law reform is not merely a matter of regulatory change, but a transformation of values and perspectives in viewing the relationship between law, finance, and economic development. If this system is implemented consistently and integrally, Indonesia has a great opportunity to build a robust banking system that is globally competitive and becomes the main driver of the national economy in the digital industry era.

4. RECOMMENDATIONS

1. The government needs to immediately carry out comprehensive reforms to the national security system through revisions to Law No. 4 of 1996 on Mortgage Rights, Law No. 42 of 1999 on Fiduciary Security, and provisions on pawnbroking in the Civil Code. These three regulations are no longer relevant to the current developments in the business world and the digital economy, which demand speed, flexibility, and legal efficiency. Collateral law reform must be directed towards the establishment of a system that is capable of accommodating modern forms of collateral based on the performance, capacity, credibility, and reputation of the debtor's business, rather than solely on the value of tangible assets. With this step, security law will function not only as a protector of creditors' interests, but also as a legal instrument that supports economic progress and national development.
2. The government needs to develop an integrated digitalization system for security law to realize the electronic registration, verification, and execution of collateral. This digital system will speed up bureaucracy, increase transparency, and minimize the potential for data irregularities and manipulation. Through this digitalization, Indonesian security law can be on par with international practices that have utilized information technology to ensure efficiency and accountability in every financing transaction.
3. It is important for the government to establish an independent supervisory agency to oversee the implementation of the Performance Guarantee System in the banking and financial sectors. This agency is tasked with ensuring that all performance assessment procedures are carried out objectively, transparently, and free from personal interests. The existence of an independent supervisory agency also serves to maintain the integrity of the system and prevent practices of gratification, collusion, and abuse of authority that could damage the credibility of national guarantee law.
4. The national banking world must immediately transform its business model from a traditional intermediation system to a modern banking system based on innovation, technology, and services. Banks must begin to expand their sources of income through fee-based income such as asset management services, financial consulting, digital payment systems, and the issuance of performance guarantees. To achieve this, banking institutions need to develop a data-driven performance assessment division with the support of big data, artificial intelligence, and the latest financial technology, so that the risk assessment process becomes more accurate and efficient.
5. Increasing human resource capacity in the fields of law, finance, and banking must be a top priority. The government, together with the Financial Services Authority (OJK), Bank Indonesia, and universities, need to collaborate in developing education, training, and certification programs for bank officials, notaries, advocates, and law enforcement officials involved in the guarantee system. A good understanding of the principles of the Performance Guarantee System, risk management, and professional ethics will strengthen the implementation of this new system and ensure that it is carried out in accordance with the principles of fairness and transparency.
6. Every financial institution needs to instill the principles of Good Corporate Governance (GCG) and build a legal quality culture in all of its operational activities. This culture must be

based on three main pillars, namely honesty, customer satisfaction, and continuous improvement. The application of international quality standards such as ISO 9000 needs to be expanded to the banking sector to create synergy between law, business ethics, and professional financial management. By building a culture of legal quality, the performance guarantee system will be based on high integrity and professionalism, thereby increasing public trust in the national banking sector.

7. The government needs to expand international cooperation in the field of guarantee law and financing with ASEAN countries and other countries that have effectively implemented performance guarantee systems. Through this cooperation, Indonesia can learn and adopt best practices in risk management, performance assessment mechanisms, and cross-jurisdictional regulations. In addition to strengthening Indonesia's position in the region, this cooperation will also accelerate the process of harmonizing guarantee laws in the face of ASEAN economic integration and increase the competitiveness of national

financial institutions.

8. The Performance Guarantee System must be directed at expanding inclusive financing access for all levels of the business world, both large corporations and micro, small, and medium enterprises (MSMEs). With a performance-based system, banks can provide financing to business actors who have good performance and promising prospects, even if they do not have large assets as collateral. This policy will strengthen a fair national economic structure and accelerate the growth of the productive sector as the backbone of Indonesia's economic development.
9. Collateral law reform must be an integral part of sustainable and innovation-based national economic policy. The government needs to position the Performance Guarantee System as a strategic instrument in building an efficient, transparent, and globally competitive economy. Synergy between legal regulations, financial technology, and economic policy will be the main foundation for creating a robust, modern, and highly competitive national financial system in the era of the Industrial Revolution 4.0.

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