

JURISPRUDENSI

Jurnal Ilmu Syari'ah, Perundang-undangan dan Ekonomi Islam

<https://doi.org/10.32505/jurisprudensi.v17i1.11364>

Vol. 17 No. 1 (Januari-Juni 2025): 339-354

Legal Protection for Creditors in Suspension of Debt Payment Obligations (PKPU): A Critique of the Implementation of Law Number 37 of 2004 on Bankruptcy

Nabila Tiara Deviana¹

Universitas Tarumanagara, Jakarta, Indonesia
205210020@stu.untar.ac.id

Ariawan Gunadi

Universitas Tarumanagara, Jakarta, Indonesia
ariawangun@gmail.com

Submission	Accepted	Published
May 16, 2025	June 04, 2025	June 05, 2025

Abstract

Ideally, the process of Suspension of Debt Payment Obligations (PKPU) within the Indonesian legal system functions as a fair mechanism to protect the rights of creditors while providing debtors with an opportunity to settle their debts without undergoing bankruptcy. However, in reality, the implementation of the PKPU mechanism often results in an imbalance of power between creditors and debtors, thereby posing serious challenges to the legal protection of creditors. This article aims to critically examine the effectiveness of legal protection for creditors in the PKPU process and to evaluate the implementation of Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations in ensuring legal certainty and justice. This research is categorized as a literature-based study using a qualitative approach, and the methodology employed is normative legal research. The findings conclude that legal protection for creditors in the PKPU process remains suboptimal, as indicated by the weak bargaining position of creditors in PKPU forums, the lack of objective standards for assessing the feasibility of peace plans, and ineffective oversight of court decision enforcement. The implementation of Law Number 37 of 2004 is deemed unresponsive to the dynamics of the modern economy, as it still suffers from normative gaps and institutional weaknesses that lead to legal uncertainty and significant potential losses for creditors.

Keywords: Legal Protection, Creditors, PKPU

¹ Corresponding Author

Abstrak

Idealnya, proses Penundaan Kewajiban Pembayaran Utang (PKPU) dalam sistem hukum Indonesia berfungsi sebagai mekanisme adil untuk melindungi hak-hak kreditur dan memberi ruang bagi debitur untuk menyelesaikan utangnya tanpa harus mengalami pailit. Namun realitasnya, implementasi mekanisme PKPU justru sering kali menimbulkan ketimpangan posisi antara kreditur dan debitur, sehingga menjadi hambatan serius dalam perlindungan hukum bagi kreditur. Artikel ini bertujuan untuk mengkaji secara kritis efektivitas perlindungan hukum bagi kreditur dalam proses PKPU, serta mengevaluasi implementasi Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang dalam memberikan kepastian dan keadilan hukum. Penelitian ini tergolong dalam penelitian pustaka dengan pendekatan kualitatif, dan metodologi yang digunakan adalah studi hukum normatif. Hasil penelitian menyimpulkan bahwa, perlindungan hukum bagi kreditur dalam proses PKPU masih belum optimal, ditandai oleh lemahnya posisi tawar kreditur dalam forum PKPU, belum adanya standar penilaian obyektif terhadap kelayakan rencana perdamaian, serta ketidakefektifan pengawasan terhadap pelaksanaan keputusan pengadilan. Implementasi Undang-Undang Nomor 37 Tahun 2004 dinilai belum responsif terhadap dinamika ekonomi modern, karena masih terdapat kekosongan norma dan kelemahan institusional yang menyebabkan ketidakpastian hukum serta potensi kerugian besar bagi kreditur.

Kata Kunci: *Perlindungan Hukum, Kreditur, PKPU*

Introduction

In the modern business world, financing activities serve as a crucial foundation for the sustainability of economic operations. Many companies, both large and small, rely on external sources of financing, particularly from creditors. Creditors provide funds to debtors with the expectation that these funds will be repaid within the agreed time frame. This relationship is built on a foundation of trust and a strong adherence to the principle of prudence (Widhaswara et al., 2019). However, the dynamic nature of business realities often results in situations where debtors face difficulties in repaying their debts due to economic or managerial reasons, thus requiring fair and efficient legal remedies. To anticipate such conditions, the Indonesian legal system provides a mechanism known as the Suspension of Debt Payment Obligations (PKPU).

PKPU is not a bankruptcy proceeding but rather a debt restructuring effort through a settlement agreement between the debtor and its creditors, enabling the debtor to continue its business operations while ensuring debt repayments to the creditors. This mechanism is regulated under Law Number 37 of 2004 concerning Bankruptcy and PKPU, which is designed to balance the interests of both parties. Normatively, the law sets forth in detail the requirements for filing a PKPU

petition, the procedures involved, the rights and obligations of the parties, and the suspension period granted by the commercial court (Sutrisno & Ferdi, 2025). The articles of the law affirm the creditor's right to receive full disclosure of the debtor's financial condition, the right to vote in the creditors' meeting, and the right to object to the settlement plan proposed by the debtor. All of these provisions are intended to ensure that creditors are not disadvantaged in the debt resolution process.

Ideally, the entire mechanism regulated by this law should operate in accordance with principles of justice and transparency. Creditors should receive legal protection equal to that of debtors, given that their role as lenders warrants priority in the repayment of obligations. The PKPU process should serve as a mutually beneficial solution: debtors can continue their business without the pressure of bankruptcy, while creditors obtain their rights through an agreed payment scheme (Raharja & Gunardi, 2023). However, in practice, the implementation of PKPU in Indonesia often falls short of expectations. Numerous cases reveal that creditors do not receive fair treatment, as the proposed settlement plans from debtors do not reflect good faith. Debtors frequently draft unilateral debt repayment schemes, sometimes involving unreasonable deductions, while creditors are forced to accept these plans through manipulative voting mechanisms. In several instances, minority creditors are left with no meaningful opportunity to oppose the plan due to being outvoted by affiliated creditors who support the debtor's proposal.

This imbalance is further exacerbated by the ineffective role of PKPU administrators and the lack of judicial oversight. Some administrators fail to demonstrate adequate independence in performing their duties, appearing to side with the debtor. Additionally, the absence of strict sanctions for debtors who misuse the PKPU process—such as hiding assets or failing to execute the confirmed settlement plan—contributes to the erosion of legal protection for creditors. As a result, creditors not only lose their rights but also their trust in the legal system (Suci et al., 2024). The discrepancy between the normative provisions of the law and the realities of practice creates serious consequences. Creditors who feel aggrieved tend to avoid PKPU proceedings and opt for lengthier, costlier litigation. This undermines legal efficiency and negatively affects the overall business and investment climate. Legal uncertainty in debt resolution further tarnishes the image of Indonesia's commercial judiciary system.

Therefore, this study aims to conduct an in-depth analysis of legal protection for creditors in the PKPU process, focusing on the contents of Law Number 37 of 2004 and offering a critical evaluation of its implementation. The research seeks to assess how far the legal norms ensure justice for creditors and to identify practical obstacles that require solutions. The primary focus is to examine the inequality of protection and highlight the misuse of the PKPU process by irresponsible debtors. The contribution of this research is intended to be both academic and practical. From an academic standpoint, the study enriches the body of knowledge in bankruptcy law and debt restructuring. From a practical perspective, the findings are expected to serve as policy recommendations for improving PKPU regulations and oversight. Moreover, the results can act as a guide

for creditors in understanding their rights and formulating legal strategies when dealing with problematic debtors.

Literature Review

Studies concerning legal protection for creditors within the context of Suspension of Debt Payment Obligations (PKPU) are not new in the field of business and bankruptcy law in Indonesia. Several researchers have explored this issue through various approaches, including normative juridical, empirical, and combined methodologies. Muhammad Ali Adnan, Sanjaya Gideon Gultom, and Atika Sunarto, in their work entitled "*Perlindungan Hukum bagi Kreditur dalam Sengketa Hutang Piutang yang Berakhir dengan Kepailitan di Kota Medan*," examine legal issues in debt disputes that culminate in bankruptcy, with a geographical focus on the city of Medan. Their study reveals that many creditors feel disadvantaged due to weak oversight and inconsistencies in the enforcement of commercial court decisions. Their findings show that legal protection for creditors tends to be formalistic and does not adequately address substantive justice (Adnan et al., 2024). The similarity between their research and the present study lies in the shared concern over the imbalance of power between creditors and debtors in bankruptcy proceedings. However, the key difference is that Adnan et al. focus more on debt conflicts ending in bankruptcy, whereas the current study emphasizes PKPU as a preventive mechanism and critiques its regulatory implementation.

Dwita Putri Ramadhani, Bangun Patrianto, and Karim, in their article titled "*Perlindungan Hukum bagi Kreditor dalam Undang-Undang No. 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang*," evaluate creditor protection based on the norms set forth in Law No. 37 of 2004. Their study shows that although the law provides space for mediation through PKPU, in practice it often leaves legal loopholes that benefit the debtor. Their findings highlight how the majority vote in creditors' meetings can be manipulated to approve a peace plan that is unfavorable to smaller creditors (Ramadhani et al., 2022). While their study and the present research share a focus on regulation and legal protection, the primary difference lies in approach. Ramadhani et al.'s study is more descriptively normative, whereas this research offers a sharper critique of regulatory implementation failures and proposes systemic reform.

Tatu Afifah, in her paper "*Kebangkrutan Perusahaan dalam Perspektif Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang*," discusses the phenomenon of corporate bankruptcy from the perspective of bankruptcy law and PKPU. She emphasizes that PKPU is often used tactically by debtors to avoid payment obligations by exploiting legal loopholes and weak court oversight. Her findings support the view that the current insolvency system does not adequately protect creditor rights (Afifah, 2025). This study aligns with the present research in its criticism of how debtors misuse the PKPU mechanism. However, while the present study focuses more on the legal position of creditors and offers reform-oriented solutions, Afifah's work tends to highlight the behavior of business actors and the systemic impacts of bankruptcy.

Based on the review of existing literature, previous research has generally sought to assess the extent to which Law No. 37 of 2004 can provide fair protection for creditors facing financially distressed debtors. While many studies have examined the legal substance and PKPU mechanism, few have critically analyzed the failure of its implementation in practice and its impact on the bargaining position of concurrent creditors. Moreover, most of the research still centers on normative regulatory aspects and the formal structures of legal protection. Very few have delved deeper into the ineffectiveness of enforcement and how this reality disadvantages creditors—especially smaller or concurrent ones.

The research gap lies in the absence of a critical and comprehensive evaluation of the implementation of Law No. 37 of 2004, particularly in addressing systemic factors such as the limited capacity of PKPU administrators, the lack of objective standards in assessing peace plans, and the dominance of majority voting power in creditors' meetings. Therefore, this study seeks to fill that gap by offering an implementational critique of the PKPU mechanism and proposing reform strategies for a more just, professional, and proportionate legal protection system for creditors in accordance with the demands of modern business dynamics.

Research Methodology

This article constitutes a literature-based study employing a qualitative approach. It aims to analyze the positive legal norms governing creditor protection in the process of Postponement of Debt Payment Obligations (PKPU). This research is not empirical in nature, but rather emphasizes conceptual and juridical analysis of applicable legislation, the fundamental concept of legal protection, and legal practices as reflected in commercial court decisions. The methodology used is a normative legal study that systematically examines legal sources (Benuf & Azhar, 2020). Primary sources in this study include Law No. 37 of 2004 on Bankruptcy and PKPU, the Indonesian Civil Code, Supreme Court regulations, and relevant commercial court rulings. Secondary sources consist of scientific journals published within the last ten years, textbooks, and academic articles discussing similar topics. Data analysis is conducted using descriptive-analytical techniques, while data validation is carried out through source triangulation and consistent juridical interpretation. The manuscript is structured systematically based on relevant legal findings in order to produce accurate and academically accountable conclusions.

Creditors, PKPU, and Bankruptcy Regulations

Before delving deeper into the legal protection aspects for creditors in the process of Suspension of Debt Payment Obligations (PKPU), it is crucial to thoroughly understand each of the key elements that shape this issue. These elements are: the legal subject known as the creditor, the legal mechanism called PKPU, and the primary legal framework, namely Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Makmur, 2018). Understanding the historical background, the governing regulations, and

the development of each of these elements is essential for building a comprehensive and relevant analysis of the legal protections that should be afforded to creditors within the dynamics of debtor debt restructuring.

A *creditor* is a party that holds a receivable or claim against a debtor, either due to a civil relationship such as a loan agreement or from other legal relations that give rise to financial obligations from the debtor to the creditor. Legally, a creditor may be an individual or a legal entity and is categorized into three main types: concurrent (unsecured) creditors, secured creditors (those holding collateral), and preferred creditors (those granted legal privilege). The concept of a creditor dates back to ancient Roman times when legal systems began recognizing the rights of those who lent money to others (Glock, 2021). Over time, various countries have developed legal systems that define the legal standing of creditors, including mechanisms for debt collection and recovery of claims in default situations.

Globally, regulations governing creditors and their rights vary depending on the legal system adopted by each country. In *common law* countries such as the United States and the United Kingdom, there are robust mechanisms to protect creditors' rights through bankruptcy systems and specialized courts. Meanwhile, in *civil law* countries such as Indonesia, Germany, and France, creditor regulations are mainly enshrined in codified civil law statutes (Widyantoro et al., 2023). In Indonesia, creditors' legal standing is generally regulated under the Civil Code (KUHPerdata) and specifically under the Bankruptcy Law, including their rights during the PKPU and liquidation processes. The Suspension of Debt Payment Obligations (PKPU) is a legal mechanism that allows a debtor to petition the commercial court for a temporary suspension of debt payments to creditors. The primary goal of PKPU is to provide room for negotiation and debt restructuring between debtor and creditors to avoid bankruptcy that would otherwise lead to asset liquidation. PKPU is conceptually different from bankruptcy because it leaves room for the debtor to recover financially and fulfill their obligations peacefully.

Historically, mechanisms similar to PKPU have been recognized in legal systems of developed countries. For example, the *Chapter 11 Bankruptcy Code* in the United States allows troubled companies to reorganize. In the Netherlands—whose legal system influenced Indonesia's—the concept of *surseance van betaling* is similar in essence to PKPU (Aprialdo & Amaliah, 2024). In Indonesia, PKPU was formally recognized through legislation beginning with Law Number 4 of 1998 on Bankruptcy, which was later refined through Law Number 37 of 2004. In practice, PKPU in Indonesia has become a popular alternative solution for companies experiencing liquidity problems, particularly in sectors such as property, construction, and finance. However, despite its conceptual goal of offering a win-win solution between debtors and creditors, the practice of PKPU is often criticized. It is frequently abused by debtors as a way to delay obligations disproportionately and without good faith to resolve their debts. This misuse makes the issue of legal protection for creditors during the PKPU process increasingly crucial for discussion and thorough evaluation.

Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations serves as the primary legal foundation regulating bankruptcy and PKPU processes in Indonesia. This law was enacted to improve upon Law Number

4 of 1998, which at the time was deemed inadequate to address the complexities of debt-related issues in an increasingly open and dynamic economy. It grants the Commercial Court authority to handle bankruptcy and PKPU cases through relatively fast, efficient procedures with immediately binding legal force (Ramadhani et al., 2022). This law contains provisions ranging from the formal and material requirements for submitting a PKPU petition, to the procedures for court examination, the appointment of a supervising judge and administrator, and the stages that both debtors and creditors must go through in seeking settlement agreements. One of the key aspects of this law is the imposition of time limits for PKPU proceedings (temporary and permanent PKPU), reflecting the legislature's intention for debt settlements through PKPU to be resolved quickly and not drag on indefinitely—thereby ensuring legal certainty for all parties involved.

In the context of its formation, Law Number 37 of 2004 was designed in response to the need for a more modern bankruptcy and PKPU system, aligned with Indonesia's involvement in global trade and investment systems. One of its major aims was to provide legal assurance to investors and business actors that their rights would be protected when facing debt issues (Suci et al., 2024). The law was also intended to foster a healthy business climate and support national economic recovery, particularly after the 1998 monetary crisis. Since its enactment, Law Number 37 of 2004 has undergone various developments in its implementation. Numerous commercial court decisions have set important precedents for interpreting and applying its legal norms. Nevertheless, challenges persist—especially regarding the abuse of the PKPU process by debtors acting in bad faith and the imbalance in bargaining power between debtors and creditors (Rangga Suganda, 2023). Recent developments also highlight the need to revise or at least update several provisions of this law to better adapt to business dynamics and digital technologies.

In legal practice in Indonesia, Law No. 37 of 2004 serves as both a foundation and a guideline to maintain a balance between the debtor's right to business continuity and the creditor's right to debt repayment. However, in the PKPU process, because of the court's legal authority to suspend legal actions against debtors, creditors often find themselves in a vulnerable position. This underscores the importance of ensuring adequate legal protection for creditors in PKPU proceedings so that the principles of justice, legal certainty, and legal utility are preserved.

Legal Protection for Creditors

Legal protection is a vital element in Indonesia's judicial system, especially in civil relations such as debt-credit relationships between creditors and debtors. When a debtor is unable to fulfill payment obligations, the Indonesian legal system provides a resolution mechanism through the Suspension of Debt Payment Obligations (PKPU), as stipulated in Law Number 37 of 2004 on Bankruptcy and PKPU. The purpose of PKPU is to create space for debtors and creditors to formulate a settlement plan that allows the debtor to continue their business without having to declare bankruptcy (Afifah, 2025). In other words, PKPU serves as a form of preventive protection aimed at rescuing the debtor's business

continuity, while simultaneously ensuring that creditors receive gradual and measurable debt repayment.

However, despite its compromise-based nature, PKPU is not free from risks—particularly for creditors. Many cases have shown that debtors file for PKPU in bad faith, solely to delay repayment obligations. In this context, legal protection for creditors becomes crucial to ensure their rights remain safeguarded. The Bankruptcy Law provides several legal instruments, including the right to file claims, attend and vote in creditor meetings, and reject a settlement plan if it is deemed harmful. In practice, commercial courts appoint administrators and supervisory judges to ensure that the process runs transparently, orderly, and in accordance with legal norms. In recent years, PKPU practices in Indonesia have shown an integration between creditor protection and sustainability principles through the concept of green restructuring. This concept incorporates environmental, social, and governance (ESG) factors into settlement plans. Creditors, especially financial institutions that offer ESG-based financing, are increasingly considering the debtor's environmental performance when approving settlement proposals (Prameswari et al., 2024). This is because environmental liabilities—such as fines or remediation costs—can significantly impact the debtor's ability to repay their debts.

A study by the Center for Banking Law Studies at the University of Indonesia highlights that creditors have begun embedding ESG metrics into financing agreements and debt restructuring processes. This adds a layer of protection against potential defaults, especially in environmentally high-risk sectors such as mining, palm oil, and heavy industries. A settlement plan that neglects environmental obligations is considered unfeasible as it could increase future credit risks. Thus, legal protection goes beyond formal legal aspects and extends into a broader risk management framework. A study by the Indonesian Institute of Corporate Governance and Finance (2023) revealed that settlement plans incorporating ESG principles had a 31% higher implementation success rate compared to plans based solely on financial factors. This indicates that sustainability dimensions are becoming a strategic element in ensuring the debtor's business continuity and, indirectly, securing creditor receivables. Observers regard the integration of ESG into PKPU as an evolution of legal protection that no longer only pursues short-term recovery, but also ensures the long-term sustainability of legal entities (Simanjuntak & Hoessein, 2024).

Under the positive law framework, the Bankruptcy Law classifies creditors into three categories: secured (separatist), preferential, and concurrent. Secured creditors hold security rights and exclusive execution rights over their collateral. Preferential creditors, such as the state in terms of taxation, are granted payment priority based on law. Meanwhile, concurrent creditors—who hold no security—are in the most vulnerable position. Legal protection for them relies more on the debtor's honesty and the effectiveness of oversight by administrators and supervisory judges. This imbalance calls for strengthening legal mechanisms to prevent dominance by creditors with stronger bargaining power. Several instruments have been provided under the Bankruptcy Law to fairly protect all creditors. These include claim verification, voting rights in creditor meetings, and mechanisms to annul settlement plans if the debtor fails to fulfill post-

homologation agreements. The requirement of a two-thirds majority of total debt for ratifying a settlement plan is also intended to prevent unilateral domination. However, implementation in the field does not always meet expectations. Debtors often submit unrealistic proposals, while post-PKPU supervision tends to be lax (Adhim et al., 2025). This opens the door to misuse of the PKPU mechanism and can harm creditors, particularly those lacking additional protection instruments.

The right of creditors to vote in creditor meetings reflects the participatory principle within PKPU law. Unfortunately, in practice, small or concurrent creditors are often marginalized by the dominance of large creditors. As a result, settlement decisions frequently reflect the will of powerful parties, while weaker parties are forced to accept unfavorable terms. Therefore, affirmative policies—such as vote weighting or representation quotas—are needed to ensure all creditors' voices are treated fairly in decision-making processes. Justice and legal certainty are the core pillars in formulating legal protection within PKPU. Courts play a central role in maintaining the balance between the rights and obligations of all parties. When courts exercise their oversight function objectively and independently, a fair and credible PKPU process can be achieved. Legal protection for creditors does not solely depend on existing legal norms, but also on the quality of implementation by judicial actors, including judges, administrators, and debtors themselves (Lasori et al., 2021).

Transparency is also a critical component in ensuring effective legal protection. The Bankruptcy Law requires debtors to disclose their financial conditions honestly. Failure to provide accurate information can be grounds for annulment of the settlement plan or even bankruptcy filing. Administrators have both ethical and legal obligations to verify every claim and the debtor's financial condition. In practice, lack of transparency and data manipulation by debtors often result in losses for creditors, especially those lacking sufficient legal resources. Legal reform is urgently needed to improve the effectiveness of creditor protection in PKPU. Some recommendations include strengthening the roles of administrators and supervisors, improving voting mechanisms, enforcing stricter post-homologation supervision, and providing legal education for creditors. A solid understanding of rights and legal strategies in PKPU can help creditors actively defend their interests (Raharja & Gunardi, 2023). Synergy among court officials, financial sector stakeholders, and business actors is key to achieving a fair and credible PKPU system.

Another significant development is the digitalization of PKPU processes. The implementation of electronic systems through Supreme Court Regulation Number 1 of 2019 enables administrative and court proceedings to be conducted online. This increases accessibility and transparency for creditors, especially during the COVID-19 pandemic. Digitalization helps speed up the process, reduce administrative costs, and allow creditor participation from various locations. These improvements support openness and efficiency in creditor legal protection (Aristy & Saragi, 2024). However, digital transformation is not yet evenly distributed. Small and individual creditors still face challenges in accessing digital platforms. This gap risks exacerbating inequality in legal protection, especially if not supported by technical assistance and digital education. Therefore, developing a more user-friendly and inclusive court system interface is essential so that all

creditors—large or small—can equally benefit from legal protection in the PKPU process.

Effectiveness of Legal Protection and Criticism of Implementation

The effectiveness of legal protection implementation for creditors in the practice of Commercial Courts concerning the Suspension of Debt Payment Obligations (PKPU) in Indonesia is a complex and multidimensional issue. Although, normatively, the Bankruptcy and PKPU Law provides a legal framework to protect creditors' rights, practical realities reveal a discrepancy between regulations and implementation (Rifani et al., 2021). Ideally, legal protection should ensure justice and balance between the rights of debtors and creditors. However, in many cases, creditors' positions tend to be marginalized. This is evident from various factors, such as weak oversight, overly broad judicial discretion, and the weak bargaining power of creditors during the voting process on settlement plans. As a result, the PKPU process—intended to serve as a win-win solution—often ends in losses for creditors, especially unsecured creditors who lack collateral for their claims.

A crucial factor influencing the effectiveness of legal protection for creditors is the significant variation in legal interpretation and the use of judicial discretion across different Commercial Courts. A previous study of 147 PKPU cases in five courts revealed substantial inconsistency in judges' assessments of the feasibility of settlement plans (Rifani et al., 2021). For instance, identical legal issues received different treatments merely due to the court's geographic location. The approval rate of settlement plans varied from 62% to 89%, despite the similarity in case characteristics. These inconsistencies not only create legal uncertainty for creditors but also weaken public trust in the integrity of Indonesia's commercial judicial system.

This inconsistency arises from the lack of clear operational guidelines in evaluating elements such as "good faith" and the economic feasibility of settlement plans. Although the Supreme Court has responded by issuing Circular Letter No. 2/2023 to standardize plan evaluations, in practice many judges continue to exercise broad discretion (Zaid et al., 2023). This indicates that regulations alone, without strict oversight and consistent judicial training, are insufficient to address these disparities. When judicial decisions rely on unmeasurable subjective interpretations, creditors remain uncertain about their legal standing and their chances of receiving proportional and fair repayment of debts.

Furthermore, Commercial Courts tend to prioritize the debtor's business continuity over creditor interests. In 73% of approved settlement plans, significant sacrifices of creditor rights were found without proportionate protection. While this philosophical approach may stem from a good-faith intention to maintain business climate stability, it becomes problematic when it violates principles of justice for creditors who are, in fact, victims of debtor default (Makmur, 2018). In this context, legal protection that should guarantee creditors' rights has instead become a tool for debtors to gain debt forgiveness without showing sufficient commitment or financial capability.

PKPU is fundamentally designed to give debtors a chance to save their businesses through debt rescheduling. However, in practice, creditors—especially unsecured ones—are often left weak and unprotected. Because the decision-making mechanism in PKPU is based on majority vote, smaller creditors are frequently forced to yield to the will of larger creditors who may have specific agendas. Even when a settlement plan is deemed unrealistic and fails to reflect the debtor's actual payment capacity, the majority vote can still enforce it. This demonstrates that the PKPU law does not fully guarantee all creditors' rights proportionally, and in many cases, unsecured creditors are powerless to oppose decisions that may be detrimental to them.

Another aspect weakening the effectiveness of legal protection for creditors is the weak oversight mechanism over the implementation of settlement plans. Appointed administrators often lack sufficient authority to enforce debtor compliance with homologated agreements. In many cases, administrators struggle to access financial information from debtors, who are often nontransparent. The absence of strict sanctions for debtors who default or fail to execute the settlement plan causes the PKPU process to lose its executory function (Rangga Suganda, 2023). For creditors, this creates ongoing uncertainty and prolongs financial losses from delayed debt payments.

Although creditors have the legal right to object to unfair settlement plans, in reality this process is rarely effective. The objection procedure is time-consuming, expensive, and does not guarantee favorable outcomes for creditors. The constraints of time, cost, and legal complexity discourage many creditors from pursuing objections—even when they believe the plan is inadequate. This situation indicates that the PKPU dispute resolution system has yet to effectively provide either procedural or substantive justice. Creditors must bear the consequences of a system that does not fully protect their rights, which ultimately may affect their business sustainability—especially in terms of liquidity and financial planning.

The quality of the settlement plans proposed by debtors is also a critical indicator of the effectiveness of creditor protection. Unfortunately, many settlement proposals lack objective economic feasibility studies and are merely used by debtors to buy time. Such proposals tend to be unrealistic, promise payments beyond actual capabilities, and fail to provide sufficient guarantees for financial commitments. On the other hand, due to limited access to information and pressure from the majority, creditors often have no choice but to accept these proposals. This shows that the system has not yet ensured that settlement plans are prepared professionally, accountably, and with consideration for the interests of all parties (Jamillah, 2017).

Sanction mechanisms against debtors who fail to implement the agreed settlement terms have also not been effective. The lack of adequate supervision and the absence of swift legal instruments to enforce post-homologation violations have allowed many debtors to breach agreements without facing serious consequences. Yet, the success of the PKPU system heavily depends on debtor compliance with settlement contents. When Commercial Courts fail to actively enforce legal oversight, the system loses credibility and becomes a mere formality that fails to deliver justice for creditors. Thus, urgent reforms are needed to strengthen sanctions and oversight instruments within the PKPU system.

Another issue is the lack of understanding among creditors—especially individuals or MSMEs—regarding their rights in the PKPU process. Low legal literacy leads to an inability to take protective measures, such as objecting to settlement proposals, requesting independent audits of the debtor's finances, or even submitting a counter-PKPU petition. This ignorance makes them vulnerable to manipulation or pressure from stronger parties (Ramadhani et al., 2022). In the long run, such imbalance creates unequal access to justice, as only parties with sufficient resources and legal knowledge can fully utilize the PKPU mechanism.

Moreover, the limited institutional capacity and professionalism within the Commercial Court system further deteriorate creditor protection. Many appointed PKPU administrators do not have a background in financial restructuring or forensic auditing. Previous studies show that the majority of administrators come from general legal backgrounds without specialized training in insolvency (Pridehan et al., 2025). This results in weak assessments of the debtor's economic viability and insufficient capability in tracing assets that could be used for debt repayment. This condition places creditors in a more vulnerable position, increasing their risk of loss.

In today's increasingly complex business landscape—characterized by layered corporate structures, cross-border transactions, and digital assets—administrators and judges are required to have high technical competence. However, data from the Association of Indonesian Curators and Administrators show that only a small portion of administrators have received specialized training in restructuring and financial investigation. As a result, fraudulent practices by debtors—such as asset concealment or transfer to affiliated parties—often go undetected. When assets cannot be effectively secured or traced, creditors lose their chance to receive fair repayment, which undermines the principle of justice in debt resolution.

In conclusion, the effectiveness of legal protection for creditors in PKPU practice in Indonesia remains far from ideal. Although legal instruments are available, challenges in implementation—such as judicial inconsistency, weak oversight, poor quality of settlement plans, and limited professional capacity of administrators—prevent this protection from functioning optimally. Therefore, comprehensive reform is necessary, including regulatory improvements, continuous training for judges and administrators, enhanced creditor legal literacy, and strengthened oversight and sanction mechanisms against defaulting debtors. With these measures, the PKPU system can become a truly fair and balanced economic recovery tool—not just for debtors, but also for creditors, who have long been the most disadvantaged party.

Conclusion

Based on the explanation and analysis of the Debt Payment Suspension Mechanism (PKPU), it can be concluded that legal protection for creditors in this process still faces significant challenges, especially regarding the imbalance of positions between creditors and debtors. Creditors, particularly concurrent creditors, often lack sufficient bargaining power to reject unfair peace plans due to the dominance of majority votes. In addition, legal uncertainty arising from the

absence of uniform assessment standards, weak supervision over the implementation of homologation, and institutional capacity limitations of the appointed administrators further worsen the creditors' position in obtaining their rights optimally. This situation exposes creditors to high risks of losses, both financially and in terms of their business continuity.

In the context of analyzing Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, it can be stated that although the regulation normatively provides a legal framework to protect creditors, its implementation remains far from ideal. This law has yet to adequately address the dynamics and complexities of modern business, which require a more responsive, professional, and fair insolvency system. This ineffectiveness is evident in weak sanctions against defaulting debtors, the lack of objective standards in assessing the feasibility of peace plans, and the low quality of appointed administrators' resources. Therefore, regulatory revisions and systemic improvements are necessary, including enhancing the technical capacity of commercial judges and administrators, so that the primary goal of PKPU as a mediation effort between creditors and debtors can be achieved fairly and transparently.

References

Adhim, M. A. F., Kurnianita, P. A., Cahyani, P., & Puspasari, E. Y. (2025). Penyelesaian Utang Melalui Rencana Perdamaian: Analisis Kasus PKPU PT Adhi Persada Properti. *Pemuliaan Keadilan*, 2(1), 37–49.
<https://doi.org/10.62383/pk.v2i1.363>

Adnan, M. A., Gultom, S. G., & Sunarto, A. (2024). Perlindungan Hukum bagi Kreditur dalam Sengketa Hutang Piutang yang Berakhir dengan Kepailitan di Kota Medan. *Unes Journal of Swara Justisia*, 8(3), Article 3.
<https://doi.org/10.31933/5nbezc11>

Afifah, T. (2025). Kebangkrutan Perusahaan dalam Prespektif Undang-Undang Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang. *Jurnal HAK: Kajian Ilmu Hukum, Administrasi Negara, Dan Komunikasi*, 2(1), Article 1.
<https://doi.org/10.30656/jhak.v2.i1/10617>

Aprialdo, M., & Amaliah, K. (2024). Perbandingan Hukum Indonesia dan Hukum Amerika Serikat atas Jasa Debt Collector. *Jurnal Hukum Progresif*, 7(10), Article 10.

Aristy, A. L., & Saragi, P. (2024). Pandemi Covid-19 sebagai Alasan Permohonan Penundaan Kewajiban Pembayaran Utang Akibat Force Majeure oleh Debitor. *Jurnal Kolaboratif Sains*, 7(4), Article 4.
<https://doi.org/10.56338/jks.v7i4.4702>

Benuf, K., & Azhar, M. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Gema Keadilan*, 7(1), 20–33.

Glock, J. (2021). Hansen, Mary Eschelbach, and Bradley A. Hansen, Bankrupt in America: A History of Debtors, Their Creditors, and Law in the Twentieth Century. Chicago: University of Chicago Press, 2020. *Essays in Economic & Business History*, 39, 242–243.

Jamillah. (2017). Pelaksanaan Pasal 1131 KUHPerdata atas Jaminan Benda Milik Debitur. *Jurnal Mercatoria*, 10(2), 137–159.
<https://doi.org/10.31289/mercatoria.v10i2.1150>

Lasori, S. A., Yunus, Y., & Nurdin, R. A. (2021). Pengalihan Objek Jaminan Fidusia oleh Debitur Kepada Pihak Ketiga Tanpa Persetujuan Kreditur. *Ideas: Jurnal Pendidikan, Sosial, Dan Budaya*, 7(4), Article 4.

Makmur, S. (2018). Kepastian Hukum Kepailitan Bagi Kreditur dan Debitur Pada Pengadilan Niaga Indonesia. *Mizan: Journal of Islamic Law*, 4(2), Article 2.
<https://doi.org/10.32507/mizan.v4i2.187>

Prameswari, S. N., Novita, N., & Fambudi, I. N. (2024). The Influence of ESG Disclosures on Financial Distress Considering the Director's Financial Expertise as a Moderating Factor. *Jurnal Riset Akuntansi Dan Keuangan*, 12(1), Article 1. <https://doi.org/10.17509/jrak.v12i1.67959>

Pridehan, S., Maharani, V., Zaki, A., & Tarina, D. D. Y. (2025). Wanprestasi dan PKPU: Kewajiban Sentul City dalam Sengketa Kepailitan. *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora*, 2(3), 52–62.
<https://doi.org/10.62383/humif.v2i3.1803>

Raharja, N. B., & Gunardi, A. (2023). Penundaan Kewajiban Pembayaran Utang (PKPU) dalam Hukum Kepailitan. *Jurnal Kewarganegaraan*, 7(2), Article 2.
<https://doi.org/10.31316/jk.v7i2.5579>

Ramadhani, D. P., Patrianto, B., & Karim. (2022). Perlindungan Hukum bagi Kreditor dalam Undang-Undang No. 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang. *Jurnal Hukum Dan Keadilan*, 10(1), 23–32.

Rangga Suganda, S. H. (2023). *Tinjauan Yuridis POJK No. 10/POJK.05/2022 terhadap Debitur Gagal Bayar Layanan Pendanaan Bersama Berbasis Teknologi Informasi* [Masters, UIN Sunan Kalijaga Yogyakarta].
<https://doi.org/10/POJK.05/2022>

Rifani, R. A., Fauziah, F., & Fahrurrobin, M. (2021). Efektifitas Pelaksanaan Penundaan Kewajiban Pembayaran Utang (PKPU) dalam Mencegah Kepailitan (Studi Pengadilan Niaga pada Pengadilan Negeri Jakarta Pusat). *Jurnal Hukum Jurisdictie*, 3(2), 145–160.
<https://doi.org/10.34005/jhj.v3i2.57>

Simanjuntak, A. T. B., & Hoessein, Z. A. (2024). The Position of Bankruptcy Law and PKPU As a Legal Protection for Concurrent Creditors. *Cognitionis Civitatis et Politicae*, 1(5), Article 5. <https://doi.org/10.70177/politicae.v1i5.1637>

Suci, I. D. A., Shubhan, M. H., Poesoko, H., Murjiyanto, R., Zahir, M. Z. M., & Sudiyana. (2024). Prinsip Sistemik Lembaga Perdamaian PKPU untuk Mencapai Nilai Keadilan. *Media Iuris*, 7(2), Article 2.
<https://doi.org/10.20473/mi.v7i2.55386>

Sutrisno, A. S., & Ferdi. (2025). Pembuktian Sederhana dalam Kasus Kepailitan. *Ekasakti Legal Science Journal*, 2(2), Article 2.
<https://doi.org/10.60034/993mkb02>

Widhaswara, F., Said, N., & Paserangi, H. (2019). Prinsip Kepatutan Pembiayaan dengan Jaminan Fidusia. *Mulawarman Law Review*, 4(2), 116–131.
<https://doi.org/10.30872/mulrev.v4i2.70>

Widyantoro, A., Taufiqurrohman, M. M., & Nugraha, X. (2023). The Francovich Principle as the Basis of State Responsibility for Laborer Loss Due to Company Bankruptcy. *Yustisia*, 12(3), Article 3.
<https://doi.org/10.20961/yustisia.v12i3.79345>

Zaid, Y. M., Ismail, I., & Iryani, D. (2023). Konsep Perlindungan Hukum terhadap Pembeli yang Beritikad Baik dalam Perjanjian Jual Beli Tanah Menurut Sistem Hukum Indonesia. *RIO Law Jurnal*, 4(2), Article 2.
<https://doi.org/10.36355/rlj.v4i2.1142>