

The Dynamics Of Bankruptcy Law And Its Influence On The Investment Climate: A Comparative Study Between Indonesia And Thailand

¹Yuhelson, ²Nur Hakim, ³Atchara Salee

^{1,2}Jayabaya University, Indonesia, ³Rajamangala University Of Technology Krungthep, Thailand

¹yuhelson@jayabaya.ac.id, ²dr.nurhakim@pascajayabaya.ac.id ³atchara.s@mail.rmutk.ac.th

ABSTRACT

This study aims to analyze the dynamics and effectiveness of bankruptcy law in Indonesia and Thailand through a comparative law approach. Thailand regulates bankruptcy through the Bankruptcy Act B.E. 2483 (1940) and its amendments, while Indonesia uses Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations. The study focuses on the legal framework, procedural mechanisms, the role of judicial institutions, and creditor protection. The analysis results show that Thailand implements a centralized system through the Central Bankruptcy Court, which features specialized judges, a concise procedure, and the role of an official receiver as a state official in debt liquidation and reorganization. In contrast, Indonesia has a more open access to filing for bankruptcy for various parties. Still, it faces obstacles such as long resolution times, differing interpretations among courts, and issues with the cost and independence of curators. From the perspective of creditor protection, Thailand is more prominent because it provides legal certainty and encourages restructuring. At the same time, a liquidation pattern still dominates Indonesia due to the weak implementation of the PKPU mechanism. Therefore, it can be concluded that the Thai system is more effective in the aspects of efficiency, consistency, and business continuity. At the same time, Indonesia excels in access openness but faces challenges in the practical resolution of the bankruptcy process.

Keywords: Bankruptcy, Thailand, Indonesia, Comparative Law.

Introduction

Bankruptcy is an important legal instrument for settling debt disputes and a means of debt restructuring. Each country has different regulations regarding the procedures and institutions that handle bankruptcy. Thailand and Indonesia are similar in that they use bankruptcy as a legal means to regulate the relationship between creditors and debtors. Still, there are significant differences in jurisdiction, procedures, and the effectiveness of their implementation.

Bankruptcy occurs when a debtor is unable to make payments on a debt that is due and payable to one or more creditors. This condition typically begins with a decline in income, business losses, poor management, or a debt burden that exceeds their financial capacity. The causes can be internal factors, such as a flawed business strategy, ineffective capital management, or asset misuse, as well as external factors like economic fluctuations, intense competition, changes in government policy, or a global crisis. Law Number 37 of 2004 concerning Bankruptcy and PKPU provides a legal mechanism for a debtor's assets to be managed by a curator under the supervision of a supervisory judge. The purpose of bankruptcy is not just a sanction for the debtor, but a collective, transparent, and orderly settlement of debt to protect the interests of creditors (Husni, I., Hakim, N., & Pandiangan, R. (2025), Therefore, a law is needed that can protect the rights of the parties involved in a case and handle it more efficiently and quickly.

Thailand and Indonesia acknowledge that bankruptcy is a legal means to resolve debt disputes collectively and fairly. However, these two countries still have many differences in their judicial structure and centralization of jurisdiction.

The resolution of bankruptcy cases in Indonesia can be described as far from ideal. Likewise, the regulations in Law No. 37/2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (hereinafter abbreviated as UUK) must be revised immediately (Khairazi, R, & Heiawan, A. R, 2021). Fundamentally, the primary goal of bankruptcy law is to protect the rights of creditors, which can be done through a restructuring scheme or asset liquidation. In this context, the principle of business continuity (going concern) is very crucial, as it offers greater potential for recovery for all parties. Although Indonesia's bankruptcy law, as outlined in Law Number 37 of 2004, provides a legal basis for this principle through the PKPU mechanism and the duties of a Curator to manage bankrupt assets, its implementation still faces challenges. This paper will analyze the effectiveness of the principle of business continuity (going concern) in Indonesia by critically comparing it with the bankruptcy legal system in Thailand, which is considered more successful in encouraging business restructuring. This study focuses on "The Effectiveness of Bankruptcy Law in Thailand and Indonesia: A Comparative Study.

1. How are bankruptcy laws regulated in Thailand and Indonesia?
2. How effective is the implementation of bankruptcy law in Indonesia compared to in Thailand?
3. How does the impact of bankruptcy law in Indonesia and Thailand affect the investment climate in both countries?

Methods Research

The research method employed is normative juridical, utilizing legal materials such as laws and regulations, court decisions/rulings, legal theories, and the opinions of legal experts. This research examines principles, systematics, synchronization levels, history, and comparative law, also known as doctrinal legal research (Bambang Sunggono, 1997). It is also referred to as legal dogmatic research (dogmatic legal research) (Wiwik Sri Widiarty, 2004).

Results and Discussion

Bankruptcy Law Regulations in Thailand and Indonesia

Bankruptcy Law in Thailand

a. History of Thai Bankruptcy Law

Thailand is an ASEAN member country, just like Indonesia. Thailand is a country that adheres to the Civil Law system. The current Thai Bankruptcy Law is the Bankruptcy Act B.E. 2483, which was enacted in 1940 and amended in 1968, 1983, and 1999. The Act regulates liquidation for both individuals and corporations. Similarly, the Law on Bankruptcy and Suspension of Debt Payment Obligations does not differentiate between bankruptcy for individuals and corporations (Cynthia M. Pornavalai, 2025).

According to the Bankruptcy Act B.E. 2483, when a creditor files for bankruptcy against their debtor, the creditor must prove that the debtor is insolvent. The Thai Supreme Court (the Thai Supreme Court) holds that a debtor is insolvent when their total liabilities exceed their total assets. Therefore, creditors cannot use the law to threaten bankruptcy against a solvent debtor who is paying their debts. In the Nikka Hotel Mahanakorn case in

1998, creditors were unable to sue for bankruptcy against a debtor who owned land of very high value (Hijratarul Pahsyah,2025). The first reform of the Thai Bankruptcy Law occurred in early 1998 when the Thai House and Senate approved the enactment of The Bankruptcy Act No.4, B.E. 2541. This law regulates the rehabilitation procedure. To initiate a rehabilitation, the creditor must prove the debtor's insolvency and can petition the court for a restructuring.

In February 1999, the Senate approved the Act For The Establishment of Procedure for Bankruptcy Court. This law perfected the implementation of the Bankruptcy Act by establishing a specialized court; no court of first instance can receive and decide on liquidation or rehabilitation cases. According to Article 15, "The bankruptcy court shall proceed with trial of a case consecutively without adjournment until completion thereof unless it is an unavoidable necessity." With this provision, bankruptcy cases will no longer drag on for years. The Bankruptcy Act No.5, B.E. 2542, was also enacted in the first part of 1999. This law softened the requirements for approving a plan, expanded the ability of financially distressed firms to raise capital, limited the authority of the court, and enhanced the avoidance powers of the planners based on the Bankruptcy Act B.E. 2541. A plan requires a special resolution, or the approval of half the number of creditors and three-quarters of the value of the creditors' claims.

In June 2004, the Kingdom of Thailand enacted an amendment to the Thai Bankruptcy Act. The new amendments, codified into the Bankruptcy Act (No.7) B.E. 2547 (2004), became effective on July 16, 2004, one day after being published in The Thai Government Gazette.

The Amendment was enacted after the 1997 Asian Financial Crisis. In this era of technological advancement, a financial crisis that occurs in one country can easily spread to various other nations. The world is now more connected than ever before through sophisticated international trade and electronic commerce, so it is not surprising that the 1997 Asian financial crisis influenced the global economy. The purpose of enacting the Amendments was to modernize the Thai Bankruptcy Law by, among other things, including Chapter 3/1, which deals with business reorganization. The new law also aimed to fill the gaps in the old law. With the enactment of the amendment, a special court was established to examine and decide on bankruptcy cases.

b. The History of Indonesian Bankruptcy Law

The development of the global economy has an impact on the evolution of law, particularly commercial law, which is the engine of the economy. This impact stems from the globalization of law, which has led developing countries to adjust their regulations on investment, trade, services, and other economic sectors to more closely align with those of developed nations (convergence) (Erman Radjagukguk,2017).

Indonesian bankruptcy law is an inheritance from the Dutch colonial government, which embraced the Continental European legal system. However, its development shows a significant influence from the Anglo-Saxon legal system. Therefore, the Continental European legal system is not applied in its pure form within the Indonesian legal framework of bankruptcy law (Yuhelson,2019). The history of legal rules entering Indonesia is closely tied to the introduction of the Wetboek van Koophandel (Commercial Code) to the country. This is because bankruptcy regulations were previously found in Book III of the Commercial Code. However, this rule was eventually revoked from the Commercial Code, and a new, independent bankruptcy law was established. This bankruptcy rule was named the

Faillissementsverordening, which was enacted based on State Gazette Number 276 of 1905 and State Gazette Number 348 of 1906. The term Faillissementsverordening itself is interpreted in various ways by Indonesian legal scholars. Some translate it as "Bankruptcy Regulations" (PK). However, Subekti and Tjitrosidibio, in their work, which serves as a reference for many academics, stated that the Faillissementsverordening can be translated as the "Bankruptcy Law" (UUK).

This Bankruptcy Law, a legacy of the Dutch East Indies government, was in effect for a relatively long period, from 1905 to 1998, a span of 93 years. During the Japanese occupation, the law was temporarily suspended, and the Japanese occupying government created an Emergency Bankruptcy Law to address bankruptcy issues at the time. However, after Japan left Indonesia, the Dutch bankruptcy laws were reinstated (Hendri Jayadi, 2021). The year 1952 marked a significant milestone in the history of bankruptcy law in countries with a common law legal tradition, which originated from and was pioneered by Great Britain. As history shows, bankruptcy law was enacted by parliament during the reign of King Henry VIII as a law called the Act Against Such Person as Do Make Bankrupt (Munir Fuady, 1998). This law essentially treated bankruptcy as a punishment for dishonest debtors who had no good faith to pay their debts while concealing their assets. On the other hand, the law also granted certain rights to a group of creditors that individual creditors did not possess.

The history of bankruptcy rules in Indonesia is closely tied to the introduction of the Wetboek van Koophandel (Commercial Code) into the country. This is because bankruptcy regulations were previously found in Book III of the Commercial Code. However, the rule was eventually called the Faillissementsverordening, which was enacted based on State Gazette Number 276 of 1905 and State Gazette Number 48 of 1906. The term Faillissementsverordening can be translated as the "Bankruptcy Law" (UUK). This Bankruptcy Law, a legacy of the Dutch East Indies government, was in effect for a relatively long period, spanning from 1905 to 1998, a duration of 93 years. During the Japanese occupation, the law was temporarily suspended, and the Japanese government created an Emergency Bankruptcy Law to address bankruptcy issues at the time. However, after Japan left Indonesia, the Dutch bankruptcy laws were reinstated.

The development of bankruptcy law in Indonesia has been influenced by legal globalization, which requires adjusting regulations to meet the standards of developed countries. According to Hendri Jayadi, this change was a response to the dynamic market needs following the national economic crisis, especially the one that occurred in mid-1997. From a financial perspective, data from the think tank Econit Advisory Group is noteworthy, which stated that 1997 was "a year of uncertainty," while 1998 was "a year of correction." In mid-1997, the rupiah's exchange rate against foreign currencies, particularly the US dollar, drastically depreciated from around Rp2,300 in March to about Rp5,000 per US dollar by the end of 1997. By mid-1998, the rupiah's exchange rate even reached Rp16,000 per US dollar. This economic condition led to a downturn in economic growth, which had previously been positive at around 6-7% but had contracted to a negative 13-14%. The inflation rate increased from below 10% to around 70%. Many companies had difficulty paying their debt obligations to creditors, and many more went bankrupt. Therefore, a government regulation, rather than a law (Perppu), was formed, namely Perppu Number 1 of 1998 concerning bankruptcy, to replace the Dutch-era Bankruptcy Law. Nevertheless, the content or substance of the Perppu itself remained the same as the previous bankruptcy law. Subsequently, a new legal product

on bankruptcy was established with the ratification of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, which replaced Law Number 4 of 1998.

c. Comparison of Bankruptcy Law Regulations in Thailand and Indonesia

1. Regulations on Bankruptcy Law in Thailand

Bankruptcy is a state where the court allows the distribution of a debtor's assets to creditors as permitted by law. A debtor must be proven bankrupt before a creditor can file for bankruptcy. Bankruptcy is a financial condition where a debtor can no longer pay their debts. The Bankruptcy Act identifies the circumstances under which a debtor can be declared bankrupt.

Bankruptcy Act (sec. 8), "a debtor is insolvent when" :

- The debtor transfers his property or the right to property management to any other person for the benefit of all of his creditors, whether such act is carried out within or outside the Kingdom;
- The debtor transfers or delivers his property with fictitious intent or by fraud, whether such act is carried out within or outside the Kingdom;
- The debtor transfers his property or creates any right in rem over such property, where the debtor is bankrupt, whether it was done within or outside Kingdom;
- The debtor carries out any of the following acts to delay the payment or avoid paying creditors,
 - (i) Leaves Thailand or remains outside Thailand
 - (ii) Removes his assets from the jurisdiction of the court;
 - (iii) Leaves the place of residence where he resides or conceals himself or closes his place of business; or
 - (iv) Consent to a judgment ordering payment of money which he does not pay.
- The debtor's assets have been attached under a writ of execution, or there are no more assets for which attachment is possible;
- The debtor declares to the court in any action that he cannot pay his debts
- The debtor informs any of his creditors that he cannot pay his debts
- The debtor submits a proposal for compromising on his debts to any two or more of his creditors;
- The debtor receives demand letters from his creditors not less than twice, at intervals of not less than 30 days, and does not pay the debts.

A debtor must have debts of more than two million Baht to a corporate creditor, or more than one million Baht to an individual creditor. Thai bankruptcy law distinguishes between secured and unsecured creditors. The Bankruptcy Act defines a secured creditor as a creditor who has a preferential right over the debtor's assets (e.g., a mortgage, pledge, or a right of retention) to receive payment of a claim from the proceeds of the asset sale. Because they have a lien, secured creditors will be paid first in the event of a distribution of the debtor's assets.

The Thai bankruptcy legal system essentially adopts German law and is heavily influenced by the laws of Japan and the United States. Furthermore, under the 1999 Bankruptcy Act, there are three bankruptcy procedures in Thailand: (1) pure bankruptcy procedure; (2) restructuring procedure; and (3) liquidation procedure (Laura Hardjaloka, 2015).

Before 1999, all bankruptcy cases were under the jurisdiction of the Civil Court. However, since 1999, the authority to hear, adjudicate, and rule on bankruptcy petitions has been with the Commercial Court (Bankruptcy Court). As a result, there has been a legal specialization in Thai courts to handle bankruptcy cases specifically and separately from general civil cases. The Thai Commercial Court has the authority to appoint and empower a receiver, administrator, or liquidator to manage the assets and business of a bankrupt debtor and to take any legal actions deemed necessary throughout the bankruptcy, restructuring, or liquidation process. The jurisdiction of the Thai Commercial Court is limited to the legal territory of Thailand due to the principle of territoriality in Thai bankruptcy law. Consequently, a bankruptcy decision issued by the Thai Commercial Court is only valid within the territory of Thailand. It cannot cover the assets of a bankrupt debtor located outside of Thailand's borders (S. Chandra Mohan, 2012).

The bankruptcy process begins with a creditor filing for bankruptcy against a debtor. The court will then declare the debtor insolvent in accordance with the Bankruptcy Act. The court will issue an absolute management order and assign a government official as a "receiver" to manage and control all of the debtor's assets. The receiver then holds a meeting regarding the proposal submitted by the debtor to decide whether it will be accepted or if the court will declare the debtor bankrupt.

After the first meeting with the creditors is concluded, the court will order a public examination of the debtor to learn about the debtor's business and assets. This also helps in understanding the reasons for the bankruptcy and the debtor's behavior that led to it. The court will not consider a debt settlement composition ("composition") until the public examination has been completed. If the debtor intends to pay off their debts, either in whole or in part, they must submit a written debt settlement proposal to a government official known as the official receiver. The official receiver will then hold a creditors' meeting to consider and pass a special resolution on whether they will accept the composition. Suppose the composition does not contain a statement of debt payment as ordered or is not generally beneficial to the creditors. In that case, the court will not issue an order to approve the composition.

2. Regulations on Bankruptcy Law in Indonesia

In Indonesia, provisions related to bankruptcy and the Suspension of Debt Payment Obligations (S.D.P.O.) are regulated in Law No. 37 of 2004 concerning Bankruptcy and the Suspension of Debt Payment Obligations. This law replaced Law No. 4 of 1998 concerning Bankruptcy, which was considered inadequate in its development to address debt settlement efforts for problematic debtors (Sunarmi, 2017).

Law No. 37 of 2004 aims to resolve bankruptcy cases more quickly, fairly, and transparently. This law also seeks to provide fair legal protection and certainty to safeguard the interests of both creditors and debtors. On the one hand, it allows creditors to promptly receive their claims, while on the other, it guarantees that debtors can continue their business operations. The law stipulates that a bankruptcy case resolution in court is not the last resort for debt settlement. Legal certainty is inseparable from the purpose of the law itself, which is justice, utility, and legal certainty (Niru Anita Sinaga, 2018).

To achieve these goals, the law implements several principles in resolving bankruptcy cases in court. These principles encompass five key aspects: the principle of justice, the

principle that bankruptcy is not an ultimum remedium, the principle of public knowledge (transparency), the principle of quick case resolution, and the principle of simple proof. Based on the law's provisions, these three elements of law enforcement have been accommodated within the legislation. The concept of legal certainty is embodied in the principles of quick case resolution and simple proof. The element of justice in law enforcement is reflected in the principle of justice. In contrast, the aspect of utility is evident in the principle of declaring bankruptcy as a last resort (ultimum remedium) for debt settlement and the principle of public knowledge (transparency) (Syafuddin Makmur, 2016).

The law has determined the process for resolving bankruptcy cases. Article 8 states that a court's decision on a bankruptcy declaration must be pronounced no later than 60 days after the date the bankruptcy petition is registered. Meanwhile, a cassation appeal must be pronounced no later than 60 days after the Supreme Court receives the appeal. Following the declaration of bankruptcy, the bankruptcy case does not simply end. It is taken over by the curator appointed in the bankruptcy declaration decision, who manages matters related to creditors' meetings and auction mechanisms.

Bankruptcy law maintains order through legal rules that create legal justice. In this regard, the law not only functions as a social rule but also serves to regulate and support the process of change in the business world. For this reason, the principles and rules of bankruptcy law must be a living law in the administration and settlement of bankruptcy assets. This continuously evolving bankruptcy law can reflect the values that prevail in the business world.

Table Comparison of Indonesian and Thai Bankruptcy Law

Aspect	Indonesia	Thailand
Legal Basis	- A debtor has ≥ 2 creditors. - Failure to pay at least one due and collectible debt.	- Minimum debt: ≥ 1 million baht for individuals, ≥ 2 million baht for corporations. - The debtor is truly insolvent.
Parties Who Can File	Debtor, Creditor, Prosecutor, Bank Indonesia, OJK (depending on business type).	Creditor and Debtor.
Bankruptcy Requirements	- A debtor has ≥ 2 creditors. - Failure to pay at least one due and collectible debt.	- Minimum debt: ≥ 1 million baht for individuals, ≥ 2 million baht for corporations. - The debtor is truly insolvent.
Competent Court	Commercial Court at specific District Courts (Central Jakarta, Surabaya, Semarang, Medan, Makassar).	The Central Bankruptcy Court (Bangkok) has national jurisdiction.
Initial Process	- The petition is filed with the Commercial Court. - A decision must be rendered within 60 days of registration.	- The court examines insolvency eligibility. - A provisional receiver may be appointed.
Administrator	Curator, supervised by a Supervisory Judge.	Official Receiver (Receiver) or Plan Administrator (if reorganization).

Aspect	Indonesia	Thailand
Alternative to Liquidation	PKPU (Suspension of Debt Payment Obligations) for restructuring.	Reorganization Plan (drafting of a reorganization plan).

The table above presents a comparison of the bankruptcy legal systems in Indonesia and Thailand. Regarding the authority of courts that handle bankruptcy cases, unlike Thailand, which has a Central Bankruptcy Court, Indonesia has several Commercial Courts scattered throughout the country. However, there is a concentration of cases at the Central Jakarta Commercial Court, which can cause delays in the bankruptcy process. Because there is more than one commercial court, Indonesia faces greater challenges in terms of inter-court coordination.

Effectiveness of Bankruptcy Law Enforcement in Indonesia Compared to Thailand

The efficiency of resolving bankruptcy cases significantly affects the speed of the process. A closer examination of the current Indonesian Bankruptcy Law (UUK) reveals numerous articles that no longer align with modern bankruptcy regulations. One major issue is the lack of strong legal protection for curators, which negatively impacts the settlement of bankrupt assets.

This lack of protection leads to several consequences:

1. Delayed Case Resolution:

The weak protection for curators makes them and administrators vulnerable to criminal charges, temporarily stalling the bankruptcy process. This is because the UUK has a specific procedure for replacing a curator, whether due to detention or failure to perform their duties; as a result, the settlement of assets is delayed.

2. Delayed Asset Distribution:

Postponing case resolution directly delays the distribution of assets. While an ideal bankruptcy process should be quick, Indonesia often experiences delays in the post-bankruptcy ruling phase. This not only harms creditors but also compromises the rights of the curator as the law's executor, indirectly harming the individual curator.

3. Legal Uncertainty for Curators:

Curators operate under constant apprehension of being arrested or detained by the police due to the UUK's weak protections. This uncertainty can be exploited by creditors or any party with an interest in the debtor's assets to delay the process. The broad authority granted to a curator should not be subject to such interference, as it is a mandate of the law. Instead, this uncertainty becomes a weapon for those seeking to obstruct the process.

Legal protection is an effort to safeguard an individual's interests by granting them the power to act in their own best interest as a human right (Satjipto Rahardjo, 2003). However, the UUK does not yet regulate legal protection for curators during the performance of their duties. A curator's actions, when performed with good faith and within the authority granted by law, but which inadvertently cause harm to the bankrupt estate due to circumstances beyond the curator's control, cannot be held as a personal liability of the curator; instead, the loss can be charged to the bankrupt estate. The extensive authority given to the curator by the Bankruptcy Law makes them personally responsible for acting carefully, as parties who are

harmful by the curator's actions in carrying out their duties can file a claim for damages against them (Dyarijib Simalango, Marzuki, Mukidi, 2023).

Comparison with the Thai System

Thailand's bankruptcy process operates on the principle of territoriality, meaning its bankruptcy law is only applicable within its borders. Consequently, foreign rulings are not recognized, and Thailand has not yet implemented international regulations, such as the UNCITRAL Model Law on Cross-Border Insolvency, due to a lack of a framework for cross-border recognition. As mentioned, Thailand only has one court for bankruptcy cases, the Central Bankruptcy Court (CBC). This centralization, while creating a specialized judiciary, can be detrimental as cases are concentrated in Bangkok, making it difficult for debtors and creditors outside the capital to access justice. Despite a streamlined procedure, this single specialized court still faces a high volume of cases, resulting in significant backlogs.

The duration of a bankruptcy case in Thailand is heavily influenced by the mechanism chosen: liquidation or reorganization. The liquidation process, from petition filing to the issuance of a receivership order and subsequent distribution of assets by the Official Receiver, generally takes one to two years. However, it can take longer for more complex cases. In contrast, reorganization is a lengthier process focused on business recovery. After a court accepts a petition and issues an automatic stay, a plan preparer is given three months (extendable up to five months) to draft a reorganization plan. If approved by creditors and sanctioned by the court, a plan administrator then implements it for five years, with a potential two-year extension. This can result in a total reorganization duration of up to seven years.

In comparison, Indonesia's PKPU (Suspension of Debt Payment Obligations) has a stricter time frame of a maximum of 270 days (nine months) for reorganization. However, in practice, its effectiveness is often hindered by the failure to implement the plan post-homologation, preventing the restructuring goal from being achieved. While Thailand's reorganization mechanism is longer, it is supported by the supervision of a plan administrator and the Official Receiver, making the process more controlled and increasing its success rate in maintaining the business's continuity.

Another differentiating factor is that Thailand applies a debt threshold requirement, which Indonesia does not. Thailand also uses an insolvency test and a comparative threshold. The comparison between the Indonesian and Thai bankruptcy legal systems reveals fundamental differences in legal frameworks, procedural mechanisms, the role of the judiciary, and creditor protection. Thailand, through its Bankruptcy Act B.E. 2483 and its amendments, adopts a centralized system with a specialized Central Bankruptcy Court, streamlined procedures, and the involvement of an official receiver as a state official in settlement and reorganization. This model makes Thailand's bankruptcy system relatively more consistent, efficient, and reorganization-oriented, providing better legal certainty and more optimal protection for creditors.

Conversely, Indonesia's Law No. 37 of 2004 provides more open access for various parties to file for bankruptcy. However, its implementation is often hampered by lengthy processes, legal uncertainty, issues with curator fees and independence, and a preference for liquidation over restructuring through PKPU. This poses serious challenges to the

effectiveness of Indonesia's bankruptcy law, particularly in ensuring legal certainty and creditor protection.

Based on the above, it can be concluded that the effectiveness of bankruptcy law enforcement in Indonesia still faces serious challenges. Indonesia has yet to establish a legal framework for cross-border insolvency. Meanwhile, Thailand's system is more effective due to its more selective rules and centralized court system, although this centralization can also lead to case delays.

Although the Bankruptcy and PKPU Law in Indonesia explicitly authorizes a curator to continue a debtor's business, this does not always happen in practice. Challenges related to costs, the curator's independence, and legal uncertainty often push the process toward liquidation. This phenomenon shows a disconnect between the law's intent and its implementation. In contrast, Thailand's system places the official receiver as a state official with full authority to carry out asset settlement and debt reorganization, supported by a specialized court. This flexibility, combined with intense supervision, makes the Thai system more effective in achieving restructuring goals and preserving business continuity. Therefore, for investors, the Thai system offers greater legal certainty and a better chance of investment recovery.

Conclusion

1. Bankruptcy Process and Filing Requirements: The bankruptcy processes in Indonesia and Thailand are broadly similar, but a key difference lies in their filing requirements. In Thailand, a legal entity must have a minimum debt of at least 2 million baht owed to one or more creditors. In contrast, Indonesia's Bankruptcy Law requires a debtor to have two or more creditors but has no minimum debt amount for filing a bankruptcy petition.
2. Effectiveness and Procedural Duration: In terms of the effectiveness of their bankruptcy laws, Indonesia offers easier access and a shorter procedural timeline. Thailand, on the other hand, imposes more complex requirements, including a debt threshold and an insolvency test. While its process may be longer, Thailand's system is considered more reliable in balancing the interests of creditors with the continuity of the debtor's business.
3. Impact on Investment Climate: An effective bankruptcy law is crucial for a favorable investment climate. Thailand's centralized bankruptcy system, featuring the Central Bankruptcy Court and an official receiver as a state official, provides greater legal certainty and a higher chance of successful restructuring. This makes the Thai system more appealing to investors as it offers a better guarantee of investment recovery. Conversely, although Indonesia provides more open access to filing bankruptcy petitions, its system still faces challenges, including slow processes, varying interpretations among courts, and issues concerning the independence and protection of curators. The tendency to favor liquidation over restructuring also makes it less attractive to investors seeking legal certainty for business continuity. Therefore, Thailand's bankruptcy law is considered more effective in supporting a stable investment climate compared to Indonesia's.

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