BANKRUPTCY DISPUTES IN CAPITAL MARKET INVESTMENT CONTRACTS: LEGAL MECHANISMS, ECONOMIC IMPACT, AND THE ROLE OF REGULATORS

[1] **Febrian Dirgantara**
Universitas Sunan Giri Surabaya
Email: dr.febriandirgantara@gmail.com
[2]**Rommy Hardyansah**
Universitas Sunan Giri Surabaya
Email: dr.rommyhardyansah@gmail.com
[3]**Didit Darmawan**
Universitas Sunan Giri Surabaya
Email: dr.diditdarmawan@gmail.com

Abstract

This normative legal study examines bankruptcy disputes within capital market investment contracts, focusing on the legal mechanisms, financial impacts, and regulatory intervention. Employing a qualitative literature review, the research analyses primary regulations including the Bankruptcy Law, the Capital Market Law, and the OJK Law. The findings reveal that bankruptcy proceedings fundamentally alter investor rights, subordinating shareholders and categorizing bondholders within a strict statutory claims hierarchy. The economic impact of an issuer's bankruptcy is severe, causing sharp price dislocations, evaporation of liquidity, and contagion of risk perceptions that threaten broader market stability. The Financial Services Authority (OJK) plays a critical yet circumscribed role, exercising oversight, enforcement, and coordination powers to mitigate systemic risk, while the Commercial Court retains exclusive authority over the bankruptcy process itself. The study concludes that the intersection of bankruptcy and capital market law creates a complex dispute landscape where investor recovery depends heavily on legal claim priority and regulatory effectiveness. It highlights the need for enhanced inter-agency coordination, robust early warning systems, and clearer resolution frameworks for non-bank financial institutions to manage failures efficiently. The research contributes to the academic discourse on business law and offers practical insights for regulators, investors, and corporate managers navigating bankruptcy risks in the capital market.

Keywords: ***Bankruptcy Dispute, Financial Services Authority (OJK), Systemic Risk, Investor Protection, Claims Hierarchy.***

Abstrak

Studi hukum normatif ini meneliti sengketa kepailitan dalam kontrak investasi pasar modal, dengan fokus pada mekanisme hukum, dampak keuangan, dan intervensi regulasi. Dengan menggunakan tinjauan literatur kualitatif, penelitian ini menganalisis peraturan primer termasuk UU Kepailitan, UU Pasar Modal, dan UU OJK. Temuan ini mengungkapkan bahwa proses kebangkrutan secara fundamental mengubah hak-hak investor, mensubordinasikan pemegang saham dan mengkategorikan pemegang obligasi dalam hierarki klaim undang-undang yang ketat. Dampak ekonomi dari kebangkrutan emiten sangat parah, menyebabkan dislokasi harga yang tajam, penguapan likuiditas, dan penularan persepsi risiko yang mengancam stabilitas pasar yang lebih luas. Otoritas Jasa Keuangan (OJK) memainkan peran penting namun terbatas, menjalankan kekuasaan pengawasan, penegakan, dan koordinasi untuk memitigasi risiko sistemik, sedangkan Pengadilan Niaga mempertahankan kewenangan eksklusif atas proses kepailitan itu sendiri. Studi ini menyimpulkan bahwa persimpangan hukum kepailitan dan pasar modal menciptakan lanskap sengketa yang kompleks di mana pemulihan investor sangat bergantung pada prioritas klaim hukum dan efektivitas peraturan. Ini menyoroti perlunya peningkatan koordinasi antar-lembaga, sistem peringatan dini yang kuat, dan kerangka kerja resolusi yang lebih jelas bagi lembaga keuangan non-bank untuk mengelola kegagalan secara efisien. Penelitian ini berkontribusi pada wacana akademis tentang hukum bisnis dan menawarkan wawasan praktis bagi regulator, investor, dan manajer perusahaan yang menavigasi risiko kebangkrutan di pasar modal.

Kata Kunci: ***Sengketa Kepailitan, Otoritas Jasa Keuangan (OJK), Risiko Sistemik, Perlindungan Investor, Hierarki Klaim.***

INTRODUCTION

The capital market operates as a complex financial ecosystem, relying on investor trust in the integrity and viability of securities issuers. This trust is concretized through various investment contracts, ranging from share ownership representing residual rights to bond ownership as a form of debt agreement. In an ideal construction, the market provides a mechanism for assessing and absorbing business failure risk. However, when an issuer or securities company experiences extreme financial failure and is declared bankrupt, the entire contractual foundation and value assumptions undergo a severe test. Bankruptcy is not merely an administrative legal event but a forced restructuring process that results in wealth redistribution, claim adjustments, and often, asset liquidation.[1] This event compels all parties bound by investment contracts to confront a new reality where their rights may no longer be fulfilled according to initial expectations, thereby creating a multidimensional arena for dispute.

Disputes arising within the framework of a capital market player's bankruptcy possess unique characteristics distinct from bankruptcy disputes involving non-public companies.[2] The first uniqueness lies in the object of the dispute, namely financial instruments that are widely traded and liquid on the stock exchange, such as shares and bonds. The status of shares as evidence of capital contribution faces legal ambiguity when a company goes bankrupt, because the residual value for shareholders is typically at the lowest priority in the payment hierarchy according to the Bankruptcy and Suspension of Debt Payment Obligations Law. Meanwhile, bonds, although classified as debt, are often issued with complex structures involving various covenant clauses and

---

[1] Happy Permata Sari, Joni Emirzon, and Putu Samawati Saleh, *Penyelesaian Sengketa Terhadap Obligasi Korporasi yang Dinyatakan Pailit oleh Pengadilan Niaga*, 11, no. 1 (2024): 151–62, https://doi.org/10.36546/solusi.v22i1.972.

[2] P.A. Rafie, M. Merta, and J. Junaidi, "Resolution of Disputes Regarding Corporate Bonds Declared Bankrupt by Commercial Court," *Journal of Humanities Social Sciences and Business (JHSSB* 3, no. 2 (2024): 509–15, https://doi.org/10.55047/jhssb.v3i2.1037.

collateral, which later become contested assets among other creditors. This dynamic transforms the bankruptcy process from a simple settlement of ordinary debts into a strategic negotiation arena involving thousands of retail and institutional investors with highly diverse interests.

The legal framework governing the intersection of bankruptcy law and capital market law in Indonesia still reveals tensions and gaps. Law Number 8 of 1995 concerning the Capital Market focuses more on the regulatory, supervisory, and transparency aspects under going concern conditions.[3] On the other hand, Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Bankruptcy and PKPU Law) is designed as general law governing insolvency processes. The analysis of the general role of bankruptcy law is reinforced by the study by Dirgantara *et al.,* which confirms the legal framework as an instrument for resolving debt disputes. However, when applied to capital market entities, the complexity increases significantly.[4] The intersection of these two legal regimes raises fundamental questions about supremacy and harmonization. For example, what is the position of the Financial Services Authority (OJK) as the capital market regulator when an issuer under its supervision enters a bankruptcy court process overseen by an Administrator and the Commercial Court? The OJK's supervisory authority over financial reporting and issuer compliance may conflict with the authority of the Administrator who takes over the management of the debtor's assets. This jurisdictional tension has the potential to complicate the resolution and increase uncertainty for investors.

---

[3] K.E.P. Banu et al., "Tinjauan Yuridis terhadap Mekanisme Kepailitan sebagai Solusi Penyelesaian Utang-Piutang di Indonesia. Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora," *Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora* 4, no. 3 (2025): 886–95, https://doi.org/10.55606/jurrish.v4i3.6063.
[4] F. Dirgantara et al., "Legal Responsibility of Companies in Cases of Personal Data Breaches," *Innovative: Journal Of Social Science Research* 5, no. 1 (2025): 5053–65.

The most direct and measurable impact of an issuer's bankruptcy is reflected in the value of its financial instruments. Financial theory and empirical evidence from various capital markets indicate that announcements of bankruptcy or strong signals of insolvency are typically met with a highly negative market response.[5] The share price of a bankrupt issuer tends to plummet, approaching zero, as the market anticipates the total loss of investment value. For bonds, the response is more varied depending on seniority, collateral, and restructuring prospects. Secured bonds may retain some residual value, while unsecured bonds could experience a very significant price decline. This price volatility reflects not only loss expectations but also uncertainty regarding the final outcome of the bankruptcy process, the duration of settlement, and the recovery rate obtainable by each investor class.

Therefore, this literature review is designed to comprehensively dissect bankruptcy disputes in investment contracts and the capital market. The analytical focus is placed on two main, interrelated aspects. The first aspect is the analysis of the concrete impact of bankruptcy on the value of various financial instruments and the mechanism of transmitting this failure risk throughout the capital market system. The second aspect is the analysis of the role and intervention of the Financial Services Authority (OJK) in bankruptcy processes within the capital market sector, including how this authority balances its mandate to protect investors with respecting the independent legal process of bankruptcy. Through a case study approach on the bankruptcy of an issuer or securities company, this research seeks to provide a clearer understanding of the vulnerable points of dispute and their implications for financial system stability.

---

[5] T. Wijayanta et al., "The Legal Ratio of Authority Transfer from the Capital Market Supervisory Agency to the Financial Services Authority as a Bankruptcy Petitioner," *Legality* 33, no. 1 (2025): 192–203, https://doi.org/10.22219/ljih.v33i1.36537.

The bankruptcy process of an issuer places investors in a vulnerable position due to the ambiguity surrounding their legal standing and claim priority within the collapsed company's financial structure. Shareholders, who in theory are the owners of the company, face the reality that their rights to company assets are in the most subordinate position. In many cases, the liquidation value of assets after settling senior creditors leaves almost nothing for common shareholders. The dilemma of protection for minority shareholders and creditors in the liquidation process of this company is a classic problem, as described in the research by Ratnawati *et al*., which confirms the weak legal position of these two groups in corporate governance and the process of dissolving companies according to Indonesian positive law. Meanwhile, bondholders, although classified as creditors, must compete with bank creditors and other commercial creditors who may possess stronger collateral or prioritized legal relationships.[6] This differential treatment of various types of investment contracts is often not well understood by retail investors, leading to disputes when their expectations are unmet. Legal uncertainty regarding the interpretation of specific clauses in bond offering prospectuses, such as cross-default or subordination clauses, during bankruptcy execution becomes a frequent source of litigation brought before the Commercial Court.

The role and authority of the Financial Services Authority in the bankruptcy process present governance and coordination issues that are not straightforward. The OJK has a mandate to supervise activities in the capital market, including ensuring issuer compliance with disclosure obligations and investor protection. However, when an issuer enters bankruptcy proceedings, the management and supervision of the debtor's assets transfer to the

[6] I. Ratnawati, R. Mardikaningsih, and S.N. Halizah, "Protection of Creditors' Rights and Minority Shareholders in the Company Dissolution Process Based on Indonesian Positive Law," *Journal of Social Science Studies* 4, no. 1 (2024): 113–22.

Administrator appointed by the Commercial Court. There is potential for overlap or even conflict of authority between the OJK and the Administrator.[7] This challenge of cross-institutional governance underscores the importance of administrative effectiveness in dealing with new complexities. As reviewed by Lantabura *et al.,* administrative effectiveness and a coherent governance framework are crucial determinants of outcomes in environments involving multiple stakeholders and complex strategic interests.[8] For instance, concerning investigations into alleged capital market violations by the directors of a bankrupt issuer, can the OJK still exercise its investigative and administrative sanction functions, or must it await the completion of the bankruptcy process? Conversely, the Administrator may require data and information held by the OJK to trace assets or suspicious transactions. The absence of a standard and clear cooperation protocol between these two authorities can delay the bankruptcy process, harm the interests of all creditors, and reduce accountability.

The systemic impact of the failure of an issuer or securities company on the capital market as a whole is a macro-level problem. Bankruptcy, especially of a large-capitalization issue or a securities company with broad exposure, can trigger a contagion effect. Investor confidence in a particular asset class or in the market as a whole can be disrupted. This is manifested through increased market volatility, large-scale fund withdrawals (flight to quality), and funding difficulties for other issuers perceived to have similar risk profiles. This risk transmission mechanism operates not only through direct financial channels but also through psychological and informational channels. The market may overreact to bankruptcy news, punishing other stocks without

[7] F. Dirgantara et al., "Peran Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang (PKPU) dalam Penyelesaian Sengketa Utang Piutang di Indonesia," *Lex Stricta: Jurnal Ilmu Hukum* 4, no. 1 (2025): 149–60.
[8] R. Lantabura, R. Mardikaningsih, and E.C. Gautama, "Legal Governance and Administrative Effectiveness in Balancing Foreign Labor and Domestic Workforce Advancement for International Investment," *Journal of Science, Technology and Society (SICO* 5, no. 1 (2024): 9–20.

adequate discrimination. This issue demonstrates that bankruptcy disputes are not solely the concern of directly involved parties but have consequences for the stability and efficiency of the capital market as a public system. The importance of risk mitigation at the systemic level is in line with the urgency raised in the study by Sahid *et al.* on the Legal Perspective of Investment Risk Mitigation. The basic principles of risk mitigation, namely identification, measurement, and control, are highly relevant to the widespread impact of bankruptcy in the capital market, where the failure of one entity can create shocks to the entire system and investor portfolios.[9]

The global and domestic economic landscape, characterized by high uncertainty, rising interest rates, and inflationary pressures, has elevated the risk of business failure to a more serious level. Many companies, including those listed on the stock exchange, face liquidity and solvency pressures. In such a macroeconomic environment, the probability of bankruptcy among issuers or other capital market players becomes greater. A comprehensive understanding of the dispute mechanisms and resolutions of bankruptcy in the capital market sector becomes a practical necessity for regulators, legal practitioners, investment managers, and investors themselves. Without this understanding, responses to potential crises could become uncoordinated, reactive, and may even exacerbate the negative impact on the economy. This study can serve as a navigational map to anticipate and manage such complexity.

The development of products and financial structures in the Indonesian capital market is increasingly complex. The emergence of derivative instruments, sharia bonds with profit-sharing structures, asset-backed securities, and other securitized assets adds layers of complexity to

[9] R.R. Sahid et al., "Legal Perspective of Investment Risk Mitigation on Peer-to-Peer Lending Platforms," *Journal of Social Science Studies* 3, no. 1 (2023): 177–84.

bankruptcy resolution. Each of these instruments has unique contractual characteristics and legal risks. When a securities issuer with a portfolio of complex products experiences bankruptcy, claim resolution will involve interpreting highly technical legal documents. There is a paucity of academic studies specifically dissecting how Indonesian bankruptcy law interacts with the unique characteristics of these modern financial instruments. This examination is important to identify regulatory gaps and offer an analytical framework for use by product designers, regulators, and the judiciary.

The position of the Financial Services Authority as the single regulator of the financial services sector following institutional reform necessitates clarification of its role and the limits of its authority in extraordinary situations such as bankruptcy. The OJK Law provides a broad mandate for supervision, consumer protection, and law enforcement in the capital market. However, the implementation of this mandate within the context of bankruptcy court proceedings remains experimental and case-specific. An evaluation of the effectiveness, challenges, and dynamics of interaction between the OJK, Administrators, and the Commercial Court will provide valuable input for improving the crisis governance framework in Indonesia. A better understanding of the OJK's role in bankruptcy will also enhance predictability for international investors, which is an important factor in attracting foreign portfolio investment that supports domestic capital market development.[10]

This research aims to comprehensively analyze bankruptcy disputes in investment contracts and the capital market through a normative literature review approach. Specifically, this research seeks to examine and map the legal mechanisms for resolving bankruptcy disputes and the legal standing of shareholders, bondholders, and other financial instrument holders in the process. Furthermore, this research aims to analyze the dynamics and magnitude of the impact of an issuer's or securities company's bankruptcy on

[10] F. Modigliani and M.H. Miller, "The Cost of Capital, Corporation Finance and the Theory of Investment," *The American Economic Review* 48, no. 3 (1958): 261–97.

the value, liquidity of its financial instruments, and overall capital market stability. The third objective is to examine the role, authority, and pattern of intervention of the Financial Services Authority (OJK) in bankruptcy processes within the capital market sector based on existing legal provisions and practices. The theoretical contribution of this research is expected to enrich the body of business law knowledge, particularly at the intersection of bankruptcy law, capital market law, and contract law. Practically, the research findings are expected to serve as consideration material for regulators (OJK and LPS), policymakers, legal practitioners, administrators, and investors in understanding risks, formulating strategies, and improving the regulatory framework for handling bankruptcy disputes in the capital market more fairly, efficiently, and sustainably.[11]

RESEARCH METHOD

This research constitutes a normative literature study with a qualitative approach. This approach is selected as it aligns with the research objectives of understanding, analyzing, and constructing meaning from legal concepts, financial principles, and the normative interaction between bankruptcy law and capital market regulation. Such research focuses on reviewing authoritative texts and scholarly doctrines to answer the research questions. According to Bogdan and Biklen, qualitative research investigates social or legal phenomena in their natural setting by attempting to interpret these phenomena based on the meanings given by the actors or legal sources themselves.[12] In this research, primary data sources include Indonesian laws and regulations, such as the Bankruptcy and PKPU Law, the Capital Market Law, the Financial Services Authority Law, and their implementing regulations. Primary data sources also encompass relevant decisions of the Commercial

---

[11] M.H. Miller, “Debt and Taxes,” *The Journal of Finance* 32, no. 2 (1977): 261–75.

[12] R.C. Bogdan and S.K. Biklen, *Qualitative Research for Education: An Introduction to Theories and Methods*, 5th ed. (London: Pearson, 2007).

Court and official OJK documents. Secondary data sources consist of academic textbooks, reputable international and national scientific journal articles, and legal and financial analyses from prominent research institutions and consultants.[13]

Inclusion and exclusion criteria were applied to ensure the quality and relevance of the analyzed literature. Literature selected for inclusion must directly address one of the three core research aspects: bankruptcy law and investment contracts, the financial impact of bankruptcy on instrument value, or the role of the regulator in capital market bankruptcy. Priority was given to literature published within a specific timeframe to ensure the currency of ideas while still being grounded in established foundational theories. Works of a popular nature, mass media reports lacking in-depth analysis, or writings not subjected to a peer-review process were excluded. This selection process was conducted by reading abstracts and conclusions to determine whether a work provided a substantive contribution to answering the established research questions. Data analysis was performed using thematic synthesis techniques, involving data coding, pattern identification, and the construction of principal themes.[14]

RESULT AND DISCUSSION

Legal Mechanism and the Position of Parties in Bankruptcy Disputes over Investment Contracts

The dispute resolution mechanism for bankruptcy in Indonesia, as regulated by Law Number 37 of 2004 concerning Bankruptcy and Suspension

[13] J. Corbin and A. Strauss, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*, 3rd ed. (London: Sage Publications, 2008).
[14] Matthew B. Miles, A. M. Huberman, and Johnny Saldaña, *Qualitative Data Analysis: A Methods Sourcebook*, Third edition (Thousand Oaks, Califorinia: SAGE Publications, Inc, 2014).

of Debt Payment Obligations, establishes a legal order that fundamentally alters the contractual rights and positions of parties in capital market investments.[15] The main principle upheld is the achievement of collective and proportional payment for all creditors, where the individual right to execute collateral or collect receivables separately is suspended.[16] This suspension, known as a stay of individual proceedings, has a direct and substantial impact on bondholders. Prior to a bankruptcy declaration, a bondholder could collect directly based on the agreement. After the declaration, that collection right is transferred to the Administrator, and the bondholder must register their claim in the list of receivables. This process eliminates the individual discretion of the bondholder and places them within a pool of creditors who must negotiate and share the proceeds of liquidation or restructuring according to the priorities established by law.

The position of shareholders within this mechanism is considerably weaker and legally marginalized. According to Law Number 40 of 2007 concerning Limited Liability Companies, shareholders hold residual rights over company assets.[17]u In the context of bankruptcy, this residual right is almost always worthless, because company assets must first be used to settle all obligations to creditors. The Bankruptcy Law itself does not provide special space for shareholders, except in the Suspension of Debt Payment Obligations (PKPU) process with a composition plan that involves new capital investment

---

[15] Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang (2004).

[16] E.R. Tranggono, U. Silalahi, and H. Shubhan, "Legal Protection Towards Public Companies from Bankruptcy," *Global Legal Review* 4, no. 2 (2024): 113–27, https://doi.org/10.19166/glr.v4i2.8365.

[17] I.K. Siregar, K. Kusmilawaty, and N.A.B. Rahmani, "Analisis Peranan Otoritas Jasa Keuangan (OJK) dalam Perlindungan Nasabah Akibat Kepailitan Perusahaan Asuransi," 2025, https://doi.org/10.37329/ganaya.v8i3.4361.

or debt conversion into equity.[18] The focus of legal protection in bankruptcy is indeed more directed at creditors and the responsibilities of company organs. As examined in a comparative study by Aryanto *et al.,* and Saputra *et al*., the liabilities of directors and commissioners are the main focus in insolvency situations, while the position of shareholders is often at the bottom of the hierarchy of claims.[19] Common shareholders, especially public shareholders, effectively lose the entire value of their investment once the company is declared bankrupt. They do not possess significant voting rights in creditors' meetings, unless they hold preferred shares with specific clauses convertible into debt claims, which is exceedingly rare in Indonesian share structures.[20]

Law Number 8 of 1995 concerning the Capital Market provides an investor protection framework that primarily applies under going concern conditions.[21] Provisions regarding information disclosure, due diligence obligations in public offerings, and prohibitions on insider trading are designed for an active and functioning market. However, when a company enters bankruptcy proceedings, the effectiveness of this protection is tested. However, the effectiveness of this legal framework, as with the effectiveness of any organisation, is largely determined by its operational context. Darmawan (2024) emphasises that critical changes in external environmental factors affect performance.[22] The transition to insolvency creates a new reality in which the protective mechanisms for normal markets become severely

---

[18] Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas (2007).
[19] E.A. Aryanto, D. Darmawan, and M. Irfan, "Business Legal Framework and Challenges in Implementing Social Responsibility towards Local Communities in Large Investment Projects," *Journal of Social Science Studies* 4, no. 1 (2024): 129–36.
[20] D.E. Saputra, D. Darmawan, and D.S. Negara, "Directors' and Commissioners' Liability in Corporate Insolvency: A Comparative Jurisprudential Study," *International Journal of Service Science, Management, Engineering, and Technology* 5, no. 3 (2024): 29–38.
[21] Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal (1995).
[22] D. Darmawan, "Distribution of Six Major Factors Enhancing Organizational Effectiveness," *Journal of Distribution Science*, 1, vol. 22, no. 4 (2024): 47–58.

limited in their effectiveness.[23] Disputes often arise from claims that the issuer violated disclosure principles by failing to timely disclose deteriorating financial conditions, leading investors to purchase shares or bonds based on incomplete information. Within the bankruptcy mechanism, claims for compensation arising from violations of the Capital Market Law must be submitted as receivables to the Administrator.[24] The legal problematic is that compensation claims arising from breach of contract or unlawful acts are often classified as conditional or contingent claims, whose position is subordinate to ordinary concurrent claims, thereby reducing the chance of investor fund recovery.

Investment contracts in the form of bonds present their own complexity. Legally, a bond is a debt agreement, making its holder a creditor. However, bond structures can vary significantly, for instance, featuring collateral (secured bonds), subordination clauses, or cross-default clauses. The Bankruptcy Law recognizes the rights of separatist creditors, meaning creditors with specific security rights over assets.[25] Therefore, bondholders with fiduciary security or mortgage rights over specific assets can execute that collateral separately even if the debtor is bankrupt, in accordance with Article 56 of the Bankruptcy Law. The study by Priyanto *et al*. on Creditor Protection in Bankruptcy Proceedings shows that the effectiveness and limitations of

---

[23] E.M. Ali, F. Dirgantara, and D. Darmawan, "Legal Protection of Consumers in Online Transactions: A Case Study of Online Fraud in Indonesia," *International Journal of Service Science, Management, Engineering, and Technology* 6, no. 3 (2024): 27–38.

[24] A. Affandy and T.T. Suriatmadja, "Pemenuhan Hak Investor pada Obligasi di Pasar Modal Ditinjau dari Peraturan Pasar Modal," *Jurnal Riset Ilmu Hukum* 2, no. 2 (2022): 75–80, https://doi.org/10.29313/jrih.v2i2.1298.

[25] S. Hermawan, A. S, and Nurwati, "The Position of Concurrent Creditors in Indonesian Bankruptcy Proceedings: Legal Challenges and Uncertainty," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 3 (2024): 1456–64, https://doi.org/10.62976/ijijel.v2i3.664.

such protection are highly dependent on the type of collateral and the legal status attached to their receivables, creating a hierarchy of claims that is often overlooked by creditors, including bondholders.[26] Conversely, holders of unsecured bonds or bonds with subordination clauses will be grouped with concurrent creditors, or even creditors whose payment is deferred until other creditors are satisfied. The interpretation of these clauses in bond agreements frequently becomes a primary source of dispute during the verification of claims meetings organized by the Administrator.

Derivative instruments, such as futures contracts or swaps, present more intricate legal challenges within the bankruptcy framework. The bilateral nature of derivative contracts, often involving large notional values, creates significant exposure.[27] The Bankruptcy Law does not specifically regulate the treatment of derivative contracts. However, based on general principles, the Administrator has the authority to choose whether to continue or cancel reciprocal agreements not yet fully performed (executory contracts). This choice, regulated under Article 24 paragraph (3) of the Bankruptcy Law, has major implications for the counterparty to the derivative contract. Uncertainty in decision-making by the Administrator can create sharp interactional injustice for the counterparty. Within the theoretical framework reviewed by Darmawan and Mardikaningsih interactional injustice can undermine the psychological contract and trust that form the basis of long-term business relationships.[28] This dynamic is not only financially detrimental, but also

---

[26] A. Priyanto et al., "Legal Protection of Creditors in the Insolvency Process of Savings and Loan Cooperatives," *Journal of Social Science Studies* 3, no. 1 (2023): 69–74.

[27] O.B.T.A. Sitorus, "Legal Protection for Shareholders of Dissolved Insurance Companies," *Jurnal Indonesia Sosial Sains* 5, no. 4 (2024): 876–81, https://doi.org/10.59141/jiss.v5i04.1088.

[28] D. Darmawan and R. Mardikaningsih, "Supervisor's Interactional Justice, the Psychological Contract, and OCB: A Review and Proposed Reciprocal Model," *Proceeding of International Management Conference and Progressive Papers* 3 (October 2025).

undermines the foundation of trust within the financial market ecosystem.[29] If the Administrator chooses to cancel, the counterparty can only submit a claim for compensation as a concurrent creditor, a high-risk position with low recovery potential. Uncertainty regarding the Administrator's decision adds a risk premium to derivative instruments and can become a trigger for litigation disputes.

The role of the Financial Services Authority, although regulated under Law Number 21 of 2011 concerning the Financial Services Authority, becomes somewhat limited within the judicial bankruptcy process, which falls entirely under the control of the Commercial Court and the Administrator.[30] The OJK's mandate to protect consumers and supervise the capital market does not automatically grant authority to intervene in the distribution of bankrupt assets or determine claim priority.[31] The OJK can play a more active role in the pre-bankruptcy stage, for example, by compelling an issuer to make proper disclosure regarding deteriorating financial conditions, or conducting investigations into alleged fiduciary misconduct by directors harming the company. The findings of an OJK investigation can serve as crucial evidence for the Administrator to file a petition for the annulment of legal acts detrimental to the bankruptcy estate (actio pauliana) to the Commercial Court. In this manner, investor protection is indirectly pursued by safeguarding the integrity of the bankruptcy estate.

---

[29] M.F. Irfansyah, D. Darmawan, and R. Hardyansah, "Implementation of the Principle of Good Faith in Contract Performance," *Bulletin of Science, Technology and Society* 3, no. 2 (2024): 51–56.

[30] N. Asiah, F. Sugianto, and A. Budianto, *Revitalization of Curator Authority to Public Companies Declared Bankruptcy*, 1, no. 6 (2024): 697–705, https://doi.org/10.59613/tzft5t04.

[31] Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan (2011).

The interaction between these various legal regimes places investors in a situation where they must understand multiple layers of regulation. A bondholder, for instance, is simultaneously protected by contract law (the Civil Code), capital market law (the Capital Market Law), and bankruptcy law. In a dispute, interpretation will depend on the Commercial Court judge, who tends to apply the Bankruptcy Law as the lex specialis.[32] The governance and regulations applicable to capital instruments, as outlined in the study by Almubarak *et al.* on treasury shares, also face similar challenges when subject to different legal regimes.[33] Mechanisms and rights that function under normal conditions may be disregarded or restricted in insolvency proceedings governed by a rigid hierarchy. This can result in certain protective clauses in the bond agreement or prospectus that are compliant with the Capital Market Law becoming ineffective because they conflict with the rigid payment hierarchy in the Bankruptcy Law. It is precisely this tension between the principle of contractual freedom in the capital market and the pari passu principle in bankruptcy that often gives rise to complex and costly legal disputes.

The PKPU mechanism as an alternative to full bankruptcy offers slightly greater space for shareholders and creditors to negotiate. Within a PKPU, shareholders can participate in composition plan negotiation meetings, particularly if the plan involves new capital investment or capital restructuring. Bondholders can also negotiate for schemes such as debt-to-equity swaps, although this means they are willing to accept the position of shareholders with all its attendant risks.[34] A successful PKPU relies on consensus, making

---

[32] Sari, Emirzon, and Saleh, *Penyelesaian Sengketa Terhadap Obligasi Korporasi yang Dinyatakan Pailit oleh Pengadilan Niaga*.
[33] A.Z.R. Almubarak, R. Hardyansah, and N.H. Pakpahan, "Regulation of Treasury Shares in Public Companies and Share Governance," *Journal of Social Science Studies* 4, no. 1 (2024): 339–48.
[34] N. Manurung, "The Authority of the Financial Services Authority Regarding the Application for Postponement of Debt Payment Obligations for Insurance Companies

this mechanism more flexible than forced liquidation. However, a failed PKPU leading to bankruptcy can worsen the investor's position, as a protracted process often erodes the value of remaining assets due to legal consultant and Administrator fees that must be paid from the bankruptcy estate as prerogative costs.

From a legal certainty perspective, the claim hierarchy regulated by the Bankruptcy Law actually provides clarity. The strongest position is held by separatist creditors, followed by bankruptcy costs incurred for the common benefit, then employee wages, claims from agreements continued by the Administrator, concurrent creditors, and finally shareholders. However, problems arise in practice when determining whether a claim is concurrent or separatist, or whether a cost was indeed incurred for the common benefit. A bondholder with fiduciary security over inventory may face difficulty executing their collateral if the goods have been commingled or sold in the ordinary course of business prior to bankruptcy. Disputes over claim verification in the Commercial Court become the arena for contesting this classification, which directly impacts the amount of payment to be received.[35]

In summary, the legal mechanism for resolving bankruptcy disputes functions as an instrument for the forced redistribution of business failure risk. This mechanism systematically transforms the contractual rights held by investors into mere rights to receive a distribution from the pool of remaining assets, with proportions determined by legal category rather than by bilateral negotiation. This process tends to disadvantage shareholders and unsecured

---

in the Legal Certainty and Justice Perspective," *Global Legal Review* 5, no. 1 (2025): 1–17, https://doi.org/10.19166/glr.v5i1.7525.

[35] Rinaldi, Yuhelson, and Nur Hakim, "Perlindungan Hukum bagi Kreditor Separatis terkait dengan Penolakan Perdamaian dalam Proses PKPU," *CENDEKIA : Jurnal Penelitian Dan Pengkajian Ilmiah* 2, no. 7 (2025): 1327–39, https://doi.org/10.62335/cendekia.v2i7.1560.

creditors, while providing relatively better protection for creditors with secured interests. The existence of the Capital Market Law and the role of the OJK are not sufficiently potent to alter this fundamental hierarchy; they function primarily as an additional supervisory layer aimed at ensuring the bankruptcy process proceeds with informational integrity and without fraud. Consequently, the final position of parties in a dispute is largely determined by their ability to navigate and argue within the strict procedural framework of the Bankruptcy Law.

The Impact of Bankruptcy on the Value of Financial Instruments and Capital Market Stability

The announcement and adjudication of bankruptcy of an issuer or securities company by the Commercial Court serves as an extreme negative signal that immediately alters all economic calculations and risk assessments in the capital market. Theoretically, a share price represents the present value of expected future cash flows from a company. A bankruptcy declaration effectively severs the expectation of positive future cash flows, as the company has failed to meet its fundamental obligations. Consequently, the share price of a bankrupt issuer will experience massive selling pressure. This decline is not linear but often discrete and sharp, following a gap-down pattern when the official announcement is received by the market. Empirical research across various jurisdictions consistently shows that negative abnormal returns on the day of a bankruptcy announcement can reach tens of percentage points. In Indonesia, this selling pressure is exacerbated by limited market depth and the dominance of retail investors prone to panic. The liquidation process led by the Administrator leaves only residual value, if any, for shareholders, causing the market to swiftly adjust the share price towards its lowest nominal value or for trading to be suspended by the Stock Exchange.[36]

The impact on the price of corporate bonds issued by a bankrupt issuer shows a more varied pattern, highly dependent on the bond's structure and collateral. Unsecured bonds will experience a deep price decline, reflecting expectations of a very low recovery rate after a lengthy and costly bankruptcy process. Meanwhile, secured bonds may retain some of their value because holders possess execution rights over specific collateral assets. However, the market's valuation of the collateral itself will be very conservative, applying a significant haircut due to uncertainty in the legal process and asset liquidation under time pressure. Regulatory uncertainty and liquidation pressure are major challenges to business continuity for institutional investors. As stated by Mardikaningsih and Darmawan business continuity in the face of regulatory uncertainty requires adaptive strategies and strict risk management to anticipate extreme asset value volatility.[37] Regulations from the Financial Services Authority, particularly those governing the fair valuation of securities, compel investment companies and mutual funds to immediately write down the value of bond portfolios from bankrupt issuers in accordance with prevailing accounting principles. This book value adjustment further reinforces the negative signal and can force financial institutions to sell other assets to meet capital adequacy ratios.[38]

---

[36] Francois Geny Ritonga, *Kepastian Hukum Bagi Kreditor Konkuren dalam Penyelesaian dan Pemberesan Boedel Kepailitan*, 10, no. 3 (2024): 521–28, https://doi.org/10.55809/tora.v10i3.393.
[37] R. Mardikaningsih and D. Darmawan, “Business Sustainability Strategies in the Facing of Regulatory Uncertainty and Managerial Challenges,” *Journal of Social Science Studies* 1, no. 2 (2021): 111–18.
[38] Banu et al., “Tinjauan Yuridis terhadap Mekanisme Kepailitan sebagai Solusi Penyelesaian Utang-Piutang di Indonesia. Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora.”

Liquidity, or the ease of trading a security without significantly moving its price, disappears abruptly for instruments related to a bankrupt issuer. Indonesia Stock Exchange regulations on trading suspensions and special monitoring are typically immediately applied to the shares of a declared bankrupt issuer, formally restricting or halting trading. However, the decline in liquidity also occurs organically due to the disappearance of buyers. Market makers withdraw, and institutional investors with strict investment policies will automatically sell or remove such assets from their eligible portfolios. For bonds, although over-the-counter trading may still occur, the bid-ask spread will widen considerably, reflecting extreme disagreement between prospective buyers and sellers regarding the fair residual value. This illiquid situation traps remaining investors, particularly retail investors, in a position where they cannot exit at all, transforming paper losses into locked-in real losses.[39]

The shift in risk perception is not limited to the bankrupt issuer but spreads throughout the capital market ecosystem via several transmission channels. The first channel is the information and signaling channel. The bankruptcy of a company in a particular sector is perceived as a signal about the overall health of that sector, especially if the cause is structural factors such as declining commodity prices or regulatory changes. Other stocks within the same sector will be penalized by the market (contagion effect), as investors revise their earnings expectations and risk assessments for all companies within that industry group. The second channel is the financial linkage channel. If a bankrupt securities company (such as a securities firm or investment manager) has transactional exposure to many other parties, its

---

[39] R. Istifariana, S. Sumilir, and Y.N. Supriadi, "The Influence of Liquidity and Solvability on the Bond Ratings of Indonesia Stock Exchange: Evidence from the Raw Materials Sector," *International Journal of Business, Technology, and Organizational Behavior* 3, no. 5 (2023): 368–78, https://doi.org/10.52218/ijbtob.v3i5.293.

failure can cause direct losses and liquidity problems for its counterparties, creating a wave of trust disruption.[40]

A broader impact on capital market stability emerges when the scale of the bankruptcy is sufficiently large or involves a highly interconnected institution. The Financial Services Authority, in executing its mandate for financial system stability under Law Number 21 of 2011, will closely monitor the potential for systemic effects. The bankruptcy of a large issuer can disrupt the composite stock index, reduce market capitalization, and lower aggregate investor sentiment. This can dampen trading activity and hinder the market's function as a means for long-term fundraising. In extreme cases, widespread panic can trigger fire sales, where investors sell other good-quality assets to cover losses or meet margin calls, thereby disproportionately depressing the prices of those assets and amplifying turmoil.[41]

OJK regulations concerning Information Disclosure or Material Facts play a critical role in managing this dynamic. The obligation for issuers to immediately announce material facts, including bankruptcy petitions or severely deteriorating financial conditions potentially leading to bankruptcy, is intended to ensure information parity. Timely announcements allow the market to absorb information gradually, thereby avoiding excessively sharp shocks. However, in practice, an information gap or even an information blackout often occurs before the official announcement, which can be exploited by certain parties to exit positions (insider trading). Non-compliance with this disclosure obligation constitutes not only an administrative violation

---

[40] F. Armanda and B. Wibowo, *The Influence of Liquidity on Bond Credit Ratings: Evidence from The Indonesian Corporate Bond Market*, 5, no. 3 (2024): 712–21, https://doi.org/10.35877/454ri.qems2659.
[41] Ni Luh Putu Sopy Devina Putri and Ni Luh Putu Wiagustini, "Pengaruh Risiko Kredit, Likuiditas, dan Permodalan Terhadap Financial Distress," *E-Jurnal Manajemen* 14, no. 7 (2025): 545–62, https://doi.org/10.24843/ejmunud.2025.v14.i7.p05.

of the Capital Market Law but also worsens price distortions and undermines fundamental trust in market fairness.[42]

Bankruptcy also tests the effectiveness of the risk management framework built by capital market regulations. OJK regulations obligate securities companies, investment managers, and mutual funds to have strict risk management policies, including the assessment of credit risk from securities issuers. The bankruptcy of an issuer previously rated investment grade by a rating agency calls into question the accuracy of the risk models used by financial institutions. This collective failure to manage risk is not only technical in nature, but also touches on ethical aspects of financial management. As emphasised in the study by Putra and Arifin ethical principles such as transparency, prudence, and accountability are an integral part of sound investment and risk management practices.[43] A collective failure to predict or prepare for this risk can trigger a comprehensive review of exposure policies, portfolio diversification, and collateral requirements, ultimately leading to a tightening of credit conditions more broadly in the capital market.[44]

From the perspective of institutional investors such as insurance companies and pension funds, an issuer's bankruptcy carries dual implications. First, as a direct loss to their portfolios. Second, as a trigger for evaluating their internal due diligence and investment selection processes. Regulators of non-bank financial sectors, still under OJK coordination, will question the internal oversight processes of these institutions. Substantial

---

[42] A. Sidiprasetija and C.A. Coandi, "Analisis Peran dan Tanggung Jawab Perusahaan terhadap Para Investor Pasar Modal Indonesia," *Jurnal Hukum Lex Generalis* 5, no. 4 (2025): 1–25, https://doi.org/10.56370/jhlg.v5i4.886.
[43] A.R. Putra and S. Arifin, "Ethical Principles in Corporate Financial Management: A Literature Study on Investment and Risk," *Journal of Social Science Studies* 3, no. 2 (2023): 221–26.
[44] Sidiprasetija and Coandi, "Analisis Peran dan Tanggung Jawab Perusahaan terhadap Para Investor Pasar Modal Indonesia."

losses can affect financial performance and the ability to meet obligations to policyholders or pension fund participants. Therefore, the impact of bankruptcy does not stop at the capital market but spills over into other financial services sectors, strengthening the argument for an integrated supervision approach by the OJK.[45]

For other still-operating issuers, the bankruptcy of a competitor or similar company creates a more challenging environment. Investors become more selective and demand a higher risk premium for that sector. The cost of capital, whether through new share issuance (rights issue) or bonds, will increase as the market demands a higher yield in compensation for heightened risk perception.[46] This can hinder expansion and investment plans by healthy issuers, potentially slowing economic growth in the real sectors they operate in. This impact also damages a fair investment climate, where healthy companies can be hindered in their growth not because of monopolistic practices, but as a result of the stigma attached to the downfall of others.[47] Study on competition law enforcement shows that a healthy investment climate requires stability and certainty; contagious insolvency can disrupt this competitive balance by distorting capital costs and access to funding. In other words, the impact of bankruptcy is procyclical, worsening conditions during difficult times and limiting recovery.

---

[45] Y.M. Rahman et al., *Legal Protection for Investors against Fraud by Market Manipulation in the Indonesian Capital Market*, (Jurnal Ius) 12, no. 3 (2024): 517–29, https://doi.org/10.29303/ius.v12i3.1416.
[46] I.N. Bontot, M. Wibowo, and S. Wongsuwatt, "The Role of Company Financial Statement Disclosure to Anticipate Bankruptcy and Its Impact," 2024, https://doi.org/10.25078/ijoss.v2i1.3917.
[47] S. Firmansyah, D.S. Negara, and R. Hardyansah, "Realizing a Fair Investment Climate: The Role of KPPU's Extraterritorial Authority in Competition Law Enforcement," *Journal of Social Science Studies* 3, no. 2 (2023): 11–22.

The response of the regulator, namely the OJK and the Stock Exchange, to a bankruptcy event becomes a determining factor in limiting or amplifying its impact. Measures such as trading halts, public clarifications, and coordination with the Administrator and Commercial Court to ensure proper information flow are necessary to maintain market order. Failure in this response can trigger damaging rumors and speculation.[48] Conversely, an overly interventionist response, for instance by completely prohibiting the sale of certain shares, can create new distortions and undermine market efficiency principles. Striking the balance between allowing the market to adjust and preventing irrational panic is the complex task facing the regulator.

Ultimately, the dynamics and impact of bankruptcy in the capital market illustrate a harsh but necessary price correction process, as part of market discipline. This process reveals business failures, reallocates capital from unsuccessful companies, and forces all market participants to reassess their risk assumptions. However, the social cost of this process is substantial, encompassing investor wealth destruction, disruption of trust, and potential systemic instability. The existing legal and regulatory framework, from the Bankruptcy Law to various OJK Regulations (POJK), aims to manage this correction process to ensure it proceeds in an orderly, predictable manner with minimal collateral damage to the broader financial system.[49] The success or failure of this framework is evident in how quickly the market can absorb the shock, establish new fair prices, and resume its intermediation function without prolonged disruption.

---

[48] Y.N. Khanza, "Investor Protection and Corporate Responsibility in Multinational Holding Bankruptcy: The Virtue Dragon Indonesia and China Case," *Jurnal Indonesia Sosial Sains* 5, no. 12 (2024): 3256–69, https://doi.org/10.59141/jiss.v5i12.1553.
[49] E.I. Altman, "Financial Ratios, Discriminant Analysis and the Prediction of Corporate Bankruptcy," *The Journal of Finance* 23, no. 4 (1968): 589–609.

The Role and Intervention of the Financial Services Authority in Bankruptcy Processes within the Capital Market Sector

The foundation for the Financial Services Authority's authority to address bankruptcy aspects within the capital market sector originates from the broad mandate granted by Law Number 21 of 2011 concerning the Financial Services Authority. Article 6 of the OJK Law explicitly establishes the functions of regulating and supervising all financial services activities, including the capital market, to foster a financial system that grows sustainably and stably. Within the bankruptcy context, this stability mandate forms the primary basis for OJK's involvement, although the process is formally led by the Commercial Court. The OJK does not act as a party filing for bankruptcy or as the Administrator, but rather as a guardian of systemic stability, monitoring and anticipating the spillover effects of the failure of an issuer or securities company on the entire capital market ecosystem and its linkages with the banking sector.[50] Consequently, the OJK's role is macroprudential, distinct from the micro-level role of the Commercial Court and Administrator, which focus on resolving the debts of a specific debtor.[51]

The mandate to maintain stability and sustainable growth is in line with the global discourse on sustainability, which goes beyond environmental aspects to include the sustainability of the financial system and its human resources. As stated by Oluwatoyin and Mardikaningsih the challenges and opportunities for sustainability require a strategic approach and adaptive institutional capacity a principle that is also relevant for the OJK in mitigating

---

[50] Indradjaja Chamdani, N., and S. Wijaya, "Law and Regulation as Safeguards for Investors Against Crime in Capital Market Sector," 2024, https://doi.org/10.32734/nlr.v3i1.15584.
[51] R.C. Merton, "On The Pricing of Corporate Debt: The Risk Structure of Interest Rates," *The Journal of Finance* 29, no. 2 (1974): 449–70.

crises and ensuring that post-bankruptcy financial system recovery can be sustainable.[52]

The most directly relevant authority of the OJK is its supervision over issuer disclosure obligations, which serves as the bridge between capital market law and bankruptcy law. Law Number 8 of 1995 concerning the Capital Market obligates issuers and public companies to disclose information that may affect security prices and investor decisions.[53] Bankruptcy, or a severely deteriorating financial condition that may lead to bankruptcy, constitutes a material fact requiring immediate disclosure. OJK Regulation No. 31/POJK.04/2015 concerning Disclosure of Information or Material Facts serves as the OJK's operational instrument to enforce transparency.[54] The key relevance of this transparency is to provide a sound information basis for investors in making investment decisions. As identified in the study by Mardikaningsih and Darmawan the quality of information is one of the main foundations in the process of rational investment decision-making.[55] Without timely and accurate information about risks such as bankruptcy, investors especially beginners cannot make adequate assessments. If the OJK finds an issuer negligent or intentionally delays announcing a material fact about severe financial distress, it can impose administrative sanctions. This intervention is preventive, as timely information disclosure allows the market

---

[52] F. Oluwatoyin and R. Mardikaningsih, "Challenges and Opportunities for Sustainability of Human Resource Development in Industry 4.0," *Bulletin of Science, Technology and Society* 3, no. 2 (2024): 9–16.
[53] Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal.
[54] Peraturan Otoritas Jasa Keuangan Nomor 31/POJK.04/2015 tentang Keterbukaan atas Informasi atau Fakta Material oleh Emiten atau Perusahaan Publik (2015).
[55] R. Mardikaningsih and D. Darmawan, "Analysis of Financial Literacy and Risk Tolerance on Student Decisions to Invest," *International Journal of Service Science, Management, Engineering, and Technology* 3, no. 2 (2023): 7–12.

to adjust prices gradually, reduces the potential for sudden panic, and provides investors time to reassess their positions.[56]

In the pre-bankruptcy stage, the OJK possesses corrective supervisory authority that can potentially prevent a company from entering formal bankruptcy proceedings. Based on various OJK regulations concerning the soundness and governance of securities companies and issuers, the OJK conducts risk-based supervision. If supervision results indicate serious symptoms of financial distress in an issuer, the OJK can summon the board of directors, issue written warnings, or even recommend specific remedial measures, such as voluntary debt restructuring. The OJK is also authorized to order securities companies to improve their working capital or restrict their business activities if deemed to endanger client and market interests (Wiyanti et al., 2024). This authority is administrative and coercive, but its application before the point of bankruptcy is reached represents the most desirable form of intervention to avoid the social and economic costs of formal bankruptcy proceedings.

When an issuer has been declared bankrupt by the Commercial Court, the OJK's authority is substantially constrained because subsequent legal proceedings fall entirely under the control and authority of the Commercial Court and the appointed Administrator. The Bankruptcy Law does not assign a formal procedural role to the OJK in creditors' meetings, claim verification, or the sale of bankruptcy assets. However, the OJK retains supervisory authority and responsibility over securities issued by the bankrupt debtor, particularly those still traded or held by the public. The OJK can instruct the Indonesia Stock Exchange to temporarily suspend the trading of the bankrupt

[56] M.R. Siregar, M. Sakti, and I.E. Joesoef, “Legal Liability Framework of a Bankrupt Guarantor (Corporate Guarantee) Toward Creditors in Credit Agreements with Debtors,” *International Journal of Law and Society*, ahead of print, 2025, https://doi.org/10.62951/ijls.v2i3.649.

issuer's shares or bonds to maintain market order and prevent manipulative trading amidst highly asymmetric information (Siregar et al., 2025). This suspension decision constitutes an indirect yet critical form of intervention to contain negative impacts on broader market sentiment.[57]

Regarding law enforcement, the OJK possesses investigative authority that is highly significant in the context of bankruptcy suspected to be caused or aggravated by capital market law violations. Based on Article 9 of the OJK Law, the OJK is authorized to investigate criminal acts in the financial services sector. If there are indications that directors or specific parties engaged in financial statement manipulation, investment fraud, or violated disclosure principles, subsequently causing significant losses and bankruptcy, the OJK can conduct a thorough investigation and submit the case file to the public prosecutor. The findings of an OJK investigation can serve as the basis for the Administrator to file a lawsuit for the annulment of legal acts detrimental to the bankruptcy estate (actio pauliana) to the Commercial Court, or as grounds for investors to file a civil class action lawsuit (Siregar et al., 2025). Thus, the OJK acts as a law enforcer pursuing criminal and administrative accountability, operating in parallel with the civil bankruptcy process.[58]

Inter-agency coordination is key to the effectiveness of the OJK's role in bankruptcy. The OJK must establish a structured working relationship with the Commercial Court and the Administrator. Although not rigidly regulated by law, this coordination practice is vital for information exchange. The OJK can provide supervision data to the Administrator regarding fund flows, suspicious transactions, or the issuer's past compliance. Conversely, the Administrator can inform the OJK of developments in the bankruptcy process and findings

---

[57] P. Saktiawan et al., "Evaluating the Effectiveness of Investigation and Prosecution to Improve the Integrity of Law Enforcement in Indonesia," *Judge: Jurnal Hukum* 6, no. 01 (2025): 35–45.
[58] T.H. Jackson, *The Logic and Limits of Bankruptcy Law* (Cambridge: Harvard University Press, 1986).

relevant to its supervisory mandate. Coordination with Bank Indonesia is also crucial if the bankruptcy of an issuer or securities company potentially affects banking liquidity or payment system stability. A Memorandum of Understanding framework between institutions should be operationalized to ensure this communication flow runs smoothly, although in practice it often faces bureaucratic hurdles and differing perceptions regarding information confidentiality.

The OJK also holds the authority to protect consumers of financial services, including investors in the capital market, harmed by bankruptcy.[59] This protection is not in the form of a guarantee for lost investment value, but through efforts to ensure a fair process and access to justice. This protection finds its critical relevance in the context of retail investors. As Santoso et al. (2025) point out, retail investor protection is highly dependent on access to and understanding of information. In bankruptcy proceedings, where information is often complex and asymmetrical, the OJK's role as a facilitator of access to information becomes one of the most direct and vital instruments of protection. The OJK can facilitate investor complaints, provide legal explanations of their rights as concurrent creditors or shareholders, and, in a certain capacity, can provide considerations or act as amicus curiae to the court regarding broader aspects of investor protection. This authority is a form of soft power, but it is important for maintaining the OJK's public legitimacy and preventing the escalation of social dissatisfaction that can arise from widespread investment losses.

The overall effectiveness of OJK intervention heavily depends on the capacity of its early warning systems and the decisiveness of follow-up

[59] A. Nazhifah, M.A. Prabowo, and K.L. Makmur, "The Role of Financial Services Authority in Monitoring Fraud in the Capital Market," *Innovation Business Management and Accounting Journal* 3, no. 4 (2024): 526–32, https://doi.org/10.56070/ibmaj.2024.056.

actions.[60] A robust supervisory system should be capable of identifying issuers or securities companies with high-risk profiles before their condition becomes irreversible. Indicators such as deteriorating debt ratios, violations of debt covenants, or irregular audit opinions should trigger more in-depth examinations. However, this effectiveness is often hampered by limitations in OJK resources in facing a large number of issuers and the complexity of modern financial transactions. Furthermore, OJK's administrative interventions, such as reprimands or fines, are sometimes perceived as insufficiently strong to alter the behavior of companies already on the brink of collapse, rendering bankruptcy unavoidable.[61]

In the case of a securities company bankruptcy, the OJK's role becomes more central and direct, as it concerns the protection of client assets. OJK regulations mandate the strict segregation of securities company assets from client assets.[62] If a securities company becomes bankrupt, the OJK must ensure that client assets, such as shares and funds in securities accounts, are not commingled with the company's bankruptcy assets and can be promptly returned to clients. The OJK can supervise the process of transferring client securities accounts to another healthy securities company. This authority is technical and operational, and the OJK's failure to ensure this asset segregation can cause widespread losses and undermine fundamental trust in the securities trading system.

---

[60] Emir Adzan Syazali, Johni Najwan, and Muskibah, "Legal Reform and Strengthening of The Financial Services Authority (OJK): Protecting Investors from Insider Trading in Indonesia," *As-Siyasi : Journal of Constitutional Law* 4, no. 2 (2024): 184–209, https://doi.org/10.24042/as-siyasi.v4i2.25513.
[61] B. Santoso, D.S. Negara, and A.R. Putra, "Retail Investor Protection Through Information Disclosure in the Domestic Capital Market," *Bulletin of Science, Technology and Society* 4, no. 3 (2025): 25–34.
[62] Tranggono, Silalahi, and Shubhan, "Legal Protection Towards Public Companies from Bankruptcy."

Finally, the OJK's role in rule-making also constitutes a form of long-term intervention concerning bankruptcy risk. The OJK is authorized to issue regulations that restrict or impose stricter requirements on securities issuance by companies with fragile financial structures, or to establish emergency resolution frameworks for non-bank financial institutions at risk of bankruptcy. Establishing a clear resolution framework for securities companies, potentially involving mechanisms such as bridge institutions or business transfers, can reduce uncertainty and expedite failure management without always resorting to lengthy general bankruptcy proceedings.[63] The development of such regulations underscores the OJK's strategic role, not merely as an ex-post supervisor, but also as a designer of a system resilient to failure.

Thus, the role and authority of the OJK in capital market bankruptcy processes are multidimensional and operate within the legal boundaries defined by the division of authority with the Commercial Court. The OJK functions in the realms of ex-ante and ex-post supervision, law enforcement against violations, inter-agency coordination, consumer protection, and the formulation of regulations that build systemic resilience. Its effectiveness is not measured by the ability to prevent every bankruptcy, which is a normal consequence of a market economy, but by the capacity to minimize systemic impact, safeguard the integrity of the process, and ensure accountability for parties causing losses through legal violations. Within this framework, the OJK serves as a stabilizer and guardian of the rules, while the Commercial Court performs the adjudicative function for specific debt-credit disputes.

[63] D. Wiyanti, N.S. Imaniyati, and N. Chotidjah, "Supervision Model of the Financial Services Authority (Otoritas Jasa Keuangan (OJK," *KnE Social Sciences* 6, no. 1 (2024): 350–63, https://doi.org/10.18502/kss.v9i24.16849.

CONCLUSION

Based on the comprehensive analysis conducted, it can be concluded that bankruptcy disputes in investment contracts and the capital market constitute a complex legal domain, where the interaction between the legal regimes of bankruptcy, capital markets, and corporate law creates significant dynamics and impacts. Legally, the dispute resolution mechanism for bankruptcy, as regulated in the Bankruptcy and PKPU Law, fundamentally alters the contractual rights of investors, placing shareholders in a very weak residual position and categorizing bondholders within a strict claim hierarchy. The economic impact of an issuer's bankruptcy is direct and far-reaching, manifested through sharp price dislocation, the loss of liquidity in related financial instruments, and the spread of risk perception that can trigger contagion effects and disrupt capital market stability. In managing this impact, the Financial Services Authority (OJK) plays a critical supervisory, preventive, and coordinative role, although exclusive authority over the bankruptcy process remains with the Commercial Court. The overall effectiveness of the system depends on the harmonized application of various regulations, the firmness of law enforcement against violations, and effective coordination among relevant institutions.

The findings of this study carry significant implications for various stakeholders. For regulators, particularly the OJK, there is a need to strengthen and clarify coordination protocols with the Commercial Court and the Administrator, including the systematic exchange of information concerning financially distressed issuers. The development of a specific resolution framework for non-bank financial institutions, including securities companies, needs to be accelerated to reduce reliance on general bankruptcy procedures that are less agile. For institutional and retail investors, the primary implication is the necessity to enhance literacy and awareness of the inherent bankruptcy legal risk in every investment instrument, enabling portfolio structures to be designed considering differing legal standings within the claim hierarchy. For issuers and securities companies, this study underscores the absolute obligation to maintain transparency and good governance, as negligence can lead not only to administrative sanctions from the OJK but can also worsen their legal position and reputation in the event of bankruptcy, including the potential for personal liability lawsuits against directors.

Based on these implications, several constructive suggestions are proposed. First, for lawmakers and the OJK, to consider amendments or the issuance of more integrative technical regulations that explicitly govern the procedures for resolving the bankruptcy of issuers and securities companies, including mechanisms for client asset protection and safe harbor procedures for certain transactions to reduce uncertainty. Second, for the OJK and the Indonesia Stock Exchange, to develop and promote early warning indicators regarding issuer financial health that are more accessible to retail investors, and to strengthen education programs on the risks and legal consequences of bankruptcy. Third, for higher education institutions and legal and financial professional associations, to incorporate an in-depth study of the intersection of bankruptcy law and capital market law into curricula and continuous training programs, to prepare human resources capable of navigating the complexity of disputes in this field. These steps are expected to enhance system resilience, investor protection, and the efficiency of resolving bankruptcy disputes in the Indonesian capital market.

REFERENCES

Affandy, A., and T.T. Suriatmadja. "Pemenuhan Hak Investor pada Obligasi di Pasar Modal Ditinjau dari Peraturan Pasar Modal." *Jurnal Riset Ilmu Hukum* 2, no. 2 (2022): 75–80. https://doi.org/10.29313/jrih.v2i2.1298.

Ali, E.M., F. Dirgantara, and D. Darmawan. "Legal Protection of Consumers in Online Transactions: A Case Study of Online Fraud in Indonesia." *International Journal of Service Science, Management, Engineering, and Technology* 6, no. 3 (2024): 27–38.

Almubarak, A.Z.R., R. Hardyansah, and N.H. Pakpahan. “Regulation of Treasury Shares in Public Companies and Share Governance.” *Journal of Social Science Studies* 4, no. 1 (2024): 339–48.

Altman, E.I. “Financial Ratios, Discriminant Analysis and the Prediction of Corporate Bankruptcy.” *The Journal of Finance* 23, no. 4 (1968): 589–609.

Armanda, F., and B. Wibowo. *The Influence of Liquidity on Bond Credit Ratings: Evidence from The Indonesian Corporate Bond Market*. 5, no. 3 (2024): 712–21. https://doi.org/10.35877/454ri.qems2659.

Aryanto, E.A., D. Darmawan, and M. Irfan. “Business Legal Framework and Challenges in Implementing Social Responsibility towards Local Communities in Large Investment Projects.” *Journal of Social Science Studies* 4, no. 1 (2024): 129–36.

Asiah, N., F. Sugianto, and A. Budianto. *Revitalization of Curator Authority to Public Companies Declared Bankruptcy*. 1, no. 6 (2024): 697–705. https://doi.org/10.59613/tzft5t04.

Banu, K.E.P., R.W. Teka, C.X. Oematan, A. Mone, F.O. Santo, and F.F. Ngebos. “Tinjauan Yuridis terhadap Mekanisme Kepailitan sebagai Solusi Penyelesaian Utang-Piutang di Indonesia. Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora.” *Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora* 4, no. 3 (2025): 886–95. https://doi.org/10.55606/jurrish.v4i3.6063.

Bogdan, R.C., and S.K. Biklen. *Qualitative Research for Education: An Introduction to Theories and Methods*. 5th ed. London: Pearson, 2007.

Bontot, I.N., M. Wibowo, and S. Wongsuwatt. “The Role of Company Financial Statement Disclosure to Anticipate Bankruptcy and Its Impact.” 2024. https://doi.org/10.25078/ijoss.v2i1.3917.

Chamdani, Indradjaja, N., and S. Wijaya. “Law and Regulation as Safeguards for Investors Against Crime in Capital Market Sector.” 2024. https://doi.org/10.32734/nlr.v3i1.15584.

Corbin, J., and A. Strauss. *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. 3rd ed. London: Sage Publications, 2008.

Darmawan, D. “Distribution of Six Major Factors Enhancing Organizational Effectiveness.” *Journal of Distribution Science*, 1, vol. 22, no. 4 (2024): 47–58.

Darmawan, D., and R. Mardikaningsih. “Supervisor’s Interactional Justice, the Psychological Contract, and OCB: A Review and Proposed Reciprocal Model.” *Proceeding of International Management Conference and Progressive Papers* 3 (October 2025).

Dirgantara, F., D.S. Negara, D. Darmawan, E.A. Aryanto, and A.M. Shahab. “Legal Responsibility of Companies in Cases of Personal Data Breaches.” *Innovative: Journal Of Social Science Research* 5, no. 1 (2025): 5053–65.

Dirgantara, F., A.R. Putra, D. Darmawan, R.K. Khayru, and A.S. Wibowo. “Peran Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang (PKPU) dalam Penyelesaian Sengketa Utang Piutang di Indonesia.” *Lex Stricta: Jurnal Ilmu Hukum* 4, no. 1 (2025): 149–60.

Firmansyah, S., D.S. Negara, and R. Hardyansah. “Realizing a Fair Investment Climate: The Role of KPPU’s Extraterritorial Authority in Competition

Law Enforcement." *Journal of Social Science Studies* 3, no. 2 (2023): 11–22.

Hermawan, S., A. S, and Nurwati. "The Position of Concurrent Creditors in Indonesian Bankruptcy Proceedings: Legal Challenges and Uncertainty." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 3 (2024): 1456–64. https://doi.org/10.62976/ijijel.v2i3.664.

Irfansyah, M.F., D. Darmawan, and R. Hardyansah. "Implementation of the Principle of Good Faith in Contract Performance." *Bulletin of Science, Technology and Society* 3, no. 2 (2024): 51–56.

Istifariana, R., S. Sumilir, and Y.N. Supriadi. "The Influence of Liquidity and Solvability on the Bond Ratings of Indonesia Stock Exchange: Evidence from the Raw Materials Sector." *International Journal of Business, Technology, and Organizational Behavior* 3, no. 5 (2023): 368–78. https://doi.org/10.52218/ijbtob.v3i5.293.

Jackson, T.H. *The Logic and Limits of Bankruptcy Law*. Cambridge: Harvard University Press, 1986.

Khanza, Y.N. "Investor Protection and Corporate Responsibility in Multinational Holding Bankruptcy: The Virtue Dragon Indonesia and China Case." *Jurnal Indonesia Sosial Sains* 5, no. 12 (2024): 3256–69. https://doi.org/10.59141/jiss.v5i12.1553.

Lantabura, R., R. Mardikaningsih, and E.C. Gautama. "Legal Governance and Administrative Effectiveness in Balancing Foreign Labor and Domestic Workforce Advancement for International Investment." *Journal of Science, Technology and Society (SICO* 5, no. 1 (2024): 9–20.

Manurung, N. "The Authority of the Financial Services Authority Regarding the Application for Postponement of Debt Payment Obligations for

Insurance Companies in the Legal Certainty and Justice Perspective." *Global Legal Review* 5, no. 1 (2025): 1–17. https://doi.org/10.19166/glr.v5i1.7525.

Mardikaningsih, R., and D. Darmawan. "Analysis of Financial Literacy and Risk Tolerance on Student Decisions to Invest." *International Journal of Service Science, Management, Engineering, and Technology* 3, no. 2 (2023): 7–12.

———. "Business Sustainability Strategies in the Facing of Regulatory Uncertainty and Managerial Challenges." *Journal of Social Science Studies* 1, no. 2 (2021): 111–18.

Merton, R.C. "On The Pricing of Corporate Debt: The Risk Structure of Interest Rates." *The Journal of Finance* 29, no. 2 (1974): 449–70.

Miles, Matthew B., A. M. Huberman, and Johnny Saldaña. *Qualitative Data Analysis: A Methods Sourcebook*. Third edition. Thousand Oaks, Califorinia: SAGE Publications, Inc, 2014.

Miller, M.H. "Debt and Taxes." *The Journal of Finance* 32, no. 2 (1977): 261–75.

Modigliani, F., and M.H. Miller. "The Cost of Capital, Corporation Finance and the Theory of Investment." *The American Economic Review* 48, no. 3 (1958): 261–97.

Nazhifah, A., M.A. Prabowo, and K.L. Makmur. "The Role of Financial Services Authority in Monitoring Fraud in the Capital Market." *Innovation Business Management and Accounting Journal* 3, no. 4 (2024): 526–32. https://doi.org/10.56070/ibmaj.2024.056.

Oluwatoyin, F., and R. Mardikaningsih. “Challenges and Opportunities for Sustainability of Human Resource Development in Industry 4.0.” *Bulletin of Science, Technology and Society* 3, no. 2 (2024): 9–16.

Peraturan Otoritas Jasa Keuangan Nomor 31/POJK.04/2015 tentang Keterbukaan atas Informasi atau Fakta Material oleh Emiten atau Perusahaan Publik (2015).

Priyanto, A., D.S. Negara, D. Darmawan, A.R. Putra, and M. Irfan. “Legal Protection of Creditors in the Insolvency Process of Savings and Loan Cooperatives.” *Journal of Social Science Studies* 3, no. 1 (2023): 69–74.

Putra, A.R., and S. Arifin. “Ethical Principles in Corporate Financial Management: A Literature Study on Investment and Risk.” *Journal of Social Science Studies* 3, no. 2 (2023): 221–26.

Putri, Ni Luh Putu Sopy Devina, and Ni Luh Putu Wiagustini. “Pengaruh Risiko Kredit, Likuiditas, dan Permodalan Terhadap Financial Distress.” *E-Jurnal Manajemen* 14, no. 7 (2025): 545–62. https://doi.org/10.24843/ejmunud.2025.v14.i7.p05.

Rafie, P.A., M. Merta, and J. Junaidi. “Resolution of Disputes Regarding Corporate Bonds Declared Bankrupt by Commercial Court.” *Journal of Humanities Social Sciences and Business (JHSSB* 3, no. 2 (2024): 509–15. https://doi.org/10.55047/jhssb.v3i2.1037.

Rahman, Y.M., L. Saipudin, A.H.A. Taufiqurrohman, A. Kunantiyorini, and T. Taufiq. *Legal Protection for Investors against Fraud by Market Manipulation in the Indonesian Capital Market*. (Jurnal Ius) 12, no. 3 (2024): 517–29. https://doi.org/10.29303/ius.v12i3.1416.

Ratnawati, I., R. Mardikaningsih, and S.N. Halizah. “Protection of Creditors’ Rights and Minority Shareholders in the Company Dissolution Process

Based on Indonesian Positive Law.” *Journal of Social Science Studies* 4, no. 1 (2024): 113–22.

Rinaldi, Yuhelson, and Nur Hakim. “Perlindungan Hukum bagi Kreditor Separatis terkait dengan Penolakan Perdamaian dalam Proses PKPU.” *CENDEKIA : Jurnal Penelitian Dan Pengkajian Ilmiah* 2, no. 7 (2025): 1327–39. https://doi.org/10.62335/cendekia.v2i7.1560.

Ritonga, Francois Geny. *Kepastian Hukum Bagi Kreditor Konkuren dalam Penyelesaian dan Pemberesan Boedel Kepailitan*. 10, no. 3 (2024): 521–28. https://doi.org/10.55809/tora.v10i3.393.

Sahid, R.R., R. Hardyansah, D. Darmawan, D.S. Negara, and R.K. Khayru. “Legal Perspective of Investment Risk Mitigation on Peer-to-Peer Lending Platforms.” *Journal of Social Science Studies* 3, no. 1 (2023): 177–84.

Saktiawan, P., F. Dirgantara, D. Darmawan, S. Isnaini, and A. Waluyo. “Evaluating the Effectiveness of Investigation and Prosecution to Improve the Integrity of Law Enforcement in Indonesia.” *Judge: Jurnal Hukum* 6, no. 01 (2025): 35–45.

Santoso, B., D.S. Negara, and A.R. Putra. “Retail Investor Protection Through Information Disclosure in the Domestic Capital Market.” *Bulletin of Science, Technology and Society* 4, no. 3 (2025): 25–34.

Saputra, D.E., D. Darmawan, and D.S. Negara. “Directors’ and Commissioners’ Liability in Corporate Insolvency: A Comparative Jurisprudential Study.” *International Journal of Service Science, Management, Engineering, and Technology* 5, no. 3 (2024): 29–38.

Sari, Happy Permata, Joni Emirzon, and Putu Samawati Saleh. *Penyelesaian Sengketa Terhadap Obligasi Korporasi yang Dinyatakan Pailit oleh*

Pengadilan Niaga. 11, no. 1 (2024): 151–62. https://doi.org/10.36546/solusi.v22i1.972.

Sidiprasetija, A., and C.A. Coandi. "Analisis Peran dan Tanggung Jawab Perusahaan terhadap Para Investor Pasar Modal Indonesia." *Jurnal Hukum Lex Generalis* 5, no. 4 (2025): 1–25. https://doi.org/10.56370/jhlg.v5i4.886.

Siregar, I.K., K. Kusmilawaty, and N.A.B. Rahmani. "Analisis Peranan Otoritas Jasa Keuangan (OJK) dalam Perlindungan Nasabah Akibat Kepailitan Perusahaan Asuransi." 2025. https://doi.org/10.37329/ganaya.v8i3.4361.

Siregar, M.R., M. Sakti, and I.E. Joesoef. "Legal Liability Framework of a Bankrupt Guarantor (Corporate Guarantee) Toward Creditors in Credit Agreements with Debtors." *International Journal of Law and Society*, ahead of print, 2025. https://doi.org/10.62951/ijls.v2i3.649.

Sitorus, O.B.T.A. "Legal Protection for Shareholders of Dissolved Insurance Companies." *Jurnal Indonesia Sosial Sains* 5, no. 4 (2024): 876–81. https://doi.org/10.59141/jiss.v5i04.1088.

Syazali, Emir Adzan, Johni Najwan, and Muskibah. "Legal Reform and Strengthening of The Financial Services Authority (OJK): Protecting Investors from Insider Trading in Indonesia." *As-Siyasi : Journal of Constitutional Law* 4, no. 2 (2024): 184–209. https://doi.org/10.24042/as-siyasi.v4i2.25513.

Tranggono, E.R., U. Silalahi, and H. Shubhan. "Legal Protection Towards Public Companies from Bankruptcy." *Global Legal Review* 4, no. 2 (2024): 113–27. https://doi.org/10.19166/glr.v4i2.8365.

Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal (1995).

Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan (2011).

Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang (2004).

Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas (2007).

Wijayanta, T., S.T. Adistia, W. Kurniawan, R.F. Leonardus, and B.E. Hermawan. "The Legal Ratio of Authority Transfer from the Capital Market Supervisory Agency to the Financial Services Authority as a Bankruptcy Petitioner." *Legality* 33, no. 1 (2025): 192–203. https://doi.org/10.22219/ljih.v33i1.36537.

Wiyanti, D., N.S. Imaniyati, and N. Chotidjah. "Supervision Model of the Financial Services Authority (Otoritas Jasa Keuangan (OJK." *KnE Social Sciences* 6, no. 1 (2024): 350–63. https://doi.org/10.18502/kss.v9i24.16849.