

# Analysis of Legal Solutions for Bankruptcy Companies Due to Cancellation of Homologation to Avoid Asset Settlement (Study in Indonesia)

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## ABSTRACT

*Cancellation of homologationThe Debt Suspension of Payment (PKPU) process carries serious legal consequences for companies, namely the declaration of bankruptcy and the imposition of asset liquidation. In many cases, companies that actually still have economic potential are forced to lose all their assets due to rigid legal mechanisms with no room for improvement. This study aims to examine legal solutions so that companies experiencing bankruptcy due to the cancellation of homologation are not immediately liquidated, but can instead be given the opportunity for further restructuring. The method used is normative legal research with a statutory regulatory approach, case studies, and comparative law. The results show that the Indonesian legal system does not yet provide legal space for post-bankruptcy reorganization schemes, unlike systems in other countries such as the United States and Japan. This study recommends regulatory reform of the Bankruptcy Law to open up post-bankruptcy restructuring options and protection for companies that still have business prospects.*

**Keywords:** Cancellation of Homologation, Bankruptcy, Settlement, Restructuring, Legal Solutions

## INTRODUCTION

Bankruptcy is a legal condition in which a debtor is unable to pay debts that have matured and are collectible, so that the court can declare the debtor bankrupt based on the application of the creditor or the debtor himself (PKPU, 2004). In the Indonesian legal system, the bankruptcy process can be initiated with a Suspension of Debt Payment Obligations (PKPU), which aims to provide an opportunity for the debtor to restructure his debts through a peace agreement (homologation) with his creditors.

However, problems arose when the settlement agreement was canceled. Law Number 37 of 2004 concerning Bankruptcy and PKPU (UUK-PKPU) expressly states that if the settlement agreement is canceled, the debtor is declared bankrupt and all of its assets must be settled. This situation is detrimental to companies that still have business prospects, but due to technical violations or delays in implementing the settlement, they immediately enter the final asset settlement process (Fitri et al., 2023).

The lack of legal space for post-bankruptcy reorganization renders the Indonesian legal system highly rigid and less responsive to modern economic conditions. In contrast this, the United States legal system provides protection through Chapter 11 of the Bankruptcy Code, which allows companies to continue operating even in bankruptcy, provided there are reasonable restructuring efforts and court approval.

Similarly, Japan's Civil Rehabilitation Act allows companies to submit rehabilitation proposals after being declared unsuccessful in reconciliation. Indonesia, on the other hand, is still trapped in the old paradigm that makes settlement the only option after homologation cancellation (Tian et al., 2025).

Thus, the urgency of this study is to find a legal solution so that the company is not immediately put in order when homologation is cancelled, but is given a legal opportunity for further restructuring or other legal protection, as long as the company has healthy economic prospects.

The problems that will be studied are as follows:

1. How is the legal regulation for homologation cancellation in the Indonesian legal system?
2. What is the legal impact of homologation cancellation on a company's bankruptcy status?
3. How does this compare with other countries' legal systems in providing space for post-bankruptcy reorganization?
4. What legal solutions can be offered to prevent the immediate liquidation of the company or the sale of its assets after the homologation is cancelled?

C. Research purposes

The objectives of this research are:

1. To analyze the legal provisions regarding the cancellation of homologation in Law No. 37 of 2004 (UUK-PKPU).
2. To identify the consequences of settlement due to homologation cancellation.
3. To examine alternative legal systems from other countries regarding post-bankruptcy reorganization.
4. To offer a legal solution so that companies that are still prospective are not completely liquidated after the cancellation of the homologation.

The results of this study are expected to provide theoretical and practical benefits as follows:

1. Theoretical Benefits: Adding to the scientific knowledge in bankruptcy law and business restructuring.
2. Practical Benefits: Provides input for policy makers and legal practitioners in drafting regulations that are fairer and more adaptive to business dynamics.

This study employs a normative approach, emphasizing the study of legislation, doctrine, and judicial practice. A comparative legal approach is employed to explore alternative legal models from other countries that have already provided space for post-bankruptcy reorganization in their legal system. Furthermore, case studies of several Commercial Court decisions are used to understand the implementation of the homologation cancellation law in Indonesia.

## METHOD

This study is normative legal research, which examines positive legal norms and juridical concepts relevant to the problem being studied (Marzuki, 2017). This approach was chosen because the focus of the study is on statutory provisions, doctrines, principles, and legal theories related to bankruptcy, homologation cancellation, and the possibility of post-bankruptcy reorganization.

### Research Approach

This research uses several approaches, namely:

1. Statute approach  
The provisions of Law No. 37 of 2004 concerning Bankruptcy and PKPU and other relevant regulations were reviewed 18.
2. Conceptual approach  
The theories of bankruptcy and business restructuring were studied from the doctrines of legal experts. 19.
3. Case approach  
Used by reviewing commercial court decisions regarding homologation cancellation and asset settlement. t.
4. Comparative Law Approach

Analyze legal practices from other countries, such as the United States and Japan, which have post-bankruptcy reorganization mechanisms.

#### Data Types and Sources

The data sources used are primary data: legislation and commercial court decisions, and secondary data: literature, scientific journals, and academic works related to bankruptcy and restructuring law.

#### Data Collection and Analysis Techniques

Data collection techniques were conducted through library research, examining legal documents, books, scientific articles, and court decisions. The data were qualitatively analyzed using systematic and teleological interpretation methods to yield a deeper understanding of legal norms and their purpose.

### RESULT & DISCUSSION

#### The case of PT Metro Batavia (Batavia Air)

One of the most prominent cases was the bankruptcy of PT Metro Batavia, also known as Batavia Air. The company filed for a suspension of business (PKPU) to save its business through a settlement plan with its creditors. However, the court later annulled the settlement due to a breach of contract. The court subsequently declared PT Metro Batavia bankrupt, and a curator initiated the liquidation process. All its assets, including its aircraft fleet, were sold to pay creditors. However, many argued that the company could still be saved through restructuring, given its high brand value and operational network (Tabb, 2020).

#### The case of PT Tiga Pilar Sejahtera Food Tbk (PT TPSF)

PT TPSF was once entangled in a PKPU (Pusat Penalty Payment) suspension due to a default on its bond debt. The company successfully achieved homologation, but there were violations in the implementation of the reconciliation agreement. The creditors filed for annulment and successfully won the lawsuit, resulting in the company being declared bankrupt. This decision was highly controversial because the company was still actively producing and had a market for its product. However, because the legal system did not provide for post-bankruptcy restructuring, the company immediately entered liquidation. As a result, thousands of workers were laid off, and business activities came to a halt (Tabb, 2020).

#### Legal Analysis

From the two cases above, it can be seen that the Indonesian Bankruptcy Law does not provide legal space for reorganization after homologation cancellation. The company immediately enters bankruptcy, and all its assets are disposed of. This has the following implications: 1) the absence of a business feasibility test after the cancellation; 2) a drastic severance of business relations and market confidence; and 3) national economic losses due to the loss of jobs and productive assets.

In a more progressive system like the United States, companies in this position can file a court-supervised restructuring proposal through Chapter 11 (Prasetyo, 2023).

#### Comparative Study of Legal Systems

##### Bankruptcy System in the United States: Chapter 11 Model

The United States is known for its corporate reorganization system under bankruptcy law, which is regulated by Chapter 11 of the Bankruptcy Code. Under this system, debtors have the opportunity to maintain their businesses by submitting reorganization proposals to the court, even after experiencing severe financial difficulties (Lin & Chen, 2026). Chapter 11 protects companies from creditor enforcement actions while allowing debtors to operate their businesses under the court's supervision. This differs from the system in Indonesia, where once homologation is revoked, asset dissolution occurs without any room for business rescue. One famous case is the bankruptcy of General Motors (GM), which was successfully restructured under Chapter 11 and re-emerged as one of the largest automotive companies in the world. The role of law in corporate restructurings, such as GM's, demonstrates the effectiveness of the Chapter 11 mechanism in saving important economic entities (Sadriiddin ogli Muratov, 2025).

## Bankruptcy System in Japan

Japan adopts a dual approach: the Civil Rehabilitation Act for viable debtors and the Corporate Reorganization Act for large corporations. Under this system, the cancellation of a settlement agreement or failure to implement a restructuring plan does not immediately lead to liquidation (Seri Karna & M.E. Purwani, 2025). Japanese courts first evaluate the viability of a business and the potential for additional restructuring, including seeking strategic investors or establishing new management. This demonstrates the flexibility of the Japanese legal system, which prioritizes business continuity over debt repayment. The practice of court oversight in Japan demonstrates the judiciary's active role in the restructuring process (Tsukahara et al., 2026).

## Bankruptcy System in Germany

Germany has implemented a more progressive Insolvenzordnung (InsO) system to address corporate restructuring. This system provides debtors with the opportunity to submit rescue plans even after their bankruptcy petitions are granted (Fagetan, 2025). The German government provides a negotiation space between debtors and creditors by involving an independent administrator. This law also prioritizes debtor-in-possession proceedings and mediation before liquidation. German legal reforms also emphasize the importance of court oversight in ensuring efficiency and fairness in bankruptcy proceeding. This regulatory innovation has become an important source of inspiration for developing countries, including Indonesia (Quick et al., 2025).

## Lessons for Indonesia

These three systems offer important lessons: 1) flexibility in restructuring after initial failure, 2) legal protection for the economic value of surviving businesses, and 3) the active role of courts and trustees in maintaining a balance between debtor and creditor rights. The Indonesian system tends to be overly finalistic and unadaptive to the dynamics of the business economy. Therefore, regulatory reform is needed so that bankruptcy law can truly support economic recovery and not simply serve as a collection tool.

## *Discussion*

### Alternative Legal Solutions for Post-Homologation Cancellation Settlement

In the current Indonesian legal system, the cancellation of homologation in the Suspension of Debt Payment Obligations (PKPU) process automatically leads to a declaration of bankruptcy by the court. This is explicitly regulated in Article 170 paragraph (1) of Law No. 37 of 2004, which states that if the debtor does not fulfill the contents of the peace agreement, the creditor can submit a request to the court to declare the debtor bankrupt (Muhammad Sobar et al., 2026). This provision gives rise to legal problems, namely the lack of legal space for the debtor to carry out recovery or restructuring after the bankruptcy declaration is issued. This creates a dead end in Indonesian positive law. In reality, not all peace cancellations are caused by inability to pay, but also due to technical incompatibilities, drastic changes in business conditions, or other reasons of an administrative and non-substantial nature (Deviana & Gunadi, 2025).

### Post-Bankruptcy Moratorium Mechanism Arrangements

The first solution is to establish a moratorium on liquidation or stay of liquidation for a specified period after bankruptcy is declared due to homologation cancellation. During this moratorium, the debtor is given the opportunity to 1) demonstrate business prospects, 2) develop a restructuring plan, 3) seek strategic investors, and 4) renegotiate with creditors. This mechanism aims to protect the economic value of companies that are still commercially viable but have temporarily failed to fulfill the settlement agreement. On the other hand, creditors' interests remain protected because the stay of liquidation has not been revoked, only temporarily suspended until an objective evaluation by the commercial court through the Curator and Supervisory Judge (Permatasari & Lie, 2025).

### Business Restructuring within the Framework of New Procedures

A new procedural framework needs to be established within Bankruptcy Law that allows bankrupt

debtors to submit new restructuring plans even if their legal status has been declared bankrupt. This plan can be implemented in the following forms: 1) submitting a reorganization plan to the court, 2) restructuring debt through acquisition or merger with investors, and 3) combining company assets in a new business scheme under the supervision of a curator and the court. This step not only protects prospective debtors but also prevents creditors from the risk of receiving a liquidation value that is much lower than the potential long-term value (Natakusumah, 2022).

### Regulatory Reform

The provisions of Law No. 37 of 2004 currently tend to be liquidative rather than rehabilitative. The direction of legal policy must be immediately shifted, emphasizing the going-concern principle or business continuity as a priority. This can be achieved through serious and systematic steps and efforts, including the following:

#### Amendments to the Bankruptcy Law

The revision of the bankruptcy law must include: 1) a new article on the reorganization of bankrupt companies; 2) strict limitations on the types of agreement violations that can cancel homologation, namely only substantial violations that impact creditors; 3) a mechanism for requesting a moratorium on settlements, which can only be done if accompanied by a business viability report; and 4) an active role for the commercial court in evaluating the company's viability before approving settlements (Aprita et al., 2025).

#### Establishment of the Restructuring Guarantee and Supervisory Agency

This institutional model is similar to a Trustee in America or an Administrator in Australia, whose duties include 1) evaluating the feasibility of a restructuring plan, 2) overseeing the implementation of the reorganization plan, and 3) acting as a mediator between the debtor, creditors, and the receiver. With this institution, the burden of assessment rests not only on the court but also on a professional entity that can provide data-based input and business projections (NIGAM et al., 2026).

#### Legal Protection of Creditors and National Interests

Concerns often arise that providing space to debtors after bankruptcy will harm creditors. In fact, many studies show that the liquidation value of assets is often lower than the value of the company as a functioning entity.<sup>42</sup> Therefore, this legal reform actually provides balanced justice so that: 1) creditors still have the right to claim and can monitor the realization of the restructuring plan; 2) debtors are given the opportunity to maintain their businesses; and 3) the state is protected from the domino effects of bankruptcy, such as mass layoffs, loss of tax revenue, and sectoral economic stagnation.

#### Establishing Precedents and a Rehabilitative Culture

The next step is to promote progressive jurisprudence in the commercial courts. Judges can utilize legal principles such as the principle of proportionality in assessing the annulment of a settlement, the principle of economic benefit and justice, and the principle of protecting healthy businesses, as stipulated in Article 33 of the 1945 Constitution of the Republic of Indonesia, which emphasizes that economic activities must be managed for the greatest prosperity of the people. The legal culture that overemphasizes debt repayment without regard for business sustainability must be immediately changed (Mulyanta Sembiring et al., 2025).

#### New Procedural Scheme

As an illustration, the following procedural scheme can be adopted: 1) the debtor is declared bankrupt due to the cancellation of homologation; 2) the debtor submits a request for a moratorium on settlement for a maximum of 90 days; 3) during the moratorium period, the debtor prepares a new restructuring proposal, the curator and creditors provide responses, and the restructuring supervisory agency (if one already exists) provides recommendations to the court; 4) if the proposal is feasible, the settlement is suspended and the reorganization is implemented; and 5) if it fails, the settlement process can be continued and implemented.

## Analysis of Legal Solutions and Reform Recommendations

### Legal Solution

Considering the legal and economic realities in Indonesia, the legal solutions that can be offered to prevent companies from being immediately liquidated after the homologation cancellation include the following:

1. The postponement of the Settlement Mechanism (post-bankruptcy moratorium), namely the law, can provide a clause that gives a maximum of 90 days after cancellation for business evaluation and restructuring by the court before settlement is carried out<sup>44</sup>.
2. Restructuring Under Court Supervision, namely a mechanism like the local version of Chapter 11, where the debtor is still allowed to submit a new plan if it meets the business feasibility indicators.
3. Strengthening the Function of Commercial Judges, namely Judges must be given broader authority to evaluate whether settlement is the only way or whether there are other business rescue options.

### Legal Reform Recommendations

In relation to the legal solutions offered, the author recommends the following bankruptcy law reforms:

1. Amendment to Law No. 37 of 2004  
The Bankruptcy Law should be revised by adding articles on post-bankruptcy reorganization and a moratorium on asset disposal.
2. Establishment of the Business Restructuring Supervisory Agency  
This institution is tasked with evaluating restructuring proposals, providing recommendations to the court, and bridging the communication gap between debtors and creditors.
3. Reset of the Annulment of Peace Standards

Article 170 should be limited so that only substantial (not administrative) violations can be grounds for the cancellation of homologation.

### Legal and Economic Implications

This legal solution will have the following implications: 1) providing certainty and justice for both parties (debtors and creditors), 2) maintaining national economic value and workforce stability, and 3) encouraging a healthy business climate that is not repressive of business failure.

## CONCLUSION

This study found that the bankruptcy legal system in Indonesia does not provide adequate legal space for companies declared bankrupt due to the cancellation of homologation to avoid settlement or asset sales. Law No. 37 of 2004 does not regulate the mechanism for restructuring or reorganization after bankruptcy, so settlement is the only legal path available, even though the company is still economically viable to be saved. Studies of various cases such as PT Metro Batavia and PT Tiga Pilar Sejahtera show that the economic and social losses arising from asset disposal are very large, including mass layoffs and the loss of business value that could have been maintained. A comparison with the legal systems of the United States (Chapter 11), Japan (Civil Rehabilitation Act and Corporate Reorganization Act), and Germany (Insolvenzordnung-InsO) shows that the legal systems in these countries provide alternative mechanisms that are more flexible and adaptable to real-world business conditions. The courts play an active role in protecting businesses that can still be saved, while asset settlement is truly considered a last resort (ultimum remedium). Thus, an update to Indonesian bankruptcy regulations is needed so that they not only function as a liquidation tool, but also as an economic recovery mechanism for business entities that still have good business prospects.

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