APPLICANT LEGAL STANDING BANKRUPTCY STATEMENT AGAINST SECURITIES COMPANY

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Abstract

This study aims to analyze and explain the legal standing of bankruptcy applicants against securities companies andinvestor protection in stock transactions, as well as the settlement process at securities companies PT. Andalan Artha Advisindo Securitas. This research is a normative research with a legislative approach and conceptual approach. The research data is in the form of primary legal material relating to the object of research. The results of the study indicate that the legal standing of the applicant's statement of bankruptcy against the securities company is confirmed in UUK and PKPU that only OJK has the authority to submit a statement of bankruptcy to the securities company. So, there should be no other institution or individual, except OJK which can submit a statement of bankruptcy against the securities company. In addition, investor protection in share transactions includes: forming a division that specifically deals with education and consumer protection in the financial services sector that is intended for investors or the general public in accordance with the prevailing laws and regulations. Whereas the alternative settlement process for securities companies is in two forms of preventive measures in the form of clear regulatory arrangements, the existence of standard guidelines, guidance and direct direction from OJK.
Keywords: Legal Standing; Bankrupt Applicant; Securities Company

INTRODUCTION

The development of an increasingly competitive business world requires every company to manage and implement the company's management to be more professional. In this case, the company must be based on the principles of efficiency in the source of funds and utilize the optimal resources so that it can increase competitiveness and good company performance for the existence and survival of the company. The company is a business unit that conducts economic activities, aims to produce goods or services, and has a separate administrative record regarding production and cost structure and there are those responsible for the business. Every company will always maintain its performance to achieve certain growth rates including securities companies.

At the normative level, securities companies are parties that have obtained permission from the Capital Market Supervisory Agency (hereinafter referred to as the Financial Services Authority in accordance with Article 55 of Law Number 21 of 2011 concerning the Financial Services Authority (UUOJK) to be able to carry out tasks as parties businesses as Underwriters, Brokers, and / or Investment Managers, Securities companies have capital market duties and increase public interest in investing in the capital market as an alternative investment, helping to mobilize public funds by trading securities between investors or issuers.

Securities companies are born from the encouragement of capital market players in a place that can accommodate the sale and purchase of capital market instruments, securities companies have a duty as capital markets and increase public interest in investing in the capital market as an alternative investment it mobilizes public funds by trading securities between investors or issuers. The juridical target of legal arrangements for the capital market is principally: (1) Information disclosure; (2) Professionalism and responsibility of capital market players; (3) An orderly and modern market; (4) Efficiency; (5) Fairness; and (6) Protection of investors.[1]

In relation to investor protection, one of the things that investors fear to buy shares of companies *going publicpublic* orcompanies is the lack of legal protection for companies *going public* if they go bankrupt and even liquidated. A company's bankruptcy is basically a phenomenon in the world business. Bankruptcy laws provide an opportunity for creditors to apply for bankruptcy for public companies that are unable to carry out their obligations. If a public company is bankrupted, investors will suffer greatly because the shares they own cannot be traded again on the exchange, even public investors may not get the remaining bankrupt assets.

Bankruptcy is a public confiscation covering all debtor assets for the benefit of all creditors. Article 1 of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligation states that the issue is general seizure of all assets of bankrupt debtors whose management and settlement is carried out by the Curator under the supervision of a supervising judge.[2]

Capital Market and Financial Institution Supervisory Agency (abbreviated as Bapepam-LK) Bapepam is an institution under the Indonesian Ministry of Finance which is tasked with fostering, regulating, and supervising daily capital market activities as well as formulating and implementing activities and technical standardization in the field of financial institutions. Bapepam-LK is a merger of Bapepam and the Directorate General of Financial Institutions. Currently, Bapepam-LK has been replaced by the Financial Services Authority (OJK) since the Law of the Republic of Indonesia Number 21 of 2011 concerning the Financial Services Authority was adopted.

Bankruptcy institutions are basically an institution that provides a solution to the parties if the debtor stops paying or is unable to pay.[3] Thus, there is a development of regulation regarding bankruptcy for securities companies, particularly regarding the "*legal standing*" of the bankruptcy of securities companies.*Legal standing* is a condition in which a person or party is determined to fulfill the requirements and therefore has the right to submit a request for settlement of a

[1] Munir Fuady. 1996. *Pasar Modal Modern: Tinjauan Hukum*.PT Citra Aditya Bakti. Bandung. hlm13.

[2]Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban PembayaranUtang.

[3] Martiman Prodjohamidjojo. 2001. Proses Kepailitan. Mandar Maju. Bandung, hlm. 16

dispute, dispute or case before the Constitutional Court. Based on the provisions of Article 51 Paragraph (1) of Law Number 24 Year 2003 concerning the Constitutional Court, one of those who can submit an application is an individual Indonesian Citizen who considers his constitutional rights and / or authorities have been impaired due to the coming into effect of the law.

In connection with bankruptcy cases can be found parties who filed and filed in the bankruptcy process. One of the parties involved in a bankruptcy case is the party who submits or the bankrupt applicant, the party that takes the initiative to file a bankruptcy application to the court, which can be a bankruptcy case called the plaintiff (bankrupt applicant). Bankruptcy application that can only be submitted by the Supervisory Board Capital Market (abbreviated as Bapepam) if the debtor is a Securities company (Article 2 paragraph (4) of the Bankruptcy Act). So, the only Bapepam is given the authority to submit a bankruptcy statement to the Commercial Court if the debtor is a securities company.

In the Central Jakarta Commercial Court's decision with Number: 08 / Pdt.Sus.PAILIT / 2015 / PN.Niaga.Jkt.Pst, where 2 (two) creditors submit a bankruptcy statement to their debtor. In this case, the debtor is PT Andalan Artha Advisindo Securitas (PT AAA Securitas) which is a securities company. This company is engaged in securities trading brokers and underwriters. The contents of the decision stated that PT. Andalan Artha Advisindo Securitas (PT AAA Securitas) was declared bankrupt against 2 (two) of its creditors.

Based on the above decision, PT. Andalan Artha Advisindo Securitas (PT. AAA Securitas) objected and submitted a review due to a real mistake from the Commercial Court Judge Board in the Central Jakarta District Court that examined and decided the case Number 08 / Pdt.Sus.PAILIT / 2015 / PN. Niaga. Jkt.Pst. In the Judicial Review decision, cancel the commercial court's decision.

The case begins with theagreement *Repurchasement Order* (Repo)between PT. Andalan Artha Advisindo Sekuritas (Respondent) with Ghozi Muhammad and Azmi Ghozi Harharah (Petitioner) amounting to Rp. 24 billion as evidenced by thesheet *repo confirmation* issued by PT. AAA Securities. Because the status of debt that has matured and can be billed so *mutatis mutandis* meets the bankruptcy element in a simple manner. Finally the applicant submits an application for a bankruptcy statement to PT. AAA Securities to the Central Jakarta Commercial Court on April 28, 2015.

The Central Jakarta Commercial Court then decided on the bankruptcy petition *a quo* on June 25, 2015 with Amamar granting the request for a statement of bankruptcy of the entire applicant, and dropping the bankruptcy status to PT. AAA Securities. *Ratio decidendi* used by the panel of judges is that the conditions experienced by the debtor have fulfilled the bankruptcy preconditions as set forth in Article 2 paragraph (1) jo. Article 8 paragraph (4) of Law Number 37 of 2004

concerning Bankruptcy and Postponement of Liability for Debt Payment (PKPU).On this basis, this study aims to find out and explain the *legal standing of the* applicant's statement of bankruptcy against the securities company, as well as the protection of investor shares in the transaction and the settlement process at the securities company.

DISCUSSION

Analysis of the *Legal Standing* Applicant for Bankruptcy Statement of a Securities Company Securities

Company is a party that conducts business activities and has a license of the Financial Services Authority as an Underwriter (PEE), Broker Dealer (PPE), and or Investment Manager (MI). The Bankruptcy Law (UUK) of 2004 regulates normatively the definition of insolvency which states that bankruptcy is a general seizure of all assets of a bankrupt debtor whose management and settlement are carried out by a curator under the supervision of a Supervisory Judge as regulated in this law.

A bankruptcy statement is a court decision, so before the application for a statement and decision on a bankruptcy statement by the court, a debtor cannot be declared bankrupt. Before submitting an application for bankruptcy statements to the court, there are two things that must be considered, namely bankruptcy requirements and parties entitled to file bankruptcy applications. Requests for bankruptcy statements can be submitted, if bankruptcy requirements have been met.

A bankruptcy request can be submitted based on special laws and regulations Article 2 of Law No. 34 of 2004 concerning Bankruptcy and Postponement of Obligations to Pay Debt (PKPU), where there are several parties who can file bankruptcy to the court, as follows:

a. The creditor

   The creditor party alone or together with other creditors can apply for bankruptcy to the debtor court. Of course, after the conditions for filing for bankruptcy are fulfilled as stipulated in the law.

b. Public Prosecutor's Office.

   Public interest is in the interests of the nation and state and / or the interests of the wider community.

c. Bank Indonesia in the event that a Debtor is a bank

   Submission of an application for a statement of bankruptcy against a bank is entirely the authority of Bank Indonesia. The submission is solely based on an assessment of the financial condition and condition of the bank as a whole, so that it does not need to be accounted for. The authority of Bank Indonesia to submit a bankruptcy application does not abolish the authority of Bank Indonesia in relation to the provisions concerning the revocation of bank business licenses, dissolution of legal entities, and bank liquidation in accordance with laws and regulations.

d. The Capital Market Supervisory Agency (BAPEPAM) in the event that the Debtor is a Securities Company, Stock Exchange,

Clearing Guarantee Institution, Depository and Settlement Institution, a bankruptcy application can also be submitted by the Capital Market Supervisory Agency (BAPEPAM) for conducting activities related to public funds invested in securities under the supervision of the Capital Market Supervisory Agency. The Capital Market Supervisory Agency also has full authority in the case of filing a statement of bankruptcy application for agencies under its supervision, as well as the authority of Bank Indonesia on banks.

e. The Minister of Finance in the case of a Debtor is an Insurance Company, Reinsurance Company, Pension Fund, or State-Owned Enterprise engaged in the public interest sector.

In connection with the description above, it can be said that only BAPEPAM or the Financial Services Authority (OJK) can conduct bankruptcy requests as stipulated in UUK and PKPU. In other words, only OJK has the authority to file bankruptcy statements against debtors engaged in the capital market, meaning that the application for bankruptcy statements against securities companies can only be submitted by the OJK.

On the other hand, securities companies differ from other financial institutions because securities companies do not carry out financial intermediary functions such as banks and financing institutions. The presence of securities companies allows the capital market to work faster and allocate financial resources more efficiently, because securities companies offer*risk sharing*, liquidity and information that are relatively fast and cheap. This is because in carrying out every transaction activity both selling and buying, investors do not do directly to the issuer but through securities companies.

Based on the description above, it can be said that besides OJK, it is not permissible for other institutions to carry out bankruptcy applications, because in Article 2 paragraph (4) UUK and PKPU confirm that only OJK has the authority to file bankruptcy claims against securities companies. So, there should be no other institution besides OJK that submits a statement of bankruptcy to the securities company.

In a human rights perspective, bankruptcy starts with a debtor who turns out not to repay the debt on time for a certain reason, resulting in the assets of debtors, both movable and immovable, both existing and future debtors who are collateral for their debts. sold to be a source of repayment of its debts. The assets of debtors who become collateral are not only used to pay their debts, but also become collateral for all other obligations arising due to other agreements or obligations arising from the laws stipulated in Article 1131 of the Civil Code.[4]

The main requirement to be declared bankrupt is that a debtor has at least 2 (two) creditors and does not pay off one of the debts that have fallen due. In this payment arrangement, it involved both the interests of the debtor himself, as well as the interests of

[4]Wawancara penulis dengan Fajar Restu Sonjayadari Legal dan Case Manajer BAPMI, yang dilakukan pada tanggal 26 September 2017, bertempat di Kantor Badan Arbitrase Pasar Modal Indonesia.

his creditors. With the decision of the bankruptcy statement, it is expected that the debtor's bankrupt assets can be used to repay all debtor debts fairly and evenly and equally. A bankruptcy statement can be requested by one or more creditors, debtors, or public prosecutors for the public interest. Bankruptcy does not release a person declared bankrupt from the obligation to pay his debts.

Bankruptcy is closely related to the inability to pay from a debtor for debts that are due. Such inability must be accompanied by a concrete action to file, whether voluntarily by the debtor himself or at the request of a third party. The purpose of submitting the application as a form of fulfilling the principle of publicity from being unable to pay. Without an application to the court, an interested third party will never know the condition of being unable to pay from the debtor. This situation will then be strengthened by a decision to declare bankruptcy by a court judge, whether it is a decision to grant or reject the application for bankruptcy statement submitted.[5]

Debtors who experience financial difficulties or are unable to pay their debts, the creditor will try to take the road to save the debt. One of the paths taken is that creditors submit a request to the court so that the debtor is declared bankrupt, where the application is referred to as an application for bankruptcy statement. Since the application is submitted to the court, it must pass the correct procedure.[6]

In connection with the above description, the UUK and PKPU have explicitly regulated the authority of the OJK in applying for bankruptcy statements against securities companies. However, until now the OJK has not issued a clear regulation regarding the mechanism for submitting bankruptcy applications for securities companies as well as the rules issued by the OJK regarding the mechanism for submitting bankruptcy applications to insurance companies, Islamic insurance companies, reinsurance companies and sharia reinsurance companies.

The impact of the absence of regulations issued by the OJK will make it difficult for creditors to fulfill their debt rights in the event that the debtor is a securities company, because obviously the creditor does not have the authority to file a bankruptcy statement against the securities company. However, this can also be used by creditors to submit bankruptcy statements directly without going through OJK, on the grounds that they do not have rules regarding the mechanism for submitting bankruptcy applications to securities companies.

The provisions of Article 2 paragraph (4) UUK and PKPU are also a form of legal protection against securities companies who wish to file bankruptcy statements to the court by creditors. In the provisions of the article,

[5]Wawancara penulis dengan Afif Saipuddin dari Divisi Keanggotaan Bursa Efek, yang dilakukan pada tanggal 27 September 2017, bertempat di Kantor Bursa Efek Indonesia Jakarta.

[6]Wawancara penulis dengan Khoirul Muttaqien dari Direktorat Pengawasan Transaksi Efek OJK, yang dilakukan pada tanggal 25 September 2017, bertempat di Kantor Otoritas Jasa Keuangan, Jakarta.

the creditor of a securities company is not authorized to submit an application for bankruptcy statements directly to the court, but the application must be filed through BAPEPAM / OJK.

In connection with the description above, it can be said that the application for bankruptcy statements may not be submitted individually even though it is known that everyone has the right to receive protection of interests as human rights. This is confirmed in Article 2 paragraph (4) of UUK and PKPU which determines that only OJK has the authority to file applications for bankruptcy statements against securities companies. The provisions of Article 2 paragraph (4) are also a form of legal protection that has been given by UUK and PKPU to the insolvency of securities companies so that individuals or creditors do not submit bankruptcy statements to securities companies directly to the court. Therefore, creditors both individually and more may not immediately directly submit applications for bankruptcy statements against securities companies, because according to Article 2 paragraph (4) UUK and PKPU only OJK has the authority to submit applications for bankruptcy statements against securities companies.

Investor Protection in Stock Transactions, as well as the Settlement Process in Securities Companies Securities.

Companies as one of the parties conducting trading activities on the capital market have the main function to bring together parties who need funds or capital, in this case companies with parties those who have funds, namely investors. In conducting its business activities, both as *under writers*, *brokers* and investment managers in advance the securities company must have permission from the capital market authority.

Loss of investor confidence for securities companies is a fixed price, because trust is the heart of the securities company, if investors leave the securities company because there is no longer any trust in the company's performance and professionalism, the securities company will go bankrupt or be closed. This effect is an immaterial loss which is a loss that cannot be measured by value or material. There are many securities companies operating in Indonesia, so investors tend to be more selective in choosing securities companies that have good performance as a place to transact, one of them by looking at the *track record* of securities companies whether they are clean from violations in accordance with OJK regulations and the stock exchange, are not subject to suspension or freezing, because securities companies that are being imposed with suspension or suspension sanctions will prevent investors from conducting transaction activities both selling and buying transactions.

In addition to investor confidence in certain securities companies, the prolonged consequences caused investors to lose confidence in the capital market. The Indonesian capital market authority is currently intensively conducting socialization to be able to attract many investors, both domestic and foreign investors. Investment

climate factors, regulations or political policies and conditions are important factors to maintain investor confidence in the development of the capital market. Therefore, OJK has an important task in guarding the investment climate so that it does not result in loss of trust from investors.

This is what PT. Andalan Artha Advisindo, where investors from PT. Andalan Artha Advisindo filed a bankruptcy suit at the Central Jakarta Commercial Court on April 28, 2015. The Central Jakarta Commercial Court granted the request of the two investors in decision No. 08 / Pdt.Sus.Pailit / 2015 / PN.Niaga.JKT.Pst on June 29, 2015 and stated that PT. Andalan Artha Advisindo is in a state of bankruptcy with all the legal consequences.

In the application letter, Ghozi Muhamad and Azmi Ghozi Harharah (as applicants) filed for bankruptcy applications at PT. Andalan Artha Advisindo (as the respondent) for the following reasons:

a. The Petitioners and the Respondent have conducted Repo transaction (*repurchasement Agreement*) and what is the obligation of the Petitioners to give or deposit to the Respondent funds amounting to Rp. 24,000,000,000 (twenty-four billion rupiah) to buy shares contained in:
   1) Repo Confirmation Ref No. 004 / RC / FI / Nov / 14 dated November 24, 2014 for BRI INDO shares with principal value plus interest amounting to Rp.5,050,416,687, - (five billion fifty million four hundred sixteen thousand six hundred sixty seven rupiah) on behalf of Ghozi Muhamad with the date of completion 29 December 2014;
   2) Repo Confirmation Ref Number 002 / RC / FI / Nov / 14 dated 12 November 2014 for FRN Garuda shares with principal value plus interest of Rp. 6,060,500,000 (six billion sixty million five hundred thousand rupiah) on behalf of Azmi Ghozi Harharah with the date of completion of December 15, 2014;
   3) Repo Confirmation Ref Number 003 / RC / FI / Nov / 14 dated November 24, 2014 for BRI INDO shares with principal value plus interest of Rp. 5,050,416,667, - (five billion fifty million four hundred sixteen thousand six hundred sixty seven rupiah) on behalf of Azmi Ghozi Harharah with the date of completion of December 29, 2014;
   4) Repo Confirmation Ref No. 001 / RC / FI / Nov / 14 dated December 2, 2014 for FRN Garuda shares with principal value plus interest of Rp. 8,080,666,667 (eight billion eighty million six hundred sixty thousand six hundred sixty seven rupiah) on behalf of Azmi Ghozi Harharah with the date of completion on January 5, 2015.
b. Up to the deadline or due, PT. Andalan Artha Advisindo does not fulfill its obligation to repurchase the shares, and therefore the Petitioner and the Respondent have a meeting in the Petitioner's office and it has been agreed that the Respondent promised to be able

to complete and or return / repurchase aquo shares at the latest 2 (two) weeks. since the date of the meeting, which was on December 29, 2014

c. That up to the time limit that has been determined, the Respondent again did not keep the promise and therefore the Petitioner has made a warning or warnings in the form of electronic media messages (e-mail) on December 29 to the date December 30, 2014, but did not get a response. Furthermore, the Petitioner gave a letter of summons Number 10 / Somasi / KH-DAM / III / 2015 on March 10, 2015 but also did not get a response.

Basically receipt of a claimant or more in court, based on Article 22 of *the Algemene Bepalingen van Wetgeving voor Indonesie* (AB)*"Deregter, die Weigert REGT te spreken, onder voorwendselvan stilzwigjen, duisterheid of onvolledigheid der wet, kan uit hoofde van regtsweigering vervolgd worden*".The provision affirms that the court must not refuse to examine, hear, and decide on a case that is filed with a legal argument that does not exist or is unclear, but is obliged to examine and try it. [7]

The granting of a statement of bankruptcy regarding the securities company PT. Andalan Artha Advisindo Securitas, due to the absence of rebuttal or objection to the demands of the securities company mentioned above by its investors, was declared bankrupt. The case is the first case in Indonesia.[8]According to the civil procedural law expert, M. Yahya Harahap, the granting of a claim is a condition, if the claim can be proven by the plaintiff according to the evidence as stipulated in Article 1865 of the Civil Code ("Civil Code") / Article 164Het Herzien Inlandsch Reglement("HIR").[9]

Based on the above description, the interest of the applicant as a shareholder as an investor from PT. Andalan Artha Advisindo who filed a bankruptcy suit at the Central Jakarta Commercial Court was fulfilled or granted in decision No. 08 / Pdt.Sus.Pailit / 2015 / PN.Niaga.JKT.Pst on June 29, 2015 and stated that PT. Andalan Artha Advisindo is in a state of bankruptcy with all the legal consequences. This was reinforced by the presentation of the reasons for filing bankruptcy applications and the evidence presented at the trial on June 29, 2015, in which the Central Jakarta Commercial Court stated that the company PT. Andalan Artha Advisindo is currently in a state of bankruptcy with all the legal consequences.

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[7]Lihat Pasal 5 ayat (1) adan Pasal 19 Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman yang menyatakan bahwa Hakim dan hakim konstitusi wajib menggali, mengikuti, dan memahami nilai-nilai hukum dan rasa keadilan yang hidup dalam masyaraka

[8]Wawancara penulis dengan Darmi Marasabessy, SH, kuasa hukum dari Ghozi Muhamad dan Azmi Ghozi Harharah, yang dilakukan pada tanggal 26 September 2017, bertempat di Kantor Darmy Marasabessy, SH & Rekan, Depok.

[9] M. Yahya Harahap, 2009. *Hukum Acara Perdata*. Sinar Grafika. Jakarta. P. 398.

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With the granting of the bankruptcy petition against PT. Andalan Artha Advisindo Securitas by the Niaga court, that it can be said that fulfillment of interests is fulfilled as shareholders or investors because they have exercised their rights to claim as shareholders in the securities company. However, this has not been fully fulfilled by the interests of investors, due to a review by the Supreme Court of the decision made by PT. Andalan Artha Advisindo Securitas and the lack of clarity regarding the refund to investors.

The securities company carries on its business activities adhering to the provisions of the laws and the internal policies of the company, especially related to risk management that must be improved, because with strong risk management, the company will be better able to analyze any losses that will arise and minimize the level of violation of regulatory provisions current regulation.

In addition to taking litigation paths that spend a lot of time and money, customers can also take up more deliberative dispute resolution, namely through the ADR (institution*Alternative Dispute Resolution*). Based on the OJK decree dated December 16, 2015, Number KEP-4 / D.07 / 2015 which contains the List of Alternative Institutions for Financial Services Dispute Settlement in this regard in the insurance sector, capital market, pension funds, banking, and guarantees that meet the principle of accessibility, independence, fairness, efficiency and effectiveness and supervised by the OJK. The List of Alternative Institutions for Settlement of Financial Services Disputes (Table 1).

Tabel 1. Lembaga Alternatif Penyelesaian Sengketa Di Sektor Jasa Keuangan

No	Nama LAPS
1	Badan Mediasi dan Arbitrase Asuransi Indonesia (BMAI)
2	Badan Arbitrase Pasar Modal Indonesia (BAPMI)
3	Badan Mediasi Dana Pensiun (BMDP)
4	Lembaga Alternatif Penyelesaian Sengketa Perbankan Indonesia (LAPSPI)
5	Badan Arbitrase dan Mediasi Perusahaan Penjaminan Indonesia (BAMPPI)

Sumber Data: Pengumuman OJK Nomor PENG-2/D.07/2015

The ADR institution that handles the capital market sector is the Indonesian Capital Market Arbitration Agency, which is usually abbreviated as BAPMI. In 2002 the Self Regulatory Organization consisting of PT. Indonesia Stock Exchange, PT. Indonesian Clearing and Securities Guarantee and PT. The Indonesian Central Securities Depository along with 17 (seventeen) associations in the Indonesian capital market environment signed

a MoU to establish the BAPMI Arbitration Institution. BAPMI is one of the bodies of civil dispute resolution in the capital market sector through a dispute resolution mechanism outside the court.

BAPMI is domiciled on Jalan Jendral Sudirman Kav. 52-53 Indonesia Stock Exchange Building Tower I 28th Floor Suite 2805. BAPMI provides dispute settlement services if requested by disputing parties through an out of court dispute settlement mechanism but the BAPMI decision binds the parties with the same power with the court. The terms of the dispute that can be resolved by BAPMI are as follows:

a. Civil disputes arise between parties in the field or related to the capital market. Disputes that are criminal or administrative law are not the authority of BAPMI.
b. There was an agreement between the parties to the dispute that the dispute would be resolved through BAPMI. The point here is that at the beginning of the agreement the parties have agreed to settle the dispute through BAPMI as outlined in the agreement clause.
c. There is a written request (case registration) from the parties to the BAPMI dispute.

Dispute resolution through peace or non-litigation channels contains several advantages both substantially and psychologically, as follows:

a. Informal Settlement. Settlement through a conscience approach, not based on law. Both parties break away from the legal term to a conscience and moral approach. Keep the doctrinal approach and the principle of proof in the direction of mutually beneficial equations.
b. What resolves the dispute of the parties themselves. Settlement is not left to the will and will of the judge or arbitrator, but is resolved by the parties themselves in accordance with the will of the brand, because they are the ones who know the truth and truth about the dispute in question.
c. Short Settlement Period. In general, the completion period is only one or two weeks or at most one month, provided there is sincerity and humility from both parties. That's why it's called speedy, between 5-6 weeks.
d. Low Cost, That said, no fees were needed. Although there are, it is very cheap or zero cost. This is the opposite of the judicial or arbitration system, must be expensive (very expensive).
e. Rules of Proof No Need. There is no fierce battle between the parties to argue with each other and bring down the opposing party through a system and formal and technical proof principles that are very tedious as well as in the arbitration process and the court.
f. Confidential Settlement Process. Another thing that needs to be noted, resolution through peace, is truly confidential or confidential. Thus, the good names of the parties in the community are maintained. This is not the case in court. The trial is

open to the public which can bring down a person's dignity.

g. Relationships of Cooperative Parties. Because the person speaking in solution is a conscience, a solution is based on cooperation. They do not beat the drums of war in hostility or antagonism, but in brotherhood and cooperation. Each of them keeps away revenge and hostility.
h. Communication and Settlement Focus. In the settlement of peace there is active communication between the parties. In that communication, the desire to fix past disputes and mistakes radiates towards a better relationship for the future. So through that communication, what they accomplish is not the past (not the past) but for the future (for the future).
i. The Targeted Results Are Winning. The results sought and aimed at by the parties in the settlement of peace, can be said to be very noble because of mutual win which is called the concept of a win-win solution, by distancing themselves from egoistic and greedy, self-winning. Thus, there is no loss and no one wins or not wins or loses like a settlement through a court decision or arbitration.
j. Free of Emotion and Revenge. Dispute resolution through peace, dampens high and turbulent emotional attitudes, towards an emotion-free atmosphere during the settlement and after the settlement is reached. Not followed by revenge and hatred, but a sense of kinship and brotherhood.

Fajar Restu Sonjaya also added that one of the benefits from dispute resolution through BAPMI was in terms of execution, where BAPMI also signed the 1958 New York Convention with other convention members. This convention can be a reference to provide certainty and legal guarantees that foreign arbitration decisions made in a country participating in the convention can be implemented in other convention member countries. So, suppose that the assets are abroad, BAPMI has the authority to execute based on the results of the convention.

Based on the description above, it can be said that the role of OJK in the protection and settlement of securities companies has been made to the maximum extent possible, both in terms of regulations and institutions that have certain duties and responsibilities. However, there are still many things that become homework, especially for OJK as a referee and authority in the capital market. OJK has carried out its role as regulator, supervisor and protector of consumers of the financial services sector, but still needs a lot of reforms in several aspects, especially the imposition of business activity sanctions as a form of administrative sanctions against company actions or policies that violate statutory provisions applicable.

Sanctions imposed on violations are more focused on being subject to administrative sanctions. Of the several types of administrative sanctions, the most frequently imposed are only fines and written warnings. While violations or crimes that have been included in the civil and criminal domain,

OJK only acts as an "advocate" or defense team. Along with the development of the financial institution industry in Indonesia, the OJK must also move twice as fast as financial institutions that are one of the subjects of OJK supervisors. There are still some challenges in resolving the current dispute, namely OJK dispute resolution is still considered ineffective, the cost is still high in dispute resolution institutions and there is no harmonization of dispute resolution arrangements in all financial service factors. As is known, the OJK is a regulatory barrier in the capital market sector, the spearhead as well as a stronghold in conducting Law Enforcement from the legal principles in the field of capital markets. Therefore, the capital market will be better, safer, fair and orderly, which depends on the performance of the FSA itself. So, the implementation of the OJK's role in the protection and settlement of securities companies has been carried out according to UUK and PKPU act.

CLOSING

The legal standing of the applicant for bankruptcy statements against securities companies is confirmed in UUK and PKPU that only OJK has the authority to submit a petition for a bankruptcy statement against a securities company. So, there should be no other institution or individual, except the OJK that can file a bankruptcy statement against securities companies. Investor protection in stock transactions includes: forming a division that specifically deals with the education and protection of consumers in the financial services sector for investors or audiences general in accordance with applicable laws and regulations. While alternative solutions for securities companies are in two forms of preventive measures in the form of clear regulatory arrangements, standard guidelines, direct guidance and direction from the FSA, as well as repressive actions in the form of audits, investigations and imposition of sanctions for securities companies that have proven violations the provisions of the legislation.

As a research recommendation, securities companies should carry out their business activities by adhering to the provisions of laws and regulations and the company's internal policies specifically related to risk management so that the securities companies will be better able to analyze any losses incurred and minimize the level of violations of regulatory provisions legislation. In addition, OJK needs to optimize the regulation and supervision by first issuing regulations that are in line with economic development. Whereas OJK should play an active role as a source of information for investors, because most of the information related to the sanctions made by the Indonesia Stock Exchange alone.

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