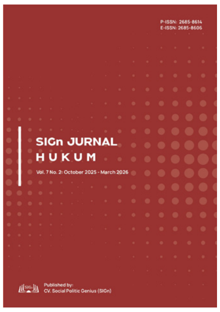

SIGn Jurnal Hukum

E-ISSN: 2685 – 8606 || P-ISSN: 2685 – 8614
https://jurnal.penerbitsign.com/index.php/sjh/article/view/v7n2-16

Vol. 7 No. 2: October 2025 - March 2026 Published Online: December 11, 2025

Article Title

The Urgency of Applying Insolvency Test on General Corporate Bankruptcy under the Regime of Law Number 37 of 2004

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How to cite:

Silalahi, U., Lo, A., Chen, N. E., & Baretta, N. (2025). The Urgency of Applying Insolvency Test on General Corporate Bankruptcy under the Regime of Law Number 37 of 2004. *SIGn Jurnal Hukum, 7*(2), 886-900. https://doi.org/10.37276/sjh.v7i2.541

ABSTRACT

Unlike the financial sector, which has been modernized through Law Number 4 of 2023, the bankruptcy regime for general corporate entities in Indonesia remains confined to formalistic requirements. This is rooted in Article 2 section (1) of Law Number 37 of 2004, which adopts the principle of presumption of insolvency, allowing a company to be declared bankrupt with merely two creditors and one matured debt. This process may occur without a material assessment of financial condition. This condition creates a legal loophole that allows creditors to misuse bankruptcy instruments as an aggressive debt-collection tool. This practice can result in solvent companies being terminated, as evidenced by the case analysis of PT Sritex, which was ultimately declared bankrupt. This study aims to analyze the urgency of applying the insolvency test as a substantive requirement for general corporate bankruptcy. Furthermore, this research examines the juridical obstacles to its implementation within the commercial court system. The research method employed is normative legal research using statute, conceptual, and comparative approaches regarding the Insolvency Act 1986 (UK) and the Bankruptcy Code (US). The results conclude that the primary obstacle to adopting the insolvency test is the conflict with the principle of summary proof (sumir) in Article 8 section (4) of Law Number 37 of 2004. Therefore, this study recommends legal reform through a hybrid approach. This model combines the cash flow test as an entry point and the balance sheet test as a defense mechanism. Another recommendation is the shifting of the burden of proof to the debtor to prove its solvency. This step aims to realize economic justice and prevent premature bankruptcy.

Keywords: *Balance Sheet Test; Bankruptcy; Cash Flow Test; General Corporate; Summary Proof.*

INTRODUCTION

In the landscape of modern economic law, bankruptcy serves as a last resort (*ultimum remedium*) with a dual function. First, it functions as a collective liquidation mechanism to distribute debtor assets fairly (*paritas creditorium*). Second, it acts as a reorganization instrument to salvage business continuity (going concern) (Nola, 2017; Hariyadi, 2020). However, this protective philosophy is often distorted when confronted with the reality of positive law in Indonesia. Under the regime of Law Number 37 of 2004, the definition of bankruptcy remains anchored in the concept of general confiscation of debtor assets. The management of these assets is conducted by a receiver under the supervision of a supervisory judge (Tirayo & Halim, 2022). While this regime is built upon the principle of ease of doing business, it ironically creates vulnerabilities for general corporate entities due to the absence of a substantive screening mechanism. Such a mechanism is necessary to distinguish between debtors who are merely experiencing temporary liquidity issues and those who are fundamentally bankrupt (insolvent).

The fundamental problem in Indonesian bankruptcy law stems from the construction of Article 2 section (1) of Law Number 37 of 2004. This article adopts the principle of summary proof. It establishes minimalist bankruptcy requirements: the existence of two or more creditors and at least one debt that has matured and is payable but remains unpaid. This provision creates a legal presumption of insolvency.

Under this doctrine, the law does not require a comprehensive proof of the debtor's financial condition before issuing a bankruptcy declaration (Simanjuntak, 2023; Sinaga & Yustiawan, 2024). Consequently, a general corporate entity with trillions of rupiah in assets and a solvent balance sheet can be declared bankrupt due to a small-value disputed debt without undergoing an adequate solvency assessment (Shubhan, 2014; Rahmawati & Rizkianti, 2023).

The absence of an insolvency test mechanism in the Indonesian bankruptcy legal system for general corporate entities has created a moral hazard for bad-faith creditors. Without the obligation to prove insolvency, the instruments of bankruptcy and suspension of debt payment obligations are frequently misused. These instruments are used as aggressive debt-collection tools or as business strategies to eliminate competitors, whereas they should serve as means for equitable debt settlement (Sulistyany & Murwani, 2024). This phenomenon is exacerbated by the application of the summary proof principle in Article 8 section (4) of Law Number 37 of 2004, which limits commercial judges from examining the complexity of the debtor's financial condition. Consequently, the space for substantive proof regarding corporate solvency becomes closed (Hakim & Saputra, 2023; Warsito, 2024). This creates grave legal uncertainty for the business world, particularly for manufacturing companies and the real sector, which possess fluctuating cash flow cycles.

In a global comparative context, jurisdictions with advanced legal systems, such as the United Kingdom and the United States, have long abandoned this formalistic approach. Specifically, Section 123 of the Insolvency Act 1986 (UK) explicitly applies the insolvency test. This encompasses the cash flow test, which examines the ability to pay debts as they fall due, and the balance sheet test, which compares total assets and liabilities; both are absolute prerequisites for declaring a debtor insolvent (McCormack, 2025). Similarly, the Bankruptcy Code (US) mandates rigorous financial tests to ensure that bankruptcy protection is granted only to entities that meet economic criteria, rather than merely fulfilling administrative requirements (Amina, 2025). This comparison highlights the backwardness of Indonesian bankruptcy law, which still retains the colonial legacy of the Bankruptcy Regulation (*Faillissements-Verordening*). This legal heritage is considered no longer relevant to the complexities of modern business (Sunur, 2024).

The urgency of applying the insolvency test becomes increasingly apparent in light of the disparity in legal treatment that has arisen following the enactment of Law Number 4 of 2023. The financial services sector, including banks, Securities Companies, and Insurance Companies, now enjoys special privileges. Bankruptcy for these entities can only be filed by authorities such as the Financial Services Authority (*Otoritas Jasa Keuangan* or OJK) or the Indonesia Deposit Insurance Corporation (*Lembaga Penjamin Simpanan* or LPS). Such filings are made after undergoing strict solvency assessments to maintain financial system stability (Gracia & Mutiara, 2025). Conversely, general corporate entities are left without similar protection. They remain subject to the vulnerable regime of Article 2 section (1) of Law Number 37 of 2004. Major restructuring cases, such as PT Garuda Indonesia Tbk and PT Waskita Karya Tbk, demonstrate that negotiation approaches and de facto solvency assessments are crucial for business rescue. However, this has not yet been institutionalized as a binding legal norm within Law Number 37 of 2004 (Child, 2022; Alysha & Tham, 2024; Uly & Djumena, 2024).

Previous research has extensively discussed the insolvency test from a purely theoretical perspective or in the context of general debtor protection (Sinaga & Maulisa, 2022; Doloksaribu, 2025). However, there remains an analytical gap regarding how this mechanism can be integrated into the procedural law of the Indonesian commercial court. Specifically, how it can be applied without violating the principle of summary proof. Furthermore, there is limited discussion on how to mitigate the risk of bankruptcy abuse in general corporate entities that are not protected by a regulatory gatekeeper, such as financial institutions (Viswanathan et al., 2025). This research aims to fill that void. It offers a specific juridical analysis on the urgency of adopting the insolvency test as a material requirement for general corporate bankruptcy. The objective is to balance creditors' interests with the debtor's business continuity.

Based on the aforementioned exposition, this research aims to critically analyze the urgency of applying the insolvency test within the Indonesian bankruptcy law regime, particularly for general corporate entities. Additionally, this research aims to formulate a concept for integrating said mechanism to reform Article 2 section (1) of Law Number 37 of 2004. This study is expected to make a theoretical contribution to the development of national bankruptcy law grounded in economic justice. Practically, this research contributes to legislators and legal practitioners in designing legal reforms. These reforms are expected to prevent solvent corporations from being criminalized through bankruptcy proceedings.

METHOD

This study constitutes normative legal research (doctrinal legal research) focused on analyzing positive legal norms, legal principles, and legal doctrines relevant to bankruptcy and the insolvency test. The problem approaches employed in this research include the statute, conceptual, and comparative approaches (Qamar & Rezah, 2020). The statute approach is utilized to critically examine Law Number 37 of 2004 and Law Number 4 of 2023. This examination aims to identify conflicts of norms and legal vacuums regarding insolvency requirements for general corporate entities. The conceptual approach is applied to comprehend the nature of the insolvency test, cash flow test, and balance sheet test from the perspectives of legal doctrine and economics. Meanwhile, the comparative approach juxtaposes Indonesia's insolvency regulation with best practices in the United Kingdom and the United States. This comparison examines the Insolvency Act 1986 (UK) and the Bankruptcy Code (US) to identify an ideal model for adoption within the national legal system.

The legal materials utilized in this research comprise primary, secondary, and tertiary legal materials. Primary legal materials include statutes directly relevant to the research issue. These regulations are Law Number 37 of 2004, Law Number 4 of 2023, the Insolvency Act 1986 (UK), and the Bankruptcy Code (US). Furthermore, primary legal materials include commercial court decisions relevant to general corporate bankruptcy cases, such as PT Sri Rejeki Isman Tbk (Sritex). Secondary legal materials consist of legal textbooks, national and international academic journals, and legal papers. These materials discuss bankruptcy, the insolvency test, and debt restructuring. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to explain the legal terms employed. The technique for collecting legal materials involves library research: inventorying, classifying, and systematizing relevant materials to inform the formulation of the problem (Sampara & Husen, 2016).

The technique for analyzing legal materials employed in this research is a prescriptive qualitative analysis method. The collected legal materials are analyzed using deductive syllogism legal logic. This analysis concludes from the central premise (legal rules/concepts of the insolvency test) and the minor premise (legal facts regarding the absence of an insolvency test in Indonesia and its impact). The objective is to produce a conclusion in the form of a prescription regarding the urgency and the ideal implementation model of the insolvency test. The analysis also compares the application of the insolvency test in common law countries (the UK and the US) with that in Indonesia's civil law system. This comparison aims to identify similarities, differences, advantages, and disadvantages. The results of this analysis are then described systematically and argumentatively to address the research objectives (Irwansyah, 2020). The ultimate goal is to formulate a new legal construction regarding equitable bankruptcy requirements for general corporate entities in Indonesia.

RESULTS AND DISCUSSION

A. Deconstructing Formalistic Bankruptcy Requirements: A Critique of the Regime of Article 2 Section (1) of Law Number 37 of 2004

The bankruptcy law regime in Indonesia, as stipulated in Law Number 37 of 2004, is built on an excessively formalistic and procedural foundation. Article 2 section (1) of the Law affirms that the requirements to issue a bankruptcy declaration are merely the existence of two or more creditors and the non-payment of at least one debt that has matured and is payable. This legal construction implicitly adopts the presumption of insolvency. Under this principle, the inability to pay is legally equated with the unwillingness to pay (Simanjuntak, 2023; Sinaga & Yustiawan, 2024). Consequently, the commercial court is not burdened with the obligation to examine the debtor's financial health materially through a solvency test. The court is only required to verify that these formal administrative elements are fulfilled. This stands in diametrical opposition to modern bankruptcy law regimes, which treat insolvency as a financial rather than a legal state (Shubhan, 2014).

The absence of an insolvency test mechanism within the article has opened a wide loophole for moral hazard on the part of creditors. Bad-faith creditors may use bankruptcy petitions as a pressure or aggressive debt-collection tool. The objective is to coerce the debtor into paying the debt, even if the debt value is relatively insignificant compared to the company's total assets (Sulistyany & Murwani, 2024). In practice, this is highly detrimental to debtors with the status of a general corporate entity. These companies may actually remain balance sheet solvent, yet experience temporary liquidity issues (cash flow insolvent). Without the filter of an insolvency test, a company possessing favorable business prospects and assets exceeding its liabilities can easily be terminated through a bankruptcy declaration. Ultimately, this harms the broader economic ecosystem by causing the loss of productive businesses and employment (Nola, 2017; Hariyadi, 2020).

The destructive impact of this formalistic regime is evident in bankruptcy and suspension of debt payment obligations cases affecting large corporations in the real sector. One of the most relevant examples is PT Sritex. This textile giant was declared bankrupt by the Semarang Commercial Court in October 2024 after failing to settle with its creditors, and the decision became final and binding after the Supreme Court rejected its cassation. Culminating in this legal process, Sritex officially ceased its operations on March 1, 2025. Analysis using the Altman Z-Score method—a technical variant of the insolvency test—had actually indicated that in the preceding period, Sritex was situated in the grey area of financial distress. This condition should have necessitated measurable strategic restructuring rather than forced asset liquidation (Doloksaribu, 2025). However, because Article 2 section (1) of Law Number 37 of 2004 does not mandate judges to examine solvency ratios or the Z-score in depth, efforts to rescue Sritex failed due to the absence of objective, systemic legal protection. The collapse of Sritex provides empirical evidence that, without an insolvency test, even large companies with thousands of employees are highly vulnerable to premature corporate death (Nola, 2017; Sunur, 2024).

This systemic injustice becomes increasingly glaring when compared to the legal treatment of Financial Services Institutions. Following the enactment of

Law Number 4 of 2023, debtors with the status of Banks, Securities Companies, or Insurance Companies enjoy legal privileges. Bankruptcy for these entities can only be filed by authorities such as the OJK or LPS. These authorities act as gatekeepers, conducting strict solvency assessments to maintain financial system stability before deciding to bankrupt a financial entity. Conversely, general corporate entities in the real sector—such as manufacturing, textiles, or construction—are left without similar protection. They are exposed to bankruptcy attacks from any creditor without undergoing a prior solvency test (Amina, 2025; Gracia & Mutiara, 2025). This disparity in treatment creates legal injustice. Real-sector companies, which employ a significant workforce, have far weaker legal protection against the risk of premature bankruptcy than financial institutions.

Furthermore, a legal regime that ignores the insolvency test creates ambiguity about directors' fiduciary duties during financial crises. In modern corporate law doctrine, when a company enters the insolvency (or twilight) zone, directors' fiduciary duties shift. Duties originally oriented toward shareholders shift toward creditors (shifting duties). However, without clear and legally measurable insolvency parameters, directors of general corporate entities in Indonesia often find themselves in a state of uncertainty. They struggle to determine when the point of shifting duties occurs (Viswanathan et al., 2025). This uncertainty may drive directors to make erroneous decisions. They might take steps that are either too conservative (prematurely filing for self-bankruptcy) or too aggressive (continuing operations while insolvent). Both scenarios are detrimental to corporate value. The application of a standardized insolvency test would provide objective guidance for directors to gauge when the company is legally considered insolvent. Thus, they could undertake appropriate and measurable corporate actions to mitigate risk (Hariyadi, 2020; McCormack, 2025).

In synthesis, maintaining Article 2 section (1) of Law Number 37 of 2004 in its current form constitutes a regressive step for national economic legal development. Bankruptcy requirements that are overly simplistic and ignore the company's financial reality have proven to create an unconducive business climate. Legal certainty for creditors to collect debts is not balanced with adequate protection for solvent debtors to maintain their businesses (Hakim & Saputra, 2023). Therefore, the reformulation of bankruptcy requirements by integrating the insolvency test—whether in the form of a cash flow test or a balance sheet test—is no longer merely academic discourse. It is an urgent necessity to transform Indonesian bankruptcy law. The goal is to shift from a liquidation-oriented regime to a value-preservation-oriented regime (Alysha & Tham, 2024). Without this fundamental change, general corporate entities in Indonesia will continue to exist under the shadow of unjust bankruptcy. This condition ultimately hinders investment growth and national economic stability.

B. Juridical Clash between the Insolvency Test and the Principle of Summary Proof in the Commercial Court System

The application of the insolvency test in the Indonesian bankruptcy regime is not only impeded by the absence of explicit norms within the statute. This application also confronts a more fundamental juridical barrier: the principle of summary proof (*sumir*) strictly adopted within the procedural law of the commercial court. Article 8 section (4) of Law Number 37 of 2004 expressly mandates that a bankruptcy petition must be granted if facts or circumstances are proving simply (prima facie) that the bankruptcy requirements as referred to in Article 2 section (1) have been fulfilled. The article's elucidation defines summary proof as proof that does not require extensive examination. Examples include disputes over the existence of complex debts or proof that requires in-depth audits (Warsito, 2024). This legal construction is essentially designed to accelerate the bankruptcy process (speedy trial) for the sake of legal certainty. However, in practice, it becomes the primary obstacle to applying the insolvency test, which inherently requires complex and substantive proof (Hakim & Saputra, 2023).

Fundamentally, the insolvency test—whether in the cash flow test or the balance sheet test—is a complex financial analysis process. To prove that a company is truly balance sheet insolvent, the examining judge cannot merely observe the existence of matured debt. The judge must delve into the substance of the company's financial statements. This includes examining asset validity and market value valuation (*appraisal*) of fixed and intangible assets. Furthermore, it necessitates the calculation of long-term and contingent liabilities, as well as the analysis of financial ratios such as solvency and liquidity (Tirayo & Halim, 2022). Such a standard of proof clearly lies outside the "simple" corridor intended by Article 8 section (4) of Law Number 37 of 2004. Consequently, when a respondent debtor files an exception claiming to be solvent by presenting complex financial evidence, commercial court judges often reject the argument. The rationale is that such matters fall within the realm of complicated proof and must be resolved through a purely civil lawsuit, not in the commercial court (Sinaga & Yustiawan, 2024).

This conflict of norms creates a paradox of justice in the enforcement of bankruptcy law in Indonesia. On the one hand, the objective of bankruptcy law is to provide a fair and efficient solution to debt problems. On the other hand, procedural efficiency realized through the summary proof mechanism often sacrifices substantive justice for the debtor (Sinaga & Maulisa, 2022). Petitioner creditors are favored with a very light burden of proof. They solely need to prove the existence of unpaid matured debt. Meanwhile, respondent debtors are burdened by the risk of massive asset liquidation without being given adequate opportunity to present their financial health in depth before the court. This condition is exacerbated by the absence of an obligation on judges to appoint experts or public accountants ex officio to verify the debtor's solvency claims within the very brief 60-day evidentiary timeframe (Sunur, 2024).

Furthermore, this summary judgment doctrine also closes the door to applying the Capital Test or Altman Z-Score analysis as a judicial aid in deciding bankruptcy cases. As stated in the research by Doloksaribu (2025) regarding the PT Sritex case, the use of bankruptcy prediction models, such as the Z-score, can provide an objective overview. These models can assess whether a company is in the safe, grey, or distress zone. However, the validity of such economic measurement tools is often set aside in commercial proceedings. The reason is that such evidence is considered not to meet the criteria for authentic evidence or simple proof under applicable civil procedural law. Consequently, bankruptcy decisions are often rendered solely on juridical facts (the existence of debt), without considering economic facts (the ability to pay). This ultimately leads to the termination of companies that are actually still viable (Simanjuntak, 2023).

The rigidity of applying the summary proof principle also results in weak protection for debtors against creditor bad faith. In situations where creditors file bankruptcy petitions for business competition or extortion, solvent debtors should be able to use a solvency defense as a legal shield. However, due to the limitations of Article 8 section (4) of Law Number 37 of 2004, such a defense becomes blunt. Judges tend to adhere rigidly to the text of the law, akin to strict liability, holding that if formal requirements are met, bankruptcy must be declared, regardless of the motive behind the petition (Sulistyany & Murwani, 2024). This differs from the practice in the United Kingdom, where the court possesses judicial discretion. The UK court may dismiss a bankruptcy petition if the debtor can prove solvency through a comprehensive balance sheet test, or if it is proven that the petition constitutes an abuse of process (McCormack, 2025).

Therefore, national bankruptcy law reform is not sufficient to merely adopt the insolvency test. This reform absolutely requires a reconstruction of the concept of proof within the commercial court procedural law. Article 8 section (4) of Law Number 37 of 2004 needs to be amended or at least strictly reinterpreted via judicial interpretation by the Supreme Court. There must be discretion for judges to order additional examinations or a quick assessment of the debtor's financial condition by independent experts. This is particularly necessary when the debtor presents a reasoned solvency defense (Warsito, 2024). Without legal breakthroughs to bridge the gap between the need for substantive examination (insolvency test) and procedural limitations (summary proof), the application of the insolvency test in Indonesia will merely become a paper tiger. The concept will be beautiful in theory, but paralyzed in execution within the courtroom.

C. Reformulating the Insolvency Concept: The Urgency of Adopting Cash Flow and Balance Sheet Tests for General Corporate Entities

Confronting the structural weaknesses within the national bankruptcy system, which remains entrapped in a formalistic paradigm, Indonesia must immediately reformulate the concept of insolvency. This reformulation is achieved by adopting international standards that have been validated in maintaining the balance of interests between debtors and creditors. The most relevant and urgent model to serve as a reference for legal transplant is the construction of the insolvency test applied in Section 123 of the Insolvency Act 1986 (UK) and Chapter 11 of the Bankruptcy Code (US). These advanced legal regimes no longer view default as the sole absolute indicator of bankruptcy. Instead, they utilize a comprehensive dual approach: the cash flow test and the balance sheet test (Amina, 2025; McCormack, 2025). This approach explicitly distinguishes between debtors experiencing short-term liquidity difficulties and those experiencing fundamental balance sheet bankruptcy.

The cash flow test examines the debtor's ability to pay debts as they fall due, serving as a liquidity indicator. The adoption of this test is highly relevant for assessing short-term corporate cash flow health. However, for general corporate entities in Indonesia that frequently face market volatility and uncertain payment cycles, applying the cash flow test in isolation carries risks. This could entrap companies that are asset-healthy but experiencing a temporary cash flow mismatch into the abyss of bankruptcy (Hariyadi, 2020). Consequently, the application of the cash flow test must be positioned as a preliminary gate, not a final verdict. If a company fails the cash flow test, the law must provide the debtor with an opportunity to prove its solvency through the subsequent testing mechanism, namely, the balance sheet test.

As a crucial counterweight, the balance sheet test examines whether the debtor's total assets are less than the total liabilities. This assessment includes calculating contingent and prospective liabilities. If the results of the balance sheet test indicate that the debtor's assets still exceed its obligations (i.e., the debtor is solvent), even if the debtor fails to pay a matured debt, bankruptcy should not be automatically declared. Under such conditions, the appropriate legal mechanism is not liquidation through bankruptcy, but rather debt restructuring or suspension of debt payment obligations to restore the company's cash flow health (Sinaga & Maulisa, 2022). Conversely, if the company is proven to have failed both tests—liquidity and solvency—then bankruptcy constitutes a legitimate and equitable solution to protect the remaining asset value for creditors.

The implementation of the insolvency test in Indonesia demands adjustments to local business characteristics and the institutional capacity of commercial courts. Given that general corporate entities lack an external "referee" such as the OJK to conduct periodic solvency supervision, the bankruptcy law must explicitly mandate that the court conduct such supervision. This mandate is intended to appoint independent experts or public accountants to conduct this test at the beginning of the trial process (Sunur, 2024). The use of academically and practically recognized standardized financial ratios, such as the Altman Z-Score model, can serve as prima facie evidence to objectively and measurably assess insolvency. As evidenced in the PT Sritex case study, the Z-score can indicate whether a company is in a safe, grey, or distress zone. Thus, judges possess a scientific basis in adjudicating cases (Doloksaribu, 2025).

Furthermore, this reformulation must also encompass regulations regarding the burden of proof. In the proposed new legal construction, if the petitioner creditor can prove the existence of an unpaid matured debt (presumption of cash flow insolvency), the burden must shift (shifting burden of proof) to the debtor. The debtor is obliged to prove that it remains balance sheet solvent. The debtor must present current audited financial statements and valid cash flow projections to rebut said presumption of insolvency (Rahmawati & Rizkianti, 2023). This burden-shifting mechanism will create an equitable balance. It protects the creditor's right to collect while simultaneously providing adequate defense space for good-faith debtors to rescue their businesses.

The application of the insolvency test must also be integrated with the protection of secured creditor rights and the prevention of process abuse. Solvency testing must not be utilized by recalcitrant debtors as a delaying tactic without a clear basis. Therefore, commercial court judges must be granted discretionary power to reject the insolvency test application if the debtor cannot demonstrate convincing preliminary evidence of solvency. Judges may also reject the application if it is proven that the delay will further erode the asset value serving as creditor collateral (Sulistyany & Murwani, 2024; Viswanathan et al., 2025). The standard of good faith must serve as the key parameter in determining whether to apply this test in any concrete case.

Ultimately, this reformulation of the insolvency concept aims to shift the national bankruptcy law paradigm from a liquidation-oriented to a value-preservation-oriented approach. By mandating the insolvency test as a substantive material requirement, Law Number 37 of 2004 will function as an effective and accurate filter. This filter distinguishes "zombie" companies that are beyond rescue and must be liquidated from those experiencing temporary liquidity issues and worthy of restructuring (Child, 2022; Alysha & Tham, 2024). This strategic step will not only enhance the quality and fairness of commercial court decisions but also strengthen the rule of law. It will also bolster foreign investor confidence in Indonesia's business legal certainty and help maintain the stability of the national economic ecosystem from the shocks of destructive, unnecessary bankruptcy waves.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion, it can be concluded that the current bankruptcy regime in Indonesia, which remains grounded in Article 2 section (1) of Law Number 37 of 2004, has failed to provide adequate protection for general corporate entities. This failure is particularly acute for good-faith companies experiencing temporary liquidity difficulties. The excessively formalistic and minimalist bankruptcy requirements—requiring only the existence of two creditors and one matured debt, without requiring material proof of insolvency—have created a wide legal loophole. This loophole creates moral hazard for creditors, enabling them to misuse bankruptcy proceedings as aggressive debt-collection tools. Consequently, companies that are actually balance sheet solvent and possess viable business prospects are vulnerable to premature bankruptcy. It is evident in the analysis of the PT Sritex case, which was declared bankrupt and ceased operations. This condition ultimately undermines the stability of the national economic ecosystem by causing the loss of productive businesses.

The fundamental barrier to adopting the insolvency test in Indonesia lies not merely in the absence of explicit norms within the statute. Instead, the primary obstacle is rooted in the juridical clash with the principle of summary proof (*sumir*) strictly adhered to in Article 8 section (4) of Law Number 37 of 2004. The construction of commercial court procedural law, which prioritizes procedural speed and efficiency (speedy trial), has foreclosed the space for judges. Judges are unable to conduct complex substantive examinations of the debtor's financial condition. The court's rejection of the debtor's solvency evidence because it is "not simple" has created a paradox of justice. Procedural efficiency triumphs over substantial justice. This places general corporate debtors in a far more vulnerable position compared to financial services institutions, which are protected by a regulatory gatekeeper mechanism.

Therefore, national bankruptcy law reform is necessary by transplanting an adaptive insolvency test. This concept may refer to practices within the Insolvency Act 1986 (UK) and the Bankruptcy Code (US). The ideal model for Indonesia is a hybrid approach. In this model, the cash flow test serves as the initial liquidity measure. Subsequently, this test is balanced by the balance sheet test, which serves as a defense mechanism for the debtor to prove its balance sheet solvency. The integration of this mechanism must be accompanied by a shifting burden of proof to the debtor to demonstrate good faith and financial health. Furthermore, judges must be granted discretionary power to appoint independent experts to verify insolvency status without being constrained by the rigidity of the summary proof principle.

As a policy implication and concrete follow-up, legislators are encouraged to amend Law Number 37 of 2004 immediately. This amendment must incorporate the insolvency test as a material requirement for bankruptcy petitions and revise the limitations of summary proof. This revision aims to ensure that forensic audit results or solvency assessments can be accommodated as valid evidence. While awaiting the legislative process, the Supreme Court is advised to issue a Supreme Court Regulation or Circular. This regulation can provide guidelines for a progressive interpretation for commercial judges in assessing the element of "failing to pay." This assessment must consider the debtor's financial ratios, such as the Altman Z-Score, as indicators of good faith and solvency. This strategic step is expected to restore the dignity of Indonesian bankruptcy law as a fair, proportional, and value-preserving mechanism for resolving financial problems.

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