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DEBTORS' PROTECTION FROM BANKRUPTCY AND POSTPONEMENT OF DEBT PAYMENT OBLIGATIONS: A CASE STUDY IN INDONESIAN FINANCING SECTOR

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Abstract

Lawsuits of Bankruptcy and Postponement of Debt Payment Obligations (*Penundaan Kewajiban Pembayaran Utang* or PKPU) are still easy weapons for financial institutions against debtors who are in arrears in paying their debts. In fact, a settlement can be made that should not impose further losses on the debtor, who has to sign a contract that benefits the creditor. Based on normative juridical studies, two conclusions are produced. First, the Bankruptcy and PKPU Law, Consumer Protection Law, *Otoritas Jasa Keuangan* (OJK) Law, P2SK Law, and POJK-7/POJK.05/2022 have not been able to protect debtors in the financing sector in the event of a bankruptcy and PKPU lawsuit. Second, ideally, consumer protection in the event of bankruptcy and PKPU in the financing sector in Indonesia is carried out by making regulations that enable consumers to report injustices they receive to independent consumer protection institutions and commercial courts and dispute resolution institutions between consumers as debtors and creditors. It must implement electronic options to provide certainty of justice and public benefits to the parties, especially consumers. It is recommended that in the future, there be recommendations from independent consumer protection institutions regarding standard contracts for financial institutions as well as commercial courts and online dispute resolution institutions.

A. INTRODUCTION

The issue of filing for bankruptcy and Suspension of Debt Payment Obligations (PKPU) still seems to be a readily used tool by certain creditors to force their debtors into paying off debts. Even if the debtor's total asset value is multiple times the amount of debt and or the debtor interacts with millions of consumers, as long as there is a due and collectible debt and there are other creditors, then the debtor can be filed for bankruptcy or PKPU under Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment

Obligations (the Bankruptcy and PKPU Law).[1] Several cases of Bankruptcy and PKPU filings include, among others, PT TS Tbk, which had assets valued at Rp52.723 trillion but was filed for bankruptcy in the Commercial Court due to having a debt of around Rp5.3 billion.[2] Moreover, the number of bankruptcy and PKPU cases in court is relatively high; for instance, 2019 there were 550 cases.[3] Bankruptcy and PKPU applications surged to 635 in 2020 and peaked in 2021 with 726 applications. In 2022, the number of applications began to decline to 625; as of October 14, 2023, there were 563 applications.[4]

One sector dominating PKPU against consumers in Indonesia is the financing sector. Financing institutions, as creditors, can demand legal accountability from consumers as debtors who cannot fulfill their obligations according to the agreement outlined in the contract.[5] Selama ini, salah satu cara yang dapat ditempuh baik oleh debitor maupun kreditor untuk menyelesaikan permasalahan tersebut adalah dengan mengajukan gugatan kepailitan dan PKPU ke Pengadilan Niaga.[6] To date, debtors and creditors can resolve these issues by filing for bankruptcy and PKPU in the Commercial Court.[7] However, in practice, any party deemed bound by a debt agreement with a company can easily file for PKPU in court. PKPU becomes a nightmare for debtors if the PKPU peace proposal is rejected, as they can immediately go bankrupt with no legal recourse, unable to appeal or cassation.[8] Certainly, PKPU, which becomes a nightmare for debtors as consumers in the financing sector, must not ignore the principles and objectives of consumer protection as Article 2 of Law Number 8 of 1999 on Consumer Protection (the Consumer Protection Law) emphasizes that consumer protection efforts are carried out with five principles of consumer protection, namely the principles of benefit, justice, balance, security and safety of consumers, and legal certainty.[9]

Given the persisting disparities, it is necessary to address two main problem formulations based on what occurs between financing institutions in Indonesia and their consumers. First, how is the financing arrangement between consumers and financing institutions in Indonesia regulated? Second, ideally, how should consumer protection be

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[1] Hukumonline, "Nasib Konsumen dalam Kasus Kepailitan", March 1, 2013, available at https://www.hukumonline.com/berita/a/nasib-konsumen-dalam-kasus-kepailitan-lt51305b6bb7631/ (accessed 21 October 2023).

[2] Loc.cit.

[3] KlikLegal.com, 10 December 2021, "Marak Permohonan PKPU: Dapatkah Penanggung Utang di PKPU-an?", available at https://kliklegal.com/marak-permohonan-pkpu-dapatkah-penanggung-utang-di-pkpu-an/ (accessed 21 October 2023).

[4] Emir Yanwardhana, "Perusahaan di RI Bertumbangan, Pengamat Waspadai Fenomena Ini", 21 October 2023, available at https://www.cnbcindonesia.com/market/20231021145458-17-482521/perusahaan-di-ri-bertumbangan-pengamat-waspadai-fenomena-ini (accessed 21 October 2023).

[5] Risma Cahya Yudita Pratama dan M. Hadi Shubhan, Kedudukan Objek Sewa Guna Usaha Dengan Hak Opsi (Finance Lease) Dalam Kepailitan Lessee, *Notaire*, Vol. 5, No. 1, 2022, p. 132.

[6] *Loc.cit*.

[7] Anggara Pernando and Edi Suwignyo, "Badai PKPU di Meja Hijau, Modus Apa Serius?", 17 September 2021, available at https://plus.bisnis.com/read/badai-pkpu-di-meja-hijau-modus-apa-serius (accessed 21 October 2023).

[8] *Loc.cit*.

[9] Article 2 of Law Number 8 of 1999 on Consumer Protection outlines five (5) consumer protection principles. The principle of benefit is intended to mandate that all efforts in implementing consumer protection must provide the most significant benefit for the interests of consumers and business operators. The principle of justice aims to realize maximum participation of all people and provide opportunities for consumers and business operators to obtain their rights and fulfill their obligations reasonably. The principle of balance is intended to provide a balance between the interests of consumers, business operators, and the government, both materially and spiritually. The principle of safety and security for consumers is intended to guarantee safety and security for consumers in the use, consumption, and utilization of goods and/or services. The legal certainty principle ensures that both business operators and consumers obey the law and obtain justice in implementing consumer protection, and the state guarantees legal certainty.

in the case of Suspension of Debt Payment Obligations (PKPU) in the financing sector in Indonesia?

B. ANALYSIS AND DISCUSSION

1. Prevailing Financing Law in Indonesia

The increasing need for funds among the public has been addressed with the emergence of financing sources other than banking, one of which is financing institutions. The presence of these financing institutions is intended to assist business operators and consumers in meeting their business needs.[10]

In conducting their business, financing companies in Indonesia must adhere to the applicable laws and regulations, including Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector (UU P2SK) and the Financial Services Authority Regulation of the Republic of Indonesia Number 7/POJK.05/2022 on Amendments to Financial Services Authority Regulation Number 35/POJK.05/2018 on the Operation of Financing Companies (POJK-7/POJK.05/2022). Article 1 paragraph 26 of UU P2SK defines Financing Services business as "activities of providing funds or claims that can be equated with it based on an agreement or agreement between the provider of financing services and the financing recipient that requires the financing recipient to return the funds or claims after a certain period with the provision of interest, compensation, profit sharing, and/or other payment surpluses, with or without collateral."

very financing company operating in Indonesia must obtain a license from the Financial Services Authority (OJK). Article 116 of UU P2SK asserts that financing services business agreements must be in written form, where such agreements must meet the conditions of contract drafting according to the provisions of the laws and regulations. Additionally, financing companies must be transparent in their business activities, including regarding interest rates and penalties. Articles 33 and 34 of POJK-7/POJK.05/2022 stipulate that all financing agreements between Financing Companies and Debtors must be made in writing. The financing agreement must at least include the type of business activity and financing method, number and date of the financing agreement, identity of the parties, including other parties cooperating in financing with the Financing Company (if any), goods or services financed, purpose of financing, value of goods or services financed, total receivables and the value of financing installments, financing period, interest rate of financing, collateral including storage of ownership evidence of collateral (if any), details of costs associated with financing (consisting of, survey costs, insurance costs, guarantee fees, collateral burden costs, provision fees, notary fees, and/or other costs) (if any), clause of fiduciary security, mortgage rights, or mortgage clearly, if there is a collateral burden in financing activities, mechanism in case of disputes and choice of dispute resolution venue, provisions for giving notice in case of Debtor's default, provisions for collateral execution in case of Debtor's default, provisions for sale of collateral in case of Debtor's default (if any), provisions regarding the mechanism for the repayment of financing receivables and the return of excess money from the sale of collateral or insurance claims along with the time frame in case the Financing Company undertakes risk mitigation, illustration of division of principal financing receivables, interest, and outstanding principal financing, provisions regarding the rights and obligations of the parties, and provisions regarding penalties. Based on Article 1 paragraph 22 of Law

[10] Endang Prasetyawati, Konsep Hukum Pembiayaan Konsumen di Masa Yang Akan Datang, Yustisia, Vol.2 No.2, 2013, p. 30.

Number 7 of 1992 on Banking as amended several times lastly with Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation, collateral is additional security given by the Customer Debtor to the Bank in the context of providing Credit or Financing based on Sharia Principles.

Transparency in interest rates and penalties is conducted by financing companies by mandating the inclusion of clear information about financing interest rates at every head office, branch office, office other than branch offices, and website. Financing Companies must explain the calculation illustration of principal financing receivables and interest during the financing period as well as the illustration of penalties and collateral execution costs in case of the Debtor's default to the Debtor before signing the financing agreement. The explanation of the illustration to the Debtor must be documented in a document signed by the Debtor. In case of Debtor's default, the Financing Company must carry out collections, at least by giving a warning letter according to the time frame in the financing agreement, which at least contains information about the number of days of delay in payment obligations, outstanding principal owed, interest owed, and penalties owed. Furthermore, Article 50 of POJK-7/POJK.05/2022 regulates that collateral execution by the Financing Company must meet the conditions of the Debtor being proven in default, the Debtor has been given a warning letter, and the Financing Company has a fiduciary certificate, mortgage rights certificate, and/or mortgage certificate. Collateral execution must be carried out under the regulations governing each collateral and must be documented in a collateral execution report. In case of collateral execution, the Financing Company must explain to the Debtor information about outstanding principal owed, interest owed, penalties owed, costs related to collateral execution, and the mechanism of collateral sale if the Debtor does not fulfill their obligations. In case, after collateral execution, the Debtor cannot fulfill obligations within a certain time frame, the Financing Company may only conduct the sale of collateral through public auction and take repayment of its receivables from the sale proceeds and/or underhand sale conducted based on the agreement of the sale price between the Financing Company and Debtor before the collateral is sold. The Financing Company must return the excess money from the sale of collateral through public auction or underhand sale to the Debtor within the time frame according to the financing agreement.

2. Bankruptcy and PKPU Laws in Indonesia

PKPU (Suspension of Debt Payment Obligations) and bankruptcy are methods provided by the state as solutions for business entities facing financial difficulties or debt-related issues.[11] Article 222 of the Bankruptcy and PKPU Law stipulates that PKPU can be filed by a debtor with more than one creditor or by the creditor(s). A debtor who is unable or anticipates being unable to continue paying their debts that have come due and are collectible may apply for PKPU to propose a peace plan that includes an offer to pay part or all of the debt to the creditors.

Meanwhile, a creditor who anticipates that a debtor will not be able to continue paying their due and collectible debts can apply for PKPU to be granted to the debtor to allow the debtor to propose a peace plan that includes an offer to pay part or all of the debt to their creditors. The requirements for filing for PKPU and bankruptcy are the same; namely, there must be two or more creditors, a debt that has come due and is collectible, which can be proven straightforwardly. It is under Article 222, paragraphs (1)

[11] Fitri Novia Heriani, "Keuntungan PKPU dan Pihak yang Berhak Mengajukan PKPU dan Pailit", 25 October 2022, available at https://www.hukumonline.com/berita/a/keuntungan-pkpu-dan-pihak-yang-berhak-mengajukan-pkpu-dan-pailit-lt6357911ec2112/ (accessed 21 October 2023).

and (2), in conjunction with Article 8, paragraph (4) of the Bankruptcy and PKPU Law. Six parties can file for PKPU and bankruptcy to the Commercial Court (PN): the debtor, creditor(s), the prosecutor for public interest, Bank Indonesia for bank debtors, and the Minister of Finance for SOE debtors operating in the public interest. Furthermore, the Financial Services Authority (OJK) can file against securities companies, stock exchanges, clearing and guarantee institutions, and pension fund debtors (Article 2 paragraph (4) of the PKPU Law in conjunction with Article 5 paragraph (1) of the OJK Law).[12] The legal consequence of PKPU is that during PKPU, the debtor cannot, without the administrator's consent, manage or own all or part of their assets as regulated in Article 240 paragraph (1) of the Bankruptcy and PKPU Law. Throughout the PKPU, the debtor cannot be demanded to pay debts because the debtor must focus on drafting a peace proposal that gives breathing space to the debtor and benefits the creditors, while the legal consequence of bankruptcy is that the debtor legally loses the right to control and manage their wealth included in the bankruptcy estate from the date the bankruptcy declaration is pronounced as regulated in Articles 21 and 24 paragraph (1) of the Bankruptcy and PKPU Law.[13]

A debtor who filed for bankruptcy is still allowed to offer a Peace Plan. If the creditors reject the Peace Plan, or the Commercial Court rejects the confirmation of the Peace Plan, then the debtor is in a state of being unable to pay their debts (insolvency), as regulated in Article 168 paragraph (1) of the Bankruptcy and PKPU Law. A debtor can only be declared bankrupt if a judge or court has proclaimed it through a judicial decision.[14]

3. Critical Review of Bankruptcy and PKPU Law and Consumer Protection Law

Detecting and evaluating consumer issues and determining whether the level of consumer harm that arises requires government action is a significant challenge for policymakers.[15] In this context, the effort of creditors to collect debts through the court can harm consumers, even though the debtor must fulfill their obligations as accountability towards creditors. The surge in bankruptcy and PKPU applications in recent years indicates the presence of deviations or moral hazards in PKPU and bankruptcy applications. It means there are still some loopholes or legal vacuums in the current Bankruptcy and PKPU Law regime. **First**, its provisions are still fundamental because they do not set a threshold or debt value limit for PKPU applications. For example, a debt threshold of Rp. 1 billion is unpaid for a certain period after maturity. **Second**, there needs to be a specific regulation on the baseline that must be met by parties, both individuals and corporations, to file for PKPU, making it too easy for any party deemed bound by a debt agreement with a company to file for PKPU in court. For instance, the PKPU requirement becomes twice the overdue debt.[16] **Third**, as stipulated in Article 222 paragraph (3) of the Bankruptcy and PKPU Law, it only regulates that PKPU can be filed if creditors anticipate that the debtor will not be able to continue paying its overdue and collectible debts. However, best practices in several countries show that filing for PKPU or a moratorium on debt payments should be the right of the debtor, not the creditor. The hope is that no debtor who can still pay their debts will be sued for PKPU

[12] *Loc.cit*.
[13] *Loc.cit*.
[14] Mosgan Situmorang, Pengantar Hukum Kepailitan dan PKPU, Jakarta: BALITBANGKUMHAM Press, 2021, p. 94.
[15] Organisation for Economic Co-operation and Development, *Consumer Policy Toolkit*, Paris: Organisation for Economic Co-operation and Development, 2010, p. 10.
[16] Anggara Pernando dan Edi Suwignyo, *Ibid*.

in the future.[17] **Fourth**, there is no parameter in the form of specific financial ratios that underlie the filing for bankruptcy or PKPU for every legal subject regarding its financial statement components—for instance, a comparison between debt and equity or debt-to-equity ratio.

The state must step in to resolve consumer issues and complaints. The state has several policy tools available to address existing consumer protection problems through its agencies. These range from actions focused on empowering consumers, such as improving the quality or type of information provided for products and ensuring unfair consumer contracts are promptly addressed, to actions focused on modifying company behavior (supply-side measures), such as requiring product standards or encouraging the development of codes of ethics.[18] The policies taken by the state must meet public expectations but not be implemented abruptly, as this can lead to hasty decisions and unexpected negative consequences for consumers and other stakeholders. Consumer authorities must apply a rigorous and evidence-based approach to policymaking to avoid it.[19]

Indonesia also has a consumer protection law, namely the Consumer Protection Law. Specifically, in the financial services sector, there are provisions about consumer protection, namely in Law Number 21 of 2011 on the Financial Services Authority (OJK Law), among others, regulating the protection of consumers of financial services business actors, and Presidential Decree No. 50 of 2017 on the National Consumer Protection Strategy in Indonesia was adopted to synergize, harmonize, and integrate the implementation of consumer protection in Indonesia. Article 18 of the Consumer Protection Law regulates that business actors offering goods and/or services to be traded are prohibited from creating or including standard clauses in any documents and/or agreements related to stipulated conditions and are prohibited from including standard clauses that are difficult to see or read clearly, or whose disclosure is difficult to understand. Any standard clause set by business actors in documents or agreements that meet these conditions is declared null and void by law, and business actors are required to adjust any standard clauses that contradict the law. The Consumer Protection Law stipulates three types of sanctions: civil, administrative, and criminal. Civil sanctions include annulment and cancellation of standard clauses; compensation in the form of money return or replacement of goods and/or services of the same or equivalent value; or health services and/or compensation following the provisions of the applicable laws and regulations.[20] The Consumer Dispute Settlement Agency is authorized to impose administrative sanctions on business actors who violate certain articles in the form of compensation up to Rp 200 million (about USD 14,000). Meanwhile, business actors who violate certain provisions are subject to criminal penalties ranging from two to five years in prison or fines between Rp500 million (about USD 35,000) to a maximum of Rp2 billion (about USD 140,000). For violations resulting in serious injury, severe illness, permanent disability, or death, general criminal provisions apply, which may include additional penalties, such as confiscation of certain goods, court orders, compensation, product withdrawal from circulation, or revocation of business licenses. Furthermore, Presidential Regulation of the Republic of Indonesia No. 50 of 2017 states that one of the goals of the National Consumer Protection Strategy is to accelerate the provision of

[17] *Loc.cit*.
[18] OECD, *Ibid*.
[19] *Loc.cit*.
[20] Johannes Gunawan and Bernadette M Waluyo, Indonesia, inGeraint Howells Hans-W Micklitz Mateja Durovic and André Janssen (eds.), *Consumer Protection in Asia*, Oxford: Hart Publishing, 2022, pp. 93-94.

consumer protection in priority sectors, one of which is the banking sector.[21] It aligns with the direction of Indonesian consumer protection policy to strengthen the foundation of consumer protection in Indonesia and accelerate the provision of consumer protection in priority sectors that can help improve the welfare of the Indonesian people and create a more equitable business climate and relationship between business actors and consumers.[22]

However, it is recognized that the financing market is essential from the perspective of community economic growth because the market functions well in facilitating consumption and entrepreneurship.[23] Yet, considering that debtors as consumers are potentially exploited by creditors, debtors in the financing field need good legal protection.[24] The provisions in the Bankruptcy and PKPU Law, Consumer Protection Law, OJK Law, P2SK Law, and POJK-7/POJK.05/2022 have not been able to protect debtors in the financing sector as vulnerable consumers who are bankrupted or PKPU-ed in Indonesia. The understanding of vulnerable consumers refers to its definition proposed by Riefa and Saintier, stating that vulnerable consumers refer to a consumer who, as a result of socio-demographic characteristics, behavioral characteristics, personal situation, or market environment, has a higher risk of experiencing negative impacts in the market, has limited ability to maximize their welfare, struggles to obtain or assimilate information, is less able to afford, choose or access suitable products, or is more susceptible to certain marketing practices.[25] The vulnerability of debtors as well as consumers from financing companies to be exploited and become the object of bankruptcy and PKPU is evident from several things. **First**, consumer financing contracts are unbalanced with the format and content of the contract designed by the consumer financing company, putting the financing company in a stronger and more advantageous position.[26] It indicates that the doctrine of freedom of contract only provides a certain level of protection to consumers, but it should be remembered that contract law has certain limitations, meaning that the law cannot always provide an appropriate level of protection for consumers, for example, limitations in terms of privacy and transaction costs. **Second**, any consumer who is late in paying any amount of their obligations on the due date of payment according to the agreement is always charged a late payment fee or interest at a rate unilaterally set by the financing company. This interest will be charged on the daily balance and calculated on each Rent Payment Date and therefore will also bear interest. Clearly, it will cause consumers to suffer further because there is never any tolerance for delays or the inability or stagnation of consumers to pay their due obligations. **Third**, generally, in the event of a consumer payment default involving a third party (such as debt collectors or lawyers), the agreement permanently binds the consumer, who must provide certain compensation for the costs incurred by the financing company, including in cases where the creditor or financing company files for bankruptcy and PKPU.

In addition to the vulnerability of debtors and consumers from financing companies, rationalization shows that consumer protection needs to be done against

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[21] Aad Rusyad Nurdin, Kajian Peraturan Perlindungan Konsumen di Sektor Perbankan, *Jurnal Hukum & Pembangunan*, Vol. 48, No. 2, 2018, p. 301.
[22] *Loc.cit*.
[23] Renuka Sane, The Way Forward for Personal Insolvency, in Susan Thomas (ed.), Insolvency and Bankruptcy Reforms in India, Springer Nature Singapore Pte Ltd., 2022, p. 158.
[24] Judith Tillson, *Consumer and Commercial Law*, Harlow: Pearson Education Limited, 2016, p. 3.
[25] Christine Riefa and Séverine Saintier, In search of (access to) justice for vulnerable consumers, in Christine Riefa and Séverine Saintier (eds.), Vulnerable Consumers and the Law: Consumer Protection and Access to Justice, Oxon and New York: Routledge, 2021, p. 8.
[26] Endang Prasetyawati, *Op.cit*., p. 39.

debtors who are sued for bankruptcy or PKPU if various benefits can be enjoyed by one party compared to another, which makes the transaction unfair. The advantage may be in the form of information, intelligence, or superior judgment, in the monopoly enjoyed concerning certain resources, or in possessing robust instruments of violence or the ability to deceive. Or the critical question in each case is whether the promise receiver is allowed to exploit his advantage to the detriment of the other party?.[27] For example, if a consumer finds himself a victim of an essentially unfair bargaining position, why he engaged in such bargaining needs to be investigated. Then, part of the task of consumer law is to determine which factors can be considered and when. When there is a high gap, something serious enough that offends the sense of justice, a solution must be found. Indeed, there are arguments for court intervention against injustice, but it would be better to create transparent rules that allow the court to intervene openly rather than using unbalanced power.[28] The need for some creation of transparent rules is regulation in the renewal of the Consumer Protection Law and the Bankruptcy and PKPU Law. First, standard clauses in standard agreements from creditors that later can cause disputes or harm to consumers who only accept the standard clauses in such standard agreements must be considered not based on the agreement and goodwill between both parties.[29] Second, consumer debtors may face bankruptcy and PKPU lawsuits at a certain distance and must incur significant costs when undergoing trial. Certainly, conventional resolution or litigation will bring many disadvantages to both parties because often consumers or creditors geographically spread need help to follow the litigation process physically.[30] Commercial courts should provide options for administering cases and trials electronically, as regulated in the Supreme Court Regulation of the Republic of Indonesia Number 1 of 2019 on Case Administration and Trial in Court Electronically. Some other advantages in administering cases and trials in commercial courts electronically include if the parties are reluctant to meet face-to-face, they can avoid meeting with their opponents. Parties can avoid feeling intimidated in the process, the confidentiality of the parties can be maintained because it is not published, and the time and online mechanism are relatively simple; the costs incurred become cheaper so that consumers' business is not disrupted, and they can still carry out their activities.[31]

Improvements are needed in the Bankruptcy and PKPU Law in terms of provisions, practice guidelines, and enforcement authority by public authorities in the context of protecting debtors and, at the same time, consumers. The aspect of bankruptcy and PKPU law is an essential foundation for business actors and stakeholders, considering the law is not just a legal tool but an opportunity to manage financial obligations wisely.[32] By regulating transparent transactions between the business world and consumers, renewal should provide more excellent consumer protection and include small and medium

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[27] Peter Cartwright, *Consumer Protection and the Criminal Law: Law, Theory, and Policy in the UK*, Cambridge: Cambridge University Press 2004, p. 13.

[28] *Loc.cit*.

[29] Hukumonline, "Asas Perlindungan Konsumen dan Tujuan Perlindungannya", 23 June 2023, available at https://www.hukumonline.com/berita/a/asas-perlindungan-konsumen-dan-tujuannya-lt623bc8fd4931f?page=all?utm_source=website&utm_medium=internal_link_klinik&utm_campaign=asas_perlindungan_konsumen, accessed on 30 December 2023.

[30] Waluyo, M. Kenza Radhya E. A., Ersya Dwi Nurifanti, Online Dispute Resolution Sebagai Alternatif Penyelesaian Sengketa Fintech Di Era IndustrI 4.0, *Jurnal Kewarganegaraan* Vol. 7 No. 2, 2023, p. 2057.

[31] Lintang Tantowi, Penyelesaian Sengketa Melalui Arbitrase Online Di Indonesia, 2018, available at http://download.garuda.kemdikbud.go.id/article.php?article=912660&val=14336&title=PENYELESAIAN%20SENGKETA%20MELALUI%20ARBITRASE%20SECARA%20ONLINE%20DI%20INDONESIA (accessed 30 December 2023).

[32] Hukumonline, "Panduan Strategis untuk Kepailitan dan Implementasi PKPU dalam Perspektif Hukum Bisnis", November 2023, available at https://www.hukumonline.com/berita/a/panduan-strategis-untuk-kepailitan-dan-implementasi-pkpu-dalam-perspektif-hukum-bisnis-lt6544959a13303/ (accessed 30 December 2023).

enterprises so that fellow consumers can operate sustainably and compete on an equal footing. It must be remembered that the status of customers in commercial transactions will determine the level of protection provided to them.[33]

C. CONCLUSION

This study yields two conclusions. First, the financing arrangements between consumers and financing institutions in Indonesia demonstrate a lack of adequate protection for consumers as debtors. Debtors are highly vulnerable to being declared bankrupt or subjected to PKPU (Suspension of Debt Payment Obligations) by financing institutions, considering that the provisions in the Bankruptcy and PKPU Law, Consumer Protection Law, OJK Law, P2SK Law, and POJK-7/POJK.05/2022 have not yet been able to protect debtors in the financing sector. Second, ideally, consumer protection in the context of bankruptcy and PKPU in Indonesia's financing sector would involve creating transparent regulations that cover at least the following two aspects. First, consumers should be able to report to independent consumer protection agencies, such as the National Consumer Protection Agency (BPKN), Community Self-Reliance Consumer Protection Institution (LPKSM), and the Consumer Dispute Resolution Agency (BPSK), or receive legal assistance from these bodies in the event they are faced with bankruptcy or PKPU filings by financing institutions against them. Second, commercial courts and dispute resolution institutions between consumers as debtors and creditors should offer options for administering cases and electronic trials to provide legal certainty, justice, and public benefit. It is recommended that in the future, there are BPKN, LPKSM, and BPSK recommendations regarding standard contracts of financing institutions so that consumers feel secure and comfortable when signing them.

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[33] Peter Cartwright, *Loc.cit*.

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