Legal Brief, Volume 11, No 5, (2022), pp. 3417-3426
ISSN 1979-522X (Print)| 2722-4643 (Online)
Published by IHSA Institute (Institut Hukum Sumberdaya Alam)
DOI: 10.35335/legal.xx.xx

Analysis of administrator and curator fees from the perspective of debtors and creditors

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ARTICLE INFO

Article history:

Received Nov 15, 2022
Revised Dec 17, 2022
Accepted Dec 30, 2022

Keywords:

Bankruptcy;
Administrator's Fee;
Currator's Fee.

ABSTRACT

Bankruptcy law recognizes two mechanisms, namely suspension of debt payment obligations (PKPU) and bankruptcy. In PKPU mechanism, administrators work with the debtor to manage the debtor's assets, while in bankruptcy curators manage and settle bankrupt assets. Based on article 18 (5) and article 234 (5) Law No.37 of 2004, payment of administrator and curator fees takes priority and is charged to the debtor. It raises issue regarding justice principle. This paper will discuss the administrator and curator fees from debtor and creditor's perspectives. This study uses normative juridical method with a conceptual and statutory approach. The research found that the amount of administrator and curator fees has undergone improvement, for instance it has reduced the maximum threshold. However, the provision that administrator fees borne by the debtor who experienced financial difficulties will burden the debtor, particularly if PKPU was not initiated by the debtor. Should the PKPU ends in bankruptcy, the debtor will not only be burdened with administrator fees, but also curator fees. Meanwhile, from the perspective of creditors, the payment of administrator and curator fees can certainly affect creditors' payment, especially concurrent creditors who do not hold collateral and have no privilege to receive priority payments.

ABSTRAK

Hukum kepailitan mengenal dua mekanisme, yaitu penundaan kewajiban pembayaran utang (PKPU) dan kepailitan. Dalam mekanisme PKPU, pengurus bersama-sama dengan debitur mengurus harta debitur sementara di dalam kepailitan kurator bertugas untuk melakukan pengurusan dan pemberesan harta pailit. Berdasarkan pasal 18 (5) dan pasal 234 (5) UU No.37 Tahun 2004, pembayaran jasa pengurus dan kurator harus didahulukan dan dibebankan kepada debitur. Hal ini menimbulkan pertanyaan terkait prinsip keadilan. Tulisan ini akan membahas tentang biaya pengurus dan kurator dari sudut pandang debitur dan kreditur. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan konseptual dan perundang-undangan. Hasil penelitian menemukan bahwa aturan terkait imbalan jasa pengurus dan kurator telah mengalami perbaikan, misalnya telah diturunkannya ambang batas maksimal jasa pengurus dan kurator. Namun, ketentuan bahwa imbalan jasa pengurus dibebankan pada debitur padahal pada dasarnya debitur sedang mengalami kesulitan finansial akan memberatkan debitur, apalagi jika PKPU tidak diprakarsai oleh debitur. Jika PKPU berakhir dengan kepailitan, debitur tidak hanya dibebani biaya pengurus, tetapi juga biaya kurator. Sedangkan dari sisi kreditur, pembayaran honor pengurus dan kurator tentunya dapat mempengaruhi penerimaan kreditur, terutama kreditur konkuren yang tidak memegang jaminan dan tidak memiliki hak istimewa untuk didahulukan pembayarannya.

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I. INTRODUCTION

The bankruptcy legal regime in Indonesia recognizes two mechanisms, namely suspension of debt payment obligations (PKPU) and bankruptcy. Basically, PKPU is a mechanism that can be used by debtors to get additional time and opportunities in order to submit reconciliation proposals to their creditors to avoid bankruptcy.(Fitri et al., 2019) In the PKPU decision, the Court will appoint one or more administrators who will work together with the debtor to manage the debtor's assets. While in a bankruptcy decision, the Court will appoint a curator whose job is to carry out the administrator and settlement of bankruptcy assets(Nating, 2005). Fees for administrator and curator services are borne by the debtor and it is necessary to understand that administrator fees are different from curator fees because they have different tasks and work in different mechanisms. Administrators work on the PKPU process and curators work on the bankruptcy process.

The Bankruptcy and PKPU Laws in Indonesia are based on several principles, including the principle of balance, the principle of business continuity, the principle of justice and the principle of integration. The imposition of administrator and curator fee in PKPU and bankruptcy procedures to debtors raises questions from the principle of balance, business continuity and fairness.

Studies on the fees of administrator and curator are still lacking. There has been research related to this topic such as Elysa Ginting in her book who discussed rules on curator fees. Nevertheless, it did not specifically analyse the impacts on debtors and creditors and it did not discuss the administrator in PKPU procedure. Whereas, these two things are related to each other. Especially in the PKPU and bankruptcy, these fees might have taken part on the succession of these frameworks. Therefore, it is crucial to analyse these issues thoroughly. This paper will analyse two main issues which are the administrator and curator fess from the perspective of debtors as well as from the perspective of creditors in order to reach a complete correlation and deeper understanding on related issues by taking into consideration the principle of balance, business continuity and fairness.

II. RESEARCH METHODS

This research was carried out using a normative juridical method with a conceptual approach and a statutory approach. This paper examines the rules in Law No. 37 of 2004 concerning Bankruptcy and Suspension of Obligations for Payment of Debt, Regulations of the Minister of Law and Human Rights regarding service fee for administrator and curator, commercial court decisions and various literature related to the topic of the article.

III. RESULT AND DISCUSSION

1. Regulations related to the amount of administrator service fee

The amount of fees for administrator is not explicitly stated in the Bankruptcy and PKPU Law. Article 234 paragraph 5 states that the amount of service fee for administrator is stipulated in a Ministerial Regulation. In this case the service fees for curator and administrator are stipulated in Regulation of the Minister of Law and Human Rights (Permenkumham) No. 18 of 2021. The Permenkumham which regulates the amount of service fees for curator and administrator has undergone several changes. There have been several improvements in Permenkumham No.18 of 2021 regarding administrator fees compared to several previous regulations, namely Permenkumham No.1 of 2013 along with changes in Permenkumham No.23 of 2014 and Permenkumham No.11 of 2016 along with changes to Permenkumham No.2 of 2017.

In Permenkumham No. 1 of 2013, precisely article 4 stipulates that in the event that the PKPU ends in peace, the amount of fee for administrator is determined by the judge taking into account the work that has been carried out by the administrator, the level of complexity of the work, the ability and

work rates of the administrator concerned, provided that it does not exceed 10% of the total value of debt to be paid. The administrator fee is charged to the debtor. Then in the event that the PKPU ends without reconciliation, the administrator fee is a maximum of 15% of the debt that must be paid by the debtor. This means that a debtor who undergoes PKPU and ends in bankruptcy will pay and bear greater costs than if the debtor undergoes PKPU and ends peacefully so that he is saved from bankruptcy. This of course does not fulfill the element of justice. In addition, the maximum threshold for administrator fees tends to be quite high, especially when compared to the threshold for administrator fees in the next several Minister of Law and Human Rights.

Then, Permenkumham No.11 of 2016 stipulates that the maximum amount of fee for administrator in the event that PKPU ends with reconciliation is 6% and PKPU ends without reconciliation is 8%. Meanwhile, Permenkumham No. 2 of 2017 regulates the maximum amount of administrator fee for PKPU that ends with reconciliation is 5.5%, while PKPU that ends without reconciliation is 7.5%. The maximum threshold for administrator fees for these two Permenkumham has decreased compared to the previous provision, namely Permenkumham No.1 of 2013. However, there are still similarities with the previous rules where the threshold for administrator fees for PKPU ending without reconciliation is higher than PKPU which ends with reconciliation. Therefore, in the event that the PKPU ends without settlement, not only will the debtor be charged with fees for administrator services which are quite high but the debtor will also be charged with curator's fee. In addition to that, these three Permenkumham gave authority to judges to determine the amount of compensation for administrator services instead of involving the debtor to determine it.

These mistakes have been improved by Permenkumham No. 18 of 2021 which stipulates otherwise. It rules that the maximum amount of service fee for administrator for PKPU which ends with reconciliation is 7.5% while PKPU which ends without reconciliation is 5.5%. This provision is the reverse of the previous provisions in Permenkumham No. 2 of 2017. Not only that, article 6 paragraph 1 also expressly states that administrator fees are paid based on an agreement between the debtor and the administrator. If no agreement is reached, then the judge determines the amount of service fee for administrator referring to the above threshold provisions. This shows more fairness compared to the previous provisions and provide more opportunity for the debtor to involve and negotiate the amount of administrator service fee according to his abilities rather than not being given the opportunity to negotiate at all and is fully determined by the panel of judges.

a. Analysis from the debtor's perspective

PKPU has the main goal of achieving peace between debtors and creditors.(Hariyadi, 2020) This settlement is not only profitable for the debtor but also for the creditor. If reconciliation is reached, the debtor will still be able to run his business(Suyatno, 2012) and can avoid bankruptcy and liquidation. In addition to the opportunity to submit a reconciliation proposal, PKPU also provides benefits for debtors in terms of delaying debt payment obligations or having a stay period that allows debtors to get a temporary extension of time to carry out their obligations to creditors. However, it raises a question will the time delay be commensurate with the amount of administrator fees that must be paid by the debtor, especially if the PKPU extension is not granted and the reconciliation proposal is rejected which actually leads to bankruptcy which has the potential to lead to liquidation.

There are several provisions related to PKPU which place the debtor in a difficult position. The first is related to the PKPU grace period. The court will automatically grant the Provisional PKPU after the application is submitted. The court is obliged to grant a provisional PKPU no later than 3 days after the application is registered if the PKPU is submitted by the debtor and no later than 20 days after the application is registered if the PKPU is submitted by the creditor. The Bankruptcy and PKPU Law stipulates that the temporary PKPU lasts for a maximum of 45 days. After that, the creditor must determine whether to accept or reject the reconciliation proposal submitted by the debtor. If the creditor has not been able to determine whether to accept or reject the proposal, the creditor must

determine whether to grant or refuse the extension of PKPU in order to provide additional time to allow the debtor, creditor and administrator to consider the debtor's reconciliation proposal.

PKPU grace period which is relatively short can cause problems for the debtor. If the PKPU is submitted voluntarily by the debtor, the debtor will likely be more prepared because the debtor can already prepare a draft of reconciliation proposal before submitting the PKPU application. However, this will be burdensome for the debtor if the PKPU is filed by the creditor. The 45-day grace period to prepare a reconciliation proposal is not easy for debtors. The short grace period could makes the debtor struggle and not be able to prepare the reconciliation proposal optimally. Thus, with a short PKPU grace period, it can have an impact on the failure of PKPU's goals to achieve settlement, which will lead to bankruptcy. In that case, the debtor must bear the administrator fee as well as curator fee without benefiting from the PKPU itself.

The second is the high threshold for granting permanent PKPU and accepting reconciliation proposals by creditors. The Bankruptcy and PKPU Law stipulates that there are two conditions for the granting of a permanent PKPU. The first is the approval of more than half of the concurrent creditors representing at least 2/3 of the total receivables from the concurrent creditors. Second, the approval of more than half of the separatist or secured creditors holding securities representing at least 2/3 of the total receivables.(Subhan, 2009) A similar threshold applies as a condition for accepting the debtor's reconciliation proposal by the creditor. The consequence should the reconciliation proposal or permanent PKPU is rejected will lead to bankruptcy. This bankruptcy can lead to liquidation and the failure of the debtor's business, which certainly against the debtor wish.

The third relates to the authority to appoint administrators and to propose replacements and additions to administrators. If PKPU is requested by the creditor, it will become the creditor authority to appoint the administrator. And there is no authority for the debtor to appoint or propose a replacement or addition of administrator despite the fact the debtor is the one who will work together with the administrator to manage the debtor's assets and be the one who is burdened with payment of administrator fees. Therefore, it becomes unfair for the debtor when he is not given an opportunity to choose the administrator but will be burdened with the fee.

Fourth, management fees are charged to the debtor and it can complicate the debtor's position. Article 234 paragraph 5 Bankruptcy and PKPU Law confirms that administrator fees are charged to the debtor's assets which must be paid in advance when the PKPU ends. The debtor is in a PKPU condition either because of his own request or due to the creditor's request showing that the debtor has financial problems in carrying out his debt payments to creditors(Agasie & Apriani, 2022). Thus, adding the debtor's financial burden with administrator fee will further complicate the debtor's financial condition. Not only that, there might be a possibility that the administrator fee is far greater than the due and collectible debt. This will further burden the position of the debtor.

In Case No.58/Pdt.Sus-PKPU/2020/PN Niaga Sby, the reconciliation proposal submitted by the debtor was accepted by the creditor. However, the Court must refuse to ratify the settlement because there is no agreement or guarantee of payment of the debtor in return for administrator fee. This is very unfortunate because the initial concept of PKPU mechanism aims to reach an agreement between the debtor and creditor so that the debtor can continue to run his business and the creditor can get paid in accordance with the reconciliation plan. However, it is hindered by the burden of administrator’s fee. PKPU's role as a restructuring tool in this case can certainly be hampered.

In order to reach settlement with creditors and carry out debt restructuring, PKPU is not the only option. Debtors and creditors can make settlement and conduct restructuring outside the court and without going through the PKPU mechanism.(Ismail, 2021) It has advantages and disadvantages compared to undergoing the PKPU procedure. The advantage of making settlement outside the court and without going through PKPU is that there is a more flexible time limit than temporary PKPU timeline which tend to be short or extensions which may not necessarily be granted because they

have to meet certain threshold specified in the Bankruptcy and PKPU Law. Second, settlement of debts amicably without going thru PKPU could also reduce the burden of costs that must be borne by the debtor because there is no need to bear the fees for administrator services.

However, it should be considered that in terms of costs, there is no guarantee that the costs of reaching settlement outside the Court and without going thru PKPU will be cheaper. Likewise, with the estimated time. Especially if the debtor has a large number of creditors, making it difficult to negotiate settlement with each one of the creditors. It is entirely different in the PKPU process. The PKPU process does not only bind creditors who apply for PKPU. Instead, PKPU will bind all creditors of the debtor concerned. Thus, if the debtor has a large number of creditors, the PKPU process will become more efficient. Although debtor is charged with administrator fee, the debtor will be able to experience the main benefits if the reconciliation is reached and bankruptcy or liquidation can be avoided.

These provisions related to PKPU place the debtor in a difficult position. Especially with the burden of administrator fee that is being charged to the debtor. If PKPU leads to settlement between the debtor and creditor, it can provide benefits and advantages for the debtor(Pambudi, 2021) so that the costs incurred to pay for the administrator fee may be commensurate. However, if the PKPU leads to bankruptcy as a result of the rejection of the permanent PKPU and the rejection of the reconciliation proposal, it will place the debtor in a very disadvantageous position.(Nurudin, 2014)

This issue will raise questions, especially in the elucidation of Law No. 37 of 2004 the principles of bankruptcy law in Indonesia are emphasized, including the principles of business continuity and the principles of justice. The principle of justice in the Bankruptcy and PKPU Law is expected to fulfil a sense of justice for parties who have interest, namely debtors and creditors.(Rahman et al., 2014) However, with the heavy burden that is borne by the debtor, it can violate the principle of justice itself, especially in terms of imposing administrator fees to the debtor even though the PKPU was not initiated by the debtor and if the PKPU ends in bankruptcy.

b. Analysis from creditor's perspective

Permenkumham No.18 of 2021 states that administrator fees are determined based on an agreement between the debtor and administrator. Article 6 paragraph 4 emphasizes that the creditor's opinion is taken into consideration in determining the amount of fee for administrator. Thus, even though payment for administrator fees takes precedence over payments to other creditors as emphasized in article 234 paragraph 5 of Bakruptcy and PKPU Law, at least this rule provides an opportunity for creditors to consider their opinion regarding the amount of fee for the administrator which will be likely affecting the amount of creditor receive.

Then in the event that PKPU succeeds in achieving reconciliation, this settlement will not only benefit the debtor but will also benefit the creditor. Creditors will have a greater opportunity to get payment of their receivables from debtors than in the event of bankruptcy and liquidation. Primarily concurrent creditors. But on the other hand, if settlement fails to be achieved, the position of concurrent creditors will be even more disadvantaged.

2. Regulations related to the amount of curator service fee

In a bankruptcy declaration, the Court must appoint a Curator. The curator is appointed by the bankruptcy applicant, be it a debtor or a creditor. The Bankruptcy and PKPU Law does not specifically regulate the amount of curator fees.(Tryandari, 2021) Article 76 only states that the amount of curator services fee is guided by the Regulation of the Minister of Law and Human Rights. The guidelines for curator fees currently refer to Minister of Law and Human Rights Regulation No. 18 of 2021. This Permenkumham stipulates that the amount of curator fees depends on how a bankruptcy ends.(Sukardi, 2021) The guideline is the maximum threshold for the amount of curator fees. The

following are the rules regarding guidelines for curator fees as stated in the attachment to Permenkumham No.18 of 2021.

Table 1. Curator's Fee Based on Permenkumham No.18 of 2021

Amount of Debt to be Paid	Curator's Fee Based on How the Bankruptcy Ends	
	With Reconciliation	With Arrangement (without reconciliation)
Up to IDR 50,000,000,000	5%	7%
Above IDR 50,000,000,000 up to IDR 250,000,000,000	3%	5%
Above IDR 250,000,000,000 up to IDR 500,000,000,000	2%	3%
Above IDR 500,000,000,000 up to IDR 1,000,000,000,000	IDR 15,000,000,000	IDR 25,000,000,000
Above IDR 1,000,000,000,000	IDR 20,000,000,000	IDR 30,000,000,000

The amount of curator fee has previously undergone several changes. Before the establishment of Permenkumham No.18 of 2021, the amount of curator fees was referred to Permenkumham No.2 of 2017, Permenkumham No.11 of 2016 and Permenkumham No.1 of 2013.

Table 2. Curator's Fee Based on Permenkumham No.2 of 2017 & Permenkumham No.11 of 2016

Amount of Debt to be Paid	PERMENKUMHAM No.11 of 2016		PERMENKUMHAM No.2 TAHUN 2017	
	Curator's Fee Based on How the Bankruptcy Ends		Curator's Fee Based on How the Bankruptcy Ends	
	With Reconciliation	With Arrangement (without reconciliation)	With Reconciliation	With Arrangement (without reconciliation)
Up to IDR 50,000,000,000	5%	8%	5%	7,5%
Above IDR 50,000,000,000 up to IDR 250,000,000,000	3%	6%	3%	5,5%
Above IDR 250,000,000,000 up to IDR 500,000,000,000	2%	4%	2%	3,5%
Above IDR 500,000,000,000	1%	2%	1%	2%

Article 17 paragraph 3 of the Bankruptcy and PKPU Law stipulates that in the event that the bankruptcy declaration is cancelled, curator fees are charged to the applicant for the bankruptcy statement or to the applicant for the bankruptcy declaration together with the debtor whose amount is determined by the panel of judges.

Permenkumham No.18 of 2021 stipulates that curator fees in situations like this are calculated based on the curator's working hour rate used with a maximum value of Rp. 4,000,000 per hour but the total may not exceed the percentage of the value of the bankrupt assets that have been determined. Furthermore, Article 4 paragraphs 1 and 2 stipulates that the work that has been carried out by the curator, the level of complexity of bankruptcy, the ability of the curator is taken into consideration in determining the amount of curator's fee.

Meanwhile, in the case of revocation of a bankruptcy declaration, the fee for curator services is borne by the debtor. Article 18 paragraph 5 of the Bankruptcy and PKPU Law emphasizes that curator fees are classified as preferred receivables whose payment takes precedence over unsecured

receivables.(Ginting, 2019) Not only that, against the determination of curator fees in case of a bankruptcy decision being revoked, legal remedies cannot be filed.

The curator plays an important role in bankruptcy. One of the main goals of bankruptcy is fair distribution among creditors. And the curator plays a role in this. The curator in the management and settlement of bankrupt assets also tries to maximize the assets of the bankrupt debtor(Slamet, 2017) which will be used later to repay creditors. If this can be maximized then the liquidation and dissolution of the business can be prevented so that it is also beneficial for the debtor.

The curator is responsible for all errors and omissions in the management and or settlement of bankruptcy assets .(Simatupang & Hasudungan, 2014) Thus, with the magnitude and importance of the duties and responsibilities of the curator, it is fair for the curator to receive appropriate fee for his services .(Yalid, 2016) Especially the threshold for curator fees has been set by a Ministerial Decree.

a. Analysis from the debtor's perspective

Based on Law No. 37 of 2004 states that bankruptcy can be filed by not only debtors but also creditors. However, the burden of payment of curator fees is borne by the bankrupt debtor's assets. Not only that, but it should be noted that bankruptcy decisions do not only originate from bankruptcy petitions, but also PKPU applications that fail to reace reconciliation. Thus, in this case not only the debtor will be charged fees for curator fees but also administrator fees. This illustrates how difficult the debtor's position is, which is basically experiencing financial difficulties but has to bear the burden of paying these fees.

In addition, Law No. 37 of 2004 in Article 17 paragraph 3 also stipulates that in the event that bankruptcy is canceled in cassation or review, the fee for curator fees is charged to the bankruptcy applicant or to the applicant together with the debtor whose ratio is determined by the judges.

Meanwhile, in the event that the bankruptcy declaration is revoked when the bankrupt assets are insufficient to pay bankruptcy fees, article 18 paragraph 4 ruled that the amount of curator's fees will be determined by the panel of judges who revoke the bankruptcy declaration decision and the payment will be charged to the debtor. This received criticism because it was considered burdensome for the debtor's position(Ginting, 2018). The bankruptcy itself was revoked due to the reason that there were not sufficient bankrupt assets to pay bankruptcy costs. Nevertheless all bankruptcy costs and curator fees were still charged to debtor. Even though it is not necessarily the debtor who files for bankruptcy. It is possible for a creditor to apply for bankruptcy without taking into account the debtor's assets. Therefore, this situation is felt to have injured the sense of justice for the debtor.

Moreover, Law No. 37 of 2004 does not only charge the debtor with fees for the curator's services. The bankrupt debtor may also propose a replacement and/or addition of a curator. Even though the approval is still determined by the supervisory judge, at least the bankrupt debtor is given space to participate in replacing and or adding a curator.

The curator is not only in charge of the management and settlement of bankrupt assets but the curator also has the obligation to secure all bankrupt assets.(Arjaya & Martina, 2019; Pottow, 2006) Article 104 paragraph 1 stated that curator on his initiative may propose to the creditor committee or supervisory judge to continue the bankruptcy debtor's business while the bankrupt assets are not yet insolvent. Not only that, in bankruptcy, if the reconciliation offered by the bankrupt debtor is not accepted by the creditor or not ratified by the supervisory judge, then to prevent liquidation of the bankrupt assets, the curator can propose that the bankrupt debtor's company be continued.(Sjahdeini, 2002) Continuing the debtor's business as a going concern, of course, can prevent the debtor's business from being liquidated as a result of a general confiscation.(Ginting, 2018) Along with the enactment of this going concern, liquidation will only be carried out on assets that are not used to support business operations. If the curator works optimally in the management

and settlement of bankruptcy assets and is able to maximize the value of bankruptcy assets, this can benefit the debtor because liquidation of assets as a whole can be avoided and the debtor's business can be saved, so that the amount of curator's fees to be paid by the debtor will be worthy.

b. Analysis from creditor's perspective

In a condition where the bankrupt debtor's assets are insufficient to pay all of the creditors, the concurrent creditor is in the most disadvantaged position among other creditors. Concurrent creditors are creditors whose receivables are not guaranteed by material rights and do not have the privilege of being prioritized by law.(Ginting, 2018) Payments received by concurrent creditors are determined by the supervisory judge originating from the remaining proceeds from the sale of assets and goods of the bankrupt debtor after payments to preferred creditors and separatist or secured creditors have been made. On top of that, the payment of curator fees will be issued at the beginning of the bankrupt debtor's assets. It will cause the payment receipts by the concurrent creditors who are at the lowest position to be increasingly eroded. Referring to article 1131 of the civil code, all the debtor's current or future assets are collateral for all his agreements. Nevertheless, the large amount of payments that must be made from the bankrupt debtor's assets plus bankruptcy costs as well as curator fees can disrupt and reduce creditor acceptance, particularly concurrent creditors.

On the other hand, Law No. 37 of 2004 provides more opportunity for creditors, especially for concurrent creditors in terms of replacing or adding curators. As previously explained, the curator has an important and strategic role in a bankruptcy. Article 71 paragraph 2 stipulates that the Court is obliged to dismiss or appoint a curator based on the request of the concurrent creditors in the event that the decision is approved by more than half of the concurrent creditors who are present at the creditors meeting and represent more than half of the total receivables of the concurrent creditors who are present at that time. This shows that even though the imposition of curator fees on bankrupt assets can reduce the acceptance of concurrent creditors, at least the concurrent creditors have considerable authority in terms of replacing or adding curators during the bankruptcy and settlement process.

IV. CONCLUSSION

Law No. 37 of 2004 concerning Bankruptcy and PKPU regulates the role of administrators during PKPU and the role of curators during bankruptcy and debt settlement processes. Fees for administrator and curator are charged to debtors or bankrupt assets, the amount of which is stipulated in Regulation of the Minister of Law and Human Rights No. 18 of 2021. These fees are categorized as preference receivables where payment takes priority based on article 18 paragraph 5 and article 234 paragraph 5 of the Bankruptcy and PKPU Law.

Based on the results of the research, it was found that the amount of administrator and curator fee over the past few years has undergone changes in terms of reducing the maximum threshold amount and improving some provisions which are better than the previous regulations. However, the stipulation that administrator fees are borne by the debtor even though in essence the PKPU debtor is experiencing financial difficulties will burden the debtor, particularly if PKPU is not the initiative of the debtor but the creditor. Should the PKPU ends in bankruptcy, the debtor will not only be burdened with administrator fees, but also curator fees. Thus, it places the debtor in a very disadvantaged position. The principle of justice will be further damaged, especially if bankruptcy declaration is revoked due to insufficient bankrupt assets. It is possible that the creditor who is applying for bankruptcy did not consider the amount of the debtor's assets yet prejudice the debtor with the curator’s fee. Payment of administrator fees may only be considered commensurate if reconciliation is successfully achieved so that bankruptcy can be prevented or in the event of bankruptcy settlement is reached so that the bankrupt debtor's assets do not need to be liquidated and can continue to operate as a going concern in accordance with the business continuity principle.

As for the payment of administrator and curator's fee that take priority before other receivables will affect the payment of creditors, especially concurrent creditors who do not hold collateral and do not have the privilege of paying priority.

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