OPEN ACCESS

LAW RESEARCH
Quarterly Review

Law Research Review Quarterly is a **journal focusing on law, justice, and crime in Indonesia and Southeast Asia**. The journal is a peer-reviewed publication issued by the Faculty of Law at Semarang State University, Indonesia. It is published quarterly in February, May, August, and November. ISSN 2716-3415 (Online)
Online at https://journal.unnes.ac.id/snh

The Status of Dividend Debts as a Basis for Determining Bankruptcy

Andreas Marlas Raja Perdamean L. G.
Universitas Negeri Semarang, Semarang, Indonesia
andreasmarlaslgl@students.unnes.ac.id

Ubaidillah Kamal
Universitas Negeri Semarang, Semarang, Indonesia
ubaidillahkamal@mail.unnes.ac.id

Abstract
Developments in legal relationships within the corporate world indicate that obligations are no longer limited to contractual relationships alone, but also arise from internal corporate mechanisms, one of which is the distribution of dividends. In practice, issues arise when dividends that have been approved but not yet paid are used as the basis for a bankruptcy petition, leading to a debate over whether dividends can be classified as debt under bankruptcy law. This study aims to analyze the status of dividends as debt under Indonesian bankruptcy law and their relationship to the principle of simplified proof. The issues examined include whether unpaid dividends meet the criteria to be considered debt in a bankruptcy petition and how their application is limited in judicial practice. The research method employed is a normative legal approach using both statutory and case-law analyses, through an examination of the Limited Liability Companies Act, the Bankruptcy Act, and the PKPU, as well as relevant court rulings. The research findings indicate that dividends decided upon by the General Meeting of Shareholders (GMS) and that have become due substantively meet the elements of a debt because they possess economic value, arise from a contractual obligation, are binding, and are enforceable. However, in practice, the application of this concept is not divorced from the principle of simple proof, which is a characteristic of bankruptcy law. If there is a dispute

regarding the validity of the GMS, the amount of dividends, or the company's financial condition that requires complex proof, then filing for bankruptcy becomes inappropriate. Thus, although dividends can be categorized as debt substantively, their use as the basis for a bankruptcy petition must be strictly limited. This restriction is important to prevent the misuse of bankruptcy as a tool for coercion in corporate disputes, as well as to maintain legal certainty, justice, and business continuity, and to ensure balanced protection for creditors and shareholders.

Keywords: Dividends, Debt, Bankruptcy, Summary Proceedings.

Introduction

[1]In the dynamics of modern law, the relationship between rights and obligations is no longer understood rigidly as a purely contractual relationship, but rather as a normative construct that reflects a balance between individual and collective interests. This shift indicates that the legal system no longer functions merely as a guardian of promises between parties, but also as an instrument that guides the creation of substantive justice in society. In the classical perspective, legal relationships are based on the principle *of freedom of contract*, in which the parties are considered to be on an equal footing in determining their rights and obligations. However, in practice, this assumption of equality is often not fulfilled, thus requiring the presence of legal norms that are more responsive to inequality and the potential for abuse of power.

In the corporate context, particularly that of a limited liability company, the relationship between shareholders and the company is not based solely on contracts, but also on institutional structures and legal mechanisms that are collectively binding.[2] The right to dividends, for

[1] SH Prof. Dr. Satjipto Rahardjo, "Progressive Law: A Synthesis of Indonesian Law," 2009.
[2] Abriyani Puspaningsih and Rizqi Gusti Pratiwi, "Indonesian Journal of Accounting & Auditing: Determinants of Dividend Policy in Indonesia: Good Corporate Governance (GCG) as an Intervening Variable," 21, no. 2 (2017).

example, arises not only from agreements but also from decisions made by the company's governing bodies, which must consider the company's overall interests, including those of creditors and the continuity of the business. In a global context, **this development aligns with the Sustainable *Development Goals* (*SDGs*), particularly Goal 16, which emphasizes** the **importance** of **strong legal institutions**, access to justice, and transparent and accountable governance. Therefore, clear and proportionate legal regulations regarding rights and obligations within a corporation, including those related to dividends, are part of the effort to realize *a sustainable* legal *system* capable of supporting economic stability and public trust.

Given the complexity of legal relationships within corporations, bankruptcy law serves as a crucial instrument in maintaining a balance between the interests of the parties involved, particularly between debtors and creditors. Historically, bankruptcy law has its roots in Roman legal tradition, which initially placed greater emphasis on the debtor's personal liability, even extending to physical aspects and individual liberty. Its development later shifted within the modern European legal system, particularly from the Middle Ages through the codification of commercial law, where bankruptcy began to be understood as a collective mechanism for the fair and proportional settlement of debts. In the Indonesian context, bankruptcy regulations are a legacy of the Dutch colonial legal system through *the Faillissementsverordening* (Staatsblad 1905 No. 217 in conjunction with 1906 No. 348), which subsequently underwent significant reform following the economic crisis through Law No. 4 of 1998, and was further refined in Law No. 37 of 2004 on Bankruptcy and the Suspension of Debt Payment Obligations.

[3]Based on the provisions of Article 2 of Bankruptcy Law No. 37 of 2004, it can be concluded that the legal requirements for a company to be declared bankrupt are as follows:

a. The existence of debt.
b. At least one of the debts is past due.
c. At least one of the debts is collectible.
d. The existence of a debtor.
e. The existence of a creditor.
f. There are more than one creditor.
g. A declaration of bankruptcy is issued by a special court known as the "Commercial Court

 of Commerce."

A fundamental issue arises regarding how bankruptcy law interprets debt in the context of increasingly complex legal relationships, particularly when obligations arise from internal corporate mechanisms such as dividends. Dividends are one of the primary economic rights inherent to shareholders in a limited liability company.[4] Conceptually, dividends are understood as a portion of the company's net profit distributed to shareholders as compensation for the capital they have contributed. The distribution of dividends reflects the company's success in conducting its business activities and serves as a means of distributing profits to shareholders. However, dividends are not an absolute right; rather, they are a right whose implementation is subject to the company's financial condition and the legal mechanisms established by applicable laws and regulations.

[3] M.Kn. Dr. Yuhelson, S.H., M.H., *Indonesian Bankruptcy Law* (Gorontalo, 2019).
[4] Febi Berliana et al., "ANALYSIS OF THE EFFECT OF DIVIDEND POLICY ON STOCK PRICES IN LISTED MANUFACTURING COMPANIES" 4 (2025): 48–59.

Provisions regarding dividends in the Indonesian legal system are set forth in Law No. 40 of 2007 on Limited Liability Companies. Article 71 of the Limited Liability Companies Act stipulates that dividends may only be distributed if the company has net income and a positive retained earnings balance after deducting allocations to mandatory reserves, and the distribution must be determined by a resolution of the General Meeting of Shareholders (GMS). Furthermore, Article 72 of the Limited Liability Companies Act ([5]) stipulates that the distribution of dividends must not result in the company becoming unable to meet its obligations to its creditors, and if the distribution of dividends is carried out unlawfully, shareholders may be held liable to return such dividends.

In determining dividend policy, conflicts of interest often arise between managers and shareholders. According to the *agency theory* proposed by Michael C. Jensen and William H. Meckling (1976), this conflict arises due to differing objectives between the two parties. Managers tend to retain earnings as retained earnings to finance the company's investments and development, while shareholders expect those earnings to be distributed as dividends as a return on the investments they have made. On the other hand, dividend distribution is not an absolute obligation for companies, as there are currently no legal regulations in Indonesia requiring companies to distribute dividends every year. Therefore, it is not uncommon for companies to choose not to distribute dividends even when they are profitable[6] .

Debt is a fundamental concept in civil law and a central element of bankruptcy law. Traditionally, debt is understood in a narrow sense as an obligation to pay a certain amount of money arising from a lending relationship or credit agreement between a debtor and a creditor. In this

[5] Limited Liability, Closed, and Unlawful, "Prisma Hukum Journal" 8, no. 12 (2024): 241–47.
[6] Yang Terdaftar and D I Bei, "DETERMINATION OF DIVIDEND POLICY IN MANUFACTURING COMPANIES" 7, no. 3 (2019).

sense, debt is synonymous with the debtor's obligation to return a sum of money received from the creditor within a specified period, along with interest or other compensation. This narrow interpretation is deeply rooted in classical civil law practice, which views debt as an obligation arising from a commercial and bilateral debt agreement[7] .

The increasingly broad interpretation of debt as defined under bankruptcy law cannot be separated from the dynamics of civil obligations in modern business practice, including the obligation to pay dividends in a limited liability company. Once dividends have been decided upon through a General Meeting of Shareholders and the amount and timing of payment are certain, such dividends have the potential to be perceived as a monetary obligation that can be legally enforced. It is at this point that the intersection between corporate law and bankruptcy law occurs, where shareholders' rights to dividends confront the concept of debt as a condition for a company's bankruptcy. The expansion of the meaning of debt—which was originally narrow and limited to lending relationships—has subsequently raised a new legal issue: namely, whether obligations arising from internal corporate " " relationships, such as dividends, should be treated the same as debt under the bankruptcy regime[8] .

One of the landmark cases in the development of bankruptcy law in Indonesia is the bankruptcy case of PT Asuransi Jiwa Manulife Indonesia (AJMI). This case originated from a petition for a declaration of bankruptcy filed by the trustee of PT Dharmala Sakti Sejahtera Tbk (DSS), as a shareholder of PT AJMI, on the grounds that the company's 1998 fiscal year profit dividends—which had been agreed upon and were based on audited financial statements—had not been paid. The petitioner argued that the obligation to pay the dividends had become due, the amount was certain,

[7] Raden Muhammad, Fadly Latief, and Ashshiddiq Prawirawinata, "Bankruptcy as the Ultimum Remedium for the Settlement of Debts and Claims" 2 (2025).
[8] Gede Aditya Pratama, "Court Rulings as Debts That Can Serve as the Basis for Claims in Filing for Bankruptcy and Debt Payment Moratoriums" 10 (2024): 180–91.

and therefore it could be classified as a debt as referred to in the bankruptcy provisions of the Indonesian Commercial Code ([9]).

The Central Jakarta Commercial Court, through Decision No. 10/PAILIT/2002/PN.NIAGA.JKT.PST, granted the petition for bankruptcy and declared PT AJMI bankrupt. The panel of judges held that the elements of bankruptcy had been met, namely the existence of more than one creditor and the existence of debts that were past due and collectible, wherein dividends were considered a payment obligation whose fulfillment could be legally demanded. This ruling demonstrates the broad application of the definition of debt in bankruptcy law, including obligations arising from internal corporate relationships between a company and its shareholders.

The inclusion of dividend issues within the scope of bankruptcy law cannot be separated from the characteristics of the bankruptcy requirements as stipulated in Article 2(1) of Law No. 37 of 2004. This provision— —requires the existence of two or more creditors and the non-payment of at least one debt that has become due and is enforceable. With such a formulation, bankruptcy law does not require the existence of an inability to pay (insolvency test), but rather it is sufficient to prove the existence of unpaid debts. Consequently, any obligation that can be classified as a debt has the potential to serve as the basis for a bankruptcy petition, including the obligation to pay dividends that have been decided and have become due.

In the context of evidence, bankruptcy law adheres to the principle of simplified evidence, which involves a swift examination limited to the fulfillment of the formal elements of bankruptcy. This principle was originally intended to provide legal certainty and protection for creditors so that they would not be hindered by protracted evidentiary proceedings.

[9] Diponegoro Law Review, "DIPONEGORO LAW REVIEW Volume 1, No. 2, Year 2013" 1, no. 37 (2013): 1–11.

However, when the obligation to pay dividends is made the basis for a bankruptcy petition, the principle of simplified proof faces serious challenges. Disputes regarding the existence of rights to dividends, the validity of GMS decisions, and the company's financial condition are often complex and require in-depth examination, making it difficult to classify them as cases that can be proven simply. This creates the risk of bankruptcy being used as a pressure tool in internal corporate disputes[10] .

A further implication of the inclusion of dividends within the scope of bankruptcy is that it opens the possibility of bankruptcy proceedings against companies that are, in fact, still solvent. Since Indonesian bankruptcy law does not require an insolvency test, companies that still possess assets and maintain sound operational capabilities can still be declared bankrupt merely due to an unresolved dividend dispute . This situation has the potential to deviate from the primary purpose of bankruptcy as a collective debt resolution mechanism for debtors who are genuinely experiencing financial difficulties, and may result in broader losses—not only for the corporation and other shareholders but also for creditors, employees, and the public interest.

Thus, the inclusion of dividends within the scope of bankruptcy raises fundamental legal issues, particularly regarding the definition of debt, the application of the principle of simple proof, and the protection of companies that remain *solvent*. The lack of clarity in these aspects indicates a gap and ambiguity in the law that could potentially lead to multiple interpretations in judicial practice. Therefore, a more in-depth and comprehensive study is needed to examine the actual status of dividends as debt when viewed from the principle of the burden of proof in Indonesian bankruptcy law, as well as to critically analyze the legal implications arising from the categorization

[10] Wijayati, Indah., Suhariningsih., and Bambang Winarno, " : APPLICATION OF SIMPLE EVIDENCE INTERPRETATION IN BANKRUPTCY CASES*, Scientific Journal of the Faculty of Law, Brawijaya University*, 2015."

of dividends as debt in bankruptcy petitions, both regarding legal certainty, business continuity, and the protection of interested parties.

Method

In this legal study, the approaches used are *the statutory approach* and *the case approach*. The *statutory approach* was chosen because the study examines various legal provisions that serve as both the focus and the central theme of the research[11] . The *case* approach was selected because it is most relevant to the substantive issues regarding the inclusion of dividends within the scope of bankruptcy. Through the statutory approach , this study conducts a systematic review of the legal norms governing dividends, the characteristics of debt, and bankruptcy mechanisms, with reference to Law No. 40 of 2007 on Limited Liability Companies, Law No. 37 of 2004 on Bankruptcy and PKPU, and the Civil Code as the primary legal sources. Meanwhile, a case-based approach was employed by analyzing court decisions as material to understand the application of legal norms in practice, particularly in the Decision of the Central Jakarta Commercial Court No. 10/PAILIT/2002/PN.NIAGA.JKT.PST.

Results and Discussion

1. The Status of Dividends as Debts from the Perspective of the Principle of Simple Proof in Indonesian Bankruptcy Law

Dividends are one of the property rights inherent to the status of a shareholder in a limited liability company. Literally, the word “dividend” comes from the Latin word “dividendum,” which means something that

[11] M.A.P. Dr. Suyanto, S.H., M.H., M.Kn., *Legal Research Methods*, 2022.

must be distributed. In the context of Indonesian corporate law, a dividend can be defined as a portion of the company's net profit distributed to shareholders based on a resolution of the General Meeting of Shareholders (GMS) in proportion to the number of shares held by each shareholder[12] .

Law No. 40 of 2007 on Limited Liability Companies does not provide an explicit definition of dividends, but it does substantially regulate the mechanism for their distribution. Article 71(1) of the Limited Liability Companies Law states that the use of net profit, including the determination of the amount set aside for mandatory reserves, must be decided by the General Meeting of Shareholders. Furthermore, Article 71(2) of the Limited Liability Companies Act (UUPT) stipulates that all net profit, after deducting the allocation for mandatory reserves, must be distributed to shareholders as dividends, unless otherwise determined by the General Meeting of Shareholders (GMS). From these provisions, it is clear that the UUPT designates the GMS as the highest authority empowered to decide on the distribution of dividends.

Pursuant to Article 71(3) of the Limited Liability Companies Act, a company is prohibited from distributing dividends if it has an accumulated deficit. This prohibition embodies *the capital maintenance principle,* which aims to protect the company's creditors from actions that deplete the company's assets for the benefit of shareholders. This provision indirectly requires that the obligation to pay dividends arises only if the company actually has sufficient net profit and its financial condition permits such a distribution.

Based on the form in which they are distributed, dividends can be classified into several types. First, *cash* dividends, which are the distribution of profits to shareholders in the form of cash. This type of dividend is the most relevant in the context of bankruptcy law because it involves the company's obligation to directly hand over a sum of money to shareholders.

[12] Limited, Systematic, and Legal, "Prisma Hukum Journal Prisma Hukum Journal."

Second, *stock dividends*, which involve the distribution of profits in the form of the issuance of new company shares to existing shareholders. This type does not result in a cash outflow from the company but merely dilutes the ownership percentage of existing shareholders relatively. Third, property dividends *(property dividend)*, which are the distribution of profits in the form of company assets other than cash, such as the company's products or securities held by the company [13] .

In addition, the Limited Liability Companies Act also regulates interim dividends in Article 72, which are dividends distributed before the end of the company's fiscal year. The distribution of interim dividends is permitted only if the following cumulative conditions are met:

a. it is provided for in the company's articles of association;
b. the distribution of interim dividends does not cause the company's net worth to fall below the sum of paid-in capital and statutory reserves; and
c. such interim dividends must be offset against the annual dividends decided at the next General Meeting of Shareholders.

These cumulative requirements indicate that even with regard to interim dividends, the law establishes a series of complex conditions as prerequisites for the creation of a dividend payment obligation.

A shareholder's right to dividends is not automatically attached to share ownership. That right arises only after the General Meeting of Shareholders (GMS) has validly resolved to distribute dividends. Prior to such a resolution by the GMS, shareholders possess only a potential right *(latent right)* to dividends, not a right that can be immediately enforced. This is what distinguishes a shareholder's right to dividends from an ordinary creditor's right to their claim: an ordinary creditor has an

[13] M.Si Hery, S.E., "Intermediate Financial Accounting," 2024, 348.

enforceable claim that can be immediately enforced once the debtor defaults, whereas a shareholder must first await the GMS's decision. Only after the GMS has validly resolved to distribute dividends does a transformation of rights occur—from a potential right to a concrete enforceable claim *(vordering)—* .

Furthermore, from the perspective of the theory *of legal certainty* as articulated by Gustav Radbruch, an obligation can only be enforced as a debt if there is clarity regarding its subject, object, and legal basis[14] . In the case of dividends, legal certainty is only achieved after a valid resolution of the General Meeting of Shareholders (GMS), because prior to that, the rights of shareholders remain contingent. Therefore, only dividends that have been decided and have become due can satisfy the element of certainty as a debt under bankruptcy law. It is at this stage that the corporation's legal obligation to pay such dividends to the entitled shareholders arises, and from that point onward, shareholders hold a position that substantively resembles that of a creditor against the corporation regarding the amount of unpaid dividends.

a) The Meaning of Debt in Bankruptcy Law

Within the framework of bankruptcy law, understanding the concept of debt is a fundamental starting point because it determines whether or not a petition for bankruptcy will be granted by the court. Therefore, the interpretation of debt is not merely textual based on legislation, but also requires a comprehensive analysis of its characteristics and the evolution of its application in legal practice.

Pursuant to Article 1(6) of Law No. 37 of 2004 on Bankruptcy and the Suspension of Debt Payment Obligations (PKPU), the definition of Debt is:

[14] Fadly Andrianto, "Legal Certainty in Legal Policy in Indonesia" 3, no. 1 (2020): 114–23.

> *"An obligation that is expressed or may be expressed in a monetary amount, whether in Indonesian currency or foreign currency, whether immediate or future, or arising from a contractual relationship as referred to in the Law, which the Debtor is obligated to fulfill; and if not fulfilled, entitles the Creditor to obtain fulfillment from the Debtor's assets."*

From the wording of Article 1(6) of the Bankruptcy Law, several elements can be identified that must be met for an obligation to qualify as a debt under bankruptcy law[15] .

The first element—an obligation that can be expressed in monetary terms—indicates that a debt must have a clear and measurable economic value. This element is not limited to the obligation to pay a specific amount of money directly, but also encompasses other obligations that can be converted into monetary value. Thus, the approach used in bankruptcy law is broad (broad interpretation), as any obligation possessing economic value may potentially qualify as a debt. However, this assessment still requires certainty of value or, at the very least, the ability to determine it through legal valuation mechanisms, thereby avoiding uncertainty in the proof of the debt.

Furthermore, the element arising from existing or future obligations confirms that a debt need not always be actual, but may also be potential. This relates to the concept of obligations in civil law as stipulated in Article 1233 of the Civil Code, which states: *"Every obligation arises either from an agreement or from a statute."* Thus, a debt may arise from a contract or from statutory provisions. Furthermore, the phrase "that will arise in the future" indicates that obligations that have not yet become due may still be counted as debt as long as the legal basis already exists, although in bankruptcy practice,

[15] Prof. Dr. Rahayu Hartini, *Bankruptcy Law*, 2020.

the elements of maturity and collectability remain required as stipulated in Article 2(1) of the Bankruptcy Law[16] .

The element of an obligation that must be fulfilled by the debtor implies the existence of a legally binding relationship between the debtor and the creditor. This element indicates that the obligation is not merely a moral or social obligation, but a legally binding obligation. In this context, the debtor is legally obligated to fulfill a specific obligation, and failure to do so may result in legal consequences, including a claim for performance.

Finally, the element granting creditors the right to obtain fulfillment from the debtor's assets confirms the existence of *an enforceable right*.[17] This means that creditors have the legal standing to demand fulfillment of such obligations through legal mechanisms, whether through civil litigation or through a petition for bankruptcy. This element is crucial because it distinguishes ordinary obligations from debts in the context of bankruptcy, namely the assurance that the fulfillment of such obligations can be enforced against the debtor's entire estate as general security, in accordance with the principles of civil law.

Systematically, the definition of debt in the Bankruptcy Law cannot be separated from the concept of an obligation *(verbintenis)* as regulated in the Civil Code (KUHPerdata). Article 1233 of the Civil Code states that an obligation arises from a contract or from the law. Obligations arising from a contract are subject to Article 1313 et seq., while those arising from law are regulated, among others, in Article 1352 of the Civil Code[18] .

[16] Nyoman Samuel Kurniawan and Udayana University, "BANKRUPTCY LAW (A COMPARATIVE STUDY FROM THE PERSPECTIVE OF CONTRACT AND BANKRUPTCY LAW)," 2013.
[17] Rizka Putri Febritama et al., "Indonesian Journal of Law" 1, no. 4 (2024): 85–91.
[18] Eka Yulia Nengsih et al., "Contract Law: Types of Contracts" 3, no. 1 (2025): 193–206.

In the context of dividends, the obligation to pay dividends as decided by the General Meeting of Shareholders arises from two sources of obligation simultaneously: from the law, namely the Limited Liability Companies Act (UUPT), which governs the mechanism for distributing a company's profits; and from the corporate relationship, namely the company's articles of association, which constitute a constitutional contract between the company and its shareholders. Both of these sources are recognized by both the Civil Code and Article 1(6) of the Bankruptcy Law; thus, the obligation to pay dividends, in principle, satisfies the elements of the source of the obligation as required.

Furthermore, Article 1(2) of the Bankruptcy Law defines a creditor as "a person who has a claim arising from a contract or statute that is enforceable in court." Shareholders who have rights to dividends that have been decided by the General Meeting of Shareholders but have not yet been paid out substantively meet this creditor qualification, because their dividend claims arise from the law (UUPT) and corporate relations (articles of association), and in principle can be enforced in court through the appropriate legal mechanisms[19] .

b) Developments in the interpretation of debt

The evolution of the meaning of "debt" in Indonesian bankruptcy law has undergone significant changes, particularly through the role of the jurisprudence of the Supreme Court of the Republic of Indonesia. At the outset of the modern bankruptcy regime under Law No. 4 of 1998, debt tended to be interpreted narrowly—as a payment obligation arising from a contract, having a specific amount, being due, and being undisputed. This understanding is rooted in the construction of Article 1233 of the

[19] Kedudukan Denda et al., "UNES Journal of Swara Justisia," 2023, 497–513.

Civil Code, which states that obligations arise from contracts and laws, thus positioning debt as a legally clear and easily provable obligation[20] .

As judicial practice has evolved, the meaning of debt has expanded through various court rulings. The Supreme Court has begun to recognize that debt is not limited solely to lending relationships but also encompasses other obligations that can be quantified in monetary terms, including those arising from statutes or other legal relationships. However, this expansion is not unlimited. Through Supreme Court Decision No. 06 K/N/1999, the Supreme Court established an important limitation: that debt in the context of bankruptcy must be concrete, certain, and easily provable. If an obligation still requires complex proof or remains the subject of a dispute, it cannot be classified as debt in a bankruptcy petition.

This principle later found its relevance in the case of PT Asuransi Jiwa Manulife Indonesia, which became one of the most controversial cases in the history of bankruptcy in Indonesia. In the first-instance ruling, the Commercial Court held that unpaid dividends to shareholders constituted debt, and consequently, the company was declared bankrupt. However, this view drew criticism for ignoring the nature of dividends, which do not automatically become a payment obligation prior to a resolution by the General Meeting of Shareholders (GMS). In other words, the right to dividends remains conditional and does not necessarily meet the legal certainty required for a debt.

At the cassation level, the Supreme Court overturned the decision, asserting that the obligation to pay dividends in the case did not meet the criteria for a debt. The Supreme Court held that the existence of a dispute regarding the right to dividends indicated that the obligation was

[20] M.Sc. Dr. Diana R.W. Napitupulu, S.H., M.H., M.Kn., *SECURITY INTEREST LAW IN INDONESIA: CONCEPTS, DYNAMICS, AND TRANSFORMATION*, 2025.

not certain and could not be proven by a simple standard of proof. Furthermore, the case required a more in-depth examination, making it inappropriate to resolve it through bankruptcy proceedings, which require only simple proof. This ruling also reaffirms that bankruptcy should not be used as a tool to resolve complex corporate disputes.

From the perspective of sustainable legal development, this development aligns with the principles **of Sustainable Development Goal 16,** which emphasizes the importance of strong legal institutions, access to justice, and fair and accountable law enforcement. The Supreme Court's narrowing of the definition of debt reflects efforts to prevent the abuse of bankruptcy mechanisms, enhance legal certainty, and strengthen public trust in the judiciary as part of a legal system of integrity.

Thus, developments in case law indicate a shift from an interpretation of debt that was originally quite broad, which has since been narrowed more strictly by the Supreme Court. Not all obligations can be categorized as debt under bankruptcy law; rather, only those obligations that are clear, certain, undisputed, and immediately enforceable qualify. In this context, dividends that have not yet been determined or are still the subject of a dispute cannot automatically be considered debt. This approach reflects the Supreme Court's effort to maintain a balance between creditor protection and legal certainty for debtors, while preventing the abuse of bankruptcy mechanisms in practice.

c) The Status of Dividends as Debts and Their Relationship to the Simplified Proof Requirement Under Article 8(4) of the Bankruptcy Law

Based on the explanation of the definitions of dividends and debt above, a legal analysis can be conducted to answer the question of whether dividends that have been decided by the General Meeting of

Shareholders but have not yet been paid qualify as "debt" within the meaning of Article 1(6) of the Bankruptcy Law.

From the perspective of the first element, cash dividends approved by the General Meeting of Shareholders (GMS) constitute a liability that can be expressed in monetary terms, as GMS resolutions typically specify a fixed dividend amount per share, thereby allowing the company's total liability to be calculated numerically. From the second element, the obligation to pay dividends arises from the law (UUPT) and from corporate relationships based on the company's articles of association; both are sources recognized by Article 1(6) of the Bankruptcy Law ( ). Furthermore, once the GMS has decided on the distribution of dividends, this obligation is binding on the company and must be fulfilled by the company as the debtor. From the perspective of the fourth element, if dividends that have become due are not paid, shareholders are entitled to receive payment from the company's assets.

Thus, in substance, dividends that have been validly resolved by the General Meeting of Shareholders and have passed the prescribed payment deadline satisfy all four elements of the definition of a debt under Article 1(6) of the Bankruptcy Law. This conclusion is also supported by a systematic approach to the Company Law: Article 71 of the Company Law requires a corporation to pay dividends that have been resolved by the GMS, and failure to fulfill this obligation constitutes a legal breach of contract that gives rise to a claim by the shareholders as creditors[21] .

The requirements for bankruptcy as stipulated in Article 2(1) of the Bankruptcy Law include: a debtor who has two or more creditors, and the debtor has failed to pay in full at least one debt that has become due and is enforceable. However, the fulfillment of these material

[21] Satria Sukananda, "LEGAL STANDING OF SHAREHOLDERS WHO HAVE NOT RECEIVED DIVIDENDS TO FILE A BANKRUPTCY PETITION IN INDONESIA," n.d.

requirements alone is not sufficient.[22] . Article 8(4) of the Bankruptcy Law establishes an additional formal requirement that is decisive, namely:

> *"A petition for a declaration of bankruptcy must be granted if there are facts or circumstances that are simply proven to show that the requirements for a declaration of bankruptcy as referred to in Article 2(1) have been met."*

The phrase "proven on a prima facie basis" is a translation of the Dutch legal concept "summierlijk blijkt," which, within the " " legal tradition of Continental Europe, means that proof need only be established on a prima facie basis; it does not need to be as thorough and exhaustive as in ordinary civil cases. The Supreme Court, in Decision No. 09 K/N/1999, has affirmed that what is meant by simple proof is proof that does not require the examination of complex evidence, does not require the involvement of many expert witnesses, and does not require complex and step-by-step calculations[23] .

In commercial litigation practice, judges assess the simplicity of the evidence based on three main indicators: first, whether the existence of the debt can be proven by clear, authentic documents that are not seriously disputed; second, whether the amount of the debt can be determined without requiring lengthy accounting reconstructions or expert appraisals; and third, whether there are no fundamental disputes regarding the rights and obligations of the parties that require in-depth investigation to be resolved[24] .

---

[22] Lilik Warsito, "The Urgency of Proving Insolvency Conditions and the Insolvency Test in Bankruptcy Applications," 7, no. 2 (2024): 2–6.
[23] Master of Notarial Studies, Faculty of Law, and University of Surabaya, "Simplified Evidence in the Bankruptcy of Yunita Kadir" 3, no. 1 (2014): 1–27.
[24] Devi Andani and Budi Pratiwi, "The Principle of Simple Proof in Applications for a Stay of Debt Payment Obligations ,," 2021, 635–56, https://doi.org/10.20885/iustum.vol28.iss2.art9.

The central question at the heart of this analysis is: if the proof of a dividend claim is complex and does not meet the criteria of Article 8(4) of the Bankruptcy Law, does this change the classification of the dividend from a debt to a non-debt claim? In answering this question, the statutory approach requires a clear distinction between two dimensions of the issue that are conceptually different but are often conflated in practice, namely the substantive (material) dimension and the procedural (formal) dimension.

From a substantive perspective, dividends that have been validly resolved by the General Meeting of Shareholders and have become due remain a debt within the meaning of Article 1(6) of the Bankruptcy Law, regardless of whether the evidence regarding such debt is complex or simple. The legal qualification of an obligation as a debt is determined solely by the fulfillment of the elements of the definition in Article 1(6) of the Bankruptcy Law, not by the ease or complexity of proving it. In other words, the complexity of the proof does not negate the existence of the debt itself.

From a procedural standpoint, although dividends are substantively considered a debt, if proving the existence and amount of such a dividend debt is complex and cannot be done simply, then a petition for bankruptcy based on that dividend debt cannot be granted by the Commercial Court. This is not because the debt does not exist, but because the bankruptcy mechanism in the Commercial Court—which is designed for quick and efficient resolution—is not appropriate for resolving disputes that require in-depth evidence.

Distinguishing between these two dimensions is crucial because it has significant legal implications. If a bankruptcy petition based on a dividend debt is dismissed for failing to meet the standard of proof, such a dismissal does not mean that the court has ruled that the dividend is not a debt or that the shareholder has no right to the dividend in question. The rejection merely means that the chosen forum and procedure were inappropriate, while the shareholders' right to claim unpaid dividends remains intact and can be pursued through other, more appropriate legal mechanisms.

Based on the entire analysis above, the following legal synthesis can be formulated. Dividends that have been validly resolved by the General Meeting of Shareholders and have become due constitute a debt within the meaning of Article 1(6) of the Bankruptcy Law. The complexity of proving this does not alter the substantive classification of dividends as debt; however, this complexity serves as a procedural obstacle ( ) that may result in a bankruptcy petition based on dividend debt being denied under Article 8(4) of the Bankruptcy Law[25] .

Thus, the answer to the question of whether a dividend remains a debt if its proof is complex and does not comply with Article 8(4) of the Bankruptcy Law is: yes, the dividend remains a debt in legal terms, but it cannot be used as a valid basis for a bankruptcy petition in the Commercial Court. This interpretation is consistent with the principle of legal certainty enshrined in the Bankruptcy Law as well as the principle of legal protection guaranteed by the Limited Liability Companies Law, and avoids the misuse of bankruptcy mechanisms as a *pressure tool* in corporate disputes that, in essence, must be resolved through ordinary civil courts.

2. Legal Implications of Classifying Dividends as Debt in Bankruptcy Petitions in Indonesia

The classification of dividends as debt in bankruptcy petitions is a crucial issue in the development of bankruptcy law in Indonesia. This issue relates not only to the normative construction of debt but also to the boundary between corporate law and bankruptcy law. In practice, when

[25] An Analysis et al., "SIMPLE PROOF CONCEPT IN THE PROCEEDING," no. 125 (2017).

dividends—which are essentially the economic rights of shareholders—are treated as debt, the legal consequences are far-reaching and have the potential to alter the structure of legal relationships within a corporation. Therefore, a comprehensive analysis of these legal implications is necessary, covering aspects of legal certainty, business continuity, protection of relevant parties, and judicial practice[26] .

Normatively, Law No. 37 of 2004 provides a very broad definition of debt, namely any obligation that can be valued in monetary terms and is enforceable. The breadth of this definition opens up the possibility that dividends, particularly those approved at a General Meeting of Shareholders, could be categorized as debt. In fact, academic studies have noted that unpaid dividends may be considered a debt enforceable by shareholders, potentially serving as the basis for a bankruptcy petition. However, this broad interpretation raises a fundamental issue: whether every economic obligation within a corporation can automatically be included under the bankruptcy regime.

The first implication of this categorization concerns legal certainty regarding the concept of debt itself. By classifying dividends as debt, the line between a corporation's internal obligations and its external obligations to creditors becomes blurred. In fact, bankruptcy law is fundamentally designed to resolve debt-credit relationships between debtors and creditors, not to resolve internal corporate conflicts. When dividends are treated as debt, any dispute over profit distribution has the potential to be drawn into the realm of bankruptcy, thereby obscuring the primary function of bankruptcy law as a collective debt resolution mechanism[27] .

Furthermore, this situation also gives rise to potential for multiple interpretations in the application of Article 2(1) of the Bankruptcy Law. The

[26] Judge of the Tanjung Karang High Court and Jl Cut Meutia No, "Corporate Rescue: Key Concepts in Corporate Bankruptcy," n.d.

[27] Christopher Panal et al., "PRINCIPLES OF BANKRUPTCY LAW IN INDONESIA" 8, no. 2 (2026): 155–65.

simple wording of the provision—requiring only the existence of two creditors and one debt that has become due—makes it very easy to file for bankruptcy. In fact, the literature notes that these relatively simple bankruptcy requirements can be detrimental to the debtor because they allow bankruptcy to occur without a comprehensive assessment of the financial situation. If dividends are classified as debt, then these simple requirements further increase the likelihood of bankruptcy being declared based on obligations that are actually still subject to debate[28] .

The second implication concerns the viability of a limited liability company. Classifying dividends as debt opens the possibility that a company that is still solvent could be declared bankrupt simply because it has not yet paid dividends. This is due to the absence of an insolvency test requirement in the Indonesian bankruptcy system. Consequently, bankruptcy no longer reflects a state of financial inability but is merely the result of failing to fulfill a specific obligation. This situation clearly contradicts the purpose of bankruptcy as a mechanism to resolve the financial problems of debtors who are genuinely unable to pay their debts[29] .

Furthermore, declaring bankruptcy against a company that is still solvent can have far-reaching economic consequences. Bankruptcy results in the seizure of all the debtor's assets and their management by a trustee for the benefit of creditors. This not only harms the company but also affects employees, business partners, and even broader economic stability. In this context, the use of bankruptcy based on dividends as debt has the potential to create an imbalance between legal interests and economic interests. This not only harms the company but also impacts employees, business partners, and even broader economic stability. In this context, this analysis aligns with the objectives of **Sustainable Development Goal 16, which**

[28] Muhammad, Latief, and Prawirawinata, "Bankruptcy as the Ultimum Remedium for the Settlement of Debts."
[29] Gede Aditya Pratama, "The Elimination of the Insolvency Test as a Prerequisite for Bankruptcy in Indonesia" 15, no. 1 (2021): 1–10.

emphasizes the importance of fair, accountable, and non-abusive legal institutions . The disproportionate use of bankruptcy has the potential to undermine trust in the legal system and hinder sustainable economic development.

The third implication relates to changes in the status of shareholders. In corporate law theory, shareholders are residual claimants—that is, parties who receive profits after all of the company's obligations to creditors have been fulfilled. However, when dividends are classified as debt, shareholders can transform into creditors. This change has significant implications because it blurs the distinction between shareholders and creditors, who have different functions and interests within the legal framework.[30]

This transformation also has the potential to create conflicts of interest among shareholders. Majority shareholders or certain parties may use bankruptcy mechanisms to pressure the company or other shareholders, particularly in situations of internal conflict. This suggests that classifying dividends as debt can be misused as a strategic tool in battles for corporate control, rather than merely as a means of enforcing economic rights[31] .

On the other hand, external creditors may also be negatively affected. When bankruptcy is filed based on dividends, creditors holding clearer and undisputed claims must share their claims with shareholders who become creditors by virtue of the dividends. This has the potential to reduce the level of protection afforded to creditors, who should be prioritized under bankruptcy law. Thus, there is a shift in the balance between the interests of creditors and shareholders.

[30] Sayyeda Alicia Fathimah Azzahra and Ratna Januarita, "A Corporation's Liability to Third Parties for Agreements Made by the Board of Directors Without the Approval of the Board of Commissioners in Relation to Law No. 40 of 2007 on Limited Liability Companies," in *Bandung Conference Series: Law Studies*, vol. 6, 2026.

[31] Default in Lending and Borrowing, *Indonesian Journal of Law*, vol. 1, 2024.

The fourth implication is evident in commercial litigation practice. Classifying dividends as debt opens the door to the misuse of bankruptcy as *a pressure tool*. In practice, bankruptcy petitions are not always filed to settle debts, but also as a strategy to force the other party to meet certain demands. This indicates that bankruptcy can be used as a strategic litigation instrument, not merely as a debt settlement mechanism[32] .

According to Roscoe Pound's theory *of law as a tool of social engineering*, bankruptcy law should serve to resolve collective insolvency issues, not as a means of coercion in internal corporate disputes. If bankruptcy mechanisms are used to compel the payment of disputed dividends, then the law has deviated from its intended purpose[33] .

Furthermore, this situation also leads to inconsistencies in court rulings. Differences in interpretation regarding whether dividends constitute debt or not result in inconsistent rulings. This inconsistency can ultimately erode public confidence in the judicial system and create legal uncertainty for businesses. Commercial court judges also face challenges in applying the principle of the preponderance of evidence. Disputes regarding dividends often involve complex aspects, such as the validity of the General Meeting of Shareholders, the company's financial condition, and relationships among shareholders. This complexity conflicts with the principle of simplified proof in bankruptcy, thereby creating a dilemma for judges in determining whether the case is suitable for adjudication within the bankruptcy framework.

Overall, classifying dividends as debt in a bankruptcy petition has broad and complex legal implications. On the one hand, this approach provides protection for shareholders to assert their economic rights. On the

[32] Faizul Idris et al., "BANKRUPTCY AS AN INSTRUMENT FOR THE RETURN OF ASSETS: A LITERATURE REVIEW," 2026, 103–19.
[33] Faculty of Law and Tarumanagara University, "Rewang Rencang: Lex Generalis Law Journal. Vol. 5, No. 10 (2025) Theme/Issue: Philosophy, Politics, and Legal Professional Ethics (Tenth Month) https://jhlg.rewangrencang.com/" 5, no. 10 (2025).

other hand, however, this approach has the potential to create legal uncertainty, disrupt business continuity, alter the structure of legal relationships within a corporation, and open the door to abuse of the bankruptcy mechanism. Therefore, clear boundaries are needed in interpreting debt under bankruptcy law to ensure it remains aligned with the primary purpose of bankruptcy as a mechanism for fair, proportional, and legally certain debt resolution.

Conclusion

Based on the results of this study, it can be concluded that dividends that have been legally approved by a General Meeting of Shareholders and have become due essentially qualify as debts under bankruptcy law, as they possess economic value, arise from a contractual obligation, are binding, and are enforceable. However, in practice, not every dividend debt can serve as the basis for a bankruptcy petition, given that bankruptcy law requires the existence of simple proof as stipulated in the applicable regulations. If the existence or amount of the dividend is still in dispute or requires complex proof, then filing a bankruptcy petition is inappropriate and should instead be resolved through ordinary civil litigation mechanisms. Therefore, clear boundaries are needed in interpreting debt within the context of bankruptcy to prevent the abuse of the bankruptcy institution as a tool for pressure in internal corporate disputes, as well as to maintain legal certainty, justice, and the continuity of business operations. Furthermore, the proper regulation and application of bankruptcy law are also relevant to the objectives **of Sustainable Development Goal 16**, which emphasizes the importance of strong, transparent, and accountable legal institutions. Restrictions on the interpretation of debt, particularly regarding dividends, are part of efforts to create legal certainty, prevent the abuse of judicial processes, and maintain public trust in the legal system.

Bibliography

Analysis, An, Decision Number, P K Pdt, and Nelson Kapoyos. "SIMPLE PROOF CONCEPT IN THE PROCEEDING," no. 125 (2017).

Andani, Devi, and Budi Pratiwi. "The Principle of Simple Proof in Applications for the Postponement of Debt Payment Obligations ☐," 2021, 635–56. https://doi.org/10.20885/iustum.vol28.iss2.art9.

Andrianto, Fadly. "Legal Certainty in Legal Policy in Indonesia" 3, no. 1 (2020): 114–23.

Azzahra, Sayyeda Alicia Fathimah, and Ratna Januarita. "A Corporation's Liability to Third Parties for Agreements Made by the Board of Directors Without the Approval of the Board of Commissioners in Relation to Law No. 40 of 2007 on Limited Liability Companies." In *Bandung Conference Series: Law Studies*, Vol. 6, 2026.

Pay, Failed Savings and Loans. *Indonesian Journal of Law*. Vol. 1, 2024.

Berliana, Febi, Aris Munandar, Hanifah Muthiah, College of Economics. "ANALYSIS OF THE EFFECT OF DIVIDEND POLICY ON STOCK PRICES IN LISTED MANUFACTURING COMPANIES" 4 (2025): 48–59.

Fines, Status, Delays in Execution, Construction Work, and Bankruptcy. "UNES Journal of Swara Justisia," 2023, 497–513.

Dr. Diana R.W. Napitupulu, S.H., M.H., M.Kn., M.Sc. *SECURITY LAW IN INDONESIA: CONCEPTS, DYNAMICS, AND TRANSFORMATION*, 2025.

Dr. Suyanto, S.H., M.H., M.Kn., M.A.P. *Legal Research Methods*, 2022.

Dr. Yuhelson, S.H., M.H., M.Kn. *Indonesian Bankruptcy Law*. Gorontalo, 2019.

Febritama, Rizka Putri, Article Info, Debtor Security, and Civil Law. "Indonesian Journal of Law" 1, no. 4 (2024): 85–91.

Hartini, Prof. Dr. Rahayu. *Bankruptcy Law*, 2020.

Hery, S.E., M.Si. "Intermediate Financial Accounting," 2024, 348.

Law, Faculty, and Tarumanagara University. "Rewang Rencang: Lex Generalis Law Journal. Vol. 5, No. 10 (2025) Theme/Issue: Philosophy, Politics, and Legal Professional Ethics (Tenth Month) https://jhlg.rewangrencang.com/" 5, no. 10 (2025).

Idris, Faizul, Edi Mulyadi, Syekh Islamic University, Syekh Islamic

University, and Syekh Islamic University. “Bankruptcy as an Instrument for Restoring Wealth: A Literature Review,” 2026, 103–19.

Karang, Judge of the Tanjung High Court, and Jl Cut Meutia No. “Corporate Rescue: A Key Concept in Corporate Bankruptcy,” n.d.

Cassation, Judgment, No. K Pdt, D A N Judgment, and No. K Pdt. “No Title,” 2015, 1–27.

Notary Studies, Master’s Program, Faculty of Law, and Surabaya University. “Simplified Evidence in the Bankruptcy of Yunita Kadir” 3, no. 1 (2014): 1–27.

Kurniawan, Nyoman Samuel, and Udayana University. “BANKRUPTCY LAW (A COMPARATIVE STUDY FROM THE PERSPECTIVE OF CONTRACT AND BANKRUPTCY LAW),” 2013.

Muhammad, Raden, Fadly Latief, and Ashshiddiq Prawirawinata. “Bankruptcy as the Ultimum Remedium for Resolving Debts and Credits” 2 (2025).

Nengsih, Eka Yulia, Muidatul Fithroh, Sofiatul Anfal, Rizkiy Hakiki, and Bayu Aditya Saputra. “Contract Law: Types of Contracts” 3, no. 1 (2025): 193–206.

Panal, Christopher, Lumban Gaol, Mancur Sinaga, Faculty of Law, Catholic University, and St. Thomas. “PRINCIPLES OF BANKRUPTCY LAW IN INDONESIA” 8, no. 2 (2026): 155–65.

Pratama, Gede Aditya. “The Elimination of the Insolvency Test as a Requirement for Bankruptcy in Indonesia” 15, no. 1 (2021): 1–10.

———. “Court Rulings as Debts That Can Serve as the Basis for Filing for Bankruptcy and a Stay of Debt Payment Obligations” 10 (2024): 180–91.

Prof. Dr. Satjipto Rahardjo, SH. “Progressive Law: A Synthesis of Indonesian Law,” 2009.

Puspaningsih, Abriyani, and Rizqi Gusti Pratiwi. “Indonesian Journal of Accounting & Auditing:

Review, Diponegoro Law. “Diponegoro Law Review, Volume 1, No. 2, 2013,” 1, no. 37 (2013): 1–11.

Sukananda, Satria. “LEGAL STANDING OF SHAREHOLDERS WHO DO NOT RECEIVE DIVIDENDS TO FILE FOR BANKRUPTCY IN INDONESIA,” n.d.

Limited, Corporation, Closed, and Unlawful. "Prisma Hukum Journal Prisma Hukum Journal" 8, no. 12 (2024): 241–47.

Registered, Yang, and D I Bei. "DETERMINATION OF DIVIDEND POLICY IN MANUFACTURING COMPANIES" 7, no. 3 (2019).

Warsito, Lilik. "The Urgency of Proving Insolvency Conditions and the Insolvency Test in Bankruptcy Applications" 7, no. 2 (2024): 2–6.