

**Analysis of Automatic Stay Regulation in Indonesian Bankruptcy Law: A  
Comparative Study between Indonesian Bankruptcy Law and United States  
Bankruptcy Law**

By:

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**Abstract**

The purpose of this legal research is to explore the regulation of automatic stay in Indonesian Bankruptcy Law through a comparative study with the United States Bankruptcy Code. The automatic stay is a critical mechanism in bankruptcy law, designed to halt creditor actions immediately upon the filing of a bankruptcy petition, thereby offering protection to debtors and ensuring fair treatment of creditors.

This legal research employs a juridical-comparative approach. The research is divided into two methods: the first involves conducting a literature review by examining relevant laws, regulations, and legal doctrines related to bankruptcy; the second involves comparative analysis to highlight the differences and similarities between the Indonesian and U.S. legal systems, with a particular focus on the trigger, scope, and duration of the automatic stay.

In light of the above-mentioned research methodologies and objectives, this research concludes that Indonesian Bankruptcy Law, under Law No. 37 of 2004, mandates an automatic stay only after a bankruptcy declaration is issued, creating a period of vulnerability for debtors' assets. In contrast, the United States Bankruptcy Code, codified in 11 U.S.C. § 362, enforces an automatic stay as soon as a bankruptcy petition is filed, preventing asset dissipation and promoting the orderly resolution of bankruptcy proceedings. Furthermore, the study examines the roles of the curator in Indonesia and the trustee in the United States in managing the bankruptcy estate and distributing assets to creditors. This research aims to contribute to the improvement of Indonesian bankruptcy regulations by providing comparative insights and highlighting best practices from the U.S. experience.

**Keywords: Automatic stay, Indonesian Bankruptcy Law, U.S. Bankruptcy Code, Actio Pauliana, fraudulent transfers, curator, trustee, creditor protection.**

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**Analisis Regulasi Automatic Stay dalam Hukum Kepailitan Indonesia: Studi  
Perbandingan antara Hukum Kepailitan Indonesia dan Hukum Kepailitan  
Amerika Serikat**

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***INTISARI***

*Tujuan dari penelitian hukum ini adalah untuk mengeksplorasi pengaturan automatic stay dalam Hukum Kepailitan Indonesia melalui studi komparatif dengan Bankruptcy Code Amerika Serikat. Automatic stay adalah mekanisme krusial dalam hukum kepailitan, yang dirancang untuk menghentikan tindakan kreditur segera setelah pengajuan permohonan kepailitan, sehingga memberikan perlindungan kepada debitur dan memastikan perlakuan yang adil terhadap kreditur.*

*Penelitian hukum ini menggunakan pendekatan yuridis-komparatif. Penelitian ini dibagi menjadi dua metode: pertama, melakukan tinjauan literatur dengan mengkaji undang-undang terkait kepailitan; kedua, melakukan analisis komparatif untuk menyoroti perbedaan dan persamaan antara sistem hukum Indonesia dan Amerika Serikat.*

*Berdasarkan metodologi dan tujuan penelitian yang telah disebutkan, penelitian ini menyimpulkan bahwa Hukum Kepailitan Indonesia, di bawah Undang-Undang No. 37 Tahun 2004, mensyaratkan automatic stay hanya setelah pernyataan pailit dikeluarkan, yang menciptakan periode kerentanan bagi aset debitur. Sebaliknya, Bankruptcy Code Amerika Serikat, yang dikodifikasi dalam 11 U.S.C. § 362, memberlakukan automatic stay segera setelah pengajuan permohonan kepailitan, mencegah pengurusan aset dan mempromosikan penyelesaian proses kepailitan secara tertib. Penelitian ini bertujuan untuk berkontribusi pada peningkatan regulasi kepailitan di Indonesia dengan memberikan wawasan komparatif dan menyoroti praktik terbaik dari pengalaman Amerika Serikat.*

***Kata Kunci:* Automatic stay, Hukum Kepailitan Indonesia, Kode Kepailitan Amerika Serikat, Actio Pauliana, pengalihan curang, kurator, trustee, perlindungan kreditur.**

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