

Analisis pengajuan perlindungan hukum sementara berupa provisional relief atas proses PKPU di Indonesia (Studi kasus PKPU duniatex group) = Analysis of petition for provisional legal protection in the form of provisional relief for the PKPU proceeding in Indonesia (PKPU duniatex group case study).

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Abstrak

Skripsi ini membahas mengenai mekanisme, akibat hukum diajukannya perlindungan hukum sementara berupa provisional relief, dan dampak dari dikabulkannya permohonan provisional relief di bawah chapter 15 US Bankruptcy Code oleh Pengadilan Niaga New York Selatan terhadap kasus PKPU Duniatex Group yang sedang berlangsung di Indonesia. Penelitian ini berbentuk yuridis-normatif dengan desain deskriptif-analitis, yang bertujuan untuk pemahaman lebih lanjut mengenai pengajuan provisional relief oleh Debitor asing dalam rangka proses pengakuan kepailitan asing yang dikaitkan dengan aturan dalam UNCITRAL Model Law On Cross-Border Insolvency With Guide To Enactment yang diadopsi oleh beberapa negara dan salah satunya adalah Amerika Serikat, khususnya dalam Chapter 15 US Bankruptcy Code yang dikaitkan dengan kasus PKPU Duniatex Group di Indonesia. Berdasarkan analisis yang telah dilakukan mengenai pengajuan provisional relief, terdapat beberapa tahap yang perlu dilakukan oleh perwakilan asing sebelum mengajukan provisional relief di bawah chapter 15 dan dikabulkannya provisional relief kepada Duniatex Group memberikan beberapa dampak hukum yang positif terhadap PKPU yang sedang berlangsung di Pengadilan Niaga Semarang, terutama mengenai eksekusi aset dan pengajuan gugatan kepailitan terhadap Debitor asing. Hasil penelitian menyarankan jika terdapat aset atau kreditor yang berada dalam wilayah yurisdiksi Amerika Serikat dan sedang dilaksanakan proses hukum kepailitan di Indonesia, sebaiknya segera diajukan permohonan pengakuan proses kepailitan dan provisional relief di bawah chapter 15 melalui perwakilan asing.

.....This thesis discusses the mechanism, the legal consequences of petition for provisional legal protection in the form of provisional relief, and the impact of the granting of the provisional relief application under chapter 15 of US Bankruptcy Code by the Southern District of New York against the PKPU Duniatex Group case that is currently ongoing in Indonesia. This research is in the form of normative juridical with descriptive-analytic design, which aims to further understand the petition of provisional relief by foreign debtors in the context of the process recognition of a foreign proceeding, which is linked to the rules in the UNCITRAL Model Law On Cross-Border Insolvency With Guide To Enactment adopted by several countries. One of them is the United States, especially in Chapter 15 of the US Bankruptcy Code associated with the PKPU Duniatex Group case in Indonesia. Based on the analysis that has been carried out regarding the petition of provisional relief, several steps need to be carried out by foreign representatives before applying provisional relief under chapter 15. The granting of provisional relief to Duniatex Group has had several positive legal impacts on PKPU which is taking place at the Semarang Commercial Court, especially regarding the execution against the debtor's assets and commence or continue any legal proceeding against foreign debtors. Through this thesis writer suggest that if some assets or creditors are within the jurisdiction of the United States and the bankruptcy legal proceedings are being carried out in Indonesia, it is best to

apply for recognition of the bankruptcy process and provisional relief under chapter 15 through foreign representatives.