

Curators in Indonesian Corporate Bankruptcy: Duties, Independence, and Implications for Corporate Dissolution

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ABSTRACT

This article analyzes the legal position, duties, independence, and liability of curators in Indonesian corporate bankruptcy, while clarifying their relationship with corporate dissolution. It addresses a recurring normative problem: Law Number 37 of 2004 requires a curator to be independent and free from conflicts of interest, yet it does not provide sufficiently operational indicators for evaluating that independence or for distinguishing professional risk from actionable fault. The study uses normative legal research with statutory, conceptual, and analytical approaches. Primary materials include the Bankruptcy and Suspension of Debt Payment Obligations Law and the Limited Liability Company Law, supported by recent legal scholarship on curator duties, supervision, creditor protection, going concern, and professional liability. The analysis shows that a curator is a court-appointed estate administrator whose authority covers asset preservation, claim verification, business continuation when value-enhancing, liquidation, and proportional distribution. A corporate liquidator, however, operates within the dissolution regime and should not be equated automatically with a bankruptcy curator. The article proposes objective safeguards consisting of pre-appointment disclosure, continuing conflict checks, independent valuation, transparent reporting, documented decision-making, effective supervisory review, and a fault-based liability standard balanced by functional protection for good-faith conduct.

ABSTRAK

Artikel ini menganalisis posisi hukum, tugas, independensi, dan tanggung jawab kurator dalam kepailitan perusahaan di Indonesia, sekaligus mengklarifikasi hubungannya dengan pembubaran perusahaan. Artikel ini membahas masalah normatif yang berulang: Undang-Undang Nomor 37 Tahun

2004 mensyaratkan kurator untuk independen dan bebas dari konflik kepentingan, namun tidak memberikan indikator operasional yang memadai untuk mengevaluasi independensi tersebut atau untuk membedakan risiko profesional dari kesalahan yang dapat dituntut secara hukum. Studi ini menggunakan riset hukum normatif dengan pendekatan statutori, konseptual, dan analitis. Materi utama meliputi Undang-Undang Kepailitan dan Penangguhan Kewajiban Pembayaran Utang dan Undang-Undang Perseroan Terbatas, yang didukung oleh kajian hukum terkini tentang tugas kurator, pengawasan, perlindungan kreditur, kelangsungan usaha, dan tanggung jawab profesional. Analisis menunjukkan bahwa kurator adalah administrator harta kekayaan yang ditunjuk pengadilan yang kewenangannya meliputi pelestarian aset, verifikasi klaim, kelanjutan usaha ketika meningkatkan nilai, likuidasi, dan distribusi proporsional. Namun, likuidator perusahaan beroperasi dalam rezim pembubaran dan tidak boleh disamakan secara otomatis dengan kurator kepailitan. Artikel ini mengusulkan perlindungan objektif yang terdiri dari pengungkapan sebelum penunjukan, pemeriksaan konflik berkelanjutan, penilaian independen, pelaporan transparan, pengambilan keputusan yang terdokumentasi, tinjauan pengawasan yang efektif, dan standar tanggung jawab berbasis kesalahan yang diimbangi dengan perlindungan fungsional untuk perilaku yang beretikad baik.

INTRODUCTION

Bankruptcy law is designed to replace fragmented individual enforcement with a collective process in which the debtor's estate is preserved, verified, realized, and distributed according to legally recognized priorities. In Indonesia, this collective logic is embodied in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. Once a bankruptcy declaration is issued, control over the bankruptcy estate shifts from the debtor to a curator, who performs management and settlement under the supervision of a supervisory judge. The curator therefore occupies a decisive position: the quality of asset preservation, claim verification, valuation, sale, and distribution depends substantially on the curator's competence, integrity, and independence (Republic of Indonesia, 2004; Kartoningrat et al., 2021).

The curator's role is broader than routine administration. At the beginning of a case, urgent measures may be required to identify, secure, and document assets before value is lost or ownership is obscured. During verification, the curator must examine the formal and material basis of creditor claims, classify creditors, and prepare lists that may become the subject of objection or *renvoi* proceedings. During settlement, the curator must choose between immediate liquidation, staged sales, private sales with the required approval, or the temporary continuation of the debtor's business where a going-concern strategy is expected to protect or increase estate value. Each decision affects not only the debtor and the petitioning creditor, but also secured, preferred, and concurrent creditors whose legal positions differ (Al Mufti, 2016;

Dewi & Handoko, 2024; Putri, 2024).

This concentration of power produces a governance problem. Article 15(3) of Law Number 37 of 2004 requires the appointed curator to be independent, to have no conflict of interest with the debtor or creditors, and to comply with the statutory limit on simultaneous appointments. Nevertheless, the legislation does not translate independence into a complete operational test. The law does not specify, for example, the precise degree of prior professional relationship that must be disclosed, the period during which affiliation remains relevant, the standard for evaluating indirect economic interests, or the procedural consequences of a late disclosure. Legal scholarship consequently identifies uncertainty in the boundary between ethical impropriety, professional negligence, civil liability, and criminal conduct (Astuti, 2016; Kartoningrat et al., 2021; Setiawan & Nadriana, 2025).

The problem becomes more sensitive because a proposed curator is frequently nominated by a party to the bankruptcy petition, even though the appointment itself is made by the court. Nomination does not convert the curator into counsel or agent for the nominating creditor. The curator's mandate is estate-centered and collective. The curator must protect the bankruptcy estate, respect creditor rankings, allow legitimate participation, and avoid granting an unlawful advantage to a particular stakeholder. In agency terms, the curator acts within a multi-principal environment: creditors, the debtor, employees, shareholders, and the court may have competing expectations, while the estate remains the central object of administration. Information asymmetry between the curator and creditors can intensify suspicion when reports are delayed, valuations are unexplained, or sales appear insufficiently competitive (Raissa et al., 2020; Hindrawan et al., 2023).

The proposal on which this article is based also connects the curator with corporate dissolution. That connection requires doctrinal clarification. Bankruptcy and dissolution are related but distinct legal events. Under Law Number 40 of 2007 concerning Limited Liability Companies, dissolution generally leads to

liquidation by a liquidator, unless the law provides otherwise. Bankruptcy, by contrast, creates a general attachment over the debtor's assets and places management and settlement in the hands of a curator. A company may ultimately be dissolved following the completion of bankruptcy, but a corporate liquidator and a bankruptcy curator derive authority from different legal regimes, perform different procedural functions, and operate under different forms of judicial control (Republic of Indonesia, 2007; Silalahi & Purba, 2020). Treating both roles as identical risks confusion about appointment, authority, accountability, and the legal status of the company during proceedings.

Previous studies have examined curator independence, personal liability, under-market asset sales, weaknesses in settlement, supervisory-judge authority, going-concern decisions, secured-creditor protection, and curator immunity. However, these issues are often discussed separately. This article integrates them into a governance framework that connects duties,

independence, supervision, replacement, liability, and functional protection. It asks two questions: first, how should the legal role and duties of a curator be understood in relation to corporate bankruptcy and dissolution; and second, what objective indicators should be used to assess curator independence and liability? The objective is to formulate a coherent doctrinal model that strengthens fairness, legal certainty, transparency, and estate value without exposing good-faith curators to automatic liability for every commercially unfavorable outcome.

METHOD

This study employs normative legal research. It does not present statistical findings on the frequency of curator replacement or claim that a particular pattern exists in all Commercial Courts. Instead, it evaluates legal norms and recurring doctrinal problems identified in legislation and peer-reviewed scholarship. The statutory approach focuses on Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations and Law Number 40 of 2007 concerning Limited Liability Companies. The conceptual approach examines independence, conflict of interest, fiduciary responsibility, professional negligence, personal liability, creditor equality, and going concern. The analytical approach evaluates how these concepts should interact in curator decision-making.

Primary legal materials consist of the two statutes and the legal structure they establish for appointment, management, settlement, supervision, replacement, and responsibility. Secondary legal materials consist mainly of journal articles published between 2016 and 2025 on curator independence, curator weaknesses, claim valuation, asset sales, *actio pauliana*, creditor protection, supervisory judges, criminal responsibility, and functional immunity. The materials were classified into five analytical categories: legal status, operational duties, independence controls, supervisory remedies, and liability. Interpretation was conducted grammatically, systematically, and teleologically. Grammatical interpretation identifies the ordinary meaning of statutory requirements; systematic interpretation relates curator provisions to creditor ranking and company dissolution; and teleological interpretation evaluates whether an interpretation protects estate value, fairness, and legal certainty. The resulting analysis is prescriptive: it proposes a practical framework that could guide courts, supervisory judges, professional organizations, and curators.

RESULTS AND DISCUSSION

1. Legal Position of the Curator and the Distinction from a Corporate Liquidator

Law Number 37 of 2004 defines bankruptcy as a general attachment over all assets of the bankrupt debtor, with management and settlement conducted by a curator under the supervision of a supervisory judge. This definition establishes three elements. First, the attachment is collective rather than creditor-specific. Second, the curator receives functional control over the estate even though ownership is not transferred to the curator. Third, curator power is institutionally limited because it is exercised within court supervision, creditor

participation, and statutory procedures. The curator is therefore best understood as a court-appointed estate administrator with public-trust characteristics, not as a private representative of the petitioning creditor (Republic of Indonesia, 2004; Ginting, 2019).

The curator's mandate begins with the bankruptcy decision and generally does not depend on the finality of that decision. This immediate authority is necessary because delay may permit asset dissipation, deterioration, unauthorized transfer, or disruption of essential operations. The curator replaces the debtor's authority over the bankruptcy estate for purposes of management and settlement, while the debtor retains legal personality and rights unrelated to the estate. In a corporate bankruptcy, the board of directors does not cease to exist as a corporate organ, but its power over estate assets is displaced by the curator to the extent required by bankruptcy law. This distinction prevents the conclusion that bankruptcy automatically terminates the company at the moment of the declaration.

Corporate dissolution follows a different legal architecture. The Limited Liability Company Law identifies grounds for dissolution and provides that liquidation must be conducted to settle the company's assets and obligations. A liquidator acts to complete the company's winding-up process, notify creditors, collect receivables, realize assets, pay obligations, and distribute any remaining assets to shareholders. A curator, by contrast, administers an estate under a bankruptcy judgment for the collective satisfaction of creditors. A dissolved company may be in liquidation without being bankrupt, while a bankrupt company may remain a legal entity during the bankruptcy process until the applicable dissolution and deletion procedures are completed. The conceptual intersection arises when the completion of bankruptcy becomes a ground or stage for corporate dissolution, but the two offices should not be merged doctrinally (Republic of Indonesia, 2007; Silalahi & Purba, 2020).

The distinction matters for accountability. A corporate liquidator is primarily accountable within the company-law liquidation framework and to shareholders and creditors as provided by that law. A curator is accountable to the court process, the supervisory judge, creditors, and the estate under bankruptcy law. Different rules may govern appointment, reporting, approval for specific transactions, remuneration, replacement, and liability. Clear terminology therefore protects legal certainty. In academic writing and judicial practice, the term curator should be reserved for the office created by bankruptcy law, while liquidator should be used for dissolution outside bankruptcy unless a specific provision expressly connects the roles.

Table 1. Distinction between a bankruptcy curator and a corporate liquidator

Aspect	Bankruptcy Curator	Corporate Liquidator
Legal basis	Bankruptcy judgment and Law Number 37 of 2004.	Dissolution and liquidation provisions of Law Number 40 of 2007.
Primary object	Management and settlement of the bankruptcy estate for creditors collectively.	Winding up the dissolved company, paying obligations, and distributing the remaining assets.

Aspect	Bankruptcy Curator	Corporate Liquidator
Institutional control	Supervisory judge, Commercial Court, creditor mechanisms, and statutory approvals.	Company-law liquidation controls, creditor notification, and corporate reporting requirements.
Effect on management	The debtor loses authority to manage and dispose of estate assets.	Directors cease ordinary management for liquidation purposes and the liquidator completes winding up.
End point	Completion or termination of bankruptcy and final estate accountability.	Completion of liquidation, final accountability, and deletion of the company's legal-entity status.

Source: Author's legal analysis based on Republic of Indonesia (2004, 2007).

2. Core Duties in Managing and Settling the Bankruptcy Estate

The curator's first operational duty is estate preservation. Preservation requires more than compiling an inventory. It may include securing premises, taking control of records, identifying bank accounts and receivables, preventing unauthorized disposals, obtaining insurance, safeguarding perishable assets, and documenting the condition of property. The legal purpose is conservative: the curator must maintain the estate as a pool available for collective enforcement. A delay in preservation can reduce recovery even before substantive disputes are resolved. The curator must therefore act promptly, but urgency does not eliminate the duty to document the legal basis and proportionality of each measure.

The second duty is information reconstruction. Bankruptcy estates frequently contain incomplete accounts, disputed ownership, intercompany transactions, unrecorded liabilities, and assets held by third parties. The curator must obtain documents from the debtor, directors, banks, employees, tax authorities, counterparties, and registries as legally permitted. The quality of this reconstruction determines whether the estate can pursue receivables, challenge prejudicial transactions, or resist unsupported claims. Haryanto and Calvin (2021) demonstrate the significance of *actio pauliana* as a recovery mechanism where pre-bankruptcy transactions prejudice creditors. However, such litigation must be based on evidence and an estate-benefit assessment, because unsuccessful proceedings can also consume time and estate resources.

The third duty is claim verification and classification. The curator examines the existence, amount, maturity, security, and priority of claims. Verification is not a unilateral final judgment; disputed claims may proceed through statutory objection mechanisms. Nevertheless, the curator's preliminary assessment strongly affects the process because it shapes recognized and disputed lists, voting rights, distribution expectations, and the information available to the supervisory judge. Errors in debt estimation can prejudice both debtors and creditors, which is why Asyidqi et al. (2023) emphasize the availability of legal remedies when curator valuation is inaccurate. A defensible verification process should identify the evidence reviewed, the legal basis for classification, the reason for acceptance or rejection, and the procedural route for

challenge.

The fourth duty is value-maximizing administration. Liquidation should not be treated as a mechanical sale of isolated assets. Where continued operations preserve licenses, customer relationships, workforce capability, or enterprise value, a temporary going-concern strategy may produce a better return than

immediate fragmentation. Dewi and Handoko (2024) explain that curator oversight of a going concern requires careful assessment of feasibility and estate risk. The decision should be supported by cash-flow projections, operational controls, financing arrangements, a time limit, and clear exit criteria. Continuation should not become an indefinite subsidy of an unviable business; conversely, premature closure may destroy value that could have supported creditor recovery.

The fifth duty is transparent realization and distribution. Asset sales must pursue the best reasonably obtainable value through lawful procedures. An under-market sale can trigger allegations of negligence, collusion, or conflict of interest, particularly when valuation methodology and bidder selection are not disclosed. Al Mufti (2016) notes that Article 72 establishes curator responsibility for fault or negligence causing loss, while also highlighting uncertainty in defining those concepts. Distribution must then respect the structure of creditor rights. The *pari passu pro rata parte* principle supports proportional distribution among creditors of the same class, but it does not erase statutory priority or security rights. Hindrawan et al. (2023) and Putri (2024) show why accurate creditor classification is essential to fairness.

The sixth duty is reporting and final accountability. Reports should enable the supervisory judge and creditors to understand estate status, material decisions, receipts, expenses, pending litigation, asset sales, and projected distributions. Transparency is not merely an administrative burden; it is a mechanism for reducing information asymmetry and testing independence. A report that lists transactions without explaining the decision process may be formally complete but substantively inadequate. Effective reporting should connect each major transaction to valuation evidence, approvals, conflicts checks, and expected estate benefit.

Table 2. Curator Duties, Principal Risks, and Governance Controls

Duty	Principal Risk	Minimum Governance Control
Preserve and inventory assets	Loss, concealment, deterioration, or unauthorized transfer.	Immediate inventory, chain-of-custody records, insurance review, and documented emergency measures.
Verify and classify claims	Inflated, duplicated, unsupported, or wrongly prioritized claims.	Evidence checklist, written reasons, creditor access, and clear objection procedures.
Recover estate property	Costly litigation or failure to challenge prejudicial transactions.	Merits-and-cost assessment, supervisory consultation, and litigation budget.

Duty	Principal Risk	Minimum Governance Control
Continue or close the business	Operating losses or destruction of going-concern value.	Independent feasibility review, cash-flow controls, time limits, and exit criteria.
Sell assets	Under-market sale, collusion, or favoritism.	Independent valuation, competitive process, conflict screening, and required approval.
Distribute proceeds	Violation of creditor ranking or proportionality.	Verified distribution list, legal-priority review, and creditor notice.
Report and account	Information asymmetry and loss of trust.	Periodic standardized reports, transaction trail, and final accountability.

Source: Author's synthesis of Al Mufti (2016), Haryanto and Calvin (2021), Hindrawan et al. (2023), and Dewi and Handoko (2024).

3. Independence, Impartiality, and Conflict of Interest

Independence is both a status requirement and a continuing behavioral duty. Status independence concerns relationships existing before appointment: family, employment, financial, professional, business, or other affiliations that could reasonably affect judgment. Behavioral independence concerns conduct after appointment: whether the curator applies consistent standards, provides equal procedural access, explains material decisions, avoids preferential communication, and resists pressure from the debtor or a creditor. A curator who had no disqualifying relationship at appointment may still compromise independence through later conduct; conversely, prior professional contact does not automatically prove actual bias if it is remote, immaterial, and fully disclosed. The legal test should therefore combine objective appearance and demonstrated conduct.

The present statutory formulation identifies independence and absence of conflict but leaves key indicators undefined. Kartoningrat et al. (2021) observe that independence is connected to professional morality, impartiality, and resistance to intervention, while Astiti (2016) warns against using a vague independence concept as an unsupported bridge to criminal responsibility. The absence of operational criteria creates two opposite risks. An overly narrow interpretation allows undisclosed relationships and subtle favoritism to persist. An overly broad interpretation makes any previous contact a basis for strategic objections, destabilizing the administration and increasing costs.

A workable conflict-of-interest test should ask four questions. First, does the curator or an associated person possess a direct or indirect financial or professional interest connected to the debtor, a creditor, a purchaser, or a competing bidder? Second, would a reasonable informed observer consider that interest capable of influencing professional judgment? Third, was the interest fully and timely disclosed to the court and relevant parties? Fourth, can the risk be managed through consent, recusal from a particular decision, appointment of an additional curator, independent valuation, or replacement? This approach distinguishes a manageable

appearance issue from a non-waivable conflict.

Independence also requires procedural symmetry. The curator should not provide a favored creditor with materially better access to non-public information, accelerate one claim without legal basis, shape sales to benefit an affiliated buyer, or use verification standards inconsistently. The principle does not require identical treatment of creditors with different legal ranks; it requires legally justified treatment. Secured creditors, preferred creditors, and concurrent creditors may receive different outcomes because the law recognizes different rights. Partiality exists when the difference is based on relationship or pressure rather than legal classification and documented estate benefit.

Transparency operates as evidence of independence. Timely reports, disclosed valuation methods, recorded bidder communications, written reasons for claim decisions, and minutes of material meetings make the curator's reasoning reviewable. Transparency does not eliminate confidentiality obligations, but confidentiality should not be used to conceal conflicts or prevent creditors from understanding decisions that affect the estate. Raissa et al. (2020) identify structural weaknesses in settlement practice, and these weaknesses are aggravated when documentation is fragmented or creditor information is insufficient. A modern independence regime should therefore focus less on declarations alone and more on an auditable decision trail.

4. Supervision, Replacement, and Creditor Participation

The supervisory judge is the central institutional counterweight to curator authority. Supervision may take the form of approval, authorization, orders, review of reports, facilitation of creditor meetings, and recommendations concerning replacement. Aprita and Qosim (2022) emphasize the need to optimize supervisory authority, while Arimba (2024) describes the range of supervisory mechanisms that support estate control. Effective supervision should be substantive rather than ceremonial. It should focus on high-risk decisions such as private sales, related-party transactions, prolonged business continuation, major litigation, unusual professional fees, and distributions involving disputed priority.

Supervision must nevertheless preserve the distinction between oversight and administration. The supervisory judge should not become the operational manager of the estate. Day-to-day commercial decisions require speed and professional expertise, and constant judicial micromanagement could increase cost and blur accountability. The preferable model is risk-based supervision: routine actions remain within curator discretion subject to reporting, while transactions with heightened conflict, valuation, or irreversibility risk receive prior review. This structure preserves curator initiative while maintaining judicial control over decisions most capable of harming the estate.

Replacement is an important remedy but should not become a tactical weapon. A request to replace a curator should be supported by evidence of a disqualifying conflict, material nondisclosure, persistent reporting failure, incapacity, serious neglect, abuse of authority, or a

breakdown of confidence grounded in objective conduct. Mere dissatisfaction with a lawful decision should not suffice. Otherwise, a debtor or disappointed creditor could use replacement applications to delay verification or settlement. The court's reasons should specify the conduct established, the legal standard applied, the effect on the estate, and why a lesser remedy would be inadequate.

Creditor participation improves both accuracy and legitimacy. Creditors can supply information about assets, contracts, claims, and potential conflicts. A creditor committee, where applicable, can provide structured consultation without transferring decision-making power from the curator. Participation is especially important in sales and distributions, but it must be managed to prevent majority creditors from dominating the process. The curator remains responsible for lawful treatment of all classes, including smaller concurrent creditors whose recovery is most vulnerable to increased costs and reduced asset value. Professional fees are another area requiring transparency. Remuneration must reflect the legal framework, complexity, responsibility, results, and work actually performed. Unexplained fees can reduce distributions and create suspicion that the process benefits professionals more than creditors. Fee review should examine time records, task allocation, use of external experts, complexity, realized value, and whether duplication occurred. Disclosure of fee methodology from the beginning can prevent later disputes and reinforce trust.

5. Personal Liability, Professional Risk, and Functional Protection

Article 72 of Law Number 37 of 2004 states that a curator is responsible for fault or negligence in performing management or settlement that causes loss to the bankruptcy estate. This rule supports accountability, but its general wording raises a crucial distinction between a bad outcome and a legally blameworthy act. Asset values may decline because of market conditions, litigation delay, debtor non-cooperation, deterioration, regulatory constraints, or an unsuccessful but reasonable business strategy.

Personal liability should not follow merely because a decision failed to produce the expected recovery. Liability should require a defined duty, breach of the professional standard, causation, and quantifiable loss. The appropriate professional standard is the conduct of a reasonably competent and independent curator facing comparable circumstances at the time of the decision. Hindsight should not convert every commercial loss into negligence. Relevant factors include the information reasonably available, urgency, expert advice obtained, disclosure of conflicts, compliance with required approvals, alternatives considered, documentation, and proportionality between risk and expected estate benefit. Al Mufti (2016) highlights uncertainty in the boundary of fault and negligence, while Setiawan and Nadriana (2025) argue for a clearer architecture linking immunity, liability, ethical oversight, and legal reform.

Curator liability can arise in different capacities. Where the curator acts within authority, in good faith, and with reasonable care, an obligation incurred for estate administration may

properly burden the estate rather than the curator personally. Personal liability becomes more plausible where the curator acts outside authority, conceals a conflict, ignores required approval, intentionally favors a party, grossly undervalues assets without proper process, misappropriates property, or fails to perform an elementary protective duty. Kartoningrat et al. (2021) distinguish responsibility in the capacity of curator from personal responsibility, a distinction that should be made explicit in judicial reasoning.

Civil and ethical responsibility should also be distinguished from criminal responsibility. Criminal liability requires fulfillment of the elements of a criminal offense and the applicable standard of culpability; a breach of professional ethics is not automatically a crime. Astiti (2016) and Siahaan and Silaen (2024) demonstrate the importance of carefully analyzing the criminal dimension of curator conduct. Vague allegations of non-independence should not substitute for proof of unlawful appropriation, fraud, falsification, bribery, or another defined offense. Conversely, the civil nature of bankruptcy cannot shield conduct that independently satisfies criminal elements.

Functional protection is necessary to prevent defensive administration. Curators who face personal suits for every contested decision may avoid necessary litigation, refuse going-concern strategies, or sell assets too quickly to minimize exposure. Irwansyah et al. (2025) identify the absence of explicit immunity against civil claims and propose protection for good-faith performance. Functional immunity should not be absolute. It should protect acts within statutory authority, undertaken in good faith, with reasonable care, disclosure, and compliance with required approvals. It should not protect fraud, corruption, willful misconduct, gross negligence, undisclosed conflict, or personal enrichment. This balanced model protects professional independence while preserving remedies for genuine wrongdoing.

6. Proposed Objective Framework for Curator Independence

The legal gap concerning independence can be reduced through an objective, stage-based framework. The framework should begin before appointment, continue throughout administration, and remain reviewable at final accountability. It should be incorporated into statutory reform, ministerial regulation, professional standards, court practice, or a combination of these instruments. Its purpose is not to eliminate judicial discretion, but to structure discretion with verifiable indicators.

At the pre-appointment stage, the proposed curator should submit a standardized declaration covering current and recent professional engagements, financial interests, family and business relationships, representation of parties or affiliates, referral arrangements, and any circumstance that may create a

reasonable perception of bias. The declaration should identify the nominating party and state that nomination creates no duty of loyalty. Material omissions should have consequences because disclosure is the foundation of informed judicial appointment.

During administration, conflict screening should be continuous. New creditors, buyers,

financiers, experts, or litigation counterparties may create relationships that did not exist at appointment. The curator should update the disclosure promptly and propose a management measure. For a limited conflict, an independent appraiser, additional curator, or recusal from a transaction may be sufficient. For a direct financial interest or concealed affiliation affecting core decisions, replacement is more appropriate.

Decision quality should be tested through process indicators. High-risk transactions should include a written statement of objectives, alternatives, valuation evidence, expected benefit, identified risks, conflicts check, approvals, and implementation results. This record allows the supervisory judge to distinguish a reasonable decision that later failed from a careless or self-interested decision. It also narrows the liability inquiry by focusing on what the curator knew and did at the relevant time.

Finally, remedies should be proportionate. Minor reporting defects may justify correction or warning. Repeated nondisclosure, serious procedural violations, or inability to perform may justify replacement. Fault or negligence causing estate loss may justify civil compensation. Defined criminal conduct must be addressed through criminal law. Professional organizations may impose ethical sanctions independently, but ethical findings should not automatically determine civil or criminal liability without examination of the applicable elements.

Table 3. Objective Indicators for Assessing Curator Independence

Stage	Indicator	Recommended Legal Response
Before appointment	Full disclosure of affiliations, prior engagements, financial interests, and the nominating party.	Judicial assessment; waiver only for immaterial and manageable risks.
Early administration	Independent asset inventory and verification plan; equal information protocol.	Supervisory review of the initial report and conflict register.
Claim verification	Consistent evidentiary standards and written reasons for acceptance, rejection, and priority.	Creditor access and statutory objection or renvoi mechanism.
Asset valuation and sale	Independent valuation, competitive process, bidder-affiliation screening, and approval where required.	Transaction approval, additional curator, or independent monitor for elevated risk.
Going concern	Feasibility analysis, cash-flow controls, time limit, and exit criteria.	Periodic review; terminate continuation if estate value is endangered.
Ongoing disclosure	Prompt update when a new relationship or interest emerges.	Recusal, conflict-management measure, additional curator, or replacement.
Liability assessment	Duty, breach, causation, loss, good faith, authority, approvals, and contemporaneous documentation.	Corrective order, replacement, civil liability, ethical sanction, or criminal process according to proven elements.

Source: Author's proposed framework based on the normative analysis in this article.

7. Implications for Legal Certainty, Creditor Fairness, and Corporate Dissolution

An objective framework strengthens legal certainty because courts and stakeholders can evaluate the same categories of conduct across cases. It also protects fairness. Concurrent creditors often have less bargaining power and information than secured or institutional creditors, while employees and public creditors may depend on statutory priorities. Transparent classification and distribution prevent the *pari passu pro rata parte* principle from being reduced to a slogan. The principle requires proportionality within the applicable legal structure, not equal payment regardless of rank (Hindrawan et al., 2023; Putri, 2024).

The framework also improves economic efficiency. Early asset control, clear claim verification, credible valuation, and timely decisions reduce bankruptcy costs and preserve recoveries. Litigation over replacement and liability is less likely when disclosures and reasons are available from the outset. Where disputes remain, the record allows focused review rather than broad allegations of bias. This supports confidence in the insolvency system, which is important for credit pricing, investment, employment, and commercial risk allocation.

For corporate dissolution, the principal implication is sequencing. Bankruptcy administration should first determine and settle the estate under bankruptcy law. Corporate dissolution and liquidation consequences should then be completed according to the Limited Liability Company Law and the legal outcome of the bankruptcy. The curator should not automatically assume every corporate-liquidator function merely because the debtor is a company. Any transition of responsibility must be grounded in law, the relevant court outcome, and proper final accountability. This sequencing protects creditors while ensuring that corporate records, residual assets, and legal-entity termination are handled by the correct office.

Institutionally, reform should combine legislation, professional standards, and court practice. Statutory amendment could clarify conflict indicators, liability elements, and qualified functional immunity. Professional organizations could standardize disclosures, reporting formats, valuation protocols, and continuing education. Commercial Courts could issue reasoned appointment and replacement decisions that apply a consistent framework. Supervisory judges could use risk-based review checklists. Together, these measures would transform independence from an abstract declaration into a demonstrable system of conduct.

CONCLUSION

A curator in Indonesian bankruptcy law is a court-appointed administrator of the bankruptcy estate whose duties extend from preservation and information reconstruction to claim verification, recovery actions, business-continuation assessment, asset realization, distribution, reporting, and final accountability. The office must not be confused with a corporate liquidator. A liquidator winds up a dissolved company under company law, while a curator manages and settles a collectively attached estate under bankruptcy law. The roles may intersect when bankruptcy leads to corporate dissolution, but their legal bases, institutional controls, and accountability structures remain distinct.

Independence is the central condition for legitimate curator authority. It should be evaluated through both pre-appointment status and continuing conduct. A credible legal test

requires disclosure of affiliations and interests, a reasonable-observer assessment of potential influence, review of whether the risk is manageable, and examination of actual behavior in verification, valuation, sale, and distribution.

Transparency, consistent standards, independent valuation, and an auditable decision trail are practical evidence of independence.

Personal liability should be fault-based. A curator should be liable where a defined duty is breached through fault or negligence, the breach causes measurable estate loss, and the conduct cannot be justified as a reasonable professional decision made in good faith. Commercial failure alone is insufficient. At the same time, functional protection should cover authorized, good-faith, carefully documented conduct, without protecting fraud, gross negligence, corruption, undisclosed conflict, or personal enrichment. The proposed objective framework—standardized disclosure, continuing conflict checks, risk-based supervision, documented high-risk decisions, proportionate remedies, and clear liability elements—can strengthen creditor fairness, legal certainty, estate value, and public confidence in Indonesia’s bankruptcy system.

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