Law Enforcement of Illegal Binary Option Investments and Trading Robots Based on Indonesian Criminal Law

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Abstract
Investment is now a basic need for humans, however, the increasing desire and interest of the public to invest, accompanied by the advancement and development of information technology systems, is actually being used by certain irresponsible parties to create illegal investments or what are known by the public as fraudulent investments. Many types and varieties of illegal investments have sprung up in society, one of which is illegal investment through the online binary options platform and the use of trading robots which has caused many victims.

This research covers the scope of the problem regarding the form of accountability for illegal binary option investment and trading robots, as well as law enforcement in the criminal justice system in the future. The research was conducted using a normative juridical approach, by conducting a literature study and using the statutory approach and the conceptual approach.

The perpetrators of illegal binary option investments and trading robots were found guilty of violating Articles on online gambling, fraud, which are regulated in the Criminal Code, the Consumer Protection Act, the Electronic Transaction Information Law, and the Money Laundering Act. Law enforcement in the justice system in the future can implement preventive law enforcement, progressive law enforcement by prioritizing justice by prioritizing professionalism, transparency and accountability. As well as modifying the way legal processes are handled by utilizing technology, especially database systems, an integrated information technology-based approach known as the Integrated Information Technology-Based Criminal Case Handling Database System (SPPT-TI).

Keywords: Law Enforcement, Binary Options, Trading Robots

INTRODUCTION
Economic development in the era of globalization and free trade has advanced very rapidly in line with the times, including in Indonesia. Today's constant growth and development forces us to advance in all fields, including the application of technology to all aspects of human endeavor. Advanced technology becomes indispensable to assist human capabilities. One of the technologies used is information technology systems, such as the internet, which can help people in doing business, investing, and carrying out other activities.

The advancement of science and technology sometimes undergoes drastic transformations, which have profoundly changed investment activities and given rise to various forms and patterns of investment. Everyone chooses investments with the hope of making a profit. Commodity futures trading is a popular additional investment option today for consumers looking to grow and manage their wealth. Commodity futures trading in the futures market is an alternative investment option that has the potential to generate substantial returns in a relatively short time. There are many investment offers available today that promise attractive returns to the public.

Since the WTO, APEC, and AFTA agreements, investment through commodity futures trading has become increasingly popular. Commodity futures trading transaction activities are becoming more interesting because they involve participants and organizers from all over the world.
Transactions like this will be a future investment trend. The entire transaction procedure is seen by market participants and financial sector experts as a future trend, making this investment a realistic choice for both individuals and companies who have the financial means to participate.

As stipulated in Article 1 Number 1 of Law of the Republic of Indonesia Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading, Commodity Futures Trading, hereinafter referred to as Futures Trading, is everything related to the sale and purchase of Commodities with the withdrawal of Margin and later settlement based on Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts.

Problems in commodity futures trading with the binary option system and the use of trading robots are happening at this time and are in the news, with many victims experiencing enormous losses, due to a legal vacuum. In regulations related to commodity futures trading, there are no specific rules regarding binary options, because this system is very different from trading options that are generally carried out in a trade, binary options are considered to fulfill the characteristics of gambling.

For the use of trading robots themselves, at first there were no specific provisions governing the use of trading robots, regulations regarding investment or commodity futures trading. However, because there are so many abuses in the use of trading robots, starting from using unlicensed trading robots, violating existing regulations, and the schemes set by trading robot business actors are considered to cause many losses, then over time, finally since September 2, 2022, the Government through BAPPEBTI, the Ministry of Trade has issued CoFTRA Regulation (PERBA) Number 12 of 2022 concerning the Implementation of Information Technology-Based Advice in the Form of Expert Advisors in the Commodity Futures Trading Sector

In essence, the large profits promised by trading robot business actors are what cause losses experienced by investors or users of trading robots, because the provider or business actor of this trading robot uses a ponzi scheme to provide the use of the trading robot. Ponzi schemes are also known as pyramid schemes, a scheme commonly used in multilevel marketing (MLM) activities. This has contradicted and violated Law Number 7 of 2014 concerning Trade and Regulation of the Minister of Trade Number 70 of 2019 concerning the Direct Distribution of Goods.

Regulations governing expert advisors have been made to protect the interests of all parties and provide legal certainty for futures trading actors.

The use of Expert Advisors must be facilitated by Futures Advisers who have obtained prior approval from the Head of BAPPEBTI and have a track record of transactions as Futures Advisers in the last 5 years. Futures advisors are not permitted to make compelling recommendations or provide client input.

Legislation also details the requirements that must be met to qualify as a valid expert advisor, including scope, limitations in the form of prohibitions, and permits. Futures advisors are not allowed to provide expert advisors until they fully understand the client's needs, direction of transaction, financial capability, transaction model, transaction targets, including consideration of the client's risk profile, and risk objectives when executing futures trading transactions.

The regulation also stipulates the scope, limitations in the form of prohibitions, as well as permits that must be fulfilled to fulfill the criteria as a valid expert advisor. Futures advisors are not permitted to offer expert advisors before they have knowledge of client needs, direction of transactions, financial capabilities, transaction models, transaction targets, including consideration of the client's risk profile, and risk objectives when executing futures trading transactions.

The online platforms that are developing and attracting the public's interest do not have permits or are registered with Bapepti. So far, Bapepti has only been able to block them in collaboration with the Ministry of Communication and Information Technology. report first, especially on platforms that have been blocked many times but are still able to operate by always changing domains.
In order to eradicate this crime at its roots, strict law enforcement is needed and is a collaboration with various parties as well as law enforcement officials and starting to revise regulations that are quite outdated and inappropriate and sufficient enough in line with the times.

In a book entitled "Progressive Law, A Legal Synthesis", Satjipto Raharjo said that to keep pace with the progress of each era, laws must be changed. Law is not a static, status quo system, but evolves over time in response to the changing needs of society. The relationship between law and society is very close. Law and society are connected ideas that cannot be separated. Law is implemented within a social framework known as society.

METHOD

This study uses a normative juridical research methodology, which includes research on comparative law, legal history, legal principles, legal systematics, and legal synchronization. Normative legal research is a type of legal investigation that involves reading secondary sources of information. In this writing, the material that is examined and studied is legality, law enforcement and legal responsibility in commodity futures trading through an online platform with a binary option system and the use of trading robots.

Law, case, historical, comparative, and conceptual approaches are the approaches used in legal research. The problem approach used in this study uses a statutory approach and a conceptual approach.

All laws and regulations related to the legal issues handled are examined as part of the statutory approach. A statutory approach is needed in normative research because the emphasis and core issues of this research are various statutory regulations. This approach is used, because what will be examined is the legal rules related to commodity futures trading related to online trading platforms with binary options systems and the use of trading robots. This approach must understand the hierarchy and principles in regulation. This approach is also used to find answers to the legal content material formulated in this study. With this conceptual approach, it is expected to be able to make legal arguments to answer the legal content material which is the starting point in this research.

While the conceptual approach, is an approach that will reveal ideas by analyzing them, and then he will be able to develop legal thoughts, legal concepts, and legal principles that are appropriate and related to the topics discussed. This increased understanding will become the basis for researchers to build legal arguments. The researcher will then be able to solve the legal difficulties being investigated. New understandings are developed. After that, researchers will be able to solve the legal problems they are researching.

DISCUSSION

A. Forms of Criminal Liability for Illegal Investors Through Online Platforms with the Binary Option System and the Use of Trading Robots

Criminal liability is a concept used in the Indonesian criminal justice system. This is a continuation of the threat of objective punishment which is based on relevant laws and applied subjectively to criminals who meet legal criteria and can be sentenced. In this case, an act can be held criminally accountable if it fulfills the legal requirements, including the elements of the offense listed in the relevant article, and places the legal subject responsible for the crime in criminal liability.

Article 55 paragraph 1 of the Criminal Code divides the involvement of legal subjects in criminal acts into four groups, namely those who commit acts (pleger), those who give orders to carry out actions (doen pleger), those who take part in actions (medepleger), and those who recommend (uitlokker).

In recent years, binary options and trading robots have gained popularity around the world, including in Indonesia. However, the Financial Services Authority (OJK) in Indonesia has stated that binary options trading is illegal and not permitted, including the use of illegal trading robots. Nonetheless, binary options platforms and brokers can still be reached by the Indonesian public via the internet, even though it is prohibited and blocked by the authorities.

Binary options are activities that are used to predict the movement of the price/value of an asset
within a certain period of time. If the trader's prediction is correct, he will get a profit of 60-90% of the money wagered. However, if the prediction is wrong, the trader will lose the entire amount of money placed. Binary options trading is very risky due to its highly speculative nature.

Online binary options platforms such as Binomo and Quotex are not investment platforms, but are more akin to online gambling. Foreign exchange (forex) trading, which differs significantly from binary options, may use technical and fundamental analysis to forecast price fluctuations and market conditions.

The common people's perception of binary options is often wrong, thinking of them as options on futures contracts, even though binary options are actually more akin to gambling than futures contracts traded on futures exchanges. Futures exchanges are business entities that carry out commodity trading based on futures contracts and other derivative contracts.

Brokerage companies risk imprisonment and sanctions if they do not have a Bappebti license to operate as futures brokers in Indonesia. However, investors who invest through brokers without a license will not be subject to legal sanctions. Even so, the government does not guarantee the money invested, so investors must be prepared to bear the risk of possible fraud or other criminal acts.

Binomo and Quotex are two binary options trading platforms that do not have official permission from Bappebti, so they are considered illegal in Indonesia. Bareskrim Polri has classified both of them as online gambling. Affiliators promoting binary options platforms can receive commissions from consumer losses, which has led to legal issues related to affiliate marketing schemes.

In a general sense, online gambling is a game where money or valuables are wagered and won over the internet. Gambling is regulated by law in Indonesia, including in Articles 303 and 303 bis of the Criminal Code, as well as Article 27 Paragraph 2 of the ITE law.

Binomo and Quotex affiliated companies violate various laws in Indonesia, including Law no. 32 of 1997 concerning Commodity Futures Trading and Law no. 10 of 2011 concerning Consumer Protection. Transactions with unreasonable or overly high expectations in futures contracts are prohibited under the Commodity Futures Trading Act.

Since binary options have no legality in Indonesia, the Consumer Protection Act cannot protect investors who make this trade. The Commodity Futures Trading Regulatory Agency (BAPPEBTI) also cannot mediate disputes between investors and organizers, because binary options are illegal.

The government and related authorities, such as the Ministry of Communication and Informatics, OJK and BAPPEBTI, need to be more assertive in blocking illegal investment sites. The public must be more careful in choosing an investment platform, and be able to check its legality on the official OJK and BAPPEBTI websites before making transactions.

Facing many cases of losses by investors in illegal investments through binary options platforms, the government and investment supervisors provide complaint services or call centers for victims. However, OJK only has authority over registered and supervised Financial Services Institutions, so many illegal companies are not registered under it.

Perpetrators of binary option crimes can be charged with various legal articles, including online gambling crimes, violations of the Consumer Protection Act, the ITE Law, and Article 378 of the Criminal Code regarding fraud.

An offender must fulfill the elements specified in an article in order to be punished according to that article. These elements consist of subjective factors and objective aspects. Subjective factors relate to the perpetrator and are bound in his heart, while the objective element relates to the situation or condition in which the actor must behave or act.

In criminal acts of fraud, subjective factors include the perpetrator's intention to deceive others, namely with the intention to unlawfully benefit himself or others. The right against the law is interpreted broadly as contrary to what society wants/desires and as a disgraceful act.

Objective elements in fraud include elements of persuading others to surrender property, pay debts, or write off receivables. The use of fictitious names or fictitious characters as part of the way to move others is also included in the objective element.

The court must legally and convincingly prove whether the perpetrator has fulfilled the elements of a criminal act of fraud, both subjectively and objectively. This includes proving that the perpetrator
intentionally committed the crime with the intention of benefiting himself or others, as well as committing a series of lies to persuade the victim.

In the case of Binomo and Quotex, affiliates recommend people to participate in illegal investment activities, and affiliates and service providers of online platforms such as Binomo and Quotex benefit from these activities. This fulfills the element of error in binary options trading and can be considered a criminal act of fraud.

The Commodity Futures Trading Regulatory Agency (BAPPEBTI) considers Binomo and Quotex to have violated the law because they lack legality and are categorized as online gambling and other criminal acts. The subjective aspect in this case shows that the affiliate is aware of the ways in which he benefits himself or others unlawfully.

B. Illegal Investment Law Enforcement With The Binary Option System And The Use Of Trading Robots In The Criminal Justice System In The Future

In terms of law enforcement in Indonesia for more than 20 years, it has not achieved satisfactory results. Many legal cases have not been resolved, causing dissatisfaction and disturbing the conscience of the nation. Law enforcement is a system of organized government apparatus to uphold the law, embodying the values of justice, legal certainty and wealth. Indonesia is a state of law, which shows that law must be the center of action in all aspects of social, governmental and political life. All government activities are regulated by law, and the government has an obligation to carry out legal purposes in a society founded on the rule of law.

The criminal justice process in Indonesia consists of four stages which must be carried out methodically by law enforcement entities such as the police, prosecutors, courts and correctional institutions. The first stage is the investigation, in which the police play an important role in gathering evidence and identifying suspects. The second stage is prosecution, in which the public prosecutor submits a case to the court and issues an indictment. At this stage, the suspect's status changes to that of a defendant. The third stage is the implementation of the court's decision, which is the responsibility of the prosecutor, in which the accused who is proven guilty will be sentenced to prison or other forms of detention. The final stage is criminal execution, which is carried out under closed conditions in accordance with the law, including the application of the death penalty.

Progressive law emerged in Indonesia as an answer to dissatisfaction with the previously applied positive law teachings. The progressive legal paradigm assumes that law must focus on solutions for society and humanity, not just the law itself. Even though the legal system in Indonesia still has many weaknesses, there are progressive strengths among prosecutors, courts, police, advocates, academics, NGOs, bureaucracy, and economic actors. However, the progressive legal paradigm is still considered taboo because previously law students and law enforcers were only educated with a positivistic paradigm.

In cases of illegal binary option investments, several judges have applied a progressive legal paradigm by confiscating assets belonging to the perpetrators and returning them to the victims proportionally. This decision considers that this case is fraud, not gambling, and the public must be wise in choosing investments and find out the legality and investment mechanisms to avoid illegal investments. It should be remembered that society must learn from previous cases in order to create fair decisions in the future.

RESULTS

The results of the research show that criminal responsibility is a concept used in the Indonesian criminal justice system. Criminal liability occurs when a person who commits a crime fulfills all legal requirements related to the act and can be punished.

In recent years, binary options and trading robots have become popular in Indonesia. Even though the Financial Services Authority (OJK) declared binary option trading illegal and prohibited, binary option platforms and brokers can still be accessed via the internet.

Binary options trading is considered illegal under commodity futures investment and trading laws. Platforms like Binomo and Quotex that offer binary options are not licensed by Bappebti, and are therefore deemed illegal.
Binary options trading is more akin to online gambling than investing. Binary option affiliates have also violated the Consumer Protection Act and the Electronic Transaction Information (ITE) Act. Bareskrim Polri has also classified Binomo and Quotex as online gambling.

The public must be careful of binary option investment offers that promise large profits and must ensure the legality of the platform before making transactions. Binary option criminals can be subject to fraud articles and other actions.

OJK, Bappebti, and other authorities must be more assertive in blocking illegal platforms and protecting the public from risks of illegal investment. The government must ensure that investment regulations and laws in Indonesia are properly enforced and provide protection for consumers.

Technological advances have opened up various investment opportunities, but people must also be wise and critical in choosing the type of investment to avoid illegal risks and loss of money. The use of illegal platforms such as Binomo and Quotex must be avoided because they violate the law and can harm society.

The criminal act of fraud occurs when someone uses various methods and lies to persuade others to hand over property or services unlawfully. The objective element of a criminal act of fraud involves a situation or condition in which a person must behave or act to achieve that goal.

The court, or the Panel of Judges in this case, must carry out an examination and prove legally and convincingly whether the defendant has fulfilled the elements of the criminal act of fraud, both from a subjective and objective aspect. The subjective aspect involves the will or knowledge of the perpetrator in committing fraudulent acts with the intention of benefiting oneself or others.

In the case of Binomo and Quotex, affiliates or parties who recommend illegal investments use electronic media to commit fraud. They make videos soliciting third parties with the aim of misleading and convincing victims/investors that the activity is legal and profitable. This is a violation of Article 28 Paragraph (1) of Law Number 11 of 2008 concerning Information and Electronic Transactions in conjunction with Article 45A Paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions Electronics (UU ITE).

In addition, affiliates also carry out fraudulent activities using illegal trading robots. These trading robots are programmed to make automatic transactions and are often used in Ponzi or pyramid schemes to attract new investors with the promise of high returns. Doers of illegal trading robot investments are subject to fraud articles (Article 378 of the Criminal Code), Article 27 Paragraph 1 juncto Article 28 Paragraph 1 in conjunction with Article 45 Paragraphs 1 and 2 of Law no. 19 of 2016 concerning Information and Electronic Transactions, as well as Articles 105 and 106 of Law no. 7 of 2014 concerning Trade.

Thus, the results of the study confirm that illegal investments with binary options systems and trading robots, such as those carried out by Binomo, Quotex, Fahrenheit, and DNA Pro, are criminal acts of fraud involving quite complex legal aspects. The court must conduct an investigation and prove properly to ensure that the perpetrators of criminal acts receive appropriate punishment in accordance with the applicable laws.

CONCLUSION
1. The Financial Services Authority (OJK), the Commodity Futures Trading Supervisory Agency (BAPPEBTI), together with the Investment Alert Task Force (SWI), must continue to consistently work with the Ministry of Communication and Information (KOMINFO) to be responsive at all times to investment modes circulating in Indonesia. community and immediately block before many victims suffer losses. Likewise, cooperation with the police is more responsive to community reports so that the perpetrators of 165 can be arrested immediately. In prosecuting the Prosecutor, it is very necessary to apply the appropriate articles so that the judge can also decide on the case not only for the sake of creating legal certainty, but also to fulfill the people’s sense of justice. Law enforcement officials must also be professional, transparent, accountable, moral, on the side of truth and justice.
2. The public must be more vigilant and stop thinking about looking for fast money in investing given the growing development of illegal investment activities. Communities must start cultivating financial literacy, because this is very important for long-term investments and can provide broad insights for the community and avoid illegal investments using any mechanism or mode.

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