

Juridical Study On Regulation Of Buying And Selling Trading Robot In Indonesia's Positive Law

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ABSTRACT

The use of trading robots in foreign currency trading commonly known as 'forex trading' has generated a tumultuous polemic. However, in its development, although the Civil Code regulates buying and selling, there are no clear rules governing the buying and selling of trading robots, there is a vagueness in the norms of regulation related to trading robots so it is important to research and discuss so as not to cause losses in the future. Based on the background of the problems described above, the authors formulate the following problems: How is the legal regulation of buying and selling trading robots in Indonesian positive law? What are the legal consequences of buying and selling trading robots? The research method used in this research is the type of normative legal research (normative law research) where normative legal research is legal research conducted by examining library materials or secondary data. using normative case studies. The conclusion in this study is the legal regulations for buying and selling trading robots have not yet been clearly regulated in a specific regulation by the authorized institutions, namely Bappebti and Bapepam, where the current buying and selling is still using The Civil Code (KUHPer) as the basis for buying and selling trading robots. The legal consequences of buying and selling trading robots today are based on the Civil Code (KUHPer), where trading robot trading violates Article 1320 of the Civil Code (KUHPer), so it is canceled or null and void.

Keywords: Legal Arrangements, Buying and Selling, Trading Robots

1. Introduction

The rapid development of information technology has become one of the basic needs in human life today. Information quickly, precisely, and accurately certainly plays a very important role in various aspects of life, such as as a tool in the decision-making process or even as a trend or modern human lifestyle.¹

Based on data from the International Federation of Robotics (IFR), the use of robots in 2020 has reached three million units or has tripled in the last 10

¹Yudha, IGNAE (2021). Criminological Analysis of Online Gambling Crimes in the Bali Regional Police Legal Area. Kerta Dyatmika, 18(2), 20-32.

years.² Even in developed countries, the development of robots is always updated to perfection as a form of the presence of a country against restrictions on the use of robots which are indispensable to protect humans, but it is possible that crimes will be committed by these robots, because the revolution of society 5.0 in the future will change The future of human beings which resulted in the law can be eroded by increasingly rapid technological developments.

The country of Indonesia has now started to use several robots in its activities, such as trading robots. Trading/buying and selling transactions on the foreign exchange market carried out by a trader (trader) is indeed very risky. Not infrequently trading psychology is also very necessary in doing this trade. Because many people only understand how to buy/sell without paying attention to the risks and psychology caused by this trading. There are many ways to get profit in this trade, one of them is by analysing the economic calendar. In addition, to minimize psychology that is not ready for trading, there is another way, namely by using a trading robot or Expert Advisor (EA). Where the robot will determine when to buy/sell positions based on a trading technique.

Trading Robots lately increasingly popular in the investment world, especially in the forex sector. With a number of conveniences offered, this system attracts newbie investors. Interestingly, many web entities in the field of commodity futures trading (PBK) operate illegally and are blocked by Bappebti or Badan Pengawas Perdagangan Berjangka Komoditi also using the trading robot mode. Indeed, trading robots make it easy for users to transact. There's no need to bother developing a trading strategy, because trading robots are made to run transactions automatically, by utilizing market movement signals to determine whether to buy or sell at a certain point in time.³ But trading robots are not perfect. Using trading robots also has risks.

The use of trading robots in foreign currency trading or what is commonly known as 'forex trading' has generated a tumultuous polemic. Foreign currency trading that is usually done by brokers and traders is now being carried out by

² <https://finance.detik.com/industri/d-4709966/peranan-robot-makin-rift-perlu-aturan-pajak-special>, accessed on October 20, 2021 at 09.59 WITA

³ <https://finance.detik.com/fintech/d-5741300/robot-trading-often-digunakan-buat-alat-tipu-tipu-baca-ini-biar-aman>. Accessed on October 20, 2021 at 10.15 WITA

trading robots. It is important to pay attention to the legality and position of trading robots that are allowed to operate in Indonesia. For example, on trading robots used by foreign brokers when operating in Indonesia, is it allowed or not. Given the legal status is legal outside the country. This is important to be regulated in laws and regulations so that there is rigidity in the application of the law.⁴

In its development, although the Civil Code regulates buying and selling, there are no clear rules in regulating the buying and selling of trading robots, there is a blurring of norms from the regulations related to trading robots. According to the provisions of Article 1457 of the Civil Code, buying and selling is affirmed as an agreement, an agreement in which one party binds himself to surrender an object, and the other party pays the promised price but literally a robot as a legal subject being sold. buying and selling is not a robot but the use of a robot only so that the object of buying and selling itself related to things that smell virtual like trading robot requires special and clearer rules considering the development of the digital world and virtual business which is much favored by young people requires a clear regulation.⁵

The Civil Law Law has indeed regulated buying and selling in general,⁶but there are no clear rules in regulating the buying and selling of the trading robot. trading robots can also be categorized as electronic systems as regulated in article 1 paragraph 5 of Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2018 concerning Information and Electronic Transactions (hereinafter the two laws will be referred to as the ITE Law) where as a system traded by business actors in an electronic system, the responsibility of the business actor or the seller of the trading robot is not yet clear, especially if you want to see the accountability of trading robots operated/traded by foreign entities that carry out their trading activities in Indonesia. the obscurity of norms

⁴Indradewi, AASN (2019, December). Legal Protection Against Online Business Judging From Law Number 30 Year 2000 Regarding Trade Secrets. In the National Seminar on Innovation in Research in Science, Technology and Humanities-Inobali (Pp. 515-523).

⁵I Wayan Arka, 2016, Traditional Villages as Subjects of Covenant Law, Udayana University Press, Denpasar, page 287

⁶Dewi, AMAT (2021). Legal Consequences for Violation of Trading Business Permits in Gianyar Regency. Kerta Dyatmika, 18(1)), 33-44.

from the regulation regarding trading robots. Especially for trading robots that are operated/traded by foreign business actors to consumers in Indonesia, further research needs to be done to obtain fair norms of responsibility for the community and at the same time create a fair relationship between trading robot users and foreign exchange trading operators.

Therefore, with clear rules and regulations, the public will be protected from inaccurate information and at the same time create a fair relationship between trading robot users and foreign exchange trading operators. From the background of the problem as presented above, two main problems can be formulated: 1) What is the legal arrangement for buying and selling trading robots in Indonesian positive law? and 2) What are the legal consequences of buying and selling trading robots? While the objectives of this study: 1) To find out the legal regulation of buying and selling trading robots in Indonesian positive law. and 2) To find out what the legal consequences of buying and selling trading robots are.

II. Results And Discussion

2.1 Legal Regulations for the Sale and Purchase of Trading Robots in Indonesia's Positive Law

The use of trading robots in trading has caused controversy. Currency trading that was usually done by brokers and traders is now done by trading robots. The use of commercial robots is one of the characteristics of the industrial revolution 4.0 which is based on artificial intelligence.

It should be understood that trading robots are simply artificial intelligence based tools programmed by algorithms and other programs to generate currency trading predictions. The trading robot is a form of development of the Sophia robot which was displayed at the 2019 CSIS Global Dialog event.

There are three legal aspects required to monitor the use of trading robots in currency trading. *First*, aspects of consumer protection. *Second*, aspects of supervision by Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti) and, *third*, civil and regulatory aspects that support currency trading using trading robots.

It should be understood that the recent intensive forex trading advertisements using trading robots can harm the public due to incomplete advertising substance. From the perspective of consumer protection law, consumers can be harmed because of incomplete advertisements and information from forex trading providers regarding the use of trading robots. If referring to the article of Law Number 8 of 1999 concerning Consumer Protection (UUPK), consumers have the right to information and protection.

Then in terms of stock investment, investment law is a term that is absorbed in English terms, investment of law. Actually there is no investment term in the legislation. Investment law, according to Ida Bagus Wyasa Putra, is the legal norm for the possibility of implementing investment, the conditions and protections related to investment, as well as the basis so that investment can bring prosperity to the community.⁷ Investment can be interpreted as a process of investing a certain amount of money in a certain asset with the hope of getting a profit from that capital in the future. The legal basis governing investment is written in Law no. 25 of 2007 concerning Investment.

Investment or investment is divided into two categories based on its form, direct and indirect investment. Direct Investment or direct investment is usually done by investing in an asset to conduct a business or business and is usually carried out directly without intermediaries in investing the capital. This investment usually has a tangible form, therefore investors will usually be involved in its management. That's because usually investors will be faced directly with responsibility for the resulting losses. Meanwhile, in indirect investment, investors usually will not deal directly with the management because usually the decision making will be made by the investment manager.

The term shares are contained in Law no. 40 of 2007 regarding Limited Liability Companies (UUPT) article 60 paragraph (1) while the owner's rights appear in article 52 paragraph (1) which contains activities such as attendance and voting rights at the General Meeting of Shareholders (GMS), receiving dividend payments and remaining assets liquidation, exercise other rights under the law.

⁷HS, S., & Sutrisno, B. 2008. Investment Law in Indonesia. Rajawali Press, Jakarta. p. 34

Investors who want to buy shares of a company cannot buy them directly but through securities companies.

Consumers when trading using trading robots, they are entitled to complete information along with the risks that may occur. According to UUPK, if forex traders do not provide complete information, including the risks of using trading robots, traders cannot exercise their disclaimer rights in case of losses caused by trading robots. According to the UUPK, currency traders are held accountable under the product liability model as regulated in Article 19.

Regarding the role of Bappebti as a supervisory agency, the essence of the announcement of the use of trading robots should be encouraged to be more comprehensive and not misleading. Socialization also needs to be done to the public and traders to generate sufficient knowledge about the use of trading robots. Furthermore, considering that legally the use of trading robots in currency trading is only based on the absence of provisions prohibiting the use of such machines, Bappebti together with relevant agencies must establish rules regarding the use of trading robots in currency trading.

An example of this trading robot case is a resident named Fisiharto who reported the investment management of the Mark AI trading robot to the Metro Jaya Police because he felt that he had suffered a loss of Rp 126 million.⁸The report is numbered LP/B/5203/X/2021/SPKT/Polda Metro Jaya. The report is related to allegations of fraud and/or money laundering as regulated in Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law and/or Articles 3,4,5 of the Money Laundering Law. Fisiharto said that the reported person in this case was Hindra as Director of PT Teknologi Investasi Indonesia. He added that before the alleged fraud was carried out, the Mark AI service initially ran normally like any other investment. However, he said, the service had been chaotic since October 15. At that time, he said investors could not login and the company website had an error.

Fisiharto stated that "Mark AI's actual journey until October 14, 2021 was still running normally, but on October 15 there was a change. Where Mark AI could

⁸<https://www.cnnindonesia.com/economy/20211021074901-92-710261/mark-ai-dipolisikan-terkait-dugaan-penipuan-robot-trading>, accessed on March 22, 2022 At 17.00

not do depots and withdraw funds for fear of illegal funds entering Mark AI. Then promised to fix the service, but the service still wasn't normal until October 17. From Mark AI himself said it would return to normal. But in fact we waited for no change, no further information. Then on October 17, precisely after lunch, it turned out to be logged in for investment "This can't be accessed at all. The server error code comes out 504. As promised, it turns out that there has been no change at all and all members have categorized this as a scam or a scam for online investment."⁹

The head of the Investment Alert Task Force, Tongam Lumban Tobing, said that MARK AI does not have a business license in Indonesia. The company is also not engaged in the financial services sector.

The absence of a clear law will lead to many interpretations that are detrimental to the community, because it will hinder the process of monitoring and enforcing the law. Since trading robots are not legal entities, but only tools and artificial intelligence that cannot be held accountable, managers will connect with users and organizers. Therefore, with clear rules and regulations, the public will be protected from inaccurate information and at the same time create a fair relationship between trading robot users and forex trading traders.¹⁰

2.2 Legal Consequences on the Sale and Purchase of Trading Robots.

Today, trading is very loved by the public. This is because trading promises that one can earn a certain amount of money without the need for a very large model. People are tempted to trade, either take it seriously and learn to understand trading, or just participate without a clear basis.

In recent times, the use of information technology in the financial services industry has become increasingly expansive, including in the capital market and retail trading on the foreign exchange (forex) money market. In forex trading, for example, currently developing the use of software (software) or trading robots that can replace the position of investors or traders in forex buy-sale transactions. The term expert advisor (EA) is also commonly used by traders for the use of trading robots. The use of trading robots is known as automated trading.

⁹<https://www.cnnindonesia.com/ekonomi/20211021074901-92-710261/mark-ai-dipolisikan-terkait-dugaan-penipuan-robot-trading>, accessed on March 22, 2022 At 17.00

¹⁰<https://retizen.republika.co.id/posts/16340/robot-trading-dalam-law-indonesia>, accessed on March 19, 2022 at 12.09 WITA

The use of this technology has grown in recent years. the majority of investment companies or brokers use this technology to assist investors in transacting in the capital market. The way trading robots work in the world of the capital market is also not much different from the forex market.

The use of trading robots is considered more efficient because traders no longer need to intensely monitor their computer screens to observe forex movements. In other words, every forex transaction is automatically executed by the system. In addition, the use of trading robots is also considered to provide more accurate analysis in determining transactions so as to avoid the risk of loss and even be able to achieve greater profits for traders.

Sales of trading robot software can be easily found on the internet. The price of the trading robot software offered also varies from Rp. 100 thousand to Rp. 6 million. In fact, these promotions also promise a fixed profit of around 20-60 percent per year. Of course, the emergence of this trading robot is a special concern, especially from the legal side. It is necessary to pay attention to whether the regulations have regulated the use of trading robots? Then, who bears the risk in the event that consumers lose in forex transactions using trading robots?

The use of trading robots is something that is commonly used in forex trading. The majority of well-known forex brokerage companies already provide trading robot applications for traders. Generally, this trading robot application is used for beginners and traders who do not have free time to monitor forex market activity. However, due to the high risk in the forex market, traders should be wary of using these trading robots. The risk of loss in foreign exchange transactions remains even though all decisions have been taken over by systems or robots which are considered far more accurate than human analysis.

Traders must first check the quality of the trading robot application offered by the provider or forex broker company before buying. According to him, the better the quality of the trading robot, the more accurate the analysis and decisions made by the system will be. This is because if there is a loss due to transacting using a trading robot, then the loss is the responsibility of the trader himself because apart from the fact that there is no law that regulates trading robots, the decision to use a trading robot is from the user himself.

In general, foreign exchange (forex) trading regulations are regulated in terms of: Law Number 32 of 1997 About Commodity Futures Trading. The rules do not clearly regulate the use of trading robots. Because it is included in futures trading, forex trading is regulated in Law no. 32 of 1997. This law regulates provisions of a general nature such as institutions, licensing, trade mechanisms, bookkeeping/reporting and the application of law.

The regulation also states that forex trading supervision is the responsibility of the Ministry of Trade through the Commodity Futures Trading Regulatory Agency (Bappepti). In addition, there are other arrangements in futures trading carried out by the Jakarta Futures Exchange (BBJ) and futures clearing institutions or Indonesian Futures Clearing House (KBI) through self-regulation. Thus, Bappepti, BBJ and KBI are both tasked with regulating futures trading which is expected to provide legal protection for market participants, including traders.

III. Closing

1. The legal regulation of buying and selling trading robots has not yet been clearly regulated in a specific regulation by the authorized institutions, namely Bappepti and Bapepam, where the current buying and selling is still using The Civil Code (KUHPer) as the basis for buying and selling trading robots.
2. The legal consequences of buying and selling trading robots today are based on the Civil Code (KUHPer), where trading robot trading violates Article 1320 of the Civil Code (KUHPer), so it is cancelled or void.

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