

## THE IMPLEMENTATION OF TRADING ROBOTS REGULATIONS IN PROTECTION OF ITS USERS IN INDONESIA

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### **Abstract**

*Law enforcement for customers in Indonesia who use futures advisors or trading robots as a tool to help perform daily trading, is really needed, due to many customers' fund's frauds under the guise of futures advisors or trading robots that are roaming around. Many futures advisors give heavenly promises to the customers of consistent profit, but in reality, many futures advisors or trading robots owned by these illegal companies only gather and pile the people's fund as much as possible and slowly escape or disappear or the people's fund they already had for the usage of the futures advisor or trading robots couldn't be cashed back. The purpose of this research is to encourage the government to enforce existing laws regarding robot trading for robot trading service providers, and also as a proposal to the Government to issue regulations to protect consumer funds trapped in illegal robot trading, how to return the funds and how the Government can help them. The results of this research that all parties will obeyed the law in order to create healthy trading activities and customer funds will be well protected.*

**Keywords:** Trading Robots, Law Protection, Investment

### A. INTRODUCTION

Economic development is really rapid especially in this current modern era where the economy is really related to this technology. Once, in the era where the internet was not commonly used by the general people, nearly all economic transactions, in this case investment is done traditionally where customers/clients must go to the bank of financial institutions to perform economic transactions or investments.<sup>1</sup> Investment according is consumption postponement at the present to be used in an efficient production for several certain time period.<sup>2</sup> Investment could also be interpreted as a commitment to invest certain funds at a certain time in order to get profit in the future. It means, investment is a commitment to sacrifice consumption at the present in hope to be able to support the enhancement of consumption in the future.<sup>3</sup>

Another opinion about the definition of investment is also the form of consumption postponement at the present time to acquire future consumption where there's an investment uncertainty inside so reward of the said investment is needed.<sup>4</sup>

Banten Province Capital Investment and One Stop Integrated Service in its official website states that investments are performed by individuals so the objective is to accumulate funds to buy a house or a land in the future and to fund children's education's cost in the future.<sup>5</sup> Individual investment also

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<sup>2</sup> Jogiyanto. (2014). Portfolio theory and investment analysis (8th ed.). BPFE

<sup>3</sup> Herlianto, D. (2013). Investment Management Plus Ways to Detect Fraudulent Investments. Goshen Publishing

<sup>4</sup> Paningrum, D. (2022). Capital Market Investment (P. L. C. B. Lentera (ed.); 1st ed.). Publisher Publisher Chakra Brahmana Lantern Institute

<sup>5</sup> The Investment and One-Stop Service Office of Banten Province. (2022). Investment Is an Investment Activity, Know the Types and Strategies. <https://Dpmtsp.Bantenprov.Go.Id/>. <https://dpmtsp.bantenprov.go.id/News/topic/1016>

aims to get better living in the future, maintain income from inflation, also to leave an inheritance for the family.<sup>6</sup>

Investment is divided into 2 (two) forms, that is fund investment on financial assets and fund investment on real assets. Fund investment on financial assets in the form of shares, bonds, etc., while fund investment on real assets in the form of land, gold, machines.<sup>7</sup> Sectors that could be made into investments are two, which are financial and real sectors. In the real sector investment is performed by investing funds or buying productive assets that will produce certain products through the production process. Investment types in real assets are houses, lands and gold. Whereas financial sector investment is performed by buying and selling securities or financial assets by hoping to get profit in the future.<sup>8</sup> The examples of financial sector investments are saving, deposits, mutual funds, bonds, shares, gold, properties, etc.

In its official website, [kominfo.go.id](http://kominfo.go.id), digital based financial service development (fintech) has many service models like foreign exchange investment (forex), online loan, trading robot, and its kind which are all digital based.<sup>9</sup> Juristically based on clause 3 POJK No. 13/POJK.02/2018 about Digital Finance Innovation from Finance Service Sector (POJK IKD), financial technology consists of various types of products and platform. In Indonesia, many fintech platforms offer investment products on financial assets, including one of them is Trading Robot. Trading Robot or known with the name automated trading system is automatic trading system that makes traders able to perform automatic buy and sell.<sup>10</sup> In other word, investors would get buying and selling recommendations from the robot. Many experienced traders that unite the two said analysis to read market trend direction. But for beginner traders the said matter is very difficult to be understood and learnt, therefore many trading trainings are held to facilitate these beginner traders to understand trading techniques because of the difficulty to understand and analyze the market direction therefore many companies develop a certain system to predict market direction based on analysis using Expert Advisor or widely known with the name trading robot. Trading robot is a software or application that could perform trading automatically in accordance with the condition prediction of market price.<sup>11</sup> Things performed by a trading robot among others are making orders, erasing, and closing orders then taking profit, and stopping loss.

Trading robot that is currently popular in trading investment transactions is not in the physical form like robots in general that is already widely known by the people. Simply trading robot or expert advisor is translated as an algorithm which is designed to facilitate trading activity. Commodities or assets that become trading objects could be forex or crypto assets or others, where investors are offered the convenience because it is said that the one performing the transaction is a robot. Meanwhile the said investor could laze around to receive the hard work result of a futures advisor or the trading robot.<sup>12</sup> According to Bappebti Bulletin 235 Edition, many traders, especially beginner

<sup>6</sup> The Investment and One-Stop Service Office of Banten Province. (2022). Investment Is an Investment Activity, Know the Types and Strategies. <https://Dpmpstsp.Bantenprov.Go.Id/>. <https://dpmpstsp.bantenprov.go.id/News/topic/1016>

<sup>7</sup> Buana, A. L., Saragih, H. J. R., & Aritonang, S. (2018). The Influence of Government Expenditure, Government Investment, Private Investment and Labor on Economic Growth in Java Island in 2011-2015. *Defense Economics: Journal of Defense Economics Academic Studies and Literacy*, 4(2).

<sup>8</sup> Paningrum, Op. Cit., Page 4

<sup>9</sup> [kominfo.go.id](http://kominfo.go.id). (2022). Guarding the Fintech Industry, Accessed January 10, 2023, <https://www.kominfo.go.id/content/detail/41201/guardingl-industry-fintech/0/article>

<sup>10</sup> BUMN for Indonesia. (2022). Trading Robot Miscellaneous, Legal or Illegal? *Kabarbumn.Com.*, Accessed January 10, 2023, <https://kabarbumn.com/berita/1384/serba-serbi-robot-trading-legal-atau-illegal>

<sup>11</sup> Arjanto, D. (2022). A Look at Forex Trading Robots and How They Work? <https://Bisnis.Tempo.Co.>, Accessed January 29, 2023, <https://bisnis.tempo.co/read/1650433/menengok-lagi-robot-trading-forex-dan-how-how-works>

<sup>12</sup> CoFTRA Edition 235. (2022). Trading Robots: The Illusion of Getting Rich Quickly Without Effort. *Bappebti March 2022 Bulletin*, 5-6. Accessed January 29, 2023, [www.bappebti.go.id](http://www.bappebti.go.id)

traders use these trading robots because of the convenience offered as mentioned above. These said traders become dependent with trading robots and do not want to learn trading studies so it brings up the gap for crime to enter into this realm, due to minimal knowledge owned by traders using these trading robots so they are trapped with the wrong information, that trading robot that they offer will always give accurate analysis and give consistent profit to traders. This new system has the most appeal with the automatic robot trading system. They could remove several feelings and trading anxiety and business system because this trading is placed after certain standards like law, efficiency, and innovation aspects in the digitalization era.<sup>13</sup>

With the popularity of trading robots, creates illegal brokers that use technology to hook their target. From here questions occur as to why trading robot is so popular in society, whether the investment interest is so high so the people is not careful in choosing what investment type will they run.<sup>14</sup> Seeing from the beginning of this euphoria occurrence starting from the COVID-19 pandemic era where suddenly the investment (interest becomes) very high. Many new investors were born especially from millennial circles.<sup>15</sup> Investment now is already so popular in young circles. Indonesia Stock Exchange even stated that in these three years, Indonesia stock market tends to be at the hands of the millennial generation, where the age of these young investors are between 26-30 years old. The Statistic Central Bureau informs that the millennial generation that joins in this investment is around 63.5 million people.<sup>16</sup> These new investors seek an instant way to get money. They are reluctant to spend time learning from transaction experience. These newbies seek any clues or strategies that guarantees them success in investing, searching for any ways including trying this trading robot. They are seeking for an easy method without calculating the effect of their actions.<sup>17</sup>

Recently since the end of 2021 many complaints have been made to BAPPEBTI related to this trading robot. The public that complained thought BAPPEBTI legalized the use of trading robots in futures trading transactions. While actually since the first time BAPPEBTI appeared a few years ago, it has never legalized the use of information technology-based futures advisors or trading robots from companies that became the said viral case.<sup>18</sup> Since many frauds and gambling under the guise of investing occurred and were discussed widely by the people, many trading robot service users complained about the difficulty in withdrawing funds. The said complaints are widely published in social media, with several anxious netizens concerned with their money's existence. Previously, in late January 2022, the CEO of PT. Simbiotik Multitalenta Indonesia (PT SMI/Net 89) informed that the

<sup>13</sup> Abouloula, K., Habil, B. El, & Krit, S. (2018). Money Management Limits to Trade by Robot Trader for Automatic Trading. *International Journal of Engineering, Science and Mathematics*, 7(3), 195-205

<sup>14</sup> Alam, S. S., & Runturambi, A. J. S. (2021). Intelligence Law Enforcement and Intelligence Strategy in Forex Robot Development in Indonesia. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*, 4(4), 10977-10983. <https://doi.org/10.33258/birci.v4i4.3153>

<sup>15</sup> Alam, S. S., & Runturambi, A. J. S. (2021). Intelligence Law Enforcement and Intelligence Strategy in Forex Robot Development in Indonesia. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*, 4(4), 10977-10983. <https://doi.org/10.33258/birci.v4i4.3153>

<sup>16</sup> Kurniawan, Y., Kusumoningtyas, T., & Anwar, N. (2022). Analysis of Factors Affecting Interest of The Millennial Generation in Robot Trading Forex. *Journal of Theoretical and Applied Information Technology*, 100(18), 5137-5146

<sup>17</sup> Sugiarto, D. (2021). This is what makes trading robots popular so that they become a new mode of fraudulent investment. <https://finance.detik.com/>, Accessed January 20, 2023, <https://finance.detik.com/berita-economic-business/d-5740551/ini-yang-bikin-robot-trading-populer- until-so-new-invest-modus-bulging>

<sup>18</sup> CNN Indonesia Team. (2022). Alleged Net89 Trading Robot Fraud, Customer Funds of IDR 10 T Haven't Returned. [www.cnnindonesia.com](http://www.cnnindonesia.com), Accessed January 23, 2023, <https://www.cnnindonesia.com/economy/20220920072609-92-850091/dugaan-penipuan-robot-trading-net89-dana-nasabah-rp10-t-belum-return>

company is supporting the government's program in the midst of rampant bogus investments that are unclear and rampant fraud on behalf of trading robots, forex investment and others.<sup>19</sup>

The Forward Movement of the People's Money Struggle of Members Net89 (Gempur Net89) reported that PT. Simbiotik Multitalenta Indonesia (PT SMI) is related to fraud under the guise of investment. Fraud allegations were performed by PT SMI so that the customers' fund withdrawal was obstructed. Almost 4,000 members under Gempur Net89 already gave Proxy Letters to attorneys to represent their interest with the total loss of around Rp. 3 trillion. The loss originated from the All-Withdrawal Program, where members of Net89 were asked to withdraw all funds, they owned. The total of that Rp. 3 trillion was the capital of balance on hold. PT. SMI obliges members to join the Withdraw All Program. However, in fact only 7% of the customers got their withdrawal approved. That was even limited to US\$ 500 per customer. This was equal to Rp. 7.75 million, and this withdrawal program stopped in August 2022 with trillions of customers' funds on hold.<sup>20</sup>

Witnesses and Victims Protection Institution (LPSK) has received submission applications or restitution on victims of Money Laundering Criminal Act (TPPU) from 15 platforms of illegal trading robots. (Based on) data collected from March until December 2022, from the said 15 platforms of trading robots there are 4,063 submissions that have been calculated by LPSK with the total amount reaching Rp. 1,963,967,880,393 (around Rp. 1,963 trillion).<sup>21</sup> Then the remaining 487 submissions' calculation couldn't be processed because (they) did not give supporting data of their loss. The victim applicants that applied for restitution to LPSK in trading robot cases (used) Fahrenheit, Viralblast, Binomo, Quotex, Olymptrade, and DNA Pro. Then there are KSP Indo Surya Fikasa, Sunmod ALKes, Evotrad, Yagoal, ATG, FIN888, NET 89 and KSP Sejahtera Bersama.<sup>22</sup>

Example of a trading robot case that harms the customers or investors is Sunton Capital, with the lure of 5% to 20% profit using trading robots. In late January, the police determined 6 suspects on trading robot fraud suspicion and confiscated 12.5 billion of money in a ponzi scheme (member get member). The suspects were indicted with Clause about Electronic Transaction and Information also Money Laundering. In Indonesia the CEO of PT. Fahrenheit is declared as a suspect after 55 reports to the police of fraud performed by PT. Fahrenheit in which a trading robot that is owned by Fahrenheit is actually a scam with members' loss reaching 5 trillion rupiah.<sup>23</sup> Also, with Net89 trading robot owned by PT. Simbiotik Multitalenta Indonesia that offers 1% profit per day but their customers could only withdraw 500 dollars per day wherein many couldn't perform the withdrawal, there are around 200,000 members who could perform withdrawal or fund withdrawal from Net89 with total fund of 10 trillion rupiah.<sup>24</sup>

The crimes committed by the perpetrators were revealed because many victims were harmed in the practice of illegal investment under the guise of this trading robot. The victims' losses due to the Mark AI trading robot case reached 25 billion.<sup>25</sup> Learn from in this case, the loss indirectly contributed

<sup>19</sup> CNBC Indonesia Research Team. (2022). It's Difficult for Trading Robot Users to Withdraw Funds, Whose Do? <https://www.cnbcindonesia.com/>, Accessed January 21, 2023, <https://www.cnbcindonesia.com/market/20220208134348-17-313772/pengguna-robot-trading-susah-withdrawl-fund-fault-Who>

<sup>20</sup> Iqbal, M. (2022). Fragment of Fahrenheit Trading Robot Fraud, Member Loses IDR 5 T. <https://www.cnbcindonesia.com/>, Accessed January 31, 2023, <https://www.cnbcindonesia.com/investment/20220321135518-21-324550/heboh-fraud-robot-trading-fahrenheit-member-loss-rp-5-t>

<sup>21</sup> Achmad, N.M. (2022). No. LPSK Receives 4,550 Applicants for Compensation Victims of Money Laundering 15 Illegal "Trading Robots", Total Losses of IDR 1.96 Trillion. [National.Kompas.Com.](https://nasional.kompas.com/), Accessed January 20, 2023, <https://nasional.kompas.com/read/2022/12/23/14580411/lpsk-accept-4550-pemohon-ganti-rugi-korban-pencuian-uang-15-robot-trading>

<sup>22</sup> *Ibid.*

<sup>23</sup> Iqbal, M. (2022). Crazy Robot Fraud .....*Op. Cit.*

<sup>24</sup> Tim CNN Indonesia. (2022). Alleged Fraud .....*Op. Cit.*

<sup>25</sup> Catherine, R. N. (2022). Bareskrim Investigate Mark AI Trading Robot Fraud Case, Victim Losses Allegedly IDR 25 Billion. [Kompas.Com.](https://nasional.kompas.com/), Accessed April 21, 2023 <https://nasional.kompas.com/read/2022/09/28/12231321/bareskrim-usut-case-fraud-robot->

to the loss of the nation and the state, not only individuals. Because it harmed many people, this included in the public interest, it should be considered a crime. On the other hand, the victims wanted to get back their rights that had been taken by the perpetrators of the crime. Because of this, victims can sue civilly. But if the demands are only in the form of returning the rights of the victims, it will not have a deterrent effect on the perpetrators. The perpetrators can repeat their crimes. In this case, a criminal act is needed that regulates illegal investment crimes under the guise of the trading robot. When referring to the crimes committed above, it can indicate a fraud. However, such fraud is not an act of fraud in general the investment fraud contains the use of electronic media in it. When examine Article 378 of the Criminal Code which states that fraud is to benefit oneself themselves by using false names, gimmicks or series lies that cause harm to others will be jailed for a maximum of four years. In the Criminal Code article, it is clear that there is no mention of the use of electronic media in the element of fraud to gain profit. Likewise with Law No.19 2016 Amendments to Law Number 11 of 2008 Concerning Information and Electronic Transactions that do not explicitly mention investment crimes where the form of investment develops following the times, the ITE Law is only alluding only to electronic transactions. Lack of confirmation in the Criminal Code regarding This case is because the Criminal Code is a legacy from the Netherlands where electronics are not yet known whereas in the ITE Law it is limited to regulating electronic transactions, even though investment is a robot trading in transactions can also be done offline. Actually, there are no explicit regulations regarding investment crimes using trading robots because regarding the above, it can be said that there is still a vulnerability to internal errors implementation because the regulations regarding investment-based have not yet been regulated technology in particular.

Based on provision of Government Regulation No. 5 Year 2021 on the Risk Based Company Licensing, direct selling business activity (like futures advisor or trading robot) is included in high risk category.<sup>26</sup> Also, in provision of government regulation as the replacement of Law Number 2 of 2022 on Job Creation it is regulated that business perpetrators (direct selling) that do not own business licensing could be charged with criminal regulation.<sup>27</sup>

Fraud crime under the guise of futures advisors or this illegal trading robot got a lot of attention after several perpetrators were successfully caught by the authorities. The revelation of trading robot fraud then raised questions about the supporting factor or the reason many futures advisors or this trading robot popped up and had many victims.<sup>28</sup> Many people that became trading robot fraud victims, this is due to the investors being tempted by the promises of steady reward yield with high amounts. The lack of understanding that investment trade futures commodity does not always give

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trading-mark-ai-lSoss-victim- suspected

<sup>26</sup> Article 15 paragraph 5: In the event that business activities with a high level of risk require compliance with business standards and/or product standards, the Central Government or Regional Governments in accordance with their respective authorities shall issue business Standard Certificates and product Standard Certificates based on the results of verification of standard compliance.

Article 77 paragraph 4:

Business permits for commodity futures trading, warehouse receipt systems, and commodity auction markets as referred to in paragraph (1) letter c are stipulated based on the provisions of laws and regulations in the field of commodity futures trading, warehouse receipt systems, and commodity auction markets.

<sup>27</sup> Article 24 paragraph 1: Every Business Actor carrying out Trading business activities must fulfill a Business Permit from the Central Government..

Article 106 paragraph 1: Business actors who carry out trading business activities do not fulfill the business permits in the trade sector as referred to in Article 24 paragraph (1) shall be punished with imprisonment for a maximum of 4 (four) years or a fine of up to Rp. 10,000,000,000. 00 (ten billion rupiah).

<sup>28</sup> Yusup, D. K. (2022). Law Enforcement Efforts For Illegal Online Investment Entities In Indonesia. *Baltic Journal of Law & Politics*, 15(2), 890-904. <https://doi.org/10.2478/bjlp-2022-001054>

profit, which means it's possible to experience loss. But because of the promises (from) platform owners that with (using) robot trading (it) will always be profitable and the profit will always be high profit, the people immediately become interested because they want to be rich quickly.<sup>29</sup>

It is revealed that the method used by the illegal investment perpetrators under the guise of the said trading robot is using the method where investors or traders that use the trading robot service do not need to analyze the trading market all the time because that that duty is already replaced by the illegal futures advisor or trading robot, besides that do not need to worry about the loss in investing because the trading robot's chance has high accuracy in analyzing so that it could minimize loss. This is meant so the said illegal investment crime is not easily sniffed by the state apparatus. Currently all victims from illegal investment under the guise of trading robots are demanding their money back, therefore the said matter is in civil complaint offense. However, if the demands from the victims are only the return of rights, it will not bring the deterrent effect for the said illegal investment crime perpetrators, perpetrators could repeat a similar crime again in the future. In this matter a crime act that regulates illegal crime under the guise of futures advisor or robot trading is needed.<sup>30</sup>

If referring to the committed crime, this illegal crime under the guise of trading robots could be categorized as violating of Article 71 Law No. 10 Year 2011.<sup>31</sup> Futures advisor Fraud or trading robot that has already devoured many victims in Indonesia, is admitted by BAPPEBTI as the mistake of BAPPEBTI because they didn't warn the public since the beginning, because according to BAPPEBTI itself the said matter is not the jurisdiction of BAPPEBTI, however as more and more victims appear it is getting revealed that there are parties that seemed to say that the license of these trading robots are on behalf of BAPPEBTI. These perpetrators claimed as if they acquired permits from BAPPEBTI, since many trading robots under the guise of Commodity Futures Trade claimed they got license from Ministry of Trade (Kemendag).<sup>32</sup> Actually, the license from the Ministry of Trade for futures advisors is SIUPL (Direct Selling License Letter) to sell goods directly to the people which in this context is trading robots. Whereas to be able to be futures advisor and could give advice regarding futures contract transaction therefore (they) must get the permit from BAPPEBTI according to provision of Regulation BAPPEBTI Number 6 Year 2020 on the futures advisor and futures adviser representative. In fraud cases under the guise of trading robot, there are certain individuals that gather the people's fund under the pretext of investment through trading robots and promising definite profit. When profit is guaranteed, this matter is already a mistake. There is no investment that guarantees there will be definite profit.

According to information that BAPPEBTI received, besides being sold without license or without legality, trading robot selling schemes in several cases also use the pyramid or ponzi scheme. What is sold is not the futures adviser program or the trading robot anymore, but the seller membership just like what usually commences in MLM (multi-level marketing) system. In the MLM system each person that could recruit new members will get commission.<sup>33</sup> It is not rare that those who seek

<sup>29</sup> Retnowati, A., Christiani, T. A., Hartono, Y., & Chundrat, H. (2022). Prospects of Criminal Effort for Communities in Investing Using Financial Technology. *International Journal of Social Science And Human Research*, 5(1), 4729-4732. <https://doi.org/10.47191/ijsshr/v5-i10-43>

<sup>30</sup> Farosi, M., & Nugroho, W. C. (2022). Illegal Investment under the guise of a Trading Robot According to Indonesian Criminal Law. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, 2(1), 590-603. <https://doi.org/10.53363/bureau.v2i1.152>

<sup>31</sup> Any Party conducting Futures Trading activities without having a business license as referred to in Article 14 paragraph (1), Article 25 paragraph (2), Article 31 paragraph (1), Article 34 paragraph (1), or Article 39 paragraph (1), shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 10 (ten) years, and a fine of a minimum of Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 20,000,000,000.00 (twenty billion rupiah) .

<sup>32</sup> Zuraya, N. (2023). Bappebti Admits Wrong Case in Trading Robot Case. [https://www.Republika.Co.Id/.](https://www.Republika.Co.Id/), Accessed January 25, 2023, <https://www.republika.co.id/berita/rnyuh6383/bappebti-admit-womg-on-case-robot-trading>

<sup>33</sup> BAPPEPTI Edition 235. (2022). Trading Robots: The Illusion of Getting Rich Quickly Without Effort. Bappebti March 2022 Bulletin, 5-6. [www.bappebti.go.id](http://www.bappebti.go.id)

commission eagerly trick victims with the lure of fixed high return while in any investment there is always the risk of failure, even 100% loss is possible. This could make many people get scammed by trading robots because what is highlighted is not the product but the lure of fixed profit that is promised. Currently the rules that regulates about trading robot until now is already complete enough, starting from Law Number 32 Year 97, Law No. 10 Year 2011, PP 49/2014, Bappebti Regulation No. 6 Year 2020, Indonesian Republic Government Regulation Number 5 Year 2021 about risk based licensing maintenance Clause 15 Verse 5 in the matter of business activity with high risk needs business standard fulfillment and/or product standard, Central Government or Local Government according to each authority published Business Standard Certificate and Product Standard Certificate based on standard fulfillment verification result. And Clause 77 Verse 4: Business Licensing on Commodity futures trading business activity, warehouse receipt system, and commodity auction market as meant on verse (1) letter c is set based on the provision of regulation Law in commodity futures trading section, warehouse receipt system, and commodity auction market, Bappebti Regulation No. 12 Year 2022, also Law No. 4 Year 2023, however what becomes the problem is the lack of law enforcement of the existing regulations, that make many criminal individuals dare to take the chance over the lack of this law enforcement assertiveness.

Based on the background above, this article discusses about several matters: (1) Law Enforcement against futures advisor and illegal trading robot problem (2) The Urgency of Law Protection For Robot Trading User . The objective of this scientific is to protect people from choosing illegal robot trading, and to remind them that the government has law that manage robot trading activities in order to create healthy trading activities and customer funds will be well protected.

For law enforcement, there are three law system elements that influence whether law enforcement is successful or not according to Friedman, (1975) which are the substance of the law, legal culture and the structure of law. Substance of the law,

*“Another aspect of the legal system is its substance. By this is meant the actual rules, norm, and behavioral patterns of people inside the system ...the stress here is on living law, not just rules in law books”.*

Another aspect of the legal system is its substance. Substance here is the norm, rules and behavioral patterns of the humans inside that system. So, the substance of law becomes the guidance and binds the law enforcement officers. Whereas legal culture is:

*“By this we mean people’s attitudes toward law and legal system their belief ...in other word, is the climate of social thought and social force which determines how law is used, avoided, or abused”.*

The culture of law concerns the human attitude (including the law enforcement officers culture) to law and the law system. No matter how good the law structure arrangement to operate the law regulations is set and no matter how good the law substance quality is made without being supported with the law culture by the people involved in the system and the people then the law enforcement will not go effectively. Law as the tool to change the people or social manipulation is none other than ideas that the said law wishes to embody. The last structure from law enforcement is legal structure, definition from legal structure is as follow:

*the legal system has the structure of a legal system consist of elements of this kind: the number and size of courts; their jurisdiction ...Structure also means how the legislature is organized ...what procedures the police department follow, and so on. Structure, in way, is a kind of cross section of the legal system...a kind of still photograph, with freezes the action.”<sup>34</sup>*

<sup>34</sup> Friedman, L.M. (1975). *Legal System, The: A Social Science Perspective* (Edition Fi). Russell Sage Foundation. <https://doi.org/10.7758/9781610442282>

So, the structure (legal structure) consists of existing law institutions which are meant to operate the existing law instruments. The structure shows how lawmakers, courts and institutions as well as the law process runs and runned.<sup>35</sup>

Normative juridical method is a method used in this research. The use of trading robot applications that have lots of scams or fraud has harmed many people and the authorities must act firmly immediately. The analysis technique used is descriptive with the exposing approach through primary law which is Law No. 4 Year 2023 about the change of Law No. 10 Year 2011 about the change of Law No. 32 Year 1997, PP No. 49 Year 2014 and also Bappepti regulation No. 6 Year 2020 about futures advisor and futures adviser representative and Bappepti regulation No. 20 Year 2022 about Information Based Technology Advice Delivery Organizer in the form of Expert Advisor on Futures Commodity Trade is performed by the researcher because it is related with the use of trading robot applications that are currently famous. Secondary law materials (used are) in the form of existing journals, books, articles and scientific writings.

## A. DISCUSSION

### B.1. Law Protection Review For Customers of Trading Robot Users in Indonesia

The first regulation about commodity futures trade is Law No. 32 Year 1997 which contains about matters that regulates futures commodity buying and selling, starting from goods that are traded, futures exchange buying and selling places, institution that regulates futures commodity buying and selling, futures traders, customers, clearing institution also duties and obligations also futures exchange authority, futures broker and futures advisor, compensation fund, forbidden matters until civil dispute settlement. Then continued with Law 10 Year 2011 about the change of Law 32 Year 1997 about Commodity Futures Trade that mentions that Alternative Trade System is a trade system that is related with Derivative Contract buying and selling besides Futures Contract and Sharia Derivative Contract, which is performed outside the Futures Exchange, bilaterally with Margin withdrawal that is registered to the Futures Clearing Institution.

Government Regulation No. 49 Year 2014 regulates about commodity futures trade enforcement that states that Law No. 10 Year 2011 about the Change of Law No. 32 Year 1997 about Commodity Futures Trade also Government Regulation No. 9 Year 1999 about Commodity Futures Trade Enforcement is not suitable anymore, so it needs to be replaced.

The next regulation is Commodity Futures Trade Supervisor Institution (BAPPEBTI) Republic of Indonesia Regulation number 6 year 2020 about futures advisor and futures advisor representative must have an official license from the government, then that Futures Advisor cannot accept the authority to do transactions on behalf of Clients, except in certain situations determined by Head of Bappepti, which means clients must perform transactions themselves. Also, penalty is given to futures advisor and futures advisor representatives if (they) violate the applicable provisions.

The existence of new regulations from the Commodity Futures Trade Supervisor Institution (BAPPEBTI) Republic of Indonesia number 12-year 2022 is hoped to be able to solve issues related to trading robots. This BAPPEBTI regulation No. 12 year 2022 especially discusses technology-based advice delivery enforcement in the form of expert advisor in commodity futures trade field. On Article 1 verse 5 it is explained that Trading Robot (Expert Advisor) is Information Technology Based Advise wherein is an arranged algorithm that is planted on its program lines that is decided based on the Customer's characteristics, types, needs, and hopes. Furthermore, on clause 3 verse 1 it is explained that trading robots work automatically to do market monitoring, in and out market opportunities calculation, placing reasonable transactions, and risk management by considering the needs of each client.

Then in Article 2 verse 3 it is explained that the one who could offer trading robots is Futures Advisor that already got approval from Head of Bappepti as a Futures Advisor that gives Information Technology Based Advice. And based on the said advice therefore the futures advisor that got reward

<sup>35</sup> Marzuki. (2005). *Research Methodology: a guide to business and social research* (1st ed.). ). Ekonisia - Jakarta.



from client's which amount is entirely based from client according to clause 2 verse 7, and there cannot be any force from the futures advisor to the client and the transaction decision making still lies on the hand of the client according to clause 1 verse 7.

In clause 4 verse 3 it is explained that trading robot at least must have the features as the following:

- a. **Open** and **close** transaction position;
- b. Change **stop loss** and **profit target**
- c. Can perform technical analysis based on certain indicator parameter of transaction account management;
- d. Could do statistic data counting with algorithm formulation;
- e. Could send a warning or notification if certain things happened on transaction according to the previously set **setting**.
- f. Could work without stopping or pausing, 24 (twenty-four) hours in 1 (one) day;
- g. Only performs instructions based on the script or program code;
- h. Does not potentially disturb the trade system performance
- i. Could do **back testing** or algorithm test on past market condition to see and appraise the **Expert Advisor** on past market condition that could give **net profit**, **growth profit**, and **drawdown** report;
- j. Could perform **multi pairs** and multi strategy, transaction on several Futures Advisor **pairs**, Sharia Derivative Contract, and/or other Derivative Contract, also different work method;
- k. **Script** or program code **Expert Advisor** could be used well;
- l. Could be improved or **upgraded** to adapt to the latest market condition, through **script** improvement or program code or new feature addition to face the market dynamics;
- m. Include installment **file**, **source code**, and/or **master code**; and
- n. Include **manual book** or **Expert Advisor**, using method guidance that contains the explanation about work method, installation method,
- o. **Setting** method, including contact that could be contacted or help service when any constraints occur in operating the **Expert Advisor**.

Trading robot user clients must have the manual book on how to use the said trading robot, and also including the number contact that could be contacted if there is any problem in running the said trading robot in accordance with Article 5 Verse 4. While in Article 5 it is explained that the owner of trading robot must explain to the client that this trading robot does not guarantee transaction will give continual profit and erase the futures trade transaction risk. If the said trading robot's features are not in accordance with the features as explained in clause 4 verse 3 then the futures advisor must be responsible for the loss experienced by the client in accordance with Article 7 verse 3.

Government Regulation number 12/2022 on the information technology-based advice delivery enforcement in the form of expert advisor then will get administrative penalty in accordance with clause 11 which are:

- a. Written warning;
- b. Administrative fine, which is the obligation to pay a said amount of money;
- c. Agreement cancellation as Futures Advisor that could give Technology Based Advice;
- d. Business activity freezing; and/or
- e. Business permit revocation.

Whereas Law No. 4 Year 2023 as insert addition from the previous Law on article 3A states that Commodity that is made as subject of Futures Contract, Sharia Derivative Contract, and/or other Derivative Contract as meant in Article 3 does not include exchange, Money Market instrument and Foreign Exchange Market in accordance with Law regulation provision in finance sector.

The need of law enforcement for trading robot user customers or illegal futures advisors caused by the loss amount suffered by the people reached dozens of trillions of rupiah with victims reaching thousands of people. Law enforcement for customers could mean that the government guarantees that the existing law is guarded and runned well. The said matter is useful to give a penalty to anyone that violates the said law and at the same time also guarantees the citizens' rights.

## B.2 The Urgency of Law Protection For Trading Robot User Customers

The fraud using trading robots happened on trading robots owned by PT. Farenheit with customers' loss reaching 5 trillion rupiah.<sup>36</sup> Next is the trading robot Net89 owned by PT. Symbiotik Multitalenta Indonesia that offers 1% profit per day, and around more than 200 thousand members couldn't withdraw or pull their funds from Net89 wherein the withdrawal of fund is limited to only US Dollar 500 per day and there were many members that could not withdraw the funds with the total loss reaching 10 trillion rupiah.<sup>37</sup> While trading robots owned by Sunton Capital, gave the lure of 5% until 20% profit that actually is a scam with a Ponzi scheme. Next is the viral blast trading robot case with the public's total loss reaching 1,2 trillion rupiah then dna pro trading robot case and there are many more people out there that are harmed by the illegal trading robot.

The detected cases above, are followed up by the law enforcers party as if only because it became huge and viral in the news and social media, for example PT. Farenheit with the customers loss total reaching five trillion rupiah and Net 89 Trading Robot with the customers loss reaching 3 trillion, so the said matter is so late, where many people have fallen down in the futures advisor (trap) or this illegal trading robot and dozens of trillion of loss that is suffered by the people. The current regulations are sufficient for the legality of a trading robot, such as the latest regulation from BAPPEPTI No. 12/2022 which stipulates that futures advisors or trading robots must follow the rules that apply in Indonesia to be able to provide healthy trading activities and also protect both parties, namely brokers and customers.

To be able to provide expert advisors, futures advisors must pay attention to the following six things:

1. Client knowledge regarding the use of expert advisors
2. Client needs and expectations for transactions using expert advisors
3. Client's financial ability
4. The character of futures contracts, sharia derivative contracts, and/or other derivative contracts taken by clients and has been determined and approved by CoFTRA;
5. Track records and price trends of futures contracts, sharia derivative contracts, and/or other derivative contracts taken by clients and have been determined and approved by CoFTRA;
6. Potential risks of each futures contract, sharia derivative contract, and/or other derivative contracts.

There is also a prohibition in the BAPPEPTI regulation that term advisers are prohibited from offering expert advisors before they know data or information regarding client needs, transaction directions, financial capabilities, transaction models, transaction targets, including consideration of the client's risk profile, risk appetite, and risk objectives in carrying out futures trading transactions.

Expert advisors are also prohibited from doing the following:

1. Promise a definite, consistent and/or risk free profit
2. Collect or receive funds or securities to carry out transactions on behalf of the futures adviser or futures advisor representative
3. Carry out transactions on behalf of the user
4. Promising or luring users with misleading information or data
5. Offering profit sharing from the use of expert advisors
6. Running a direct sales system or using a multi level marketing (MLM) scheme for marketing activities or disseminating expert advisors.

All of the above laws are more about regulation of trading robots but do not cover consumer protection. The above law does not explain if consumers are trapped in illegal trading robots, can consumers get their funds back if it is proven that trading robots are illegal, and how the government helps these victims to get their funds back.

## C. CONCLUSION

Futures advisor or trading robot is regulated since year 1997 through Law No. 32 so on Regulation of commodity futures trade supervisor institution of Republic Indonesia number 12 Year 2022 about the

<sup>36</sup> Iqbal, M. (2022). Crazy Robot Fraud .....*Op. Cit.*

<sup>37</sup> Tim CNN Indonesia. (2022). Alleged Fraud .....*Op. Cit.*

information technology-based advice delivery enforcement in the form of expert **advisor** in commodity futures trade field and Law No. 4 Year 2023 About Finance Sector Development And Strengthening. Therefore, the Government needs to enforce this existing law to futures advisors and also to the Indonesian people to comply with applicable regulations in order to create healthy trading activities. The Indonesian government also needs to add a law that regulates protection of consumer funds trapped in illegal robots trading, how to withdraw their funds and how the government can help them maximum ways.

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