
LEGALITY OF USING FOREX TRADING ROBOT APPLICATIONS IN COMMODITY FUTURES TRADING

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ABSTRACT

The purpose of this writing is used to analyze and understand the use of the Trading Robot Application in Futures Trading assets against a norm that is already in force in Indonesia with several phenomena that occur as a result of the use of a forex transaction trading robot application that is misused to commit crimes. The research method used in this paper is normative law which includes the statue approach, the historical approach and the sociological approach. The results of the study that the use of the Trading Robot Application has not been regulated in Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading and is an act that does not have a permit so that it can be subject to criminal sanctions. This creates a legal vacuum that can lead to uncertainty in the disharmonization of laws and regulations, especially in futures trading. Thus, it is necessary to update the law by aligning technological advances by covering aspects of legality, specifications, qualifications of trading robots, and the concept of illegal is an administrative violation as an effort to ensure legal certainty.

Keyword: Robot Trading, Forex, Futures Trading.

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INTRODUCTION

The modern era, which is supported by technological advances, has progressed dynamically, this can be seen by the existence of digital applications that offer many conveniences for its users, one of which is in the field of Commodity Futures Trading. In Indonesia, Forex trading is the most popular type of trading, however, for a long period of time, Foreign Exchange Transactions or better known as Forex Exchange. Forex Exchange is considered a high-risk business and requires large capital According to (Hutabarat, 2010). This thought persisted until a gap emerged for medium and small scale investors to enjoy forex market transactions. In general, Forex trading is done manually and requires continuous time to monitor market movements with technical analysis, which is an analysis method that relies on future price trends based on past price developments also balanced by looking at charts, trend lines, support and resistance levels, pattern numbers and mathematical analysis to identify trading opportunities Meanwhile, fundamental analysis is an analytical process that allows to analyze economic, social conditions, business reports, indications of new government policies and also political conditions. There are even some traders who combine the two analyzes in reading the direction of the market trend. Therefore, it is necessary to develop a system by taking buying and selling business in an automated form by using an Expert Advisor or more commonly

known as a Trading Robot. Robot Trading is a program that can trade automatically according to the logic program of market price conditions as an example; EA makes Orders, Take Profit, Stop Loss, Delete, and Close Orders.

Trading robots themselves are often misused to commit crimes such as the current phenomenon, namely Fraud under the guise of trading robots. Examples of several cases that have become a public discussion are Fahrenheit, where the money invested by investors will automatically be managed by robots to avoid losses. Next is the case of Sunton Capital, which lures a fairly large profit in the range of 5% to 20% by using trading robots. At the end of January, the Police named 6 suspects for the alleged fraud of trading robot named Evotrade and confiscated money worth 12.5 billion as evidence ponzi (member get member). For their actions, they were charged with multiple articles, namely Article 28 paragraph 1, Article 45 paragraph 1, Article 27 Paragraph 2, Article 45 Paragraph 2 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Transactions and Information. As well as Articles 105 and 106 of the Trade Law and/or Articles 3, 4, and 5 concerning Money Laundering. And Articles 55 and 56 of the Criminal Code.

Forex Trading is supervised by the CoFTRA Institution which is responsible for Futures Trading activities as stated in Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading. CoFTRA as an institution that provides protection to investors in forex trading so that losses do not occur by persuading to promise profits, providing misleading information, not distributing customer orders according to orders, carrying out transactions without the knowledge or orders of customers, not explaining the risks faced by potential customers, and not placing customer funds in separate accounts.

According to (Hadhikusuma, 1996) Law enforcement in the form of legal protection in business economic activities, especially the capital market, cannot be separated from the legal aspects of the company (especially limited liability companies, because legal protection in the capital market involves capital market players, especially issuers, investors and institutions). - supporting institutions for capital market activities where the parties are dominated by legal subjects in the form of legal entities in the form of limited liability companies. General protection provided by CoFTRA, customers who experience losses also receive special protection as regulated in CHAPTER VI of the Commodity Futures Trading Law concerning compensation fund According to Article 46 paragraph (1), compensation fund is a fund used by the Futures Exchange to pay compensation to customers who are not members of the Futures Exchange that arise as a result of default (default) or the fault of the Futures Broker.

CoFTRA explained that the activities of trading robots would be illegal if they were used for trading activities, where all trading activities in the Commodity Futures Trading sector must obtain a permit from CoFTRA. The author has previously conducted a search on the writing of this research. Based on the search that has been carried out, several studies have been found that are related to the topic of this research. Thus, there is no element of plagiarism in it, for consideration the following various researches that are related to the research that the author is doing are:

1. Journal by (Zaenudin & Faridah, 2022) with the title: Criminal Liability Against Affiliates of Illegal Binary Option Applications in Indonesian Criminal Law. As for the subject matter of the problem is How is the Criminal Liability of Illegal Binary Option Affiliates.

2. Journal by (Ksamawantara et al., 2021) with the title: Consumer Protection Against Fraud by Illegal Forex Brokers. The main topic of discussion is how to protect the law in forex transactions.

Based on the titles and issues discussed in the two journals, it can be understood that this research has a difference, namely focusing on the use of Trading Robot Applications in Forex Transactions against Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading, while the two journals above focus on the Criminal Liability of Illegal Affiliates and Legal Protection for Consumers due to Fraud by Illegal Brokers. Thus, this research does not have an element of plagiarism in the hope that it can be useful for science education and law enforcement in Indonesia.

Writing this scientific journal aims to understand and analyze the use of Trading Robot Applications in Forex Transactions against the legal rules, namely Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading, as well as the use of trading robot applications in forex trading activities, on international trading exchanges, where it is hoped that the results of this research can provide information and knowledge. Commodity Futures applicable in Indonesia, especially the use of the Trading Robot Application.

METHOD

Writing This research uses a normative juridical research method, namely examining the law from an internal perspective with the object of research being legal norms (Diantha, 2016). In this study, there are regulations or laws that are the subject matter associated with the phenomena that occur regarding the use of trading robot applications. Researchers examine the problem with a statutory approach, namely Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading. This type of research also uses a statutory approach, a historical approach and a sociological approach, using sources of legal material including: a) legislation-as primary legal material, and b) legal rules, c) legal principles, d) doctrine, e) legal theory, f) legal encyclopedia, g) legal dictionary and h) legal literature - as secondary legal material (Qamar et al., 2017). Using the technique of collecting legal materials by searching and/or studying literature. The analysis technique used is descriptive by describing in detail the description of the subject and object of research.

RESULTS AND DISCUSSION

1. The Legality of Using Trading Robot Applications in Forex Transactions Against Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading

One of the factors that support the economy of a country is trade (Oktavian, 2021). Foreign exchange trading is in great demand by the wider community, one of which is Indonesia. Foreign exchange trading is a trading transaction in foreign currency exchange rates on the international money market. The foreign exchange (forex) market is open 24 hours a day for 5 days a week, Basically forex trading (foreign exchange) is done manually, so it requires constant monitoring of price charts on the monitor screen and of course it's a waste of time and effort as well as the psychology of the trader itself. With the presence of a foreign exchange robot, this can be minimized. The foreign exchange robot (Expert Advisor) that has been provided on the MetaTrader 4 trading platform is made using the MQL (Meta Quotes Language) programming

language which is still one family with the C/C++ language. Activities using trading robots can be categorized as ordinary actions or trading, the difference is that the media used is Internet media using paper-based transactions (Tektona, 2016). The use of Trading Robots in Futures Trading activities is a manifestation of the renewal of technological systems that have evolved to facilitate decision making in trading and overcome the weaknesses of human nature in trading, such as fatigue, fear, greed, inconsistent / Discipline. Keep in mind that traders themselves cannot completely rely on Expert Advisors without understanding the methods, basics, and mechanisms of foreign exchange trading itself. The history of the Forex Trading Robot developing was first created from Version 1 in 1999, until now Metatrader has reached version 5 (Forex, 2022). Trading activities in Futures Trading are supervised by an Institution called the Commodity Futures Trading Supervisory Agency as regulated in Article 1 paragraph 3 of Law No. . 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading states:

"Commodity Futures Trading Supervisory Agency, hereinafter referred to as CoFTRA, is a government institution whose main task is to provide guidance, regulation, development, and supervision of Futures Trading."

The phenomenon that occurs in Indonesia is that the use of Trading Robot Applications in Forex Transactions is carried out without permission. Basically, trading robots are tools in foreign exchange trading and cannot completely replace the role of humans as brokers and traders because they do not have the flexibility to make adjustments to the development of the situation and recent conditions such as changes in political and security conditions. Thus, no Foreign Exchange Trading Provider (Forex) dares to give absolute guarantees, the use of trading robot services will make an agreement by signing a form which states that the Forex Trading Robot service provider cannot be held responsible for the risks and losses caused by using the trading robot application, The emergence of the use of trading robots in Trading Forex Transactions must obtain permission from the Commodity Futures Trading Supervisory Agency (CoFTRA) and the Financial Services Authority (OJK) for trading activities. Law No. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading. This creates a norm vacuum and creates contradictory norms where actions that do not have permission from the competent Supervisory Agency, namely CoFTRA and OJK, are illegal, in addition to illegal actions in Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading is an act that fulfills a criminal element so that it can be held accountable as stipulated in article 71:

- 1) 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).
- 2) Any Party that carries out activities without having the requirements, approvals, or stipulations as referred to in Article 13, Article 14 paragraph (2), Article 14 paragraph (3),

Article 30A paragraph (1), Article 30A paragraph (2), Article 32, or Article 36 paragraph (2) shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 10 (ten) years, and a fine of at least Rp. 10,000,000,000.00 (ten billion rupiah) and a maximum of Rp. 20,000,000. 0000.00 (twenty billion rupiah).

- 3) Any Party that carries out activities without having a permit as referred to in Article 31 paragraph (3), Article 34 paragraph (3), or Article 39 paragraph (3) or without having a registration certificate as referred to in Article 35A paragraph (1) shall be subject to imprisonment a minimum of 1 (one) year and a maximum of 3 (three) years, and/or a fine of at least Rp. 500,000,000.00 (five hundred million rupiah) and a maximum of Rp. 1,500,000,000.00 (one billion five hundred million rupiah).

From the explanation of the article above, it can be interpreted that carrying out trading activities which include the use of robot applications without having a business license is an act that is against the law so that it can be subject to criminal sanctions, if it is associated with a license to use a trading robot that has never been regulated in Law No. 10 of 2011 Regarding Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading, clearly proves imperfections in a rule in regulating futures trading activities so that it is easier for someone to be subject to sanctions just because unregulated permits cause no clear legality. The laws and regulations that are formed should reflect the existence of legal certainty and regulate explicitly and specifically the substance that is the scope of the law (Ariawan, 2018).

Law without the value of certainty will lose its meaning because it cannot be used as a behavioral guide for everyone (Kansil, 2009). It has a negative impact on law enforcement, namely ineffective law enforcement, the emergence of legal uncertainty, the occurrence of legal dysfunction and disorder and a sense of being unprotected by the community. the law can function in providing behavioral guidelines to the community, being a social controller, resolving disputes, and as a means of carrying out social change. The dysfunction of statutory regulations can be overcome in several ways, such as adding, changing, and filling in rules that have a void of norms with the process of forming laws that must comply with the principles, and harmonizing at the time of drafting laws and regulations. Thus, the use of trading robots in trading activities must be immediately regulated in clear regulations in line with Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading.

2. Regulating the use of the Trading Robot application in Indonesia from the perspective of the *Ius Constituendum*

The implementation of legal norms in society is formed as a result of the rule of law which results in requiring the rule of law to provide justice and security for every human being. Satjipto Rahardjo argues that every process of drafting legal rules should be able to provide the role that legal principles have. In fact, legal principles can provide a direction in the future is a problem. So when the law or legislation is developed, the legal principle provides guidance on how and in which direction the system is developed (Rahardjo, 2003). The principle of legal certainty has an important role in the concept of updating the rules for the use of trading robots. The current phenomenon of using trading robots is actually inseparable from the background of some parties who still think legally. While it is known that the preparation of Law no. 10 of 2011 concerning Amendments to Law No. 32/1997 concerning Commodity Futures Trading. 10 of 2011 concerning

Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading has not regulated the use of trading robot applications and has responded to technological developments to be utilized.

An Urgency for the Government and related Agencies to evaluate and reform the Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading, which is oriented to the use of technology and is responsive to traffic using trading robots.

The urgency of legal reform policies based on technological progress is based on several considerations, namely political reasons that are associated with the logical consequences of technological advances that need to be harmonized with legal requirements in Futures Trading activities which require clear legal norms regarding the negative impact of using trading robots that are misused as a crime. , as well as the existence of protection for certain parties due to the use of the trading robot application. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading which continues to develop and improve itself until it finds the most ideal concept (Kristiana, 2016), while the second is a sociological reason that is ideological in nature in terms of using technology as a legal reform to provide convenience for the community as well as efforts to fulfill community needs, especially in Futures Trading.

Technology is believed to be a tool that serves to speed up services and overcome obstacles, as well as to guarantee transparent practices (Greacen, 2019). All aspects of life must be based on the product of laws and regulations, sometimes introducing new types of violations and sometimes with new sanctions in them. In addition, the law often requires the establishment of new administrative bodies. The legal conception, interpretation, and expansion of new legal fields also emerged through the creation of these new norms. The regulatory state acts as the subject of regulation (regulator) and interacts with independent social actors as the object of its regulation. Administratively, governance requires that events, processes, and activities be controlled through means of command and control (Schneider, 2002).

Regarding criminal sanctions regulated in Article 71 of Law, it should prioritize administrative order so that the sanctions given are no longer to provide a deterrent effect and a retaliation but instead lead to the protection of society by considering the interests of the state, perpetrators, victims. According to (Sholehuddin, 2003), includes three (3) elements namely:

- a. Humanity whose principle is punishment must uphold the dignity of a person
- b. Educational that can make people aware of all actions so that there is a desire to change and be constructive for crime prevention efforts
- c. Justice that is felt by each party that has a correlation.

That actions that do not have a permit are illegal and violate the law. Illegal does not mean an act can have a bad impact as a crime, Illegal in the sense of not having a permit is more suitable to be considered a violation because the permit is related to administrative law so that the purpose of the sanctions stipulated in Article 71 of the Law is to bring order. are in the form of imprisonment, fines, and additional penalties such as revocation of certain rights, confiscation of certain goods. As for Criminal Sanctions in the Criminal Code (KUHP) Article 10, namely:

Criminal Consists of:

- a. Basic Criminal

- 1) Death Penalty
 - 2) Imprisonment
 - 3) Confinement
 - 4) Criminal Fines
 - 5) Criminal Cover
- b. Additional Criminal
- 1) Revocation of Certain Rights
 - 2) Confiscation of Certain Items
 - 3) Announcement of Judge's Decision.

The use of a trading robot application is a tool with technological sophistication in forex trading activities which requires definite regulations so that they are not misused to commit crimes and convenience and protection for trading robot users themselves, so there are several aspects that must be used as guidelines for making trading robot rules, include:

- a. Trading robots must be used on brokers who have fulfilled the permission from the Agency that regulates and Supervises Trading activities, namely CoFTRA and issued an Online Licensing policy by CoFTRA based on technology.
- b. There needs to be certain specifications and qualifications on trading robots such as algorithm transparency, variables can be inputted according to the user's wishes because a man-made system or application cannot be separated from human intervention where there is a risk from the trading robot application itself.
- c. Making trading robot provider criteria such as legality from CoFTRA such as having to provide trading system education, providing periodic algorithm updates
- d. The establishment of a special forum that oversees trading activities in Indonesia. Especially for traders to have legality.
- e. The concept of being illegal or not having a permit is not a crime but an act of violation for those who have a correlation with trading robot activities so that the criminal sanctions given not only promote a deterrent effect but also administrative order according to Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading in the form of criminal sanctions in confinement, fines, and added with additional penalties, namely revocation of rights, confiscation of goods.

CONCLUSION

The use of Trading Applications in Forex Trading activities is something that has not been regulated in Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading. Considering that all Futures Trading trading activities must obtain a permit from CoFTRA, acts that do not have a permit are illegal and may be subject to criminal sanctions as stipulated in Article 71 of Law no. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading, there is a void in legal norms that can cause legislation, especially in Futures Trading activities to have a negative impact on law enforcement, the emergence of legal uncertainty, the occurrence of legal dysfunction and disorder and a sense of unprotected society regarding the use of trading robot applications in Forex transactions. Thus, there is a need for legal reform so that a rule in futures trading activities can be harmonized with technological

advances in an effort to ensure legal certainty, justice, transparency, and accountability of public services related to global economic development, especially trading activities can be carried out more regularly, effectively and efficiently.

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