

Conference Paper

Illegal Electronic Investments in Trade Robot Missions According to the Criminal Law in Indonesia

Gelmok Samosir, Elwi Danil, Edi Yunara, Marlina

Program Studi Doktor Ilmu Hukum, Fakultas Hukum, Universitas Sumatra Utara, Medan, Indonesia

ORCID

Gelmok Samosir: <https://orcid.org/0009-0004-8608-6841>

Abstract.

Various technological and economic advances have changed human life in this modern era. In the monetary field one can see the turn of events is a type of speculation. Today, technology can be used to make investments, regarding stocks, forex, and cryptocurrencies, which can be done practically. Because investing is made easy by software, and many people are interested. The interest of the local area is speculated to be used as a farm by criminals. The usual methodology is utilized by combining today's business with the use of trading robots. The actual regulations governing investment are contained in Law no. 25 of 2007 concerning capital enterprises. However, the law contains no penalties or criminal guidelines in relation to misrepresentation involving innovation in effective financial planning. Article 378 of the Criminal Code contains an element of fraud. If it is associated with cases of illegal investments under the guide of trading robots, one element will be found that has not been fulfilled. Therefore, it can be concluded that Indonesia has explicitly regulated investment activities with trading robots. Meanwhile, the guidelines for using innovation are regulated in Regulation Number 19 of 2016 Amendment to Regulation Number 11 of 2008 concerning Data and Gadgets. The regulations only apply to electronic transactions, not to investments made with the help of technology. Since it has not been strictly controlled, the analyst will also examine it to dissect the lawless actions for this situation.

Keywords: investment, robot, trading

1. INTRODUCTION

Technological advance go hand in hand with along the time. Progress technology that rapidly accompanied by wide application in various fields. One of these varieties that is currently occupied in the commercial sector, especially business. Investment is an investment with the aim of short term or longterm profit. Real assets such as bonds, land, and investment gold are common examples of investments. Due to technological advances, it can also be an investment in financial assets such as stocks, forex, and cryptocurrencies. Because the same investment is expected to be profitable, the two types of investment are actually the same. [1]

Corresponding Author: Gelmok Samosir; email: tiomas1407@gmail.com; sumateralegallaw@gmail.com

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The application of technology is what distinguishes the two types of investment. Financial asset investment is more practical than real asset investment or conventional investment. Traders and investors can invest anytime and from any location just by using the device software, which has made investment attractive to many people. As a result, criminals exploit this state of affairs by investing in crime. [2]

Trading robots are used to provide investment services as a mode of operation. According to CNN Indonesia, trading robots are software that can automatically make transactions and analyze data to identify profit opportunities. Many traders want to use this service because of the advantages that robots provide. Because the task has been carried out by the trading robot, investors are considered a crime. On the other hand, the victim wants to get back his lost rights from the criminal. As a result, all the victim demanding in a manner civil law. [3]

However, if the demands are only in the form of returning the victim's rights, that will not stop the perpetrator from committing the same crime again. With guise robot trading, crime illegal investment should be regulated in this regard. It is possible to call the crime a fraud. However, investment fraud uses electronic media, which is not an ordinary form of fraud. According to Chapter 378 Criminal Code committing fraud is punishable by up to four years in prison for using a false name, deception, or a series of lies to harm others. In the article of the Criminal Code clearly does not exist announcement use media electronic in the extortion component to make a profit. The ITE Law, such as Law no. 19 of 2016 Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions, only refers to electronic transactions and not in a manner firm mention crime planting capital Where form investment changes from time to time. Even though the investment is trading robot in do transactions can also be done offline, but there is a lack of confirmation in the Criminal Code regarding this case because the Criminal Code is a legacy from the Netherlands, which was not familiar with electronics. [4]

On the other hand, the ITE Law is only limited to regulating electronic transactions. in fact, No use There is rule robot special trading about in investment crime because of the above, it can be emphasized that there is still a vulnerability to internal errors in its implementation because there are no regulations, especially those based on investment technology. [5]

The huge losses suffered by victims of illegal investment scams carried out under the guise of trading robots create additional problems. Illegal investment crimes committed under the guise of trading robots require the return of investors' rights to their victims in addition to acting as a deterrent for those who commit them. because the loss was

so severe, especially if it was calculated it also had an impact on the nation as a whole. Because actually a crime has entered the realm of public interest, it is said to be detrimental to the nation and state. In terms of harming the public interest, the case is included in the criminal category. However, when it comes to losses suffered by victims, perpetrators of illegal investment crimes under the guise of default trading robots. [6]

The act of not complying with one's obligations under an agreement is known as default, and in this case, the trading robot breaks its promise. Considering that the perpetrator's assets will be returned to the state, not the victim, it is likely that the victim will not get his rights back because of the Still traditional although very criminal domain mentioned above. Moreover, the person performing the act is not just an individual; in this case, they are the comptahnay individual. Whether organized as a legal entity or not, a corporation is a systematic group of people who own wealth. [7]

All things are considered as the company does to achieve similar purpose. The members of the corporation are bound by an agreement with each other because these similarities, so it can not separated from civil law. However, considering that civil law only covers legal entities, the meaning of criminal law against corporations is broader than civil law. Note the phrase "legal entity" in the definition of "corporation" in civil law. In addition, R. Subekti also revealed that a company is a legal element the privilege of living like the rest of the people by having wealth until it tends to be sued or sued. Corporations certainly need special arrangements to claim compensation for the rights of victims of losses. [8]

In deepening in on in connection with case speculation against the law dishonestly, there is a turn of events or updates in this diary in contrast to the previous diary, on comparable points. Where in this case the focus is more on the criminal component of business practice with the use of hardware contained in speculation cases that violate the law using no the exchange robot plume considering Article 378 The Criminal Code and Article 28 Paragraph 1 of the ITE Regulations have not been explicitly regulated however Still Traditional although very in depth the current ITE Law already has a report on the principles of use electronic However, do not approve of business practice with electronic media. So for this situation, firm and clear principles are needed regarding this case considering that the two articles above are still unclear in handling this case.

2. METHODOLOGY

Normative juridical method is used in writing the discussion of this research. The normative method is a way to see legal concepts and principles in relation to research

entitled Illegal investment under the guise of a trading robot. Because this method actually emphasizes existing legal norms, the author does not need to solve legal problems that arise by going directly to the field. In addition, the author uses a statutory approach as a support for conducting research analysis in this regard, as well as an internal comparison approach, to investigate criminal acts of illegal investment on behalf of trading robots and using approach case For investigate Crime legal issues in greater depth.

3. RESULT AND DISCUSSION

Research Results and Discussion Talking about investment or what is known as investment activity, can be categorized as a criminal act. Investment activities with the aim of long-term or short-term profits are investments themselves. Currently the business is involved in foster care according to development era. These developments have an impact on investment variations. Initial investments consisted of real estate, such as houses and gold, but have now expanded to include financial assets, such as stocks, foreign exchange, and cryptocurrencies. In the real world, investing in financial assets is more practical. Investors and traders can perform these activities with capital software. It is called a lender because it is the entertainer who carries out the project, while the trader is someone who carries out speculation with a certain short period of time. [9]

The practical operation of investing in financial assets attracts a number of large number of interested investors. a lot of public interest to invest in technology criminals use to amass wealth. The methodology commonly used is to combine business activities so that the violations committed are hidden and the state apparatus is not easily distinguished. This strategy is used by criminals to give the impression that their actions are legal or lawful in the eyes of the law. In fact, Indonesian law regulates investment activities. 25 of 200-7, which regulates investment, provides an explanation of the general provisions, principles and objectives of investment in the law. This law allows investments to be considered as legal activities. However, there must be provisions that strictly regulate these actions if the legal action is made a crime Which Actually. [10]

Regarding the case of investment illegal is actually included in the civil category because in investment activities, one party and another party own agreement that in the event of default then it can be sued through civil proceedings. According to article 1365 of the Civil Code, goods Who Which violate law must pay for the losses it causes. However, civil lawsuits alone are not enough because of the large number of victims

who are harmed and the realm of violations of public interest. As a result, the case can be considered a criminal offense because of this investment crime. [11]

According to Article 378 of the Criminal Code, the criminal act of investing under the guise of a trading robot is an act of fraud carried out with the intention of benefiting oneself against the law in the name of counterfeit goods, tricks and other lies. get someone else to give him something. Elements of fraud (deceit) found in the elements of Article 378 of the Criminal Code is to make illegal investments under the guise of trading robots. Definition of false apparent misrepresentation used to obtain individual gain to the detriment of another. It is proven that this case meets the criteria of fraud which has a negative impact on investors who become victims. discusses the elements of fraud in Article 378, which states the method of fraud:

1. Using a false name or false prestige
2. Fraud
3. A series of lies
4. Motivate people other For give something to him or give debt

Based on the method of fraud About described in Article 378 the previous paragraph, if it includes cases of illegal investment crimes carried out under the guise of trading robots, the elements no fulfilled. Elements that have not been fulfilled are the use of the media against perpetrators of illegal investment crimes under the guise of trading robots, and the use of electronic means by criminals to commit crimes. The lack of these elements is natural because the Criminal Code originates from the Netherlands, so the perpetrators are not familiar with electronics and its use.

Considering that the Criminal Code originates from the Netherlands and needs to be updated or developed follow the development of the times in these rules, in this case it can be concluded that Article 378 of the Criminal Code has not explicitly regulated this matter. Instead, the article only refers to conventional criminal acts of fraud. [12]

One can read the ITE Law of 2016 Amendments to Law Number 11 of 2008 Concerning Information and Electronics for a review of the rules that keep up with the times in this regard. Article 1 point 1 and 2 of the ITE Law related to this case disclose understanding electronics, in particular legal action Which done with use computer or other electronic media. Electronic information is a collection of electronic data in various forms, not just written. It is clear from this article what electronic media is and how its use. However if media electronic transactions are used as a criminal act of investment under the guise of a trading robot, then there are people who come into contact with these crimes in

Article 28 paragraph 1 of the ITE Law which explains how electronic transactions can deliberately mislead to cause loss consumer. [13]

About understanding transaction mentioned above in Article 1 point 1 UU ITE. In fact, Article 28 paragraph 1 of the ITE Law is similar to Article 378 of the Criminal Code which emphasizes the element of fraud and uses the word “misleading” which is included in a series of lies caused by dishonest acts. However, there are developments where there are uses method payment electronic. Especially which confess the lies of the two articles in the details of Article 378 of the Criminal Code which requires a self-benefit component or again another where the component is not in Article 28 paragraph 1 of the ITE Regulations. Related to this case, Illegal Investment under the guise of a trading Robot is activity investment in as referred to in Act Number 25 of 2007 concerning Investment. [14]

Domestic and internal investors can involved in this activity. There is a market for investing that includes assets such as houses and land, but the types of investments have also changed over time, including stocks, cryptocurrencies and foreign exchange. In investments such as crypto, stocks and forex, investors can only transact offline (without using electronic means). In fact, illegal investment crimes under the guise of trading robots occur in the trading market, not transactions between investors and trading robot investors. Furthermore, the ITE Perda is sufficient enough not to control criminal activity for this situation. [13]

According to the tempo of the business, investors can only transact at trading spots that have been determined by the organizers. They cannot choose a trading location online. the organizer in this case as an investor in the crime robot trade. Some trader analysis suggests that the purpose of a specified trading location is to allow manipulation of fictitious trading charts that have been set up in this way. In this case, candlestick chart trading is used. [15]

Trading candlesticks use chart for facilitate technical market price analysis. It is very clear that the type of transaction does not determine the location of the crime, but rather the investment market. Whereas the confirmation in Article 28 Paragraph 1 of the ITE Law concerning the elements of spreading false news related to online transactions in the exchange of exchange robot businesses must be made possible by traditional exchanges. You can use Article 378 of the Criminal Code to prosecute the perpetrators of transactions that can be done offline. However, this provision does not cover all elements because, as previously mentioned, in their crimes they do not use electronic means, but investment markets where the market raises prices by electronic means. Because Article 28 paragraph 1 of the ITE Law does not specifically regulate fraud

in technology-based investments, especially trading robots, it can be concluded that there is no firm regulation regarding this case. This requires special settings regarding investment, especially those based on appropriate technology and progress era. [16]

Chapter the only arrange prohibition give information false to consumer during transaction electronic. In accordance with article 45a Paragraph 1 of ITE Law which in terms of content is identical to article 28 paragraph 1 which only adds a maximum prison sentence of six years for the perpetrator. In addition, neither the two laws nor ITE support illegal investment arrangements under the guise of trading robots. [2]

Recalling Article 127 of the German Penal Code, which outlines guidelines for internet trading platforms, which establishes clear guidelines for investments based on the use of electronic devices. Maelsotionetdhat For digital infrastructure as a place for exchanging goods, services and content by the internet network, including in the sense of a trading platform. Party Which provide platforms trading for criminal purposes is also subject to the provisions of that article. Therefore, it is evident that violators of illegal investment crimes who do so under the guise of robot trading can be punished both for the elements of the crime and the means used, namely digital platforms, according to Article 127 German Penal Code. [3]

The Mechanism of Returning Victims of Trading Robot Investment the rapid pace of change has an impact on various kinds of crimes, one of which is economic crime. Actors use the economy as a cover so that crimes are difficult to detect. There will be difficulties because packaging crime economy is restoration of the victim's rights as an injured investor. In addition, trading which is essentially an illegal investment crime is carried out with this robot guise also uses electronic means in its illegal activities. Remember victim inner confusion fight for rights, if regulations are needed in this field. Regarding the return of the victim's misfortune, the general procedure can be sought as important, remember that assuming a criminal attempt is made, the resources of the perpetrator of this business crime will be received by the state as a fine for wrongdoing. [1]

In this regard, victims can refer to Article 20 PERMA 13/2016 to request compensation for losses incurred as a result of corporate crime. The compensation component is the arrival of a disaster given by the perpetrators of a criminal demonstration. Illegal investments under the guise of trading robots that are so complex that it is impossible in practice to be carried out solely by individuals. Of course, a group that is bound to each other is needed and organized, and there is a common goal in this case to gain profits with investment crimes using electronic media. It is said that corporations commit criminal acts because they are under management.

Speak about restitution, This mechanism is used because in investment activities, two or more parties must reach an agreement, and the agreement can be based on a civil lawsuit due to default. In this case, a trading robot, a default occurs which causes negligence on the part of one of the parties. Trading robots do not live up to the sweet promises they make, such as investing in trading robots will bring large profits with low risk. But in reality, trading results in significant losses for investors. When an investor suffers a loss, the debtor, in this case a trading robot, must make up the difference. Partying swapping robots is expected to pay for misfortune because carelessness in satisfying an understanding with financial supporters in accordance with Article 1243 of the General Code where the cost of substitution of disaster due to carelessness in the engagement is mandatory for the account holder. Because people who violate the law are required to pay compensation according to each of these articles, apart from Article 1356, it can also be used to claim losses. [6]

If there are many victims of illegal investment crimes committed under the guise of trading robots, sue representatives or class actions can be submitted. A class action lawsuit is one way of filing a lawsuit in which one or more people are representing themselves. Regarding the definition of a class action lawsuit, the procedure for filing a lawsuit to represent a group in filing a lawsuit for oneself or a large group is regulated in Article 1 letter a of Supreme Court Regulation Number 1 of 2002 concerning Class Action Lawsuits. Procedure. Due to the large number of victims and significant losses, a class action lawsuit has been filed. This victim is an investor who was harmed by the trading robot. The similarity in the types of demands that can be filed by one or more parties can be concluded from the similarity of events and facts found in these cases considering the large number of victims and enormous losses. Even under these conditions, it is difficult to compensate victims for losses incurred as a result of illegal investments made under the guise of robot trading. This is because the loss may have been caused by a criminal act in this case, which means that the victim did not get his rights back because the perpetrator's assets were returned to the state. [4]

However, regarding Article 20 PERMA 13/2016 which mentions compensation. In this case, the Sasi and Victim Protection Law Number 31 of 2014 guarantees restitution. Regarding guarantees for restitution, the offender has the right to receive restitution in the form of good compensation, wealth and income if there is a criminal element in this case, as stipulated in Article 7A paragraph 1. In addition, the LPSK granted the request for permanent restitution. legal force. Based on the description above, victims have the opportunity to get their rights back. [7]

4. CONCLUSION AND RECCOMENDATION

This agreement can be said to be included in the civil category of criminal acts of illegal investment, but the many causes that are detrimental to society and related to public interests make it a crime. Illegal investment crimes are basically trading robots. However, there are no regulations that explicitly regulate criminal imposition in this case in Indonesia because Article 378 of the Criminal Code only contains elements of fraud by means of conventional fraud. Apart from that, Article 28 paragraph 1 of the ITE Law also only alludes to fake news which is detrimental to electronic transactions, and this article does not specifically regulate investment in trading robots. This is different from the German Penal Code which is clearly regulated through Article 127 which clearly explains crimes committed on digital trading platforms. In order to avoid confusion, it is necessary to emphasize Indonesia's investment rules regarding robotic or technology-based trading.

Investment. Restitution for the victims is the next step in this mechanism, considering that this case has a criminal element. The crime in this case may inadvertently hinder the victim's efforts to submit lawsuit civil for recover losses. Due to the criminal component, the resources of the offender can be returned to the state, not to the victim who was injured. However, there is Law No. 31 of 2014 which regulates the guarantee of restitution for criminal acts and amends Law No. 13 of 2006 concerning the protection of witnesses and victims. Due to guaranteed returns, victims of illegal investments under the guise of robot trading can still file civil lawsuits based on Articles 1243 and 1365 of the Civil Code. We recommend that the Investment Contract Agreement in it must contain the rights of investor it is expected that the settlement of cases is completed in accordance with the applicable laws and regulations.

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