

Binary Option Affiliate Criminal Liability Case Study Binomo Investment Platform

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Abstract

Technological advances are marked by the rise of electronic users, sometimes these technological developments can be a terrible scourge for humans if user not good at using technology that. The extent of the reach found on the internet has an impact on the birth of new types of crime where we know that criminals do not see the place and time of committing a crime. Recently, Indonesia was shocked by the presence of new crime in the world of economics. The crime in question is *binary options* or can we say binary options. Type the method used in the research this is is a qualitative research in the implication of this method is descriptive analytical. The approach used by researchers in solving existing problems is juridical – normative. Result this research show *Binary option* transactions on Binomo investments are included in the crime of gambling because they have fulfilled the elements of a criminal act as stated in Article 303 Paragraph (3) of the Criminal Code, namely the possibility of getting a profit which only depends on the luck of the estimate made by the investor, if possible. If the estimate is correct then the investor will get the profit, on the other hand, if not the money that was wagered at the beginning of the transaction will be forfeited instantly, this is the same with gambling activities. Affiliates who are in charge of promoting Binomo to the public can be subject to criminal penalties, in addition to the legal status of the platform is not registered, what is the reason that the affiliate's actions in carrying out their activities violate Article 378 of the Criminal Code in conjunction with Article 28 Paragraph (1) of the ITE Law and or Articles 3, 5 and 10 of Law Number 8 of 2010 concerning Prevention Eradication of money laundering offences.

Keywords : Cyber Crime, affiliate, binary options, Binomo

INTRODUCTION

The era of globalization requires us to move quickly in responding to various kinds of social phenomena that exist. We can get various information quickly because of the development of existing technology. On the other hand, technological developments greatly affect all aspects of life today, including the legal aspect. These technological advances are marked by the rise of electronic users of all ages and has become the culture of modern society today. Through the internet, anyone can do *online activities*, ranging from studying, sharing hobbies, working and other activities that are accessed

online . Sometimes these technological developments can be a terrible specter for humans if they are not good at using them. The extent of the reach on the internet has an impact on the birth of new types of crime where we know that criminals do not look at the place and time of committing crimes.

Recently, Indonesia was shocked by a phenomenon that was suspected as a new crime in the economic world. The crime in question is *binary options* or in Indonesian it is also called binary options . This type of activity is an activity that determines the price movement of an asset within a certain period of time according to what the *trader has chosen* in the online trading terminal. Many debates have arisen as a result of this phenomenon, for those who as users consider this to be legitimate because for them this type of transaction is included in the investment category, but on the other hand many criticize that this type of transaction is not included in the investment category. has entered into the act of online gambling. In fact , *binary options* are *online trading* , where *traders* or investors must register to a digital platform in order to deposit deposit funds. Next they will be asked to choose the type of asset, stock, foreign exchange, to commodities. The reason is that there is an irregularity in this transaction, namely the investor enters the deposit at stake and guesses the increase in the value of the asset within a certain duration, if the guess is correct, then the *trader* or investor will make a profit, but otherwise the *trader 's deposit* will be forfeited instantly.

The government itself responded to this phenomenon by swiftly giving directions and appeals to the public that the government had banned *binary options* from operating, but the platform was still operating. Minister of Trade Muhamad Lutfi emphasized that the current government has closed various *binary options trading platforms*. Sutopo Widodo as the President Commissioner of HFX International Futures said that the blocking step taken would not be able to stem the practice of *trading binary options* because *binary options* are almost similar to online gambling sites because the spread of sites in cyberspace is very fast supported by the wide reach of the internet, and although has been removed by the government the public can still access it through a VPN. When viewed from a sociological point of view, not many Indonesian people know and are literate about investment, plus the habits of people who want to get rich quick have become a field for affiliates and *binary options* can easily penetrate and mushroom in cyberspace.¹

The proliferation of *binary options* in cyberspace has resulted in many victims falling where the losses they get from participating in these transactions range from tens of millions of rupiah, of course this is very disturbing. Therefore, the author took the initiative to study further about this phenomenon.

¹ Menjerat Affiliator Binary Option, <https://koran.tempo.co/read/berita-utama/471516/pemerintah-akan-memburu-afiliator-atau-influencer-yang-mempromosikan-binary-option> , diakses pada hari Minggu, 06 Februari 2022 pukul 17.00 WIB

RESEARCH METHOD

This research is a qualitative research in the implication of this method is descriptive analytical . The approach used by researchers in solving existing problems is juridical - normative . In relation to this approach, the type of normative juridical approach used is the statutory *approach* . The statutory approach is an approach that works by examining various kinds of laws and regulations that are relevant to the legal issues being researched and faced.² In this study, the focus of the law that will be used is Law Number 19 of 2016 concerning Amendments to Amendment Number 11 of 2008 concerning Electronic Transaction Information, Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering.

RESULT AND DISCUSSION

System Affiliates on *Binary Options* and their legal status

Binary Options are a product of technological developments in the financial sector whose existence is considered relatively new in the financial sector. The emergence of *binary options* revolved around 1974 in Chicago, United States, when an exchange called the *Chiago Board Options Exchange* (CBOE) was launched. In 2008 America experienced the *Mortgage supra crisis* which resulted in the collapse of state finances at that time. Various bodies which were considered as symbols of stability went bankrupt, namely Lemha Brothers and Bear Stearns. The existence of an urgent situation causes investors to innovate where there is a need for investment options that have low risk and binary options trading was *born* . The increasing number of years binary options began to be known by the world community where in October 2016 there were 110,000 searches for binary options on Google for approximately one month.

In relation to *binary options trading* , the definition of *trading* itself is a buying and selling activity in which stocks, foreign currencies, commodities, etc. are traded and *trading activities* are carried out when buying at a low price and selling at a higher price in a short time for get profit quickly with a time span ranging from minutes to weeks. *Trading* activities can be carried out through broker intermediaries, the job of the broker itself is as an intermediary who provides information to traders as well as directs traders

² M. Syamsudin, *Mahir Meneliti Permasalahan Hukum* (Jakarta: kencana, 2021). Pg.82

about market conditions and helps traders make decisions.³ The affiliate here acts as the one who markets the *trade* to the wider community.

The development journey of *binary options trading* certainly did not go smoothly because the *Securities Exchange Commission* (SEC) had emphasized to the American public that several *binary options exchanges* were unregistered and unregulated. *Binary options trading* or we can also call it binary options trading is an activity to determine the price movement of an asset within a certain period of time which is adjusted to the choice by the trader in the online trading terminal. This type of transaction is carried out through investors who estimate the direction of fluctuations in the value of the derivative which will later choose whether the value will rise or fall within a certain time.⁴ There are two options in binary options trading, in that position the investor is required to put an amount of money, after that if the estimation made by the investor is correct then he will get a profit and if on the contrary he will lose the money that has been placed to determine the position.

Binary options trading has been known in Indonesia since 2018 through marketing in the digital world. It can be said that the scheme owned by *binary options* is very speculative, this causes *binary options* to be very high risk and needs to be used with caution. More explicitly, the world financial services authority said that in using *binary options*, it is necessary to have deep education before using them and there is a need for caution in using them.⁵ In fact, trading only determines the movement of a certain asset so it doesn't actually buy any currency, while the assets contained in this trading platform are:

1. Euro
2. Pounds Sterling
3. US Dollars
4. Australian Dollars
5. New Zealand Dollars
6. Canadian Dollars
7. France Switzerland
8. Japanese Yen

³ Ivan Jhonathan, dkk, Perancangan Buku Panduan Dasar *Trading* Untuk Pemula, <https://media.neliti.com/media/publications/84120-ID-perancangan-buku-panduan-dasar-trading-u.pdf> diakses pada hari Sabtu, 05 February 2022 pukul 17.01 WIB

⁴ Abe Cofnas, *Trading Binary Options (Strategies and Tactics)* (Kanada: John Wiley & Sons, 2011). Pg. 1-2

⁵ Danastri Puspitasari and Faiq Rizqi Aulia Rachim, "Binary Option Sebagai Komoditi Perdagangan Berjangka Di Indonesia," *Jurnal Hukum Lex Generalis* 2, no. 8 (2021): 627–48, <https://ojs.rewangrencang.com/index.php/JHLG/article/view/98/56>.

9. Russian Ruble
10. Mexican Peos
11. Norwegian Krone
12. Gold
13. silver
14. Platinum
15. Natural gas
16. BMW
17. Google
18. Facebook
19. Microsoft

The practice of *binary options* in Indonesia is in fact the same as in America where it does not run smoothly, the article in Indonesia this practice actually gives birth to many victims where the losses received by victims reach tens of millions. This incident made the government clean up, various parties criticized the existence of this type of practice which was considered a form of gambling but under the guise of investment. In a press release, the Ministry of Trade has blocked as many as 249 entity website domains in the field of commodity futures trading (PBK) that do not have a permit from the Commodity Futures Trading Supervisory Agency (CoFTRA), this blocking was carried out in August 2021 in collaboration with the Ministry of Information and Information Technology. In the list of domains that have been blocked, Binomo is included in the list. The following table is issued by the Ministry of Trade:⁶

NO ENTITY/DESCRIPTION WEBSITE DOMAIN

NO	ENTITY/DESCRIPTION	WEBSITE DOMAIN
1.	Binomo	https://binomo-investment.com/
2.	Binomo	https://binomolink.com/
3.	Binomo	https://binomoclub.com/
4.	Binomo	https://loginbinomo.biz/

In addition, in June 2021 the Financial Services Authority (OJK) has blocked access to commodity futures or forex trading activities without permission, namely a website domain belonging to Binomo:

⁶ https://bappebti.go.id/resources/docs/siaran_pers_2021_09_18_1ciqop9j_id.pdf, accessed on Thursday, 03 February 2022 at 22:17 WIB

NO ENTITY/DESCRIPTION WEBSITE DOMAIN

1	Binomo	https://binomoweb.com
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Binomo platform It also provides an affiliate program for the affiliates who are given name with Bin Partners. system from this Bin Partner alone where are the affiliates will got Theory related how is the system and how promote Binomo platform to the society . Affiliates _ the will got distribution results until reach 70% earned through referral code or everyone who does registration Binomo with use affiliate link here . Affiliates it will also get profit as much as 5% of every registration member new. The Binomo platform also uses CPA (Cost Per Action) and CPL (Cost Per Lead) systems.⁷

As listed on the page the current Binomo this has been blocked by Bappebti related information profit earned _ affiliate

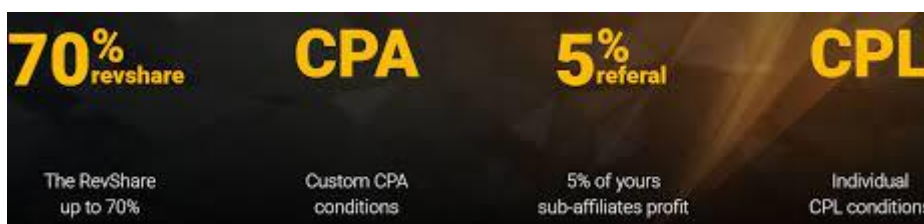


Figure 1.1 division profit and sharing system results to affiliate

Source : <https://binomoclub.com/>

Calculation simple income earned every binary options affiliates are from members who transact use their referral code , then transaction it's a loss, lose or loss . The loss transaction value is multiplied with percentage commission binary options affiliate . As for Example calculation distribution results to affiliate with example case that is a affiliate own follower there are 130,000 social media telegrams , if of that total only 10% of active members trade in binary options. 10% of 130,000 = 13,000. If we take the average transaction each member 5 million and 70% of them experience a loss, then the advantages that binary options affiliates get is as following . 13,000 x 5 million x 70% (loss percentage) = 45.4 billion a data shows 90% of amateur traders on average will experience loss and lose money, so that taken the average percentage loss is 70%. Temporary according to confession ex- binary options affiliate and Binpartner the

⁷Ilham Maulana, Berapa Keuntungan Para Affiliator Binary Option Binomo? Ternyata Segini Besaran Pendapatannya, *Jurnal Soreang*, Monday 11 April 2022. <https://jurnalsoreang.pikiran-rakyat.com/ekonomi/pr-1013669394/berapa-keuntungan-para-affiliator-binary-option-binomo-ternyata-segini-besaran-pendapatannya>

commission they get by 70% of loss transactions , so could calculated as following . 45.4 billion x 70% = 31.8 billion per month.⁸

Activities of affiliates the in To do marketing Illegal applications are considered oppose law that can directing affiliates _ that entangled case guess fraud until act criminal money laundering (TPPU) illegal trading applications Binomo . Binomo's position here is as a broker whose job is to provide input in the form of information related to market conditions and assist traders in making decisions. If the broker is not registered, of course in practice he does not have a business license, hereby it can be said that Binomo is not legal if it continues to do business according to the provisions of the applicable legislation. In addition, if Binomo forces himself to continue operating, he can be charged with Article 31 Paragraph (1) of Law no. 31 of 1997 concerning Commodity Futures Trading which reads as follows:⁹

" Business activities as a Futures Broker can only be carried out by Futures Exchange Members in the form of a limited liability company who have obtained a Futures Broker business license from CoFTRA."

Quoting Pompe's opinion that one cannot be punished if there is no unlawful act and a fault that can be reproached or in Latin it is *geen starf zonder schuld* or in Latin *actus reus mens rea* . In line with what has been said by Pompe, in practice Indonesia applies this theory.¹⁰ In general, binary options in Indonesia do not meet the legality of positive law because they have not received a valid permit from CoFTRA, this has resulted in consumer protection laws being unable to be used as a legal umbrella for *binary options investors*.¹¹ This reason is due to the following considerations:¹²

1. Binary options are not recognized as a commodity which causes the non-recognition of the use of goods as consumers as regulated in Law NO. 8 of 1999 concerning Consumer Protection.

⁸Siti Nieke Noviyanti, Pantas Cepet Kaya, Ternyata Segini Keuntungan Indra Kenz dari Transaksi Member Loss di Binary Option, *Jurnal Soreang*, March 5 , 2022. 1-3. <https://jurnalsoreang.pikiran-rakyat.com/ekonomi/pr-1013897611/pantas-cepet-kaya-ternyata-segini-keuntungan-indra-kenz-dari-transaksi-member-loss-di-binary-option>

⁹ Law No. 31 of 1997 concerning Commodity Futures Trading

¹⁰ Eddy O.S.Hiariej, *Prinsip-Prinsip Hukum Pidana* (Yogyakarta: Cahaya Atma Pustaka, 2016). Pg. 121

¹¹Bappebti Pastikan Transaksi *binary option* di Indonesia Ilegal, <https://investasi.kontan.co.id/news/bappebti-pastikan-transaksi-binary-option-ilegal-di-indonesia-ilegal>, accessed on Thursday, 03 February 2022 at 23.50 WIB

¹² Puspitasari and Rachim, "Binary Option Sebagai Komoditi Perdagangan Berjangka Di Indonesia." *Jurnal Hukum Lex Generalis* 8 No. 2 (2021): 627-648, <https://ojs.rewangrencang.com/index.php/JHLG/article/view/98/56>

2. CoFTRA emphasized to the public that the offices of the binary options platform does not have a branch office in Indonesia, so if there is a problem, it is very difficult to be held accountable, of course this is very risky.
3. In Indonesia, the regulation on the application of binary options is still very minimal, as are regulations in various other countries, this causes there to be no standardization of business actors in running their business *fairly*.

The principles of legal protection adopted by Indonesia are based on Pancasila as the state philosophy. The principle of legal protection is based on the concept of recognizing and protecting human rights.¹³ Talking about criminal liability means talking about people who commit criminal acts. Criminal law itself separates the characteristics of the act that is a criminal act and the characteristics of the person who commits it.¹⁴ That is, a person who commits a criminal act is not necessarily sentenced to a crime, so because depending on the person, he can be held criminally responsible or not. On the other hand, if the person is sentenced to a crime, it is certain that he has committed a criminal act and can be held accountable. If we look back at how binary options work, there are some similarities in the elements of gambling which have been regulated in Article 303 Paragraph (3) of the Criminal Code (KUHP), as it reads:¹⁵

The so-called gambling game is: any game, where in general the possibility of profit, depends on sheer luck, also because the players are more trained or more proficient. It includes all bets on the decision of competitions or other games which are not held between those who participate in the competition or play, as well as all other bets. "

Based on the article above, the elements of gambling are any games that allow you to get profits by depending on luck only where the players have the skills and have been trained. In line with this, binary options in practice are transaction activities that all involve elements of gambling, namely the possibility of getting a profit which only depends on the luck of the estimate made by the investor. bet at the beginning of the transaction will be forfeited instantly, this is the same as gambling activity. Therefore, it is certain that this binary option is a new type of crime in the virtual world, namely online gambling crimes under the guise of investment. In order to sweep up the affiliates who market this platform, it is not as easy as catching people who gamble directly, because of the wide reach of the internet which makes sweeping this crime very tough.

¹³ Uzlal Wahidah, "Negara Hukum Pancasila Dan Perlindungan Hak Asasi Manusia Pada Masa Pandemi Covid-19 Di Indonesia," : *Jurnal Hukum Keluarga Islam 1 No. 1* 1, no. 1 (2022): 1–15, <https://elbait.iaiq.ac.id/index.php/JHKI/article/view/1/1>.

¹⁴ *Ibid.*.

¹⁵ Criminal Law Book (KUHP)

Criminal Liability for *Binary Option Affiliates* Available on the Binomo Investment Platform

The definition of a criminal act according to Moeljatno is all actions that are prohibited by the rule of law accompanied by sanctions in the form of a crime intended for legal subjects who violate these rules. The development of criminal law in Indonesia tends to regulate every aspect of human life. According to Van Hamel, the definition of responsibility is a normal state of psyche and skills that carry three kinds of abilities, namely:¹⁶

1. Able to be able to understand the true meaning and consequences of one's own actions
2. Able to realize actions that are contrary to public order
3. Able to determine their own will to do.

Simon further explained that the definition of criminal liability is a psychological state so that the application of a criminal provision from a public and private point of view is considered appropriate. Simon explained in more detail that the basis for criminal liability is a certain psychological state of the person who commits a criminal act and the relationship between this condition and the act committed in such a way that the person can be reproached for committing the act¹⁷. The requirements for criminal liability are as follows:¹⁸

1. Done on purpose (*dolus*)
intentional here is if the result of the act is desired by the perpetrator and becomes a reality in the form of the action carried out in real terms. ¹⁹In more detail, Frank formulates intentionality as follows:
" *deliberately if an effect is caused by an action and therefore the action in question is carried out in accordance with the previously created image ."*
There are 3 levels of intentionality that show the character of the perpetrator's inner attitude, including:²⁰

¹⁶ Pery Rehendra Sucipta Muhammad Ardian Nugrahai, Dewi Haryanti, "Pertanggungjawaban Pidana Terhadap Tindak Pidana Perjudian Dengan Modus Operandi Musik Berhadiah Di Wilayah Hukum Kepolisian Resor Tanjungpinang," *Student Online Journal (SOJ) Umrah:Ilmu Sosial Dan Ilmu Politik* 2, no. 1 (2021): 669–76, <https://soj.umrah.ac.id/index.php/SOJFISIP/article/view/948>.

¹⁷ Muhammad Tan Abdul Rahman Haris and Tantimin, "Analisis Pertanggungjawaban Hukum Pidana Terhadap Pemanfaatan Artificial Intelligence Di Indonesia," *Jurnal Komunikasi Hukum (JKH)* 8, no. 1 (2022): 307–16, <https://ejournal.undiksha.ac.id/index.php/jkh/article/view/44408>.

¹⁸ Aryo Fadlian, "Pertanggungjawaban Pidana Dalam Suatu Kerangka Teoritis," *Jurnal Hukum POSITUM* 5, no. 2 (2020): 10–19, <https://journal.unnes.ac.id/sju/index.php/couinterterrorism/article/view/56722>.

¹⁹Mahrus Ali, *Dasar-Dasar Hukum Pidana*, (Jakarta:Sinar Grafika, 2011), p.175

²⁰ *Ibid.*.

- a. Intentional as intent
At this level, the element of intentionality is that the perpetrator knows and wants the consequences of his actions or what we call *willes en wetens* .
 - b. Deliberation as a possibility
Deliberation as a possibility occurs if the consequences carried out by the perpetrator are only seen as possibilities, not as things that are considered necessary to happen.
 - c. Deliberation as certainty
The level of intentionality here can be measured by actions that already understand and suspect what the consequences of their actions will be or what things are involved in influencing the consequences of their actions.
2. Negligence (*culpa*)
Simons said that negligence is divided into two types, namely: the act is done carelessly, the second is that the act occurs because you can predict the consequences. Modderman divides into two kinds of negligence, namely conscious negligence, and negligence that is born from the unconscious. Regarding conscious negligence, the perpetrator is aware of what he did which was followed by the consequences, but he believed and hoped that the bad consequences of his actions would not occur. Meanwhile, negligence that is born from being unconscious is not imagining and not expecting that the consequences that are prohibited and threatened by law are criminal, here the perpetrator should take into account the consequences of what he has done.
 3. There is no reason for the abolition of the crime
The third requirement for criminal liability is that there is no reason for the abolition of the crime. The doctrine of criminal law divides the reasons that abolish a criminal act into two kinds, namely justifying reasons and forgiving reasons. The justification will later lead to the justification of a crime that was previously considered against the law. While the reason for forgiveness itself will eventually lead to forgiveness of the perpetrator's actions even though it has committed a crime that is against the law. Acts that can be categorized into reasons for eliminating mistakes or reasons for forgiveness include, among others, the existence of coercive power (*overmacht*), forced defense that exceeds the limit (*noodweer excesses*), and carrying out office orders without authority based on good faith. *First* , Article 48 of the Criminal Code explains regarding coercion that *whoever commits an act due to the influence of coercion, he will not be punished* . If we analyze theoretically there are two forms of coercive power, namely coercion which is carried out by relying on the power of human power by

others (*vis absoluta*) and coercion which is possible to be avoided even though it is calculated difficult to expect that those who experience resistance (*vis compulsiva*), are usually the type. both of these are psychological coercion. *Second*, Article 49 Paragraph (2) of the Criminal Code states that *a forced defense that exceeds the limit, which is directly caused by severe mental shock due to the attack or threat of attack, will not be punished* . If interpreted, the article explains that a person's action is essentially an act against the law, because indeed the attack carried out by a person against another person is caused by a great mental shock, resulting in a causal relationship between the attack and the emergence of the great mental shock. *Third* , the implementation of office orders without authority based on good faith. The third category is regulated in Article 51 Paragraph (2) of the Criminal Code which reads as follows: *an order for an office without authority does not result in the abolition of the crime unless the one who is ordered in good faith thinks that the order was given with authority and its implementation is included in the work environment* . There are two conditions that the act can be categorized as carrying out a position order without authority based on good faith, including the mental state of the person being ordered to think that the order is a legitimate order, whether it is seen from the official who issued the order or seen from the type of the order. the second is that the orders carried out must be based on good faith and are part of the work environment - in accordance with the *job description* -.

The basic concept of criminal responsibility leads to an understanding of punishment for perpetrators of criminal acts.²¹If it is based on the Monistic school of criminal acts, the elements of criminal responsibility concerning the maker of the offense include 3 things, namely:²²

1. Responsible ability.
2. Mistakes in the broadest sense are either done on the basis of intention (*dolus*) or negligence (*culpa*).
3. There is no excuse for forgiveness.

If there is only one element in the Monistic school that is not proven wrong, then the criminal act is not proven other than that there will be no criminal act.

²¹ Eflin Christy, "Pertanggungjawaban Pidana Pelaku Penipuan Melalui Investasi Online," *Jurist-Diction* 1, no. 1 (2018): 103, <https://doi.org/10.20473/jd.v1i1.9727>.

²² Mahrus Ali, *Dasar-Dasar Hukum Pidana* (Jakarta: Sinar Grafika, 2011). Pg. 155-157

The affiliate as the one in charge of promoting Binomo to the wider community, if we look at some explanations of the theory of responsibility, what the affiliate does on the Binomo platform can be subject to criminal penalties, besides the legal status of the platform is not registered because what the affiliate's actions in carrying out their activities violates Article 378 KUHP in conjunction with Article 28 Paragraph (1) of the ITE Law.

Article 378 of the Criminal Code in conjunction with Article 28 Paragraph (1) of the ITE Law:

"Whoever with the intent to unlawfully benefit himself or another person by using a false name or false dignity (hoedeningheid); by deceit, or a series of lies, to move another person or to surrender something to him, or to give a debt or write off a debt, is threatened with fraud with a prison term of four years."

Article 28 Paragraph (1) of the ITE Law:²³

"Everyone intentionally and without rights spreads false and misleading news that results in consumer losses in electronic transactions."

If we look at the rules above, the actions carried out by affiliates in marketing illegal platforms, namely Binomo, fulfill the elements in article 378 of the Criminal Code, namely that transaction activities carried out on the Binomo platform contain elements of benefiting themselves (the affiliate) against the law by giving tricks or committing fraud. lies to traders/consumers for their own benefit. An Indonesian YouTuber named Indra Kesuma is currently suspected of being an affiliate of the Binomo platform, which is being discussed in various online and print news. The affliator's actions fulfill the elements of criminal liability, firstly, legal subjects are responsible for their crimes, which are carried out on an intentional basis (*dolus*) with a level of intent as an intention. Because this transaction is connected to a *mobile device* , Article 28 Paragraph (1) of the ITE Law also ensnares the actions taken by affiliates, because the information submitted to attract consumers has been misleading which resulted in consumers experiencing fantastic amounts of losses.

Besides that the affiliates are also considered has violate Articles 3, 5 and 10 of Law Number 8 of 2010 concerning Prevention Eradication of money laundering offences. which one in thing this in Article 5 contains description "surprisingly" can explained is a condition that fulfills at least the knowledge, desire, or purpose at the time

²³ Law No. 19 of 2016 concerning Information and Electronic Transactions

of the occurrence of the Transaction which is known to indicate a violation of the law. The PPTPPU Law provides explanation element deed money laundering as:²⁴

" Every person who places , transfers , transfers , spends , pays , grants , deposits , carries to abroad , change shape , swap with currency or _ letter valuable or other actions on treasure wealth he knows or deserve guessed is results act criminal ..." (Article 3);

" Everyone who hides or disguise origin , source , location , designation , transfer rights , or actual ownership _ on treasure wealth he knows or deserve guessed is results act criminal ..." (Article 4);

" Everyone who receives or dominate placement , transfer , payment , grant , donation , deposit , exchange , or use treasure wealth he knows or deserve guessed is results act criminal ..." (Article 5).

Based on Article 2 paragraph (1) of the PPTPPU Law, assets hidden wealth _ origin where is one could originated from results crime in the capital market. Which app Binomo is one elements that can fulfil origin suggestion from treasure wealth in question in the PPTPPU Law. So that every activity described in the article can be the cause of the entanglement of affiliates in a criminal act which is punishable by imprisonment of 4 (four) years or more.

CONCLUSION

Based on the results of the analysis carried out by the author, it can be concluded that *binary option transactions* on Binomo investments are included in the crime of gambling because they have fulfilled the elements of a criminal act as stated in Article 303 Paragraph (3) of the Criminal Code, namely the possibility of obtaining profits where only depending on the luck of the estimation made by the investor, if it is possible that the estimate is correct then the investor will get the profit, on the contrary if not the money wagered at the beginning of the transaction will be forfeited instantly, this is the same as gambling activity.

The affiliate as the one in charge of promoting Binomo to the public can be subject to criminal penalties, in addition to the legal status of the platform not being registered, why does the affiliate's actions in carrying out their activities violate Article 378 of the Criminal Code in conjunction with Article 28 Paragraph (1) of the ITE Law and /or Articles 3, 5 and 10 of Law Number 8 of 2010 concerning Prevention Eradication of money laundering offences . Transaction activities carried out on the Binomo platform contain elements of self-benefit (affiliator) against the law by giving tricks or lying to

²⁴ Law No. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering

traders/consumers to benefit themselves. because the information submitted to hook consumers has been misleading which resulted in consumers experiencing losses with fantastic amounts.

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