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Validity of Forex Trading Agreements Using Foreign Currency as the Object of Investment

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ABSTRACT

Forex (Foreign Exchange) is better known in Indonesian as Forex trades between two currencies from two countries by many States Parties, institutions and individuals. Forex trading between market players that lasts Open 5 days a week, 24 hours a day. inner consistency Forex trading operations based on Article 1338 of the Legislative Code Civil. These provisions are less effective because there are still many brokers illegal brokers, unlicensed and unscrupulous companies with the intention of misleading investors. Due to the futures trading law Commodity has not yet implemented a complete forex trading system. Speaking of validity foreign exchange investment contract based on article 1320 of the civil code on the conditions of validity of the contract, foreign exchange as the object of the contract, not contrary to the objective conditions which have legal consequences, null and void history and characteristics of book iii of the civil code which regulates the commitment is open, so it is allowed to make one agreements other than those provided for in the civil code, provided that they are not contrary with the law, public order and good morals. This research advising the government and the legislator to make regulations related to foreign exchange investment regulations to prevent things that are not legal protection desired and guaranteed for investors

INTRODUCTION

The development of communication and information technology has succeeded in changing the shape of people's lives in the economic and social fields, which used to be traditional transactions or direct transactions, then switched to electronic media transactions which are indirect transactions. Investing in digital technology developed today is generally traditional and is now a web service. It is routed through a computer or an online application. Investment is the placement of funds with the hope of getting a profit in the future. This is an important part of the economy, especially in developing countries, for example in Indonesia. This is because it is very strategic for them. Without adequate investment, it is difficult for developing countries to achieve high economic growth and economic prosperity.

In this modern era, there are many ways to invest and earn profits. Some people choose to earn profits directly, while others invest indirectly through companies. This short investment is commonly referred to as trading. Trade is a form of business in the form of buying and selling activities. Trading is an investment activity that buys at a low price and sells at a higher price in a fairly short time to get a faster profit. Those that can be traded include stocks, commodities, foreign currencies, and so on. Trading time starts from minutes, hours, days, to several weeks. The purpose of trading is to make a profit by buying and selling at different prices. In general, a trader takes advantage of trend charts and changes in the momentum of stocks whose prices fluctuate greatly, to gain profits. Trading activities are carried out through intermediaries, or commonly called brokers. This broker will be the intermediary link between the trader and the market.

In Indonesia, trading activities are known as commodity futures trading, which is carried out through foreign futures exchanges. Futures contract trading is regulated in Law no. 32 of 1997 as amended by Law no. 10 of 2011 concerning Commodity Futures Contract Trading. Commodity futures trading is related to everything related to the sale and purchase of commodities, with a margin

reduction system and subsequent settlement based on futures contracts, sharia derivative contracts and/or other derivative contracts. Investing in commodity futures trading is known as an investment that carries a very high level of risk by offering high returns and a relatively short period of time. Law no. 8 of 1995 clearly regulates the legal protection received by investors when conducting transactions in the capital market. Likewise, investors who make online transactions without certain rules, there is no guarantee that their actions will be lawful. Law Number 8 of 1995 concerning the Capital Market remains a reference in cases of fraud, market manipulation and insider trading in online transactions.

Article 5 paragraph 1 of Law No. 11 of 2008 states that electronic information and/or electronic documents and/or their printouts are legal evidence. The law states that everyone has the right to privacy. This includes the right to keep personal information confidential. According to Decree No. 11 of 2008, information in electronic form and/or documents in electronic form and/or their printouts is an extension of legal evidence according to procedural law in force in Indonesia. Article 9 also stipulates that one of the obligations of operators who supply products through an electronic system must provide complete and correct information about the terms of the contract, the producers and the products they offer.

Stocks tend to be in a clear and tangible form and are subject to the regulations regulated in the legislation, while these foreign currencies require further regulation, so there are problems regarding the validity of foreign currency or commonly referred to as foreign exchange as an investment object. , as explained above, that in accordance with Article 1320 of the Civil Code, there is one objective condition in the contract: There is only the object of the agreement must be clear (can be determined by type), while this foreign currency is only in digital form, so it is not in form or form. form, so the existence of foreign currency itself is still a matter of debate. In the substantive law regarding the grouping of objects, which is regulated in Book II of the Civil Code concerning objects, it is regulated not only

material objects, but also intangible objects, and immovable objects. In the context of investment that makes foreign exchange an object, further research and understanding is needed on the classification of foreign exchange in property law, considering that foreign exchange does not have a legal form, but foreign exchange does not have a form which is an object in the development of modern investment. .

It becomes interesting to study to see how the validity of forex agreements that use foreign exchange (foreign currency) as an investment object in Indonesia? With the aim of describing and analyzing the validity of forex trading agreements that use foreign exchange as an investment object in Indonesia.

METHODS

The research used is research that includes normative juridical research, which is focused on regulating the legality of forex trading agreements using foreign currencies as investment objects. Using a statutory research approach along with a conceptual approach to obtain the extent of the validity of forex trading agreements using foreign currencies as an investment object which is then supported by collecting legal materials in the form of all laws and regulations related to the validity of the agreement, as well as those from books, journals, to related articles. The analytical technique used is in the form of grammatical interpretation, which is then used to interpret the provisions in the relevant legislation, which will link the relationship between a piece of legislation and other regulations.

DISCUSSION

Online forex trading is a way to trade foreign currencies without having to come to a company to do it. Investors can do this online. You can carry out investment plans and research just by sitting at home and using a computer connected to the internet. Forex is the most liquid trade compared to other trades. In the Forex market, most of the novice traders trade. Due to its high liquidity factor, the foreign exchange market has become a popular business choice with high return on investment (ROI) and profits that exceed the average business average (there is usually an average ROI of above

5% - 10% per year). month, Even professional traders can achieve more than 100% per month). On the other hand, this business also contains many risks, even high risks.

There are two types or kinds of currency pairs traded in forex, namely cross-currency pairs and major currency pairs. Cross currency pairs are currency pairs that do not involve the USD dollar, such as EUR/GBP, CHF/GBP, EUR/CHF, etc. While the major currency pairs are those that include the USD, the major currency pairs you use are EUR/USD, AUD/USD, GBP/USD, NZD/USD, USD/CHF, USD/JPY, and USD/CAD. However, Forex trading also has several advantages and disadvantages, the advantages of many Forex transactions and transactions if successful will result in a profit that is more than doubling the investor's capital, allowing this business to develop quickly and will be chosen more often by business people or traders. The advantages of this exchange transaction include liquidity, transparent and competitive prices, low transaction fees and risk management.

Market volatility (rising and falling prices) provides opportunities for profit. When prices go up and down in forex trading, if the chart of the currency pair weakens and is stronger we can get a chance to win. Foreign exchange market participants allow entering two positions (buy/sell) in forex trading. By entering a long position, the trader expects his first currency to strengthen against the second currency, thus making a profit. On the other hand, in a short position, the trader expects the first currency to be weaker than the potentially profitable second currency.

Without trading skills, surely a trader will not succeed in the forex business, the weakness of forex trading is that it also requires effort to oversee forex models and mechanisms that can be developed. One of the reasons to invest in futures trading is that they are regulated by government agencies. In Law no. 10 of 2011 concerning Amendments to Law no. 32 of 1997 concerning Commodity Futures Trading, the Government of Indonesia stated that the futures trading supervisory body is under the Minister of Trade named Badan and is responsible for the work

unit. It was stipulated that the Commodity Futures Trading Supervisor (CFTRA).

Forex trading is an alternative activity of companies that is growing rapidly in Indonesia because it has something to offer unlimited profit opportunities and is much larger than the deposited funds (margin). With great profit potential, forex is the client's choice to invest. But actually because futures brokers break the law or any broker breaks futures, many customers still suffer losses in foreign exchange transactions. For example, futures brokers do business without a business license from the commodity futures contract trading supervisory authority (CFTRA). This is usually done by an offshore broker.

Contract transactions for the sale of certain commodities and financial instruments at a certain price, all with their own sources, subject to regulations, are called contracts. Agree to an affected price deal. At the time of purchase and sale between agreements established after the terms of the contract are bond. Organized by the Futures Exchange, further market regulations carry out strict supervision. Futures exchange is an institution that functions as a futures trading activity. Term exchange trading is for institutions as well as the organization and supervision of trading activities on the term market to comply with applicable regulations.

Agreements between futures brokerage companies and customers are not regulated by civil law, but with the principle of freedom of contract article 1338 paragraph 1 of the Civil Code which stipulates that all legal agreements are for whom to make, then the agreement between futures companies can occur to customers. The investment cooperation agreement between investors and Futures Brokerage companies is the legal basis and the most important reference for stock investors for the implementation of investors' investments in the Futures Exchange. This edition is also according to article 1338 of the Civil Code which reads: "all agreements made legally are valid as law for those who make them".

Agreements between futures brokerage firms and clients/investors in forex trading transactions take place in a standardized form in detail and carefully. In the settlement agreement, the content is planned in advance by the brokerage firm. So that the client/investor only dies when the client accepts the applicable rules or conditions are prepared and determined unilaterally in advance of the futures brokerage firm. As a result of the deal, do not give the customer the opportunity to have another conversation with the clauses proposed by the futures broker. This provision applies to anyone who is bound by an agreement based on the take it or leave it principle, without prior negotiation. The agreement is so whether it is a standard agreement or a standard agreement.

In terms of forex trading operations, this cannot be separated from the concept according to article 1313 of the Civil Code, which states that an agreement is one or more subjects that bind themselves and behave with one or more people. Approval is included in Book III of the Civil Code, which is open, meaning that the provisions can be set aside to regulate themselves. Forex trading is basically the same as general trading, i.e. transactions are carried out when the goods or services have been agreed upon and the price of the goods or services. The only difference is the means used, if in ordinary commercial practice the parties must meet directly in one place to reach an agreement on the transaction to be carried out and the selling price of the goods or services. In forex trading transactions, the stock exchange media must be the main medium in the transaction process, so there is no need for a direct meeting transaction process between the two parties. The same applies to the Agreement regarding commercial transaction agreements. the impact of foreign exchange on economic development has an impact on various sectors, one of which is part of the law that is not regulated by Regulation of Forex trading transactions in Indonesia.

The investment cooperation agreement between investors and futures brokerage companies, namely forex, is the legal basis and main reference for the parties for the implementation of investors' investments in the futures exchange. This is also in accordance with the provisions of Article 1338 of the Civil Code, which states: all agreements made legally are legal for those who make them. Therefore, the agreement in the investment cooperation agreement between the investor and the futures brokerage company applies as a rule that must be agreed between the two parties who agree on the implementation of the investment. Talking about investment partnership agreements between investors and futures brokerage firms, there are a few things to know about investment partnerships between investors and futures brokerage firms.

Agreements that occur in forex trading transactions may be subject to Article 1313 of the Civil Code as a regulation, so that what is a legal requirement for an agreement contained in the Civil Code must be considered so that the imposition of agreement rules in Indonesia which generally uses the Civil Code can be applied as well as agreements in forex trading transactions its validity can be recognized. The source of freedom of contract is individual freedom, so that the point of departure is individual interests as well. Thus, it can be understood that individual freedom gives him the freedom to contract. The open nature of Book III of the Civil Code means that the Civil Code allows for agreements that have not been regulated in the Civil Code, so the parties can make agreements that have not been concretely regulated, but are still in accordance with the principles and conditions of a valid agreement in the Civil Code, in other words it is allowed override the rules contained in the third book.

The third book is only complementary (aanvullend recht), not a hard law or a coercive law. Contracts that occur in forex trading transactions are a form of agreement between the two parties to an existing agreement, where the agreement on the contract creates an attachment between the parties which in this case is between a securities company

and an investor, so with this, the principle of freedom contract is very visible in forex trading transactions.

An agreement, known in English as an agreement, is an event in which one person makes one or two promises to another person promises to do something when, therefore, there is an obligation for both of them to fulfill the performance as the object of the contract. The definition of an agreement according to Article 1313 of the Civil Code still has several shortcomings or weaknesses, including:

- a. It's only one-sided.
- b. The word deed includes also without consensus
- c. The meaning of the agreement is too broad
- d. Without mentioning the goal.

In the Civil Code, a sale and purchase agreement is regulated by articles 1457-1540. The main element of the sales contract is the form of the goods and services price. According to the principle of consensualism based on the Civil Code agreement, the sales contract was born when it was concluded "agree" on the goods and prices. After both parties agree on the goods and/or prices, a valid sales contract is born. According to the provisions of Article 1332 of the Civil Code, only goods which are usually negotiated can be used as objects of a sales contract.

The law of agreement is regulated in book III of the civil code, the characteristics of book III of the civil code are open, namely: free to make agreements outside those regulated by the civil code, if necessary they do not violate the law, public order, and by the way the parties are also free determine the content or object of the agreement, and because foreign exchange is not prohibited and is against the law, decency and public order, the agreement is their object. Is foreign exchange allowed. It only explains the term only objectively that the question of the validity of the treaty is related to it in subjective terms. This subjective condition will be dealt with in the formulation of this second problem.

If the provisions of the agreement are fulfilled, then in accordance with the provisions of Article 1338 of the Civil Code, the agreement has legal force as law for those who made it. Including investing in foreign exchange requires sufficient knowledge,

Investors can find information about foreign exchange by digging through different sources. Up-to-date information about investing in foreign exchange is not difficult to get a lot of articles and magazines discussing it. Article 1320 of the Civil Code determines the conditions for the validity of subjective and objective agreements, subjective conditions based on contract law can be terminated as long as the objective terms of the promised agreement as a result of the legal consequences of the contract are void. That's not to say at the outset it was ever assumed that there was no such agreement, so there's no basis to sue.

Owner of investment in foreign currency is included in the field of agreement, and if the refusal the validity of the measurement is measured by Article 1320 of the Civil Code. Subekti means "agreement is an event where one person promises to another" or where two people promise to do something, that: In the form of a chord, it can be done in a series of words containing a promise or oral or written ability. In making a sale and purchase agreement there must be the following: what is presented in the sale and purchase agreement is something in the form of objects or goods (goods). Based on the understanding of goods or objects which have the meaning "is everything that can be used as a property object". object or resource so that it can be used as an object of a purchase contract is anything that has an asset value.

The analysis of the foreign exchange position included in the agreement refers to: the meaning of objects regulated in civil law according to the reason for this study comparing foreign exchange with the provisions and legal standards that apply in Indonesia. The agreements in question are regulated in Book II of the Civil Code, all provisions and regulations relating to property rights are regulated there, this second book is closed and forced in the sense that it must be obeyed and people should not have material rights other than those regulated in the Civil Code and laws and regulations. According to article 499 of the Civil Code, objects are property, objects can be tangible and intangible, can be transferred and have economic value. Foreign

exchange can be owned by someone by buying and sending is one way to get the right thing of ownership, the form of foreign exchange is real, so ownership can be transferred by buying and selling, then foreign exchange has an economic value side that can be valued with money thus can take advantage.

Objects are also divided into goods (goed), namely tangible objects and rights (recht), namely intangible objects as regulated in Article 503 of the Civil Code as well as movable objects and immovable (fixed) objects regulated in Article 504 of the Civil Code. Goods (goed) or tangible objects are everything that has a real form and can be felt by the five human senses, while what is meant by rights (recht) or intangible objects refers to objects that have no form. Having no form means that it cannot be felt by the human senses, namely certain rights that can be used as objects of property rights, such as rights to interest, debt, billing, and so on.

Objects also have properties and values that can be transferred economically. Something that can be said to be an object is something that can be transferred to someone else. Therefore there is a person-to-person transfer of material rights with all the legal consequences. The transfer of property rights is carried out by substantive agreement (zakelijk overeenkomst). A substantive agreement is an agreement when a substantive right arises, is transferred, changed or deleted. It can also be said that an object agreement is an agreement whose purpose is to transfer property rights. Although the term "substantive agreement" is widely used in the civil law literature, the term is unknown in civil law. While the meaning of having economic value, can be valued or valued in money. Also, objects said to have economic value are those that provide benefits or are used for their owners.

Therefore, virtual property does not have a form that can be felt by the five human senses. The virtual property cannot be felt by using the human sense of taste. Although it does not have a real form, in reality this virtual property is widely used by humans in their daily lives and is treated like tangible objects that exist in the real world, even having economic

value. According to Peter Brown & Richard Raysman, Virtual Property is an asset or property of value. Valuable here means having economic value, can be exchanged for real money by buying and selling, or through exchange agreements between virtual property.

Virtual property is a human creation that uses computer and Internet technology, in the form of codes, created by imitating objects that exist in the real world and only exist in the cyber world. In other words, the characteristics of virtual property are intangible objects. Virtual property can also be attached to property rights through creation and transfer, as in the sale and purchase of game items. This virtual property buying and selling activity also indicates that virtual property can be transferred. In addition, virtual property is seen as something valuable, can provide benefits and can be used by humans as legal subjects even though its use is limited to the cyber world so that virtual property has economic value. Therefore, virtual property can be said to be an object as regulated in the Civil Code.

Based on the above analysis using the legal theory that is used in this research to answer these problems, namely the validity of investment agreements using foreign exchange as an object of investment in Indonesia according to the meaning of Article 1320 of the Civil Code, the terms of the agreement are valid in accordance with the provisions of Indonesian law, especially according to Article 1320 of the Civil Code. 1320 civil code. In addition, foreign exchange assets fulfill the basic elements of a sales contract, namely goods and prices. Price is something amount of money. Payment of an agreed price with money that can be included in the contract of sale.

CONCLUSION

Objects according to Indonesian property law are everything that can be used as objects of property rights, both tangible and intangible as regulated in Article 499 of the Civil Code. In addition, objects can also be transferred and have economic value. Therefore, objects have characteristics in the form of something that can be used as an object of ownership

or ownership, tangible and intangible, transferable, and has economic value.

The validity of a foreign exchange contract is valid according to the author, it fulfills the legal requirements of the agreement in Article 1320 of the Civil Code as a benchmark for the validity of an agreement, all conditions are subjective and fulfilled and the purpose of an investment agreement using foreign exchange as a legal subject according to Indonesian law is given the nature of book III of the Civil Code that is open so as to allow an agreement. outside the provisions of the Civil Code, as long as it is not against the law, is simple and has decency.

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