



Corporate Crime in the Investment Field with Trading Robots in Indonesia

Abdurrahman Al Akhdloriy¹; Chalik Mawardi²; Indra Rahmatullah³; Erlisa Akhlakul Karimah⁴

¹Sebelas Maret University Surakarta, Indonesia

²Sebelas Maret University Surakarta, Indonesia

³Syarif Hidayatullah State Islamic University Jakarta, Indonesia

⁴Airlangga University Surabaya, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v11i1.5622>

Abstract

Corporate crime in the investment sector with the use of trading robots in Indonesia is a serious challenge in facing the development of financial technology. This research aims to investigate this phenomenon, analyze patterns of corporate crime related to trading robots, and explore its impact on the Indonesian capital market. Data was obtained through literature study and case analysis using a qualitative approach. The research results highlight various corporate criminal practices, such as market manipulation and investor fraud, which are made easier by the use of trading robots. Factors such as lack of proper regulation and technological complexity are the main triggers for increasing the risk of corporate crime in investing with trading robots. The implications of this research include the need to increase regulators' and stakeholders' awareness of these potential risks, as well as increasing legal protection for investors and capital market security. Thus, this research contributes to a better understanding of the dynamics of corporate crime in the field of investment with trading robots in Indonesia and provides a basis for developing more effective policies to overcome this challenge.

Keywords: *Corporate Crime; Trading Robots; Investment*

Introduction

The globalization that has occurred in Indonesia has influenced the development of technology and information. One of the influences provided by the development of technology and information is by giving many conveniences in carrying out activities, especially in the economic and financial fields. These conveniences encourage people to utilize technology and information in carrying out business activities to boost the economy of those involved. Technological advances in the economic sector are also commonly known as fintech. Fintech is a combination of financial services in the economic industry with technology that changes business models from conventional to modern.

Initially, transactional activities had to be carried out face to face, but now they can be carried out remotely in a short period. A number of fintech facilities commonly known by the public are marketplaces, online shops, digital banks, financial applications and digital-based investment facilities.

Digital investment facilities have become a tempting financial instrument, both medium and long-term, for most people. In recent times, digital investment facilities have been in great demand by Indonesian people, especially with direct or indirect promotions from affiliates or influencers about digital investment platforms. An affiliate is someone who recruits and refers a digital investment platform to new users. At the same time, an influencer is a person who offers and promotes a digital investment platform through written or online media. (Muhammad Nasih, 2020). In the world of digital investment, various types of digital assets are known, including shares, property, trading robots and non-fungible tokens (NFT). This type of digital asset can be purchased with digital currency, also known as cryptocurrency. The aim of digital investment, called trading, is to collect a high-profit deficit from the difference between the buying and selling prices. (Lubis, 2016).

Crypto's legality has been regulated in Law No. 10 of 2011 concerning amendments to Law No. 32 of 1997 concerning Commodity Futures Trading, which is directly supervised by the Commodity Futures Trading Supervisory Agency (Bappebti) so that its legality can be accounted for. However, security in cryptocurrency transactions is still minimal because cyber crimes such as hacking, scamming, phishing and money laundering still often occur. Therefore, the novelty of this research is the explanation that cryptocurrency investor customers must choose crypto assets that CoFTRA has registered. (Dirkareshza, 2022).

However, technological advances, especially in the field of investment facilities, have not only good impacts but also bad impacts. The bad effect of technological advances on digital investment facilities is the increase in various types of crimes and violations of the law so that the public, especially investors, often feel disadvantaged. The aim of economic activity should be to obtain the maximum profit from the capital spent. However, sometimes, it cannot be denied that every economic activity also carries risks. In fact, the problem among the public is that the losses are not the risks of investment activities but rather the losses from the criminal acts of the perpetrators. (Ariawan, 2021).

Some of these crimes include investment fraud, embezzlement of investment money, illegal investment (fake investment), and investment that does not exist or is not real. Several cases in Indonesia relate to digital investment (trading) crimes, such as Binomo, quotes and trading robots. Since June 2022, the Ombudsman of the Republic of Indonesia, in synergy with the Commodity Futures Trading Supervisory Agency (BAPPEBTI), has been highlighting the phenomenon of robot trading practices. (Ombudsman.go.id, 2023).

Quoted from CNN Indonesia, trading robots, usually known as expert advisors (EA), are software that can analyze automatically so that it is easier and more precise to find profit opportunities and can carry out transactions automatically. (www.cnnindonesia.com, 2023).

So, investors and traders, if they use a trading robot, only need to analyze the trading market sometimes because the trading robot has replaced this task. The promised opportunities for trading robots in analyzing have high enough accuracy, so they are likely to minimize losses incurred.

The modus operandi used is by packaging modern investments with the use of trading robots. Regulations regarding investment are actually contained in Law No. 25 of 2007 concerning capital investment. However, in this law, there are no penalties or regulations regarding fraud using technology in investment. The element of fraud is actually contained in Article 378 of the Criminal Code, which, if it is related to cases of illegal investment under the guise of trading robots, one element will be found that has not been fulfilled. So, the regulations regarding investment activities using trading robots in Indonesia have yet to be explicitly regulated. (Nugroho, 2022).

In Indonesia, many Fintech platforms currently offer investment products in financial assets, including trading robots, many of which are illegal trading robots that carry out criminal acts that are

detrimental to investors. However, the absence of specific regulations regarding the use of trading robots, especially in futures and commodity trading, has created a legal loophole for operators of illegal trading robots to commit criminal acts of fraud against people whose financial literacy is still low. (Syakur, 2022). Each country certainly has different regulations regarding investment, and there are always institutions that handle and supervise investment activities to avoid criminal acts resulting from investment activities. (Syakur, 2022).

Indonesia has two institutions that supervise and handle suspected criminal acts in investment management, namely the Financial Services Authority (OJK) and the Commodity Futures Trading Supervisory Agency (BAPPEBTI). However, even though these two supervisory institutions have been established, cases related to digital investment crimes in Indonesia still need to be resolved properly. Moreover, if it is linked to criminal liability for robots that make mistakes or commit trading fraud, this becomes a challenge for future legal development.

Research Methods

To provide a solution to the problem above, this research uses normative legal research methods with a statutory approach and a conceptual approach. (Irwansyah and Ahsan Yunus, 2021). This type of legal research uses secondary legal materials, namely legal principles, legal principles, statutory regulations, and scientific works such as journal articles and relevant books. The analysis technique used to get conclusions is prescriptive-normative.

Results and Discussion

Business Crime

Globalization makes the lives of human beings intertwined with each other (connected living), starting from personal affairs, homes, environments, cities and countries due to the development of sophisticated technological tools. This is what is often referred to as Digital Transformation in all parts of the world with various names, "Society 5.0" in Japan, "Industrial Revolution 4.0," in Europe, "Industrial Internet," in America and Asia with "Smart Cities." This connectedness is one of the characteristics of the flow of globalization, namely being in the same habitat universally (Kenichi Ohmae, 1990), interconnected and interdependent. (Henderson, 1996). One form of globalization is the massive technological industry (globalization of industrialism and technology). (Henderson, 1996).

The advantages of globalization, on the other hand, have a detrimental impact on a country's economy because, both directly and indirectly, globalization is one of the factors in the emergence of various kinds of crime, especially in business. This is a consequence of the increasingly open borders between countries, which gives rise to transnational crimes such as economic crimes and terrorism, which directly threaten the economic aspects of a country. (Iryna Shopina, 2017).

The term business crime is equivalent to syndicate crime, organized crime, group criminal elite, white collar crime, occupational deviance, official deviance, occupational crime, corporate and governmental deviance, illegal corporate behaviour, elite deviance and economic crime. Researchers in the United States identify business crime with corporate crime because it is classified as organized crime in the context of the complex relationship between the board of directors, executives and managers with the parent company, divisions and other branches. (Rini, 2001). In essence, these terms converge on one understanding that business crime is deviant behaviour carried out by business actors in order to gain profits, both material and immaterial, by violating business rules. (Rini, 2001).

The International Monetary Fund (IMF) uses the term financial crime, namely crimes that result in financial losses. Meanwhile, the Financial Services Act in England calls it a crime of fraud, misuse of financial market information and money laundering. (Jamal Wiwoho, 2022).

Meanwhile, Mardjono Reksodiputro said that corporate crime or crime is a criminal act that can cause widespread unrest in society and cause huge losses. These losses are not only those that can be calculated in money but also those that cannot be calculated by the loss of public confidence in a country's economic system. (Reksodiputro, 2008). The scope of corporate crime is as follows: abuse of public trust in the form of corporate crime in the fields of finance, banking and insurance; corporate crime against consumers, such as the use of dangerous substances in food, beverage and cosmetic products and misleading advertising that causes harm to consumers both materially and immaterial, environmental pollution, and computer fraud. (Luthan, 1994). When discussing corporate crime, experts generally refer to Sutherland, who first introduced the concept of white-collar crime at the 34th annual meeting of the American Sociological Society in 1939. He defined white-collar crime as a violation of criminal law by someone who has a high socio-economic position in their work. (Reksodiputro, 1944). Krammers added:

By the concept of corporate crime, then, we wish to focus attention on criminal acts of omission or commission, which are the result of deliberate decision-making or culpable negligence of those who occupy structural positions within the organization as corporate executives or managers/ this decision are organizationally based-made in accordance with the normative goals (primarily corporate profit), standard operating procedures, and cultural norms of the organization and are intended to benefit the corporation itself. (Reksodiputro, 2008).

In addition, losses from crimes committed by White Collar Crime (WCC) have a large economic impact when compared to crimes in general. Sutherland says:

This Financial loss from White Collar Crime, great as it is, is less important than the damage to social relations. White-collar crime violates trust and, therefore, creates distrust; this lowers social morale and causes social disorganization. Many of the White Collar Crimes attack the fundamental principles of American institutions. Ordinary crimes, on the other hand, produce little effect on social institutions or social organizations. (Sutherland, 1949).

Thus, corporate crime must be differentiated from crime in general because corporate crime is only committed in the context of large businesses and not small-scale businesses. Therefore, the elements of corporate crime are (a) crimes in the economic sector, (b) committed by a respected/respectable person, (c) high social status, (d) related to his work, (e) violates public trust (Reksodiputro et al. responsibility) and (f) results in major losses.

According to Josep. F. Schley, there are 6 (six) characteristics of corporate crime, namely: (Setiyono, 2005)

- a. Defrauding stockholders, namely embezzling or deceiving shareholders, such as not reporting company profits.
- b. Defrauding the public, namely deceiving the public or society, for example, carrying out a price cartel.
- c. Defrauding the government, namely defrauding the government, for example, avoiding or minimizing tax payments by reporting data that does not match the truth.
- d. Endangering the public welfare, for example, carrying out production activities that cause pollution in the form of liquid waste, dust, and noise.
- e. Endangering the employee, namely endangering workers by not caring about work safety.
- f. Illegal intervention in the political process, namely illegal intervention in the political process, for example, making political campaign contributions illegally and contrary to the law (making unlawful campaign contributions).

Cybercrime

Apart from the various benefits of advances in information technology, technology also has a negative impact because it makes it easier for people to commit crimes. In some literature, cybercrime is close to the terms computer crime, electronic crime, hi-tech crime and others. From this concept, two terms are often used, namely computer crime and cybercrime. Computer crimes are crimes committed or facilitated using computers, networks or hardware. Meanwhile, cybercrime is the term most commonly used because it defines it as a crime committed using the internet or computer. (Herath)

According to the US Department of Justice, computer crime is referred to as any illegal act requiring knowledge of computer technology for its perpetration, investigation, and or prosecution. Meanwhile, the Organization for Economic Cooperation Development (OECD) defines computer crime as any illegal, unethical or unauthorized behaviour involving automatic data processing and data transmission. From these two definitions, it can be concluded that computer crime is an unlawful act committed by using a computer as a means or tool or a computer as an object either to gain profit or not to the detriment of other parties. (Maskun, 2013).

There are many types of cybercrime according to the taxonomy of cybercrime, namely: child pornography, cyber hate speech, intellectual property (cyber against intellectual property), cyberbullying, cyber espionage, cyber extortion), fraud (cyber fraud), theft of money (cyberheist), sexual crimes (cybersex), money laundering (cyberlaundering), cyberstalking (cyber stalking), cyber terrorism (cyberterrorism), disruption of electronic information transmission processes and destruction of data (cybervandalism), cyber warfare, data theft by employees who lack integrity or former employees (disgruntled employees and former employees), hacking/breaking into other people's computer programs (hacking), online games, online pornography (cyber obscenity), phishing (pishing), racism and xenophobia (cyber racism and xenophobia), religious terror (religion cyber offences), distribution of pornographic photos (revenge porn), and sending continuous messages without the recipient's wishes (spam). (Sabillon, 2016).

Cybercrime has different characteristics from conventional crime because its method involves stealing data, crossing national geographic boundaries, using sophisticated technology and its complexity. This crime is controlled by someone who is a professional in the computer field, and the number of perpetrators is small but requires the cooperation of other people abroad. With this character, cyber crime, which involves personal data breaches and identity theft, is categorized as transnational organized crime. (Europol, 2004).

Richard Power states the characteristics of cybercrime as follows (Power, 2000)

- a. Illegal access carried out by insiders such as employees (*Unauthorized access by insiders of cybercrime*);
- b. Illegal access by outsiders such as hackers (*System penetration by outsiders*);
- c. Theft of important company information such as ID numbers and passwords (*Theft of proprietary information (whether a simple user ID and password or a trade secret of millions of dollars)*);
- d. Financial services fraud using computers (*financial fraud using computers*);
- e. Sabotage of data and computer networks (*Sabotage of data or networks*);
- f. Network traffic disruption (*Disruption of network traffic*);
- g. Creation and distribution of computer viruses (*creation and distribution of computer viruses*);
- h. Software piracy (*software piracy*);
- i. Theft of someone's identity (*identity theft*), and
- j. Hardware theft (*hardware theft*).

Countries around the world face the same problems when tackling cybercrime. Therefore, several international legal instruments have been agreed to deal with cybercrime. There is a United Nations Convention against Transnational Organized Crime. This Convention is the adoption of General

Assembly resolution 55/25 of November 15 2000, namely the main international legal instrument in the fight against transnational organized crime. Signed by member countries at the High-Level Political Conference held in Palermo, Italy, on 12-15 December 2000 and came into force on September 29 2003. Indonesia ratified it on April 20 2009. (Nations, 2004).

Apart from that, there is the EU Convention on Cybercrime, which was created on November 23 2001, in the city of Budapest, Hungary (Budapest Convention). The background to this Convention was created because of the characteristics of cybercrime, which is borderless and uses advanced technology. Meanwhile, the aim is for countries to agree that major changes resulting from the digitalization, convergence, and globalization of computer networks have become a forum for the development of crime that crosses national borders, so international cooperation is needed to overcome it. (Muhammad Amirulloh, 2009).

To date, 67 countries have become parties, and 16 countries have been invited to sign and join. Indonesia still needs to ratify the Convention to date. However, Indonesia already has Law Number 11 of 2008 concerning Information and Technology (IT), Law No. 27 of 2022 concerning the Protection of Personal Data and the Criminal Code, which the DPR RI has just passed.

Indonesia's non-participation in the Budapest convention should be questioned and discussed again. This Convention has a strategic role in preventing and enforcing the law on cross-border cyber crimes, so international cooperation is needed. Moreover, the characteristics of cyber attacks that cross national geographic (transnational) boundaries are fast, complicated, difficult to prove, and carried out by people who have expertise, resulting in large losses.

In 2010, the fifth United Nations Conference of States Parties (CoSP) against Transnational Organized Crime (UNTOC) expanded several New and Developing Transnational Crimes (New and Emerging Crimes), including cybercrime, identity-related crimes, illicit Trade in objects, cultural heritage, environmental crime, piracy at sea, and illegal Trade in body organs. (Nafi'ah, 2020).



The chart illustrates that transnational organized crime can be divided into three parts, namely: 1. High-tech crimes such as piracy, personal data breaches and identity theft, 2. Human trafficking and narcotics crimes, 3. Financial crimes such as money laundering and smuggling.

Trading Robot Market Investment Practices and Issues in Indonesia

The sophistication of the development of digital system technology has given rise to digital investment platforms based on trading robots, which usually offer trading services for a number of assets, such as shares, foreign exchange (forex), and crypto. In the world of investment, the phenomenon of trading bots, which is an abbreviation for trading robots, is nothing new. The investment world in America and Europe has known about trading robots since the 1980s (Kompas.com, 2021). Trading

robots are trading support systems that can innovate legitimate business lines and strengthen executive game rules into computerized business models and frameworks that allow computers to run, replacing the role of humans in modern trading network systems (Durham: Duke L. & Tech, 2017). Trading robots are an automatic trading system that allows traders to automate trading, both in terms of buying and selling. Using an indicator algorithm that is programmed to help analyze the market technically or graphically is only a tool that helps traders so that users do not have to bother monitoring the stock market.

The phenomenon of widespread robot trading practices in Indonesia is because this platform is considered an instant way to gain large profits. This is supported by investors, start-up entrepreneurs, and influencers who are affiliates, and the public's interest in getting involved in the trading business is very high. In Indonesia, many digital platforms offer investment products in financial assets using trading robots. The trading robot market since the COVID-19 pandemic has really developed; this can be seen from data sources from the Commodity Futures Trading Supervisory Agency (BAPPEBTI), which shows the number of registered futures brokers. Currently, according to sources from CoFTRA, 66 futures brokers have been registered in Indonesia. This large offer is certainly due to the high demand from the Indonesian people.

The COVID-19 pandemic experienced by Indonesia has caused conditions where almost all activities are carried out online and has led to changes in the new order of life. Many industrial sectors have had to lay off their workers, causing the economy to weaken. So, the unemployment rate has increased due to COVID-19, and the number of open unemployed will be 3.5 million to 8.5 million people throughout 2020.

The presence of innovations such as trading robots, where users do not need to meet face to face, only with laptops, smartphones and other media so that users can get sufficient profits to meet their daily needs during the pandemic. The development of investment in the field of trading robots has caused many trading companies to be born in Indonesia. The public's enthusiasm for this business is quite high, based on the explanation from the Head of the Center for Financial Transaction Reports and Analysis (PPATK), Ivan Yustiavandana, who said that during the period January to December 1 2022, the total transactions related to illegal investment reached IDR 35 trillion (liputan6.com, 2022).

The development of the robot trading business in Indonesia is different from the benefits and profits obtained by people who invest capital in these trading companies. Many people are still very unfamiliar and still have very little knowledge of the world of training; for example, in Bappebti's findings regarding the trading robot business, many people have complained that they think that Bappebti legalizes the use of trading robots in futures trading transactions.

Based on Bappebti's findings, apart from being sold without permission or legality, trading robot sales schemes in some cases also use pyramid or Ponzi schemes. What is being sold is no longer the trading robot program but rather the seller's membership, as is usually the case in the MLM (multi-level marketing) system. In the MLM system, every person who successfully recruits new members will receive a commission. It is not uncommon for those who are diligent in pursuing commissions to trick victims with the promise of high returns that are fixed (fixed) even though in any investment, there is still a risk of failure, even 100 per cent loss (Bappeti Bulletin, March 2022 Edition).

In Indonesia, the market share for trading robots actually targets retail investors who are beginners and often need more financial literacy and technological understanding. So, it is very easy to get caught up in large profits in a short time offered by companies engaged in the robot trading business without looking at the real market prospects and dynamics, without even looking at the legal provisions that apply in the capital market and licensing.

This was exploited by a handful of corporations whose business was in robot trading by committing fraud; there were even companies such as Sutton Capital, which did not have a license in Indonesia, which succeeded in making off with customers' money amounting to billions of rupiah in

October 2021. Almost the same thing also involved companies. PT. Evolution Perkasa Group which sells trading robots without a license, PT DNA Pro Akademi and Net89 trading robots.

PT DNA Pro Akademi is a private company that operates in the education centre services sector in the digital global investment sector. Based on Bappebti's findings that PT DNA Pro Akademi sells trading robots using an MLM system and the findings of cases in Gorontalo Province, there is one village area whose people are disadvantaged and become victims of fraudulent forex transactions using trading robots.

PT DNA Pro Akademi is a private company located in West Jakarta that operates in the field of education centre services in digital global investment. The DNA Pro company started operating in May 2020; this company provides a trading robot application platform called DNA Pro. The DNA Pro application is a trading robot application platform that is traded publicly to the public. DNA Pro provides a product in the form of a trading robot, which is predicted to be able to facilitate financial asset transactions automatically without bias to maximize investor profits. PT DNA Pro Akademi claims to be the number one Autopilot Trading Software in Indonesia, as stated in its profile (Sevilla et al., 2021).

PT legal issues. DNA Pro Academy started when the DNA Pro trading robot application carried out an act that was detrimental and violated statutory regulations. Based on research by CNBC Indonesia, DNA Pro offers a guaranteed return of 1% per day via gold and foreign currency instruments (foreign exchange/forex). In reality, the prices of these two assets actually fluctuate erratically in generating profits even when using robots (CNBC, 2022).

In carrying out this fraud, PT. DNA Pro Academy, through the DNA Pro Application, carries out a Ponzi scheme, which is an investment fraud scheme in which the perpetrator promises to provide returns or what is usually called profit to investors who have joined using money from investors who have just joined (Lorien et al., 2022).

PT. DNA Pro Academic also committed serious violations, as stated in a press release from the Public Relations Bureau of the Ministry of Trade of the Republic of Indonesia, based on its findings:

"PT DNA Pro Akademi is suspected of having violated the provisions of Law Number 7 of 2014 concerning Trade, namely carrying out business activities selling expert advisors/trading robots using a multi-level marketing (MLM) system on the basis of legality in the form of a business identification number (NIB) with Classification Indonesian Business Field Standard 47999 (retail Trade not in shops, kiosks, street vendors and other market stalls) which has not been effectively implemented, verified, or does not have a direct sales business permit from the Ministry of Trade. (Press Release Public Relations Bureau of the Ministry of Trade, Jakarta, January 29, 2022).

Apart from the problematic licensing sector, PT. DNA Pro Academic can also be subject to criminal provisions as stated in Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing; direct sales business activities are included in the high-risk category. Direct sales business actors who do not have business permits can be punished with criminal provisions.

PT. DNA Pro Academic was also reported to the National Police's Criminal Investigation Agency (Bareskrim) on suspicion of fraud against 242 victims who suffered losses caused by the company. Through the victims' attorney, Juda Sihotang claimed that the victims' temporary losses reached IDR 73 billion. Meanwhile, the Directorate of Special Economic Crimes (Dittipideksus) Bareskrim Polri has received the DNA Pro platform report with registration number B/185/IV/RES.2.1/2022/Dittipideksus. In the report, 56 people were reported, including founders, commissioners, directors, founders, main directors, co-founders, and leaders from PT companies. Pro Academic DNA.

In the DNA Pro case, Dittipideksus Bareskrim Polri Brigadier General Whisnu Hermawan said that the total number of DNA Pro victims who had been reported to Bareskrim Polri had reached 3,621 people. There are approximately 3,621 victims who were reported to the National Police Headquarters,

with a total loss of approximately IDR 551,725,456,972. This means that out of the three thousand, the total loss submitted to the National Police was approximately IDR 551 billion.

The victim's legal representative, Juda Sihotang from LQ Indonesia Law Firm, said that his party had submitted evidence in the form of account numbers for the DNA Pro parties. In this report, 56 people were reported. "Approximately 56 people were reported, I detailed all of them. In the report, the victim reported Articles 3, 4, and 5 of Law Number 8 of 2010 concerning money laundering (TPPU). The case of PT. DNA Pro Akademik was very systematic, which caused the victims to be spread across several regions in Indonesia, from Medan to Papua.

The latest case that is still hot occurred in October 2022, namely the emergence of illegal investments using the Net89 trading robot mode. The Special Economic Crimes Directorate, Bareskrim Polri, named the owner of the Net89 trading robot, Reza Shahrani, commonly known as Reza Paten, as a suspect. In this case, it also involves several public figures who function as members and also become influencers or people who influence other people and promote Net89. Several public figures who are suspected of being involved as influencers in the Net89 trading robot investment business include Mario Teguh, Kevin Aprilio, and Adri Prakarsa. (Nasional.kontan.co.id, 2023) Apart from those involved as influencers, several public figures are suspected of receiving the proceeds of crime from the owners of the Net89 trading robot, namely Atta Halilintar and Taqy Malik. The alleged losses suffered by the victims reached up to 28 billion.

In the Net89 trading investment case, as information from the Directorate of Dittipideksus Bareskrim Polri, the actions carried out by the perpetrator and several public figures involved in this crime can be charged under several layered articles, including Article 378 of the Criminal Code and Article 372 of the Criminal Code and Article 45 paragraph (1) jo. Article 28 and Article 34 paragraph (1) jo. Article 50 of Law Number 19 of 2016 concerning Amendments to Law Number 1 of 2008 concerning Electronic Information and Transactions. The outline of the explanation of these articles with regard to this case is regarding acts of fraud as regulated in Article 378 of the Criminal Code, which reads, "Whoever with the intention of benefiting himself or another person by violating the rights, either by using a false name or circumstances false, either by means of artifice and deceit or by composing false words, persuading people to give something, creating debts or writing off receivables, shall be punished for fraud with a maximum prison sentence of 4 (four) years." Considering that the fraudulent acts that occur in trading investments are carried out through online means, they are linked to legal regulations that are lex specialist in Article 28 paragraph (1) of the ITE Law. Article 28, paragraph (1) of the ITE Law reads, "Every person intentionally and without right spreads false and misleading news which results in consumer losses in electronic transactions."

Looking at the pattern of the cases above, the characteristics of corporate criminal acts in the economic sector, namely investment, have been included in the qualifications. This is because the impact of this crime is using companies as a vehicle for committing crimes, such as investment fraud, which harms many parties, namely committing fraud against the public (Defrauding the public) and is carried out by perpetrators who are professionals in the world of investment so it can also be categorized as a white collar crime. (white-collar crime) as taught by Edwin H. Sutherland

This is in line with Kartono's view, as explained by Prof. Muladi and Prof. Barda Nawawi Arief in the book *Criminal Theories and Policies*, states that "acts and behaviour that economically, politically and socially psychologically are very detrimental to society, violate moral norms and attack the safety of citizens (both those stated in the criminal law) (Muladi and Barda Nawawi Arief, 1994).

Corporate Legal Responsibility in Robot Trading Crimes

According to Hasbullah F. Sjawie's view, corporate responsibility in his book *Directors of Limited Liability Companies and Corporate Criminal Responsibility* formulates the elements that must be fulfilled so that corporations can be held criminally accountable, namely:

1. Actus Reus means that the action must be carried out within the scope of his authority. In other words, his actions in carrying out his duties were still within the scope of the corporation's duties or authority;
2. The act was done intentionally (*mens rea*), And
3. The act was carried out by a mentally or mentally competent perpetrator (Hasbullah F Sjawie, 2017).

Based on the three corporate responsibility criteria above, trading companies operating in the business sector selling expert advisors/trading robots using the MLM system found many corporate violations that have caused much harm to the wider community and destroyed the national economy. The government, through the Directorate General of Consumer Protection and Orderly Commerce (Ditjen PKTN) and CoFTRA from the Ministry of Trade, are acting firmly against businesses selling unlicensed expert advisors/trading robots. The government has taken firm action against these companies by sealing and prohibiting their business activities. Apart from prohibiting business activities, the founders and directors of the company were also charged under Indonesian criminal provisions.

However, the challenge in the formation of digital investment law in the future is related to legal liability for trading operated by robot technology. Trading with Robots is classified as the use of Artificial Intelligence (AI). If so, then there is a new legal concept that needs to be anticipated regarding legal liability when the robot makes a mistake.

In positive law in Indonesia, namely the Electronic Information and Transaction Law (UU ITE), AI is classified as an electronic system and electronic agent; if you look at the characteristics of AI with the definition of an electronic system in the regulation of the ITE Law, this has many similarities and The suitability of AI's working methods is that it can collect data, then process it, even analyze it, and can display and transmit electronic information, this is explained in "Article 1 Number 5 of the ITE Law". Then, the basis for classifying AI as an electronic agent is not much different from classifying AI as an electronic system, where the suitability of AI's actions and actions is linked to the definition of an electronic agent, namely a device from an electronic system that aims to carry out actions on an electronic system automatically based on people's orders, which of course is in accordance with the characteristics of AI itself based on the understanding of "Article 1 Number 8 of the ITE Law". AI based on the legal regulations in force in Indonesia is actually not a legal subject but only a legal object, which, of course, AI itself is a technology operated by humans in its implementation, linked to positive law, electronic system administrators operate AIs, this is in accordance with which is explained in Government Regulation Number 71 of 2019 concerning Implementation of Electronic Systems and Transactions (PP 71/2019). In this case, the electronic system operator is responsible as a legal subject for the operation of the electronic system, except for force majeure.

In relation to AI regarding the concept of criminal responsibility in its use, of course, the focus is whether AI can be held criminally responsible for the actions it carries out. Bearing in mind the principle of responsibility in criminal law, namely (Geen et al.; *Actus non facit reum nisi mens sit rea*), no crime applies if there is no error. According to Van Hamel believes that the limits of responsibility are related to the meaning of 1) Being able to understand the meaning and consequences of the actions carried out, 2) being able to be aware that the action is contrary to public order, and 3) Able to determine the will to carry out actions. (Haris, 2022).

Based on Van Hamel's opinion, which explains the limits of responsibility which are then associated with AI, in this case, AI does not understand the meaning of the consequences it carries out, and AI cannot determine its will to act. AI does not have an awareness of acting. Law. Therefore, from several limitations of liability, AI cannot become a legal subject that can be held accountable in criminal law. So, if an AI commits an act or act against the law, this can return to the concept of responsibility in criminal law, namely that those responsible are the creators and users of the AI itself. (Haris, 2022).

Conclusion

Crimes in the investment sector committed by business actors in the form of corporations can cause losses and victims, which are supported by the emergence and development of science and information technology, make it very easy for crimes to be committed by corporations using various modes, including investment fraud, illegally through trading robots. Criminal liability for corporations in robot trading activities by using gold and foreign money as objects of online investment, using multi-level marketing networks and online networks, ultimately causes many material losses to victims of the wider community. Corporate criminal liability can be sought according to applicable law, either through criminal proceedings, revocation of business permits, or restitution of victims' losses.

However, responsibility for the use of AI from a criminal law perspective, in this case, AI, cannot be classified as a legal subject because, according to several experts, the concept of responsibility is having awareness and being able to intend its actions. As is known, AI does not have an awareness of the actions it carries out. Also, AI cannot expect a possible criminal act to be committed.

References

- Amirulloh, Muhammad, Ida Padmanegara, and Tyas Dian Anggraeini. Study of the EU Convention on Cybercrime Linked to Efforts to Regulation Information Technology Crime. Jakarta, 2009. <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.
- Ayanso, Anteneh, and Tejaswini Herath. "Law and Technology at Crossroads in Cyberspace: Where Do We Go From Here?" In Investigating Cyber Law and Cyber Ethics: Issues, Impacts and Practices: Issues, Impacts and Practices, edited by Doris Lidtke, Gabriele Meiselwitz, Donna Tupper, Yuanqiong Wang, and Cecelia Wright Brown, 3. Hershey PA 17033: Information Science Reference, 2011 <https://books.google.com/books?hl=en&lr=&id=-aeBQAAQBAJ&pgis=1>.
- Edwin H. Sutherland. "White-Collar Criminality." American Sociological Review 5, no. 1 (1940): 1–12.
- Europe, Council of. Summary of the Organized Crime Situation. Report 2004: Focus on Threat of Cybercrime. Council of Europe Octopus Programme. Strasbourg, 2004.
- Europol. Threat Assessment (Abridged). Internet Facilitated Organized Crime. The Hague, 2011.
- Farosi, Mohamad, and Widhi Cahyo Nugroho. "Illegal Investment Under the Guise of Trading Robots According to Criminal Law in Indonesia." Bureaucracy Journal: Indonesian Journal of Law and Social-Political Governance 2, no. 1 (2022): 590–603.
- Furnell, S., and S. Dowling. "Cyber Crime: A Portrait of the Landscape." Journal of Criminological Research, Policy and Practice All 5, no. 1 (2019).
- Gordon, Sarah, and Richard Ford. "On the Definition and Classification of Cybercrime." Journal in Computer Virology 2, no. 1 (2006): 13–20.
- Hazel Henderson. Building a Win-Win World, Life Beyond Global Economic Warfare. San Francisco: Berret-Koehler Publishers, Inc., 1996.
- Irwansyah, and Ahsan Yunus. Legal Research Choice of Article Writing Methods and Practices. Revision. Yogyakarta: Mirra Buana Media, 2021.
- Kenichi Ohmae. Borderless World. USA: Harper Business, Maknisey Company Inc., 1990.
- Luthan, Salman. "Anatomy of Corporate Crime and its Countermeasures." Law Journal I, no. 2 (1994): 18.
- Mardjono Reksodiputro. Corporate Criminal Liability. Semarang, n.d.
- Maskun. Cyber Crime (Cyber Crime) An Introduction. Jakarta: Kencana, 2013.
- Murizqy, Muhammad Alhadi, and Rianda Dirkareshza. "Review of Security Aspects and Legal Protection for Cryptocurrency Investors." Ius Constituendum Journal 7, no. 2 (2022): 277.
- Nafi'ah, Rahmawati. "Data Breach and Identity Theft in E-Commerce." CyberSecurity and Digital Forensics 3, no. 1 (2020): 8–9.
- Nations, United. United Nations Convention Against Transnational Organized Crime and the Protocols to it. USA, 2004.

- Power, Richard. *Tangled Web Tales of Digital Crime from the Shadows of Cyberspace*. Edited by Kathryn Purdum, Hugh Vandivier, Thomas Hayes, Tonya Simpson, and Michael Dietsch. Indiana: Que Corporation, 2000.
- Amirulloh, Muhammad, Ida Padmanegara, and Tyas Dian Anggraeini. *Study of the EU Convention on Cybercrime Linked to Efforts to Regulation Information Technology Crime*. Jakarta, 2009. <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.
- Ayanso, Anteneh, and Tejaswini Herath. "Law and Technology at Crossroads in Cyberspace: Where Do We Go From Here?" In *Investigating Cyber Law and Cyber Ethics: Issues, Impacts and Practices: Issues, Impacts and Practices*, edited by Doris Lidtke, Gabriele Meiselwitz, Donna Tupper, Yuanqiong Wang, and Cecelia Wright Brown, 3. Hershey PA 17033: Information Science Reference, 2011 https://books.google.com/books?hl=en&lr=&id=_-aeBQAAQBAJ&pgis=1.
- Edwin H. Sutherland. "White-Collar Criminality." *American Sociological Review* 5, no. 1 (1940): 1–12.
- Europe, Council of. *Summary of the Organized Crime Situation. Report 2004: Focus on Threat of Cybercrime*. Council of Europe Octopus Programme. Strasbourg, 2004.
- Europol. *Threat Assessment (Abridged). Internet Facilitated Organized Crime*. The Hague, 2011.
- Farosi, Mohamad, and Widhi Cahyo Nugroho. "Illegal Investment Under the Guise of Trading Robots According to Criminal Law in Indonesia." *Bureaucracy Journal: Indonesian Journal of Law and Social-Political Governance* 2, no. 1 (2022): 590–603.
- Furnell, S., and S. Dowling. "Cyber Crime: A Portrait of the Landscape." *Journal of Criminological Research, Policy and Practice* 5, no. 1 (2019).
- Gordon, Sarah, and Richard Ford. "On the Definition and Classification of Cybercrime." *Journal in Computer Virology* 2, no. 1 (2006): 13–20.
- Hazel Henderson. *Building a Win-Win World, Life Beyond Global Economic Warfare*. San Francisco: Berret-Koehler Publishers, Inc., 1996.
- Irwansyah, and Ahsan Yunus. *Legal Research Choice of Article Writing Methods and Practices*. Revision. Yogyakarta: Mirra Buana Media, 2021.
- Kenichi Ohmae. *Borderless World*. USA: Harper Business, Maknisey Company Inc., 1990.
- Luthan, Salman. "Anatomy of Corporate Crime and its Countermeasures." *Law Journal I*, no.2 (1994): 18.
- Mardjono Reksodiputro. *Corporate Criminal Liability*. Semarang, n.d.
- Maskun. *Cyber Crime (Cyber Crime) An Introduction*. Jakarta: Kencana, 2013.
- Murizqy, Muhammad Alhadi, and Rianda Dirkareshza. "Review of Security Aspects and Legal Protection for Cryptocurrency Investors." *Ius Constituendum Journal* 7, no. 2 (2022): 277.
- Nafi'ah, Rahmawati. "Data Breach and Identity Theft in E-Commerce." *CyberSecurity and Digital Forensics* 3, no. 1 (2020): 8–9.
- Nations, United. *United Nations Convention Against Transnational Organized Crime and the Protocols to it*. USA, 2004.
- Power, Richard. *Tangled Web Tales of Digital Crime from the Shadows of Cyberspace*. Edited by Kathryn Purdum, Hugh Vandivier, Thomas Hayes, Tonya Simpson, and Michael Dietsch. Indiana: Que Corporation, 2000.
- Rahman, Muhammad Tan Abdul, and Tantimin Haris. "Analysis of Criminal Law Liability for the Use of Artificial Intelligence in Indonesia." *Journal of Legal Communication* 8, no. 1 (2022): 312–314.
- Rini, Indrati. "Basic Thoughts and Strategies in Combating Business Crime." *Perspective VI*, no. 2 (2001): 74–75.
- Rush, H. *Crime Online, Cybercrime and Illegal Innovation.*, 2009. http://www.eprints.brighton.ac.uk/5800/01/ Crime_Online.pdf.
- Sabillon, Regner, Jeimy Cano, Victor Cavaller, and Jordi Serra. "Cybercrime and Cybercriminals: A Comprehensive Study." *International Journal of Computer Networks and Communications Security* 4, no. 6 (2016): 172–174.
- Setiyono. *Corporate Crime: Victimological Analysis and Corporate Responsibility in Indonesian Criminal Law*. Malang: Malang Bayumedia, 2005.
- Shopina, Iryna, Olena Oliinyk, and Valerii Finaheiev. "Globalization and Its Negative Impact." *Baltic Journal of Economic Studies* 3, no. 5 (2017): 457–461.

- Susan W. Brenner. Organized Cybercrime? How Cyberspace May Affect the Structure of Criminal Relationships. *North Carolina Journal of Law & Technology*. Vol. 4, 2022.
- Sutherland, Edwin H. "Is 'White Collar Crime' Crime?" In *Annual Meeting Papers*, 10:132–139. *American Sociological Review*, 1944.
- . *White Collar Crime*. New York: Dryden Press, 1949.
- Syahrijal Syakur. "Legal Protection of Victims of Fintech Trading Robots Through Confiscation of the Criminal's Assets (Legal Protection of Victim of Fintech Trading Robots Through Asset Confiscation of the Criminal)." *National Law Magazine* 52, no. 2 (2022): 1–22.
- The Association of Southeast Asian Nations. *ASEAN Document Series on Transnational Crime: Terrorism and Violent Extremism; Drugs; Cybercrime; and Trafficking in Persons One*. Jakarta: The ASEAN Secretariat, 2017.
- Wiwoho, Jamal, Dona Budi Kharisma, and Dwi Tjahja K Wardhono. "Financial Crime in Digital Payments." *Journal of Central Banking Law and Institutions* 1, no. 1 (2022): 55.
- Website
- <https://www.cnbcindonesia.com/market/20220419140839-17-332812/ini-skema-robot-trading-dna-pro-yang-bikin-rugi-miliaran>.
- <https://ombudsman.go.id/news/r/saat-ini-semua-perusahaan-robot-trading-ilegal>, diakses pada tanggal 13 Januari 2023
- <https://www.cnnindonesia.com/ekonomi/20210730180717-78-674457/kenali-robot-trading-forex-penyelamat-atau-pembawa-musibah> , diakses pada tanggal 14 Januari 2023
- <https://nasional.kontan.co.id/news/reza-paten-resmi-jadi-tersangka-dugaan-investasi-bodong-robot-trading-net89> , diakses pada tanggal 14 Januari 2023

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).