

Legal Protecting For Investors Forex Margin Trading Transactions In Futures Trading

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Abstract

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In the era of globalization, society's needs are increasing day by day. Because of this, many people from the upper middle class invest their wealth in the hope of making a profit to meet their needs. Forex is included in the futures exchange which is a derivative investment from the type of stock investment. The forex market is a market that sells one country's currency against another country's currency. Forex transaction activities are also included in the commodity futures market which is a futures trading contract and is supervised by Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI). Brokers act as intermediaries who bring together sellers and buyers of certain currencies. Brokers have direct access to dealers and banks that carry out forex trading throughout the world in order to carry out their duties properly. Futures brokers are regulated in Law Number 32 of 1997 concerning Commodity Futures Trading, especially in Article 31 paragraph (1) and Government Regulation Number 9 of 1999 concerning the Implementation of Commodity Futures Trading Article 37. Currently, some people's confidence in investing is still low because the large number of people interested in investing has become a place for irresponsible people to commit fraud by posing as forex brokers. In forex margin trading transactions by broker companies, the implementation of legal protection has not been able to fully accommodate the interests of investors. Law Number 32 of 1997 only regulates the resolution of disputes and does not mention further about the forms of legal protection efforts that must be taken by Futures Brokers.

Keywords: *Forex Trading, Investors, BAPPEBTI, Futures Brokers, Legal Protection*

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INTRODUCTION

Previously, humans carried out transactions or buying and selling using the barter method which was later replaced by using a means of exchange for payment in the form of money. Just like what happens with stock investments which are only done in a real container. However, as time goes by, many conveniences have emerged in buying and selling transactions or stock investments that can be carried out without having to meet face to face.

The consequences of this era of globalization have an impact on society's needs which are increasing day by day. Because of this, many people from the middle class to the upper class invest their wealth in the hope that they will make a profit that they can use to fulfill their needs and live a better life. The ease of investing without having to meet face to face makes it easier and increases investors' interest in increasing every investment transaction. Currently there is high investor interest in the field of future trading which is considered the most profitable in the financial sector. This investment business is the choice of investors in Indonesia and even throughout the world. Forex exchange or in

Indonesian is called the foreign exchange market, which is trading with two currencies and two countries carried out by many countries, institutions and individuals, both for foreign exchange reserves, trading. internationally, or to take advantage of price differences. (The Fei Ming, 2001)

In forex, everything is done only in the form of an agreement and is brokered by an arbitration institution called a broker because the buyer and seller do not have a direct physical meeting or handover. Forex itself is classified as a futures exchange which is a derivative investment from a type of stock investment.

This type of derivative started with index and commodity trading, then added a new type, namely foreign exchange or forex trading. Forex trading also has its own regulatory agency because it is no longer classified as securities investment. In Indonesia, the regulator that supervises brokerage activities is under the authority of Badan Pengawas Perdagangan Berjangka dan Komoditi (Bappebti), Bursa Berjangka Jakarta (BBJ), serta Kliring Berjangka Indonesia (KBI).

The Forex market is one of the largest money markets in the world because there are many traders involved ranging from international companies, world banks, and individuals. Trader is the term for someone who works as a forex player or individual who is involved, either for himself or on behalf of another institution. The rapid circulation of money in this market is caused by the large number of traders and is influenced by various factors such as economic, political and social factors in a country. This makes prices very volatile, which is a risk that traders must face. (Titin, 2015)

Forex trading is included in the type of futures trading and is regulated in Law Number 32 of 1997 concerning Commodity Futures Trading, especially chapter VII. This law explains general matters, institutions, licensing, mechanisms, trade, bookkeeping/reporting, and the application of law.

From this introduction, it can be formulated regarding the rules and supervision in forex margin trading transactions as well as legal protection in futures trading. The purpose of this writing is to provide an explanation of the regulations that apply to forex margin trading transactions and examine the legal protection for futures trading.

RESEARCH METHOD

This type of research uses the library research method. Library research is carried out by reviewing several books, literature, notes and reports that are related to the problem being solved. (Nazir, 2003)

This research uses a normative approach method which is an approach with the concept of analyzing laws and written norms relating to forex trading promulgated by authorized institutions or officials. This research uses a normative approach because this research examines written law in accordance with applicable law. (Nawawi, 2019)

This research uses secondary data which is data obtained from various official documents in existing official reports, several books related to forex trading, research results in the form of reports, theses, dissertations, and statutory regulations. (Zainudin, 2013)

This research uses a qualitative analysis method, data obtained in this research through statutory regulations and from materials or books that discuss legal protection in forex trading transactions which are then added to opinions to find solutions and conclusions are drawn which are used to answer the problem.

RESULTS AND DISCUSSION

Overview of Forex Margin Trading in Futures Trading

Forex or Foreign Exchange is a foreign currency which is often called foreign exchange. (Joko Salim, 2008). The forex market or foreign exchange market is a market that sells the currency of one country against the currency of another country. Forex transaction activities are also included in the commodity futures market which is a futures trading contract and is supervised by Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI). (Hariyani, 2013)

The development of forex trading in 1973, namely when there was a change in the international monetary system which was initiated by President Nixon who announced changes to the exchange rate system on the USD which was originally a fixed exchange rate system, a floating exchange rate system on August 15 1971 at a conference in Washington on 17 to 18 December 1971. (Lucius M, 2007) There are several actors in the forex market, namely: (Dhipta Abdul, 2021)

1. Dealer

Dealers or market makers (market makers) function to make the forex market increase. Dealers are usually banks and some non-banks, who specialize in certain currencies and set certain supply levels on those currencies. The dealer makes a profit from the difference in forex buying and selling prices.

2. Company or Individual

Companies and individuals can carry out Forex transactions to facilitate business transactions. Such as exporters, importers, domestic investors, international investors, multinational companies, and others.

3. Speculators and Arbitrators

Speculators and arbitrageurs act of their own free will and have no obligation to serve customers and do not guarantee the continuity of the market which will enliven transactions. Speculators will profit from forex price fluctuations (capital gains). Meanwhile, the arbitrator will gain profits by exploiting price differences from various markets.

4. Central Bank

The function of the Central Bank is as an exchange rate stabilizer. The Central Bank uses the forex market to obtain or spend its foreign currency reserves in order to influence the stability of currency exchange rates so that it has a positive impact on the economy of the country concerned.

5. Futures Broker (Broker)

Futures brokers (brokers) act as intermediaries who bring together sellers and buyers of certain currencies. Futures brokers have direct access to dealers and banks that carry out forex trading throughout the world in order to carry out their duties properly. (S Indah, 2016) Futures brokers are divided into

conventional futures brokers, non-dealing desk futures brokers, dealing desk futures brokers, and hybrid futures brokers.

Forex trading with a margin trading system uses spot prices. Market participants in this system have the freedom to take certain positions and liquidate their positions at certain time limits. This type of forex trading investment with a margin trading system collects investor margin, so this is regulated in the area of Law Number 32 of 1997 concerning Commodity Futures Trading. (Sawidji, 2012)

Under the supervision of the Ministry of Trade, forex trading is included in futures trading which is regulated in Law Number 32 of 1997 concerning Commodity Futures Trading which includes provisions regarding general matters, institutions, licensing, trading mechanisms, bookkeeping or reporting and implementation. law. Further regulations of Law Number 32 of 1997 are regulated in Government Regulation Number 9 of 1999 concerning the Implementation of Commodity Futures Trading and BAPPEBTI Regulations. (Pantas Lumban, 2010) Futures Trading is supervised by several institutions, namely:

1. Supervisory Body

The supervisory body is a government institution that is given the task and authority based on applicable laws and regulations to supervise futures trading activities. Law Number 32 of 1997 concerning commodity futures trading, the existence of a supervisory body is regulated in Chapter II Article 4 to Article 9. Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti) has authority which is basically directed at facilitating the implementation of orderly and orderly futures trading.

2. Futures Exchange

The futures exchange is an institution that acts as the organizer of futures trading activities as regulated in Article 1 point 3 of Law Number 32 of 1997 concerning Commodity Futures Trading. The futures exchange is an institution that provides facilities and organizes and supervises transaction activities in the futures market so that they comply with applicable regulations. The existence of a futures exchange is regulated in Chapter III Articles 10 to Article 23.

3. Futures Clearing House

According to Article 1 number 7 of Law Number 32 of 1997 concerning Commodity Futures Trading, the Futures Clearing and Guarantee Institution, hereinafter referred to as the Futures Clearing Institution, is a business entity that organizes and provides systems and/or facilities for carrying out clearing and guaranteeing transactions on the Exchange. Futures. The Futures Clearing House is regulated in Chapter II Article 24 to Article 30 of Law Number 32 of 1997 concerning Commodity Futures Trading.

4. Futures Brokerage Company

The definition of a futures broker according to Article 1 number 12 of Law Number 32 of 1997 concerning Commodity Futures Trading is that a Futures Trading Broker, hereinafter referred to as a Futures Broker, is a business entity that carries out buying and selling Commodities based on Futures Contracts at the request of the Customer by withdrawing a certain amount of money and /or certain securities as margin to guarantee the transaction. Futures Brokers

are regulated in Chapter IV Article 31 to Article 33 of Law Number 32 of 1997 concerning Commodity Futures Trading. Futures brokerage companies In conjunction with the Futures Clearing House, futures brokers can be grouped into:

- a. Futures Broker who is a member of the Futures Clearing House
 - b. Futures brokers who are not members of the Futures Clearing House
5. The Futures Fund Center
- The future fund center is managed by Pengelola Sentra Dana Berjangka (PSDB) which is a business entity with a limited liability company (Perseroan Terbatas PT). The definition of a Futures Trading Fund Center according to Article 1 number 14 of Law Number 32 of 1997 concerning Commodity Futures Trading is a forum used to collect funds collectively from the public to be invested in Futures Contracts. Management of Futures Trading Fund Centers, regulated in Article 1 point 15 of Law Number 32 of 1997 concerning Commodity Futures Trading.
6. Futures Trader
- Futures traders are members of the futures exchange who are only entitled to carry out transactions for their own account and/or their business group. Futures trading can be corporate or individual. Futures traders are required to obtain a registration certificate from BAPPEBTI before making transactions.

Subject Supervision in Forex Margin Trading Transactions at Futures Brokerage Companies

The rules regarding Futures Trading, especially forex margin trading, are regulated in Law no. 32 of 1997 which was amended to become Law no. 10 of 2011 concerning Commodity Futures Trading. According to Mr. Himawan, Head of the Legal Services Section of the BAPPEBTI Legal Bureau, Law No. 10 of 2011 regulates alternative trading in derivative products, including Forex margin trading. (Naily Suroyya, 2013) Meanwhile, the rules for Commodity Futures Trading are regulated in the Republic of Indonesia Government Regulation No. 9 of 1999 concerning the Implementation of Commodity Futures Trading and BAPPEBTI Regulations.

Based on Law Number 32 of 1997 concerning Commodity Futures Trading, an official Brokerage Company is a brokerage company that is registered and has a brokerage company business license by BAPPEBTI. Brokerage companies are also required to be registered as members of the Futures Exchange and Futures Clearing House.

Supervision of futures trading itself is carried out by Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti) which is under the responsibility of the Minister of Trade and is regulated in Articles 4 to 9 of Law Number 32 of 1997 concerning Commodity Futures Trading.

Meanwhile, the regulation and supervision of forex margin trading transactions is guided by Law Number 32 of 1997 concerning Commodity Futures Trading in conjunction with Government Regulation Number 9 of 1999 concerning the Implementation of Commodity Futures Trading.

Supervision carried out directly by Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI) regarding the protection of commodity futures

trading is based on Article 4 paragraph (1) of Law No. 10 of 2011 concerning Commodity Futures Trading and explained in the Decree of the Minister of Industry and Trade Number: 86/ Mpp/ Kep/ 3/ 2001 Concerning the Organizational Structure of the Department of Industry and Trade article 1112, Bappepti has the task of carrying out daily guidance, regulation and supervision of commodity futures trading activities. (Daniel Pangaribuan, 2020)

The authorities Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti) include, among others:

1. Provide interpretation and create technical rules for the implementation of futures trading;
2. As a licensing institution for market managers and professionals in futures trading;
3. As an institution that approves regulations and rules including contract requirements on futures exchanges and futures clearing institutions.
4. Carry out daily monitoring, inspection and investigation of futures trading activities.

Legal Protection for Forex Margin Trading in Futures Trading

Agreements in commodity futures trading have so far been carried out in the form of standard agreements (standard agreements). In commodity futures trading, agreements are only carried out in the form of standard agreements (private agreements) issued by BAPPEBTI based on Regulation of the Head of Bappepti Number 64 of 2009. This is risky for investors because this agreement is not expressed in the form of an authentic deed.

In Law Number 10 of 2011 related to protection and implementing rules are the Regulations of the Head of Bappebti, which include granting permits for futures brokers, rules regarding the know your customer principle, the requirement to deposit funds in different accounts, separate account management, message distribution mechanisms, and sanctions if there is a violation of these rules.

Legal protection for investors in futures trading regarding investors' interests has been regulated both in statutory regulations, government regulations and BAPPEBTI regulations which regulate the futures exchange. This is based on Law Number 32 of 1997 concerning Commodity Futures Trading which is regulated in Article 52 paragraph (1) as well as provisions in the implementation of Law Number 32 of 1997, namely Government Regulation of the Republic of Indonesia Number 9 of 1999 concerning the Implementation of Commodity Futures Trading.

The legal protection in the laws and regulations above only mentions technical provisions and only applies as formal provisions and as a form of legal protection for investors' interests, especially in forex margin trading transactions. This results in the behavior of futures brokers not being able to fully accommodate investors' interests even though in its implementation there are still deviations from the provisions which cause losses for investors themselves. However, in the futures contract investment cooperation agreement process between the futures brokerage company and the investor/customer and if a violation or default occurs, it can be resolved in several ways based on the

provisions of statutory regulations. However, especially in forex margin trading transactions, legal protection for investors/customers in the statutory regulations and BAPPEBTI regulations themselves do not clearly state the legal protection efforts that futures brokerage companies must take for investors/customers.

To carry out efforts to provide legal protection to investors who carry out transactions in alternative trading systems in futures trading, the government has given authority to BAPPEBTI through Law No. 10 of 2011, BAPPEBTI with the main tasks of fostering, regulating, developing and supervising futures trading. The regulation, development, guidance and supervision is carried out with the aim of based on Article 1 number 3 of Law Number 10 of 2011 concerning Commodity Futures Trading, namely to:

1. Realizing futures trading activities that are orderly, fair, efficient, effective and transparent and in an atmosphere of healthy competition;
2. Protect the interests of all parties in futures trading; And
3. Realizing futures trading activities as a means of managing price risk and establishing transparent prices.

BAPPEBTI as a supervisory body in resolving disputes between investors and brokerage companies, regarding losses experienced by investors must go through a series of stages. This is to be able to determine whether the losses experienced by investors are purely due to risks due to market mechanisms or proven violations or due to elements of criminal acts by the Futures Broker. The stages include:

1. First stage

Through written complaints from investors received by BAPPEBTI regarding their reporting against brokerage companies that are complained of committing violations or defaults or due to losses they have experienced and submitted either personally or through appointed legal counsel accompanied by investor documents submitted to BAPPEBTI's Legal Bureau for evidenc.

2. Second stage

Carrying out examinations carried out by Bappebti's investigative team on investor documents includes examining the SOP for accepting investors at futures brokerage companies as well as the SOP for implementing investor account transactions.

3. Third stage

Determine as a result of examining investors' documents whether the losses experienced were purely losses due to market mechanism factors (risk) or whether there was evidence of default/administrative violations or even criminal elements from the futures brokerage company.

4. Fourth stage

Settlement Stage, if the investor's loss is purely based on market mechanisms then settlement is achieved through mediation carried out by BAPPEBTI.

If it is proven that there is an administrative violation or criminal element committed by a futures broker, Bappebti has the right to impose sanctions in the form of a reprimand, suspension or revocation of the business license of the relevant futures broker company based on whether the violation is serious or not.

However, if there are elements of a criminal act, it is continued at the stage of delegation to the judicial process.

Steps that investors can take in resolving disputes include:

1. Civil settlement

Civil settlement is an alternative dispute resolution recommended based on Law Number 32 of 1997 concerning Commodity Futures Trading. We can see this in Article 61 of Law Number 32 of 1997 concerning Commodity Futures Trading, including:

a. Through Futures Brokerage Companies;

Every futures brokerage company is required to provide a compliance division which is required to handle the first investor complaint.

b. Through the Futures Exchange;

If a complaint made via an internal futures broker company does not result in a satisfactory resolution for the investor, the investor can use a resolution to the Futures Exchange or to Badan Pengawasan Perdagangan Berjangka Komoditi (BAPPEBTI).

Meanwhile, the Compensation fund itself is regulated in Article 1 number 18 of Law Number 32 of 1997 concerning Commodity Futures Trading, namely funds used to pay compensation to Investors who are not Members of the Futures Exchange due to breach of promise and/or mistakes committed by Members of the Futures Exchange in position as a Futures Broker. Then, Article 45 paragraph (1) of Law Number 32 of 1997 concerning Commodity Futures Trading states that the Futures Exchange is obliged to collect funds from Futures Brokers for Compensation Funds.

c. Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti)

Settlement through this body is the final civil stage and will be carried out through mediation to accommodate the aspirations of investors who complain about their cases who usually want a refund of funds through quick dispute resolution. If the investor is still not satisfied with the results of the settlement through this body, it can be continued through the Arbitration Body or Court Institution.

2. Criminal Settlement

Criminal settlements are carried out for criminal violations as regulated in Law Number 32 of 1997 concerning Commodity Futures Trading. For example, violations in Article 71 to Article 76 of Law Number 32 of 1997 concerning Commodity Futures Trading.

Settlement of criminal cases on the Futures Exchange is carried out by authorized parties, namely civil servant investigators at the Commodity Futures Trading Supervisory Agency (Bappebti) or through the Police and Criminal Justice Institutions.

CONCLUSION

Based on the results of the discussion on Legal Protection for Investors in Forex Margin Trading Transactions in Futures Trading, the author reached the following conclusions:

1. Futures Brokers are regulated in Law Number 32 of 1997 concerning Commodity Futures Trading, especially in Article 31 paragraph (1) and Government Regulation Number 9 of 1999 concerning the Implementation of Commodity Futures Trading Article 37. Supervision of Commodity Futures Trading is carried out directly by Bappebti based on Law -Law Number 10 of 2011 amends Law Number 32 of 1997 in Article 4 paragraph (1). and explained in the Decree of the Minister of Industry and Trade Number: 86/Mpp/ Kep/ 3/ 2001 concerning the Organizational Structure of the Department of Industry and Trade article 1112, Bappebti has the task of carrying out daily guidance, regulation and supervision of commodity futures trading activities.
2. In forex margin trading transactions by broker companies, the implementation of legal protection has not been able to fully accommodate the interests of investors. Law Number 32 of 1997 only regulates the resolution of disputes and does not mention further about the forms of legal protection efforts that must be taken by Futures Brokers. And based on Law Number 32 of 1997 concerning Commodity Futures Trading which is regulated in Article 52 paragraph (1) as well as provisions in the implementation of Law Number 32 of 1997, namely Government Regulation of the Republic of Indonesia Number 9 of 1999 concerning the Implementation of Commodity Futures Trading.
3. If there is a dispute, the settlement between the Investor and the Futures Broker is carried out through Civil and Criminal methods. Settlement through civil law includes settlement within the Futures Broker, settlement through futures exchange institutions and settlement through Bappebti. Meanwhile, criminal settlements are carried out by Bappebti civil servant investigators or through the Police and Criminal Justice Institutions.

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