



Juridical Analysis of Criminal Acts in Online Gambling Activities in the form of Binary Options

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Abstract

Technological advancements have shifted many traditional activities, including trade, to digital platforms. While this transition has brought benefits such as more accessible transactions and time efficiency, it has also introduced risks, particularly with binary options systems. Declared as illegal investments and online gambling by Bappebti, binary options have caused significant financial harm. Affiliators promoting these platforms, such as Doni Salmanan, have been linked to criminal activities, including fraud and money laundering. Utilizing tactics like placement, layering, and integration, they conceal illegal earnings to make them appear legitimate. This study aims to examine the legality of binary options in trading platforms and their association with money laundering crimes. Through a normative juridical approach with a statute method, primary, secondary, and tertiary data were analyzed qualitatively to identify predicate crimes. Findings reveal that binary options affiliates can be charged under fraud and gambling provisions, including Article 378 of the Criminal Code, Article 303 Paragraph (1) of the Criminal Code, and Article 28 Paragraph (1) of Law Number 19 of 2016 concerning ITE. The study highlights the need for stricter regulations and detailed approaches to address the modus operandi of binary options affiliates, ensuring better legal enforcement and prevention of these crimes.

Keywords: Binary Options, Fraud, Money Laundering, Online Gambling

Abstrak

Kemajuan teknologi telah menggeser banyak aktivitas tradisional, termasuk perdagangan, ke platform digital. Meskipun transisi ini membawa manfaat seperti kemudahan transaksi dan efisiensi waktu, hal ini juga memperkenalkan risiko, terutama pada sistem binary options. Binary options telah dinyatakan sebagai investasi ilegal dan perjudian online oleh Bappebti, yang menyebabkan kerugian finansial yang signifikan. Afiliasi yang mempromosikan platform ini, seperti Indra Kenz, terkait dengan aktivitas kriminal, termasuk penipuan dan pencucian uang. Dengan menggunakan taktik seperti placement, layering, dan integration, mereka menyembunyikan hasil ilegal agar tampak sah. Penelitian ini bertujuan untuk mengkaji legalitas binary options pada platform perdagangan serta hubungannya dengan tindak pidana pencucian uang. Melalui pendekatan yuridis normatif dengan metode perundang-undangan, data primer, sekunder, dan tersier dianalisis secara kualitatif untuk mengidentifikasi tindak pidana asal. Hasil penelitian menunjukkan bahwa afiliasi binary options dapat dijerat dengan pasal-pasal penipuan dan perjudian, termasuk Pasal 378 KUHP, Pasal 303 Ayat (1) KUHP, dan Pasal 28 Ayat (1) Undang-Undang Nomor 19 Tahun 2016 tentang ITE. Studi ini menyoroti perlunya regulasi yang lebih ketat dan pendekatan yang lebih rinci untuk mengatasi modus operandi afiliasi binary options, guna memastikan penegakan hukum yang lebih baik dan pencegahan kejahatan semacam ini.

Kata Kunci: Binary Options, Penipuan, Pencucian Uang, Perjudian Online



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INTRODUCTION

The advancement of technology in information and communication has made a great impact on many aspects of life, including the appearance of new forms of crime in cyberspace.¹

¹ UGM, DKIA. (2024, Maret 13). Pemerintah dan revolusi digital: Mengapa perhatian terhadap sistem digital sangat penting? UGM Online. <https://mooc.ugm.ac.id/pemerintah-dan-revolusi-digital-mengapa-perhatian-terhadap-sistem-digital-sangat-penting/>.



Indonesia's digital landscape has experienced remarkable growth, with smartphone penetration reaching more than 221 million and the usage of internet, covering around 79.5% of the country's population in 2024.² One thing that has really started to become a major issue is the increased use of online gambling. With the state of the world today, it is no wonder that many people are forced to find other means to live. A recent survey reveals that nearly 35% of adult workers in Indonesia express dissatisfaction with their current wages, stating that their income is insufficient to cover their basic living expenses.³ The use of financial technology (fintech) has also changed the landscape habit of easy ways to investment and trading activities globally as there is a rise in online based investment⁴ with apps such as Bareksa, Ajaib, Stockbit, Investree and many more in Indonesia.⁵ This opportunity is abused as a loophole and opportunity to be promoted as a way to earn fast money, through trading, promising instant riches through binary options. The general public doesn't know that the binary option scam is a new form of gambling.⁶ Online gambling as defined by Griffiths (2003) is betting done over the internet through a computer or mobile phone. These can be anything from betting on games in a casino, to sports, poker, or any other form of gambling.⁷

Data revealed in the JUMATAN Podcast by Woro Srihastuti Sulistyningrum shows that there are about 4.000.000 online gamblers in Indonesia. These gamblers are not only adults but also minors. According to the statistics 2% of those that gamble online are under the age of 10, that's 80.000 children. Gamblers aged between 10 and 20 years make up 11% or about 440.000 people. On the other hand, 21 to 30 year old gamblers consist of 13%, which is around 520.000. The age group of 30 to 50 years includes 40% of the total gamblers, which is about 1.640.000 people, and gamblers over 50 years old make up 34% or about 1.350.000 people.⁸ The Financial Transaction Reports and Analysis Center (PPATK) shows a worrying trend. In 2024, PPATK reported that there were 60 million online gambling transactions, with total funds up to 101 trillion rupiah in the first quarter; it is said that there has been a significant rise in subsequent years.⁹ This number has increased significantly from 15.000 reports in 2021 and 10.000 reports in 2020. One case that illustrates the complexity of this issue is the Doni Salmanan case, which emerged in early 2022 with the release of the Quotex application, a scam disguised as a binary option. This platform provided foreign exchange (forex) trading services and could be used to trade crypto assets such as Ethereum and Bitcoin. The platform functions to predict price movements.¹⁰ Doni promised profits and sent out false news through videos on social media, inviting other members to use the Quotex application with the promise of profits. According to information via Telegram, there were 25.000 members who joined and used Doni's referral, and 80 percent of users experienced losses, resulting in profits for Doni.¹¹ Doni Salmanan was

² Asosiasi Penyelenggara Jasa Internet Indonesia. (2024, Februari 13). Jumlah pengguna internet Indonesia tembus 221 juta orang. <https://apjii.or.id>.

³ Warta Ekonomi. (2023, Februari 28). Survei: 35% pekerja Indonesia tidak puas dengan upah. <https://wartaekonomi.co.id/read483526/survei-35-pekerja-indonesia-tidak-puas-dengan-upah>.

⁴ Chuykov, T., Emirdag, A., Matlosz, B., & Sarybekova, A. (2024, 17 September). How has the development of financial technology affected trading? OxJournal. <https://www.oxjournal.org/how-has-the-development-of-financial-technology-affected-trading/>.

⁵ Antara News. (2024, September 16). Daftar aplikasi main saham terbaik. <https://www.antaranews.com/berita/4337607/daftar-aplikasi-main-saham-terbaik>.

⁶ Bustomi, Y. (2024, Oktober 19). Judi berkedok trading: Modus operandi dan upaya pemberantasannya. <https://file:///C:/Users/User/Downloads/60026-177315-1-PB.pdf>.

⁷ Kanda, A. S., & Aziz, F. (2024, 19 October). Analisis dampak kasus judi online terhadap kesenjangan anak muda di Dikutra Highland. Kampus Akademik Publishing. <https://file:///C:/Users/User/Downloads/829-836.pdf>.

⁸ PPATK. (2024, October 19). PPATK. Pusat Pelaporan Dan Analisis Transaksi Keuangan. <https://www.ppatk.go.id/news/read/1373/gawat-jumlah-fantastis-usia-anak-main-judi-online.html>.

⁹ Jakarta Globe. (2024, December 7). PPATK reports Rp 101 trillion in online gambling transactions in first quarter. <https://jakartaglobe.id/news/ppatk-reports-rp-101-trillion-in-online-gambling-transactions-in-first-quarter>.

¹⁰ Bestari, N. P. (2022, March 15). Apa itu Quotex? Aplikasi yang bikin Doni Salmanan 'miskin'. CNBC Indonesia. <https://www.cnbcindonesia.com/tech/20220315074158-37-322751/apa-itu-quotex-aplikasi-yang-bikin-doni-salmanan-miskin>.

¹¹ Kompas Cyber Media. (2022, March 14). Kasus Doni Salmanan, Bareskrim dalam pemilik aplikasi Quotex. KOMPAS.com. <https://nasional.kompas.com/read/2022/03/14/17044641/kasus-doni-salmanan-bareskrim-dalam-pemilik-aplikasi-quotex>.



found guilty in connection with the Quotex platform case and sentenced to 4 years in prison and a fine of IDR 1.000.000.000 (one billion rupiah). However, the panel of judges stated that if the fine is not paid, it will be replaced with 6 months of imprisonment.¹² He was found guilty of violating Article 45A paragraph (1) in conjunction with Article 28 paragraph (1) of the Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions, which has been amended and supplemented by the Law of the Republic of Indonesia Number 19 of 2016 concerning amendments to Law Number 11 of 2008 regarding Information and Electronic Transactions.¹³

The rapid increase in the number of binary options trading in Indonesia has resulted in other various cases of financial fraud and illegal gambling operations, such as the Binomo case in 2022. The case involving Indra Kenz, who is one of the affiliates for the platform Binomo, played a role in recruiting and promoting people to “gamble” on the platform.¹⁴ It is informed the victims reached up to 144 people and suffered significant losses amounting to Rp 83 billion.¹⁵ He was later then given a prison sentence of 10 years with an additional fine of 5 billion rupiah. If the fine is not paid, it will be replaced with a 10-month imprisonment, which was stated by the Banten High Court Appeal decision.¹⁶ Users of the binary option trading trading are unaware of the illegality as they might confuse due to the similarities with day trading,¹⁷ as both methods enable traders to participate in various financial markets including stocks, commodities, currencies, and indices, with both requiring active price movement speculation.¹⁸ Traders in both disciplines rely heavily on technical and fundamental analysis to inform their decisions, utilizing charts, indicators, and economic news to predict market movements.¹⁹

However, these trading methods have differences in aspect with binary options. The most fundamental difference lies in their risk-reward structure, binary options offer predetermined outcomes with fixed payouts and losses, while day trading involves variable profits and losses that fluctuate with market movements.²⁰ There’s also a difference in which trading involves a tangible underlying asset that is actively bought and sold. In contrast, with binary options such as those on Binomo, the underlying asset is merely a tool for speculation, with no actual buying or selling taking place. This makes binary options similar to gambling, where the platform (Binomo) acts as the house.²¹ If you win, the house loses money, and if you lose, the house gains money. According to data from the Investment Alert Task Force (Satgas Waspada Investasi),

¹² Mahkamah Agung Republik Indonesia. (2024, October 19). Direktori Putusan. <https://putusan3.mahkamahagung.go.id/direktori/putusan/zaed7cea851cc556bb5a303933373031.html>.

¹³ Kompas.com. (2023, November 21). MA tolak kasasi Doni Salmanan. <https://nasional.kompas.com/read/2023/11/21/10524731/ma-tolak-kasasi-doni-salmanan>.

¹⁴ CNBC Indonesia. (2022, March 2). Apa itu Binomo? Sampai bikin Indra Kenz diciduk polisi. <https://www.cnbcindonesia.com/market/20220302112348-17-319500/apa-itu-binomo-sampai-bikin-indra-kenz-diciduk-polisi>.

¹⁵ PPATK. (2024, December 7). PPATK. <https://ppid.ppatk.go.id/?p=5989>.

¹⁶ detikNews. (2023, January 12). Putusan banding Indra Kenz: Tetap 10 tahun bui tapi aset dibalikin ke korban. <https://news.detik.com/berita/d-6511674/putusan-banding-indra-kenz-tetap-10-tahun-bui-tapi-aset-dibalik-in-ke-korban>.

¹⁷ Tempo.co. (2022, February 4). Korban investasi bodong binary option pidanakan para afiliator ke polisi. <https://www.tempo.co/arsip/korban-investasi-bodong-binary-option-pidanakan-para-afiliator-ke-polisi-840882>.

¹⁸ IQ Option Wiki. (2024, December 7). Choosing between binary and traditional options. <https://www.iqoptionwiki.com/choosing-between-binary-traditional-options/>.

¹⁹ Mitchell, J. R. (2023, October 16). Technical and fundamental analysis methods in trading forex with binary options. FinanceFeeds. <https://financefeeds.com/technical-and-fundamental-analysis-methods-in-trading-forex-with-binary-options/>.

²⁰ Folger, J. (2022, October 6). What’s the difference between binary options and day trading? Investopedia. <https://www.investopedia.com/ask/answers/071614/whats-difference-between-binary-options-and-day-trading.asp>.

²¹ Universitas Airlangga. (2024, December 7). Technical and fundamental analysis methods in trading forex with binary options. <https://e-journal.unair.ac.id/JD/article/download/54836/28105>.



binary options are illegal²² and have blocked over 92 sites.²³ The Financial Services Authority (OJK) reported that over the past ten years, losses due to fraud, including binary options, have amounted to approximately IDR 117 trillion across Indonesia.²⁴ The criminal nature of binary options trading in Indonesia is firmly established through several legal frameworks. Article 303 of the Indonesian Criminal Code (KUHP) explicitly prohibits gambling activities, prescribing penalties of up to ten years imprisonment for organizers.²⁵ Furthermore, Article 27(2) of the Electronic Information and Transactions Law (UU ITE) specifically addresses online gambling, providing legal grounds for prosecuting digital platforms that facilitate such activities.²⁶

Binary options platforms typically employ various operational mechanisms to attract investors.²⁷ These include high-pressure marketing tactics, promises of substantial returns, and sophisticated trading interfaces that create an illusion of legitimate investment activity.²⁸ The platforms generally offer multiple types of trades, including “High/Low” options, “One Touch” options, and “Range” options, all designed to maximize user engagement and financial commitment.²⁹ Technical analysis tools and real-time market data are often provided to create an appearance of professional trading, despite the underlying gambling nature of the activity. The urgency of addressing binary options-related crimes is underscored by their significant social and economic impact.³⁰ Beyond direct financial losses, these platforms often target young adults and students.³¹ The psychological impact on victims, combined with the platforms’ potential for money laundering and other financial crimes, presents a serious threat to Indonesia’s financial system integrity and social welfare.³²

Problem Statement

The research problem statements in this study are as follows:

1. Why is Binary Option categorized as an online gambling crime from the perspective of Indonesian criminal law?
2. Why is law enforcement against Binary Option crimes not yet optimal in protecting Indonesian society?

RESEARCH METHOD

This research employs a juridical normative and empirical approach to criminal acts in online gambling activities in the form of binary options. Juridical normative focuses on analyzing written legal norms, principles, and regulations as they are prescribed (de jure). In contrast, juridical empirical examines how these laws are implemented and function in real-world scenarios (de facto), using data from observations, interviews, or case studies.

²² Kompas.com. (2022, February 21). Binary option dipastikan ilegal, Bappebti: Tidak ada komoditi yang diperdagangkan. <https://money.kompas.com/read/2022/02/21/193200426/binary-option-dipastikan-ilegal-bappebti-tidak-ada-komoditi-yang>.

²³ Kompas.com. (2022, February 3). Alasan pemerintah blokir 92 situs binary option dan 336 situs robot trading. <https://www.kompas.com/tren/read/2022/02/03/110000165/alasan-pemerintah-blokir-92-situs-binary-option-dan-336-situs-robot-trading?page=all>.

²⁴ Mulia, K. (2022, February 4). Indonesian regulators block illegal trading websites following complaints on social media. KrASIA. <https://kr-asia.com/indonesian-regulators-block-illegal-trading-websites-following-complaints-on-social-media>.

²⁵ Article 303 of the Indonesian Criminal Code.

²⁶ Article 27(2) of the Electronic Information and Transactions Law.

²⁷ Universitas Pattimura. (2024, December 7). Technical and fundamental analysis methods in trading forex with binary options. <https://ojs3.unpatti.ac.id/index.php/palasrev/article/view/10895>.

²⁸ Budapest International Research and Critics Institute. (2024, December 7). Technical and fundamental analysis methods in trading forex with binary options. <https://www.bircu-journal.com/index.php/birci/article/download/4692/pdf>.

²⁹ Investopedia. (2022, October 6). Binary options. <https://www.investopedia.com/articles/optioninvestor/10/binary-options.asp>.

³⁰ Nursyam Centre. (2024, December 7). Technical and fundamental analysis methods in trading forex with binary options. <https://journal.nursyamcentre.com/index.php/IJLDR/article/download/3/4>.

³¹ Syavira, R., & Marliyah. (2022, March 31). Investor behavior analysis on the use of Binomo binary option online trading application among Gen-Z Muslims. *Jurnal Ekonomi Syariah Teori dan Terapan*.

³² ADPEBI. (2024, December 7). Technical and fundamental analysis methods in trading forex with binary options. <https://journal.adpebi.com/index.php/ijlpg/article/download/601/558/2911>.



- a. Secondary Data: relying on secondary data that has been processed and presented by other parties, such as books, scientific journals, and research reports, to provide a comprehensive understanding of the legal aspects being studied.
- b. Primary Materials: in the form of laws and regulations are used as the main reference in understanding the legal aspects examined in this research.

ANALYSIS & DISCUSSION

Analysis of Binary Option Classification as a Crime

A binary option is a type of contract where the payout depends solely on the outcome of an up-or-down scenario, typically tied to whether the price of a specific asset will exceed or fall below a predetermined level. Once purchased, the holder does not need to make further decisions about exercising the option, as it is automatically exercised. Unlike other options, a binary option does not grant the holder the right to buy or sell the underlying asset. Upon expiration, the holder either receives a fixed cash payout or nothing at all.³³ Among the numerous online trading applications and platforms available, many are found to operate illegally as they are not registered under commodities regulations. One example is binary options, often disguised as investment opportunities, which lead to issues such as fraud and even money laundering.³⁴

Legal and Regulatory Analysis of Gambling Characteristics in Binary Options

In Indonesia, binary options activities are still considered illegal because all platforms or organizers that claim to offer commodity trading do not have business licenses from the Commodity Futures Trading Regulatory Agency (Bappebti) under the Ministry of Trade. According to Bappebti, binary options do not involve the buying or selling of commodity futures, making them incompatible with Law No. 10 of 2011, which amends Law No. 32 of 1997 on Commodity Futures Trading (PBK). Therefore, binary options are considered illegal practices that may involve fraud and embezzlement.³⁵ Moreover, binary options trading has been analyzed through the lens of optimal game strategies and information theory, highlighting its similarities with gambling, where information has practical value.³⁶ Gambling traditionally involves betting or testing one's luck by adhering to established methods within a specific model.³⁷ The rise of online platforms and widespread internet access has greatly changed the gambling world, leading to the growth of online gambling.³⁸ According to Article 303 Paragraph 3 of the Criminal Code, gambling is defined as any game where the likelihood of winning is primarily based on chance, though skill or training may influence the outcome. This definition also includes betting on competitions or games where the participants are not directly involved. Based on this framework, binary options trading mechanisms can be categorized as online gambling because they meet the following criteria:³⁹

³³ U.S. Securities and Exchange Commission. Binary options fraud. Investor.gov. <https://www.investor.gov/protect-your-investments/fraud/types-fraud/binary-options-fraud#:~:text=Much%20of%20the%20binary%20options,be%20engaging%20in%20illegal%20activity>.

³⁴ SEC Office of Investor Education and Advocacy. Investor alert: Binary options and fraud. U.S. Securities and Exchange Commission. https://www.sec.gov/files/ia_binary.pdf.

³⁵ Law No. 10 of 2011 concerning Amendments to Law No. 32 of 1997 on Commodity Futures Trading; CIMB Niaga. 5 perbedaan binary option dan trading forex. CIMB Niaga. <https://www.cimbniaga.co.id/id/inspirasi/perencanaan/5-perbedaan-binary-option-dan-trading-forex>.

³⁶ Vinkler, D. A., Permuter, H. H., & Merhav, N. (2016). Analogy between gambling and measurement-based work extraction. *Journal of Statistical Mechanics: Theory and Experiment*, 2016(4), 043403. <https://doi.org/10.1088/1742-5468/2016/04/043403>.

³⁷ Ferdiansyah, M. A., & Simangunsong, F. (2022). Pertanggung jawaban pelaku binary option terhadap hukum positif di Indonesia. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, 2(2), 628–648. <https://doi.org/10.53363/bureau.v2i2.93>.

³⁸ Lelonek-Kuleta, B., & Bartzczuk, R. P. (2021). Online gambling activity, pay-to-win payments, motivation to gamble, and coping strategies as predictors of gambling disorder among e-sports bettors. *Journal of Gambling Studies*, 37(4), 1079–1098. <https://doi.org/10.1007/s10899-021-10015-4>.

³⁹ Article 303 (3) of the Indonesian Criminal Code (KUHP); Auli, R. C. (2024, July 10). Ini bunyi Pasal 303 KUHP tentang perjudian. *Hukumonline.com*. <https://www.hukumonline.com/klinik/a/ini-bunyi-pasal-303-kuhp-tentang-perjudian-lt668f032d35f83; A, F, &>



- a. Games. Binary options platforms offer “games” where investors, after making a deposit, choose to “Buy/Call” or “Sell/Put” on a commodity’s value. Investors must predict whether the value of the commodity will rise or fall within a specific timeframe. This process of making a prediction and waiting for the outcome resembles the characteristics of a game or competition.
- b. Chance. Binary options involve predicting future asset prices, which are inherently uncertain. This element of uncertainty in the future value of assets fulfills the criterion of chance.
- c. Bets. Investor deposits on binary options platforms function as bets. If the prediction is correct, the investor earns a profit; if incorrect, the deposited amount is lost to the platform. This wagering aspect satisfies the betting element.
- d. Electronic Media. Binary options platforms, such as websites like binomo.com, are accessible through electronic media, thereby meeting the criteria for gambling via electronic means.

This classification aligns binary options trading with the essential characteristics of gambling, as defined in legal and academic frameworks.⁴⁰

Analysis of the Elements of Chance, Betting, and Rewards

The number of online trading platforms offering binary options has increased significantly in recent years, leading to more complaints about fraudulent schemes associated with these platforms. Typically, a binary options platform asks customers to deposit money to purchase a “call” or “put” contract. For example, a customer might pay \$50 for a binary option that promises a 80% - 90% return, if let’s say BTC exceeds \$95.000 at the time of expiration.⁴¹ If the outcome of the proposition (whether the share price will be above \$95.000) is met, the option is considered to expire “in the money”, and the customer receives the promised return. However, if the proposition is not met, the option expires “out of the money”, and the customer may lose the entire deposit. In some cases, the platform might offer a small refund (e.g., 5% of the deposit) if the option expires out of the money, but this is not common.⁴² Moreover, some binary options platforms may exaggerate the potential return on investment by advertising a higher average return than what customers can realistically expect, given the payout structure. For example, assuming a 50/50 chance of winning, the payout structure is typically designed in such a way that the expected return is negative, leading to an overall loss for the customer. This is because the potential loss if the option expires out of the money (around 100% loss) outweighs the relatively smaller gain if it expires in the money (around 50% return). Therefore, in such cases, an investor would, on average, lose money.⁴³

Fundamental Differences Between Binary Options and Legal Trading

The Binary options trading and real options trading have several key differences that distinguish them from each other. One of the most notable differences is the payout potential. In binary options, the payout is fixed, typically around 80% - 90% of the investment, regardless of how far the price of the underlying asset moves in your favor. In contrast, real options trading

Simangunsong, F. (2022). PERTANGGUNG JAWABAN PELAKU BINARY OPTION TERHADAP HUKUM POSITIF DI INDONESIA. *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance*. <https://doi.org/10.53363/bureau.v2i2.93>.

⁴⁰ Syarifati, B., & Panorama, M. (2022). MAYSIR ELEMENT ANALYSIS IN BINARY OPTION PLATFORM CASE STUDY OF IQ OPTION APPLICATION. *Indonesian Journal of Multidisciplinary Science*. <https://doi.org/10.55324/ijoms.v1i10.182>.

⁴¹ U.S. Securities and Exchange Commission. Binary options fraud. *Investor.gov*. <https://www.investor.gov/protect-your-investments/fraud/types-fraud/binary-options-fraud#:~:text=Much%20of%20the%20binary%20options,be%20engaging%20in%20illegal%20activity>.

⁴² Ibid.

⁴³ Ibid.



offers unlimited profit potential, as the value of the option continues to grow with the price of the underlying asset, and profits can exceed 1000%. Additionally, when a trader loses in binary options, they typically lose 100% of the investment (in some cases, the platform refunds 15%. In real options, while the loss can be up to 100%, the potential for unlimited profits and the ability to sell options contracts to cut losses often offset this risk.⁴⁴ Another key distinction lies in the ability to trade. In binary options, once the option is purchased, the trader must hold it until expiration, and there is no way to sell the position or cut losses, making it more of a bet than a trade. Real options, on the other hand, can be bought and sold on regulated public exchanges before expiration, allowing traders to adjust their positions and manage risk more effectively. Binary options are typically not listed on regulated exchanges and are often offered by unregulated brokers, making them more akin to an online betting platform. In contrast, real options are traded on regulated public exchanges, offering investor protection and regulatory oversight.⁴⁵ Moreover, binary options lack underlying assets, and cannot be exercised to buy or sell anything, whereas real options represent actual securities, such as stocks, and allow traders to exercise the option to buy or sell the underlying asset. In binary options, traders are essentially betting against the broker, with no market or competition involved. In such cases, it is alleged that the trading platforms manipulate software to distort binary option prices and payouts. For example, if a trade is initially profitable, the platform may arbitrarily extend the countdown to expiration until the trade results in a loss. In real options trading, traders engage with a real marketplace, buying and selling options contracts with other traders and market makers.⁴⁶ Lastly, while binary options brokers are often unregulated, making it risky for investors, real options brokers are regulated by financial authorities, providing a level of security and transparency. Additionally, binary options platforms typically make it easy to deposit money using credit cards, but withdrawing funds can be difficult, with brokers often using tactics to prevent withdrawals. In contrast, real options trading involves more stringent deposit procedures, but withdrawing funds is generally easier and more straightforward.⁴⁷

Effectivity of Government Efforts of Prevention and Control

The effectiveness of government efforts in the prevention and control of online gambling remains a critical issue in safeguarding societal values and upholding legal norms.⁴⁸ As digital platforms increasingly facilitate illegal gambling activities, governments face the dual challenge of addressing technological sophistication and cross-border jurisdictional complexities. Preventive measures such as public education campaigns and cyber patrols aim to deter the spread of online gambling, while repressive actions, including law enforcement operations and corporate accountability frameworks, seek to penalize violators and dismantle illegal networks.⁴⁹ However, gaps in technological resources, legal clarity, and international cooperation often hinder these efforts.⁵⁰ Evaluating the effectiveness of these measures is essential to identify shortcomings, enhance strategies, and ensure the protection of moral and legal frameworks in an evolving digital landscape.

⁴⁴ Optiontradingpedia.com. Difference between binary options trading and real options trading. Optiontradingpedia. https://www.optiontradingpedia.com/difference_between_binary_options_trading_and_real_options_trading.htm#:~:text=One%20of%20the%20biggest%20difference,as%20long%20as%20a%20year.

⁴⁵ Ibid.

⁴⁶ Ibid; Ramadani, F. (2024). Keberadaan Binary Option Ditinjau Dalam Prespektif Hukum Positif Di Indonesia. *Recidive : Jurnal Hukum Pidana dan Penanggulangan Kejahatan*. <https://doi.org/10.20961/recidive.v13i1.83658>.

⁴⁷ Ibid.

⁴⁸ Dimas Noto Kusumo, Muhammad Rizky Ramadhan, and Sulistiyani Febrianti, "Maraknya Judi Online di Kalangan Masyarakat Kota maupun Desa", *Jurnal Perspektif* 2, no. 2 (2022): 225–232, <https://doi.org/10.53947/perspekt.v2i3.391>.

⁴⁹ A. C. Siringoringo, S. Yunita, and Jamaludin, "Tren Perjudian Online di Kalangan Mahasiswa: Dampak dan Upaya Pencegahannya", *Journal on Education* 6, no. 2 (2024): 10948–10956, <https://jonedu.org/index.php/joe/article/view/4883/3837>.

⁵⁰ Septu Haudli Bakhtiar and Azizah Nur Adilah, "Fenomena Judi Online: Faktor, Dampak, Pertanggungjawaban Hukum", *Innovative: Journal of Social Science Research* 4, no. 3 (2024): 1016–1026, <https://j-innovative.org/index.php/Innovative>.



Role of the Investment Alert Task Force (Satgas Waspada Investasi)

The Government of Indonesia, through the Financial Services Authority (Otoritas Jasa Keuangan/OJK), holds a critical role in preventing the public from falling victim to illegal fundraising activities and unlawful investments. To address such issues, the Investment Alert Task Force (Satgas Waspada Investasi/SWI) was established with the primary objective of halting illegal investment practices. The establishment of SWI was initially governed by the Decision of the Chairman of Bapepam and LK Number Kep-208/BL/2007, dated June 20, 2007, which is updated annually. In 2020, the membership of SWI was restructured under the Decision of the OJK Board of Commissioners Number 2/KDK.02/2020, dated March 3, 2020, concerning the Task Force for Handling Alleged Unlawful Acts in Public Fundraising and Investment Management. The task force comprises 13 ministries and institutions, including the Financial Services Authority, Ministry of Trade, Ministry of Communication and Informatics, Ministry of Cooperatives and Small and Medium Enterprises, Investment Coordinating Board, Ministry of Religious Affairs, Ministry of Education and Culture, Ministry of Home Affairs, Ministry of Research, Technology, and Higher Education, Financial Transaction Reports and Analysis Center (PPATK), Attorney General's Office of the Republic of Indonesia, Bank Indonesia, and the National Police of the Republic of Indonesia.⁵¹ The revitalization of the Investment Alert Task Force (Satgas Waspada Investasi) encompasses several initiatives, as detailed by the Director of Policy and Investigation Support at OJK (2016):

1. Preventive Actions

- a. Enhancing coordination among task force members to improve public awareness and understanding of financial transactions that could harm the community.
- b. Conducting outreach programs for the public, law enforcement agencies, local governments, and academics.
- c. Monitoring, evaluating, and taking necessary actions against investment offers promoted through various channels, including online platforms.
- d. Strengthening the task force's complaint-handling systems.

2. Corrective Actions

- a. Collaborating on the issuance of permits for investment offering events or activities.
- b. Providing guidance and warnings to companies engaging in potentially harmful investment offers, urging them to obtain the required permits and comply with regulations.

3. Repressive Actions. Taking legal measures against violations of laws and regulations. The task force was established to prevent and address unlawful practices in the investment sector, including fraudulent schemes such as money games. These prevention efforts are intended to minimize the number of people falling victim to illegal investments. The task force's prevention strategies include:

- a. Public Education: Disseminating information about illegal investments through seminars featuring experts and media briefings organized by OJK to raise awareness about fraudulent schemes and how to avoid them.
- b. Public Service Response: Facilitating public complaints via designated channels such as waspadainvestasi@ojk.go.id, konsumen@ojk.go.id, WhatsApp (+62 81-157-157-157), or OJK's hotline at 157.

Efforts to prevent and address unlawful activities in public fundraising and investment management are further outlined in Article 9 of the Memorandum of Understanding on Coordination for the Prevention and Handling of Alleged Unlawful Acts in Public Fundraising

⁵¹ Department of Banking Licensing and Information, Financial Services Authority. 2020. *Indonesia Banking Booklet 2020*. Jakarta: OJK.



and Investment Management (commonly known as the Investment Alert Task Force Memorandum).⁵²

Coordination Among Key Institutions

Pursuant to Article 1 paragraph (2) of the Memorandum of Understanding on the Investment Alert Task Force, the “Satuan Tugas Penanganan Dugaan Tindakan Melawan Hukum di Bidang Penghimpunan Dana Masyarakat dan Pengelolaan Investasi”⁵³ (hereinafter referred to as the Investment Alert Task Force or SWI) is established as an inter-ministerial and inter-agency coordination forum. Its primary mandate is to facilitate the prevention, detection, and handling of alleged unlawful activities in the areas of public fundraising and investment management. This task force serves as a collaborative platform to ensure that ministries and government agencies can collectively address systemic and emerging threats posed by illegal investment practices. Through strategic coordination, the task force undertakes preventative measures, including public education, legal and regulatory outreach, and the dissemination of guidelines to curb fraudulent schemes. In addition, the task force is empowered to carry out investigatory and enforcement actions, including:

1. Monitoring financial activities that may lead to potential harm to the public interest.
2. Issuing warnings and directives to entities suspected of engaging in unauthorized or harmful investment practices.
3. Recommending administrative sanctions or initiating legal proceedings against entities found in violation of applicable laws and regulations.

The establishment of SWI underscores the government’s commitment to protecting public interests, maintaining financial stability, and fostering a fair and transparent investment climate. Ministries and agencies involved in this task force include the Financial Services Authority (OJK), the Ministry of Trade, the Ministry of Communication and Informatics, and other relevant stakeholders tasked with upholding public trust in financial markets.

Public Education on Digital Literacy

Digital literacy plays a crucial role as a cornerstone in raising public awareness about the risks and consequences of online gambling.⁵⁴ Programs aimed at improving digital literacy should not only focus on the technical aspects of internet usage but also emphasize the broader social, economic, and psychological impacts of online gambling. Such programs must address the potential harm to individuals and families, including financial ruin, addiction, and the deterioration of mental health. Additionally, the risks related to the misuse of personal data and strategies to resist the allure of online gambling should be thoroughly explained and widely disseminated.⁵⁵ These educational initiatives require a collaborative approach involving the government, educational institutions, non-governmental organizations, private entities, and all elements of society. Partnerships between these stakeholders are essential to ensure that the message reaches diverse segments of the population. Government agencies can take the lead by developing policies and funding campaigns, while schools and universities can integrate digital literacy into their curricula. Non-governmental organizations and community groups

⁵² Director of Policy and Investigation Support, OJK. 2016. “OJK Strengthens the Investment Alert Task Force”. *Www.Ojk.Go.id*. Accessed December 6, 2024. <https://www.ojk.go.id/waspada-investasi/id/berita/Pages/OJK-Perkuat-Satgas-Waspada-Investasi.aspx>.

⁵³ Article 1 paragraph (2) of the Memorandum of Understanding on the Investment Alert Task Force.

⁵⁴ Aulia, I. A., Vebrianto, R., & Iqbal Miftakhul Mujtahid. (2022). Analisis Tingkat Literasi Digital Generasi Milenial dalam Mencegah Cyber Crime. *Milenial: Journal for Teachers and Learning*, 3(1), 15–26. <https://doi.org/10.55748/mjtl.v3i1.128>.

⁵⁵ Arif Hudal Mustaqim et al., “Sosialisasi Meningkatkan Literasi Masyarakat Desa Pangkal Mas Mulya dalam Menghadapi Dampak Negatif Judi Dan Pinjaman Online Di Era Digital”, *Andasih: Jurnal Pengabdian kepada Masyarakat* 5, no. 2 (2024).



can extend these efforts through localized workshops and outreach programs that resonate with specific demographic groups. Moreover, addressing online gambling effectively necessitates a multifaceted strategy that goes beyond education. Awareness campaigns highlighting the dangers of online gambling should be paired with accessible counseling services to support individuals struggling with addiction. At the same time, strict enforcement of laws against online gambling operators is vital to reduce accessibility and deter criminal activity. Digital literacy education should start early, focusing on children and adolescents, to build a strong foundation of critical thinking and ethical digital behavior. This foundation can then be reinforced throughout adulthood to adapt to the evolving digital landscape. By creating a generation that is more informed and vigilant about digital threats, society can cultivate a collective resistance to online gambling and other harmful online practices.

Strengthening of Regulations and Supervision

The existence of clear and comprehensive legislation on online gambling provides a strong legal foundation for law enforcement. Insufficient or unclear regulations may complicate the prosecution of online gambling offenders. From the perspective of positive law, the criminal provisions related to gambling are regulated in Article 303 of the Criminal Code (KUHP), which states:⁵⁶ “Anyone who engages in gambling shall be punished with imprisonment for up to 10 years or a fine of IDR 25 million, unless they have permission from the authorized authority”. Regarding online gambling, it is regulated in Article 27 paragraph (2) in conjunction with Article 45 paragraph (1) of the Electronic Information and Transactions Law, which states:⁵⁷ “Anyone who intentionally and without authorization distributes and/or transmits and/or makes accessible electronic information and/or electronic documents containing gambling content”. Shall face a penalty of imprisonment for up to 6 years and/or a fine of up to IDR 1 billion. Furthermore, Article 1 of Law Number 7 of 1974 concerning the Implementation of Gambling Regulation⁵⁸ explicitly prohibits the granting of gambling permits. In the context of legal regulations, the effectiveness of law enforcement against online gambling crimes depends on several key factors:

1. **Precision and Adequacy of Regulations:** Good legal regulations must be carefully designed to cover all aspects of online gambling, including the definition of online gambling activities, the types of games that are allowed or prohibited, and the licensing requirements. Clear and comprehensive regulations provide a strong legal basis for enforcement.⁵⁹
2. **Alignment with Technology:** As online gambling evolves alongside technological advancements, legal regulations must be adaptable to these changes. The involvement of new technologies, such as blockchain or artificial intelligence in online gambling, requires regulations that can accommodate such dynamics.⁶⁰
3. **Firm Sanctions and Penalties:** Effective legal regulations should establish appropriate and enforceable sanctions and penalties as a deterrent. The threat of severe punishment can reduce the motivation of offenders to engage in illegal gambling activities.⁶¹

⁵⁶ Article 303 of the Criminal Code (KUHP).

⁵⁷ Article 27 paragraph (2) in conjunction with Article 45 paragraph (1) of the Law Number 11 of 2008 on Information and Electronic Transactions (UU ITE).

⁵⁸ Article 1 of Law Number 7 of 1974 of the Implementation of Gambling Regulation.

⁵⁹ Sinergi International Journal of Law. (2024, August 31). Online gambling: A tantalizing game with risks that drain fortunes and futures. <file:///C:/Users/User/Downloads/199-Article%20Text-837-1245-10-20240908.pdf>.

⁶⁰ Antara News. (2024, August 31). Countering online gambling with technology. <https://en.antaranews.com/news/318729/countering-online-gambling-with-technology>.

⁶¹ Gunawan, T., & Firmansyah, A. (2024). Legal implications and sanctions for online gambling practices according to the Criminal Code and the ITE Law. International Conference on The State, Law, Politics & Democracy (ICon-SLPD). <https://openjournal.unpam.ac.id/index.php/ICon/article/view/44137>.



4. Licensing and Monitoring of Operators: The licensing process for online gambling operators should be stringent and involve thorough vetting. Additionally, regular monitoring of licensed operators is necessary to ensure compliance with regulations and to protect consumer interests.
5. Inter-Agency Cooperation: The importance of inter-agency cooperation in implementing regulations cannot be overlooked. Collaboration between law enforcement, financial institutions, and regulatory authorities can enhance enforcement efficiency and strengthen control over illegal gambling activities.
6. Consumer Protection: Regulations must provide adequate protection for consumers involved in online gambling, including personal data security, fairness in games, and handling complaints. Empowering ombudsman or consumer protection bodies can increase public trust in the system.
7. Responsive to Changes: Regulations must be designed with the capacity to quickly respond to new developments in the online gambling industry. Mechanisms for rule changes and adaptation to new trends are essential to maintain the relevance and effectiveness of the regulations.
8. Transparency and Public Participation: Transparency in the regulatory process and public involvement in the creation of regulations can increase trust and support law enforcement efforts. The public needs to understand the legal basis and objectives of the regulations to aid in enforcement efforts.⁶²

By addressing these factors, the legal framework for regulating and enforcing online gambling laws can be strengthened, ensuring a more effective and responsive approach to this evolving challenge.⁶³ The success of law enforcement related to online gambling depends on the existence of clear and comprehensive legal regulations. These regulations must be able to precisely identify the types of violations associated with online gambling, provide sufficient authority to law enforcement agencies, and establish appropriate penalties. Enforcement efforts must be supported by adequate technology and investigative expertise to identify and trace illegal online gambling activities. The speed and accuracy in addressing information regarding illegal activities are key factors in effective law enforcement. Close collaboration between law enforcement agencies, authorities, and other related entities is critical. Good coordination can enhance information sharing, expedite investigations, and optimize available resources. The effectiveness of law enforcement can be further strengthened by imposing substantial penalties, which serve as a deterrent for online gambling offenders. The threat of significant punishment can act as a barrier to prevent individuals from engaging in such illegal activities. Training and capacity-building for law enforcement personnel to address the unique challenges of online gambling are vital. Skills in understanding technology, data analysis, and digital investigative techniques will enhance law enforcement capabilities. Law enforcement must also be able to quickly adapt to technological advancements and evolving online gambling trends. The flexibility of regulations and the ability of enforcement agencies to anticipate and respond to these changes will ensure their effectiveness in the long term. Public awareness of the risks of illegal online gambling can reinforce law enforcement efforts. Public education, through awareness campaigns and information dissemination, can help identify and report illegal activities while encouraging active participation in maintaining public safety. By

⁶² Sramek, E. (2024, June 7). A complete guide to iGaming regulations across the EU. Scaleo. <https://www.scaleo.io/blog/a-complete-guide-to-igaming-regulations-across-the-eu/>.

⁶³ Rizki Nurdiansyah, Mugni Mugni, Melly Rifa'atul Lailiyah, "Efektivitas Penegakan Hukum Terhadap Tindak Pidana Judi Online", *Federalisme : Jurnal Kajian Hukum dan Ilmu Komunikasi* Volume. 1 No. 3 Agustus 2024, DOI : <https://doi.org/10.62383/federalisme.v1i3.79>.



considering these factors, law enforcement against online gambling offenses can become more effective and responsive to the evolving challenges in the legal landscape.⁶⁴

CONCLUSION

Binary options are categorized as online gambling under Indonesian criminal law because they meet the legal and definitional criteria for gambling. According to Article 303 of the Indonesian Criminal Code (KUHP) and Article 27(2) of the Electronic Information and Transactions Law (UU ITE), gambling involves games of chance where participants place bets to win or lose money. Binary options platforms require users to predict the price movement of assets within a specific timeframe, which is a probabilistic and speculative activity rather than a legitimate trading practice. Unlike traditional trading that involves actual asset exchange, binary options have no underlying asset and rely solely on the outcome of speculative bets. The structure, which offers fixed payouts or losses, resembles the operation of gambling houses, where the “house” benefits from participants’ losses. The Commodity Futures Trading Regulatory Agency (Bappebti) further reinforces this categorization by declaring binary options incompatible with commodity futures trading laws due to the lack of real asset transactions. Law enforcement against binary option crimes in Indonesia faces several challenges, contributing to its suboptimal effectiveness. First, the legal framework, while comprehensive, struggles to keep up with the evolving sophistication of online platforms. Binary options operators often disguise their activities under legitimate financial services, making detection and prosecution difficult. Second, cross-border jurisdictional issues complicate enforcement, as many platforms operate internationally and exploit regulatory gaps. Third, there is a lack of technological and investigatory capacity within law enforcement agencies to track, analyze, and act against complex digital financial crimes. Additionally, public awareness remains low, with many users failing to recognize binary options as gambling, leading to widespread victimization. Coordination among regulatory bodies, such as the Financial Services Authority (OJK) and the Investment Alert Task Force, has been hampered by resource constraints and the rapid proliferation of platforms, undermining efforts to protect the public effectively.

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⁶⁴ Henri Septanto, Uus Rusmawan, Boy Yuliadi, Ari Hidayatullah, “*Study of the Role of Digital Literacy in Mitigating the Spread of Online Gambling as a Popular Cyber Crime in Indonesia*”, *Dinasti International Journal of Economics, Finance & Accounting*, DOI: <https://doi.org/10.38035/dijefa.v5i5>.



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