



# Law Enforcement Against Binary Option Trading Affiliators

Anis Rifai<sup>1</sup>(✉) and Aurora Jillena Meliala<sup>2</sup>

<sup>1</sup> Lecturer, Faculty of Law, Universitas AL-Azhar Indonesia, Jakarta, Indonesia  
anizrifai@gmail.com

<sup>2</sup> Lecturer, Faculty of Law, Universitas Pembangunan Nasional Veteran, Jakarta, Indonesia

**Abstract.** The development of the capital market cannot be separated from the needs and influence of investors. The capital market itself is based on three factors, namely income, liquidity, and investment security. Capital market regulators and stakeholders of the capital market industry must work together to realize these three things in the Indonesian capital market for investors who are interested in investing in the Indonesian capital market. With the increasing interest of investors in investing their capital, various trading sites have emerged that try to accommodate the wishes of these investors, one of which is known as two systems, namely forex trading and binary options. These two systems can be the choice of investors as a means of investing their capital with the benefits and risks offered by each of these systems. Recently, there have been many problems related to investors or traders who feel disadvantaged and cheated because they use the binary option trading system, whose activities only need to predict whether the market direction will be high or low within a period of three or fifteen minutes without the need to consider leverage, spread, or margin. Moreover, the news is developing that there is a binary option affiliate whose job is to attract traders who will later get a commission of seventy percent of the total loss and loss of capital from all the capital issued by traders who play binary options. Affiliates of binary options platforms can be imprisoned for inviting and teaching the public about misguided investments. Especially if they are caught benefiting from losses suffered by others. This article will discuss related law enforcement actions against these binary options trading affiliates.

**Keywords:** Law Enforcement · Trading · Affiliator Binary Option

## 1 Introduction

Binary options are online trading instruments from the United States (US) whose way of working is considered to be almost the same as betting. Binary option profits are obtained from correct or incorrect guesses on fluctuations in the value of the chosen investment. Binary options seem simple to understand, which is why they are a great choice for online trading users. Although it looks simple, binary options have a high risk and are speculative in nature.

© The Author(s) 2023

A. J. Meliala et al. (Eds.): INCOLS 2022, ASSEHR 688, pp. 148–157, 2023.

[https://doi.org/10.2991/978-2-494069-23-7\\_14](https://doi.org/10.2991/978-2-494069-23-7_14)

Binary options allow users to bet on stock prices, foreign exchange movements, markets, or economic events. These binary options have a clearly stated expiration date, time, and strike price. If a user bets correctly on the market direction and price within a specified timeframe, they are paid a fixed return regardless of how much the instrument has moved since the transaction. Meanwhile, the wrong bet will lose the initial investment. As quoted in Investopedia, binary options traded outside the US have a different structure than those available on US exchanges. There are various types of assets traded in binary options, including stock indices, various cryptocurrencies, forex, and commodities.

Quoted from Finances Online, Binary Options are trading that offers options on whether the value of a certain asset will go up or down, and traders are asked to guess which direction the price is moving in a certain time frame. Recently, the figures of binary options affiliates have been in the public spotlight. They are suspected of being supporting actors in the losses suffered by victims through showing off their wealth through social media, which makes victims tempted to try Binomo.

According to the KBBI, the definition of affiliation is a form of cooperation between two institutions or ties as members or branches. In general, affiliation is a form of cooperation that aims for mutual benefit. "Affiliate" is a term for people who promote a product to other people. An affiliate generally has the power to influence other people to use the product he promotes. In this case, a binary options affiliate is someone who promotes binary options to the wider community. Affiliates can be said to be part of a marketing strategy.

Generally, an affiliate will do promotions by showing the profits from trading results to attract target consumers. It is known that affiliates from binary options activities or binary options trading earn around 20%–30% profits. If the affiliate manages to attract someone and carry out binary options activities and that person gets a profit, then the affiliate will earn 20%–30%. This is not a small amount considering the large number of people who join in and follow trading in binary options. From one affiliate alone, there are already 13,000 traders.

In principle, the more people who are successfully invited to invest, the more an affiliate will benefit. Throughout 2022, the issue of binary options is still a hot topic of discussion in the community. Several advertising platforms such as Binomo and Olymptrade are still mushrooming on social media. In fact, we all know that access to the platform has been blocked unless you use a VPN. The government has not closed access to Binomo because, among others, of not having an operational permit, offering unreasonable profits, manipulative advertisements and returning many times even though they have been blocked.

In fact, the Commodity Futures Trading Supervisory Agency (CoFTRA) of the Ministry of Trade has never issued a permit for Binary Options because it is an activity prohibited by Article 1 paragraph 8 of Law No. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning Commodity Futures Trading. Referring to the Futures Brokers page, Binomo is not listed as a futures broker that has obtained a license number from CoFTRA. If a broker or futures trading broker does not have a business license, it is said to be illegal according to the provisions of the legislation. So it can be said that Binomo is illegal in Indonesia. Based on these things, this article will discuss the

legal violations committed by binary options affiliates and how the government acts in tackling binary options.

## 2 Discussion

### 2.1 Legal Violations committed by Binary Options Affiliate

Recently, the word “affiliate” has gone viral in cyberspace. Quoting from various sources, an affiliate is a person whose job it is to promote a business. The job of an affiliate is someone who promotes a business by marketing it to other people. Generally, affiliate workers promote through social media platforms, and they usually also endorse the benefits of trading on social media.

Some time ago, the virtual world was stirred up by the confession of a number of people who lost when trying out the binary options business promoted by several influencers. The binary options business is engaged in online trading. The way Binary Options work is also more like gambling. Traders only need to guess the price of an asset that will appear within a predetermined time period. <sup>5</sup> The business requires everyone who follows it to predict the price of a particular asset. If the trader or user guesses incorrectly, the consequence is that the amount of money wagered will be withdrawn by the application. On the other hand, if the guess is correct, the trader will benefit.

These affiliates have business cooperation with binary options applications. They will receive a profit if the trader guesses wrong, which results in his asset being withdrawn by the application. The application will then share it with the affiliates according to the agreement. Each affiliate usually has a unique affiliate link that serves to transfer profits from each withdrawal of a trader’s assets. However, the existence of an affiliate is considered a violation of legal provisions because it has caused harm to many people. Legal violations committed by an affiliate include:

#### 1. Book of Criminal Law (KUHP) Article 303 of the Criminal Code

- (1) Threatened with a maximum imprisonment of four years or a maximum fine of ten million rupiahs:
  - a. Whoever takes advantage of the opportunity to play a gamble, which is held in violation of the provisions of Article 303;
  - b. Anyone who participates in gambling on a public road or on the side of a public road or in a place that can be visited by the public, unless there is permission from the competent authority who has given permission to carry out the gambling.
- (2) If at the time of committing the offense, two years have not elapsed since the sentence became permanent due to one of these offenses, a maximum imprisonment of six years or a maximum fine of fifteen million rupiahs may be imposed.

Article 378 of the Criminal Code

Any person with the intent to unlawfully benefit himself or another person, by using a false name or false dignity, by deceit, or a series of lies, induces another person to hand over something to him, or to give a debt or write off a debt, is threatened with fraud, with a maximum prison sentence of four years.

Article 55 of the Criminal Code

- (1) Sentenced as a criminal act:
    - a. Those who do, order to do, and take part in doing deeds;
    - b. Those who by giving or promising something by abusing their power or dignity, by force, threats, or misdirection, or by providing opportunities, means, or information, intentionally encourage others to take action.
  - (2) With regard to the proponent, only actions that are intentionally recommended are taken into account, along with their consequences.
2. Law Number 8 of 1999 concerning Consumer Protection Article 9
- (1) Business actors are prohibited from incorrectly offering, promoting, and advertising goods and/or services:
    - j. Using words like “safe,” “harmless,” or “contains no risks or side effects” without providing a complete description;
    - k. Offer something that contains an uncertain promise.
    - l. The goods and/or services as referred to in paragraph (1) are prohibited from being traded.
  - (2) Business actors who violate paragraph (1) are prohibited from offering, promoting, or advertising the aforementioned goods and/or services in the future.
  - (3) Business actors who violate paragraph (1) are prohibited from offering, promoting, or advertising the aforementioned goods and/or services in the future.
3. Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading Article 57
- (1) Each party is prohibited from engaging in or attempting to engage in the following actions when trading futures contracts, sharia derivative contracts, and/or other derivative contracts:
    - a. control the majority of physical commodities and futures contracts, Sharia Derivative Contracts, and/or other derivative contracts with concurrent buying positions;

- b. buy or sell Futures Contracts, Sharia Derivative Contracts, and/or other derivative contracts on the Futures Exchange in order to create the appearance of an active trade or to create misleading information about market conditions or prices of Futures Contracts, Sharia Derivative Contracts, and/or other derivative contracts on the Futures Exchange; and/or
- c. create, disseminate, and/or direct others to make and/or disseminate false or misleading statements or information relating to futures contracts, sharia derivative contracts, and/or other derivative contracts with the intent of profiting from price fluctuations on exchange features caused by the spread of the statement or information.

(2) Each Party is prohibited from:

- a. Unreasonably conduct transactions on futures contracts, Sharia derivative contracts, and/or other derivative contracts;
- b. Complete two or more contradictory customer orders for futures contracts, Sharia Derivative Contracts, and/or other derivative contracts traded on futures exchanges other than the Futures Exchange.
- c. Directly or indirectly become the counterparty to the customer's transaction, except:
  - 1. Customer orders have been publicly offered on the Futures Exchange; and
  - 2. Transactions that occur are reported, recorded, and cleared in the same way as other orders transacted on the Futures Exchange; or
- d. Directly or indirectly influencing other parties to conduct futures contracts, Sharia derivative contracts, and/or other derivative contracts transactions by persuading or promising profits that exceed reasonable expectations.

4. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions  
Article 27

- (2) Any person intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content.

Article 28

- (1) Everyone, intentionally or unintentionally, spreads false and misleading information, resulting in consumer losses in electronic transactions.

Article 45

- (1) Any person who knowingly and without rights distributes, transmits, or makes accessible electronic information and/or electronic documents containing content that violates decency, as defined in Article 27 paragraph (1), faces imprisonment for a maximum of 6 (six) years and/or a fine of Rp. 1,000,000,000.00 (one billion rupiah).
- (2) Any person who knowingly and without authorization distributes, transmits, or makes accessible electronic information and/or electronic documents containing gambling content, as defined in Article 27 paragraph (2), shall face imprisonment for a maximum of 6 (six) years and/or a fine of Rp. 1,000,000,000.00 (one billion rupiah).

#### Article 45A

- (1) Any person who intentionally and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions as referred to in Article 28 paragraph (1) shall be sentenced to a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).

#### 5. Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (TPPU)

##### Article 3

Everyone who places, transfers, transfers, spends, pays, grants, entrusts, takes abroad, changes form, exchanges for currency or securities, or performs other actions on assets that he knows or reasonably suspects are the result of criminal acts as defined in Article 2 paragraph (1) with the intent of concealing or disguising the origin of the assets shall be punished for money laundering with a maximum sentence of 20 (twenty) years in prison and a maximum fine of Rp. 10,000.

##### Article 5

- (1) Any person who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange, or use of assets that he knows or reasonably suspects are the proceeds of a criminal act as defined in Article 2 paragraph (1) faces up to 5 (five) years in prison and a fine of Rp. 1,000,000,000.00 (one billion rupiah).
- (2) The provisions as referred to in paragraph (1) do not apply to the reporting party carrying out reporting obligations as regulated in this law.

#### Article 10

Everyone who is inside or outside the territory of the Unitary State of the Republic of Indonesia who participates in conducting experiments, assisting, or Conspiracy to commit the crime of Money Laundering shall be punished with the same punishment as referred to in Article 3, Article 4, and Article 5.

From these various provisions, it can be used to ensnare an affiliate because his actions attract people's interest in playing in Binomo trading. From the Binomo trading game, many people have suffered material losses, with a total loss of billions of rupiah.

Law enforcement officials can take action against an affiliate if it is proven that the affiliate violates the provisions of the applicable laws so as not to increase the losses suffered by the wider community.

## 2.2 Government Actions in Handling Binary Options

To realize effective coordination between supervisory agencies in the field of public fund collection and investment management as well as with other law enforcement officers, regulators, supervisory agencies, and law enforcement, a Task Force for Handling Allegations of Unlawful Actions in the Field of Public Funds Collection and Investment Management has been established (Waspada Task Force). Investment through the Decree of the Chairman of Bapepam-LK Number 208/BL/2007 dated June 20, 2007 for the 2007 term of office, which is renewed annually. At the beginning of the formation of the Investment Alert Task Force, regulators and supervisory agencies as well as law enforcement officers who became members were the Capital Market and Financial Institution Supervisory Agency (Bapepam-LK), Bank Indonesia (BI), the Ministry of Trade, the National Police Criminal Investigation Agency, and the Center for Reporting and Analysis of Financial Transactions (PPATK).

After the transfer of the duties and functions of Bapepam-LK to OJK, the Decree of the Chairman of Bapepam-LK Number Kep-208/BL/2007 dated June 20, 2007 was renewed through the Decree of the OJK Board of Commissioners Number 01/KDK.04/2013 dated June 26, 2013. The latest is through the Decree of the OJK Board of Commissioners Number 2/KDK.02/2020 dated March 3, 2020 concerning the Establishment of a Task Force for Handling Alleged Unlawful Actions in the Field of Public Funds Collection and Investment Management (Investment Alert Task Force). Currently, there are 12 (twelve) Ministries/Institutions, namely OJK (as Chair and Secretariat), Indonesian Police, Indonesian Attorney General's Office, Ministry of Trade of the Republic of Indonesia, Ministry of Cooperatives and SMEs of the Republic of Indonesia, Ministry of Communication and Information Technology of the Republic of Indonesia, Ministry of Religion of the Republic of Indonesia, Ministry of Education, Culture, RI Research and Technology, the Indonesian Ministry of Home Affairs, Bank Indonesia, the Center for Financial Transaction Reports and Analysis, and the Ministry of Investment/Investment Coordination Agency. The Investment Alert Task Force (SWI) asks the public to be wary of offering binary options and illegal brokers that are not registered with the Commodity Futures Trading Supervisory Agency (CoFTRA) of the Ministry of Trade and conducted by affiliates or influencers that have the potential to harm the community. Online trading activities carried out by binary options are illegal because they are gambling. No goods are traded. It's just luck. Win or lose in guessing the price of a commodity and its rise or fall within a certain period, which can be detrimental to society. The legality of the commodity futures trading platform can be checked through the [bappebti.go.id](http://bappebti.go.id) website.

To protect the public from losses that may arise, SWI has summoned a number of affiliates and influencers who are alleged to have facilitated binary options products and illegal brokers that are not registered with CoFTRA, such as Binomo, Olymptrade, Quotex, and Octa FX, and carried out trading training activities without permission.

In a virtual meeting with these influencers, SWI requested that they stop trading promotion and training activities and delete all promotional and trading training content on their respective social media. Present at the meeting were SWI members from the Criminal Investigation Unit of the Police, OJK, CoFTRA, the Ministry of Trade, and the Ministry of Communication and Information.

In addition to the binary option issue, SWI in its enforcement activities has also stopped the activities of 21 (twenty-one) entities suspected of conducting business activities without permission from the competent authority and potentially causing harm to the community. The entity carries out the following illegal activities:

- a. 16 (sixteen) Money Game Activities
- b. 3 (three) unauthorized trading of crypto assets; and
- c. 2 (two) Unlicensed trading of trading robots

Recently, there have been many investment offers based on websites or applications that must be watched out for because the perpetrators take advantage of the public's ignorance to cheat by way of the lure of giving very high and unreasonable returns, but first the public is asked to place or deposit their funds. The Indonesian Police Criminal Investigation Agency (Bareskrim Polri) is currently collaborating with the Financial Transaction Reports and Analysis Center (PPATK) to uncover the flow of funds and block the flow of money from affiliates suspected of fraud under the guise of illegal investment, through binary trading. In carrying out its duties, PPATK has four functions, namely:

- a. Prevention and eradication of money laundering crimes;
- b. Management of data and information obtained by PPATK;
- c. Supervision of the compliance of the reporting party
- d. Analysis or examination of reports and information on financial transactions with indications of money laundering and/or other criminal acts.

SWI also asks the public to understand the following before making an investment:

- a. Ensure that the party offering the investment has a license from the competent authority in accordance with the business activities being carried out;
- b. Ensuring that the party offering investment products has a license to offer investment products or is registered as a marketing partner;
- c. Ensuring that if there is a logo of a government agency or institution in the media, the offer has been carried out in accordance with the provisions of the legislation.

In addition to the above, on February 3, 2022, the Investment Alert Task Force launched the Investment Alert Task Force minisite at the address <https://www.ojk.go.id/waspada-investasi/id/default.aspx> This website is expected to provide information to the public regarding the list of illegal entities, illegal online loans, and illegal pawn shops that have been stopped by the Investment Alert Task Force. In addition, the Investment Alert Task Force website also functions as a means of educating the public. If the public finds



a suspicious investment offer, the public can consult or report it to OJK Consumer Service 157, WA (081157157157), email [consumer@ojk.go.id](mailto:consumer@ojk.go.id) or [alertinvestasi@ojk.go.id](mailto:alertinvestasi@ojk.go.id). For information on crypto assets, please visit the website <https://www.bappebti.go.id/>. Meanwhile, the complaint can be accessed at <https://pengaduan.bappebti.go.id>. With these various government efforts, it is hoped that the losses to the community who are victims of binary options and their affiliates will not increase.

### 3 Closing

The actions of the binary option affiliate have violated various provisions, including the provisions of the Criminal Code (KUHP), Law Number 8 of 1999 concerning Consumer Protection, Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, and Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (TPPU). From the various provisions mentioned above, it can be used to ensnare an affiliate because his actions attract people's interest in playing in binomo trading. From the binomo trading game, many people have suffered material losses, with a total loss of billions of rupiah. Law enforcement officials can take action against an affiliate if it is proven that the affiliate violates the provisions of the applicable laws so as not to increase the losses suffered by the wider community.

On the basis of the violation of the law, the government took action in tackling binary options, including establishing a Task Force for Handling Alleged Unlawful Actions in the Field of Public Funds Raising and Investment Management (Investment Alert Task Force) and stopping the activities of 21 (twenty-one) entities suspected of carrying out illegal activities. This is a business without a permit from the competent authority and has the potential to harm the community and launch the Investment Alert Task Force website. With the various efforts of the government, it is hoped that the losses to the community who are victims of the bonus option and its affiliates will not increase further.

### References

1. Binary Option Dinyatakan Ilegal! Accessed April 8, 2022. <https://ngertihukum.id/binary-option-dinyatakanilegal/>.
2. Helmi, Shulfi Ana. n.d. Apa Itu Binary Option, Affiliator, dan Cara Kerjanya. Accessed April 8, 2022. <https://tirto.id/apaitu-binary-option-affiliator-dan-cara-kerjanyaqowY>.
3. Terungkap! Segini Gaji Bulanan Affiliator Binary Option. Accessed April 8, 2022. <https://www.cnbcindonesia.com/news/20220315140521-4-322938/terungkap-segini-gaji-bulanan-affiliator-binary-option>.
4. Safitri, Kiki. n.d. Mengenal Binary Option, Cara Kerja dan Legalitasnya. Accessed April 8, 2022. <https://money.kompas.com/read/2022/01/25/110513526/mengenal-binary-option-cara-kerja-danlegalitasnya?page=all>.
5. Nurhadi, M. n.d. Alasan Binary Option Dilarang Negara, Dianggap Judi Melanggar Hukum Pidana. Accessed April 8, 2022. <https://www.suara.com/bisnis/2022/03/08/152631/alasan-binary-option-dilarang-negaradianggap-judi-melanggar-hukum-pidana>.

6. Profil Satgas. Accessed April 8, 2022. <https://www.ojk.go.id/waspadainvestasi/id/tentang/Pages/Profil-Satgas.aspx>.
7. Mengenal PPA TK, Lembaga yang Bikin Afiliator Binary Option Ketar-ketir. Accessed April 8, 2022. <https://www.jawapos.com/nasional/08/04/2022/mengenal-ppatk-lembaga-yang-bikin-afiliatorbinary-option-ketar-ketir/>.
8. SWI Minta Masyarakat Waspada Penawaran Binary Option dan Broker Ilegal. Accessed April 8, 2022. <https://www.ojk.go.id/waspadainvestasi/id/siaran-pers/Pages/SWI-Minta-Masyarakat-Waspada-Penawaran-BinaryOption-dan-Broker-Ilegal.aspx>.

**Open Access** This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

