

Binomo Case In Customer Legal Protection Perspective

Theresia Anita Christiani¹ , Kadek Ayu Tia Puspasari²

¹Faculty Of Law, Universitas Atma Jaya Yogyakarta, Indonesia, Mrican Baru 28 Yogyakarta , Indonesia, email: anita.christiani@uajy.ac.id

²Master Of Law, Universitas Atma Jaya Yogyakarta, Indonesia, Mrican Baru 28 Yogyakarta , Indonesia, email: ayutiapuspasari@gmail.com

Abstract

This study want to find and analyze the legality of the Binomo trading platform in Indonesia and the legal consequences for bank customers on investments made in Binomo. This research uses normative juridical analysis. This research focuses on the laws and regulations in Indonesia relating to Binomo Investment. This study uses a statutory approach and a conceptual approach. This study want to find and analyze the legality of the Binomo trading platform in Indonesia and the legal consequences for bank customers on investments made in Binomo. This research is limited to a study based on secondary data only. The result of this research is The Binomo trading platform cannot be limited to a commodity futures trading activity in Indonesia. The parties' legal consequences, including the Binomo trading platform investors, will not get implicit and explicit protection as commodity futures trading investors.

Keywords: customers, concept, investment, legal.

Introduction

Binomo is a trading platform that can make money by increasing or decreasing foreign exchange (forex) exchange rates, stock prices, crypto currencies, and commodities. Binomo is a platform for binary options trading (binary options trading). What is meant by an option is a way to participate in financial services trading without owning a real portfolio asset (derivative transaction), namely by guessing the price changes of a portfolio asset (www. Hukumonline, 2022). Binary options trading or binary options trading is trading options by assuming from only two available possibilities, which will go up or down between portfolio assets. Binary options are contracts in which the pay-out is based on the performance of an underlying asset. Such as a currency, commodity, stock index, or share (International Organization Of Securities Commission, 2018).

Legal facts show that there are regulations related to the business activities of the Binomo platform, including Law Number 32

of 1997 concerning the Commodity Futures Trading. That Law as amended by Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading, and □ Government Regulation Number 49 of 2014 concerning the Implementation of Commodity Futures Trading; and Regulation of the Commodity Futures Trading Supervisory Agency Number 3 of 2018 concerning Futures Broker Business Permits and Approval for Opening of Futures Broker Branch Offices. Another legal fact shows that there are losses for many investors who carry out business activities with Binomo as a business platform.

Based on the above explanation , problems can be proposed: Is Binomo binary options trading included in commodity futures trading in Indonesia? What are the legal consequences for bank customers on investments made in Binomo?

This study aims to find the legal Concept of qualification of Binomo binary options trading included in commodity futures

trading in Indonesia and the legal consequences for bank customers on investments made in Binomo.

Previous research has been conducted by Pancar Setiabudi Ilham Mukarromah, who discussed the Binary Options System on the Binomo platform from the perspective of Islamic Law (Pancar Setiabudi Ilham Mukarromah, 2022). Ahmad Firjatullah Hasanuddin conducted another study with the title "Opinion of the Malang Regency Indonesian Ulema Council (MUI) on Binary Options Trading" (Ahmad Firjatullah Hasanuddin, 2019). Another study was also conducted by Zulfaturl Mukarromah, who found the Concept that the registration process, contract agreement, replenishment balance, and the core process which constitutes online forex trading are contrary to Islamic economic Law. Online Forex trading transactions are said to be haram because they contain elements of gharar and maysir, which are prohibited in Islamic economic Law (Zulfaturl Mukarromah, 2020). Another research was conducted by Rohmini Il and Zaenal Arifin (Rohmini Il and Zaenal Arifin, 2022), which examined the existence of operator practices binary options, which are considered illegal in Indonesia. Investigate the factors behind the existence of unethical practices carried out by binary options operators that cause losses to option holders. The previous research is different from the research that will be conducted.

Method Of Research.

This writing research is normative juridical (Andika PP and Mohamad Z, 2019). Two approaches are used, namely, the statutory approach and the conceptual approach. This study uses secondary data. Secondary data (Lego Karjoko, et al., 2020) consists of primary legal materials) and secondary legal materials. The data are collected, separated, presented, and analyzed. The analysis technique used is the qualitative analysis technique (Mustapha, Z et al. 1, 2021). The method of concluding is deductive. Although not used in detail in this study, the economic approach will be instrumental in the research. law (Gramcheva L, 2019)

Results and Discussion

It is said that the trading platform has not yet entered into the discussion of whether Binomo is legal in Indonesia. As far as our investigation is concerned, trading binary options and foreign exchange, as referred to above, are included in the category of futures contract options. A futures contract is a standard form to buy or sell a commodity with a later settlement specified in a futures exchange-traded contract. The definition of a futures exchange is a business entity that organizes and provides systems and facilities for commodity trading activities based on futures contracts, sharia derivative contracts, and/or other derivative contracts.

Regulations related to the business activities of the Binomo platform, including Law Number 32 of 1997 concerning the Commodity Futures Trading Act as amended by Law Number 10 of 2011 concerning Amendments to Law Number 32 1997 concerning Commodity Futures Trading and Government Regulation Number 49, the Year 2014 concerning Commodity Futures Trading Implementation; and Regulation of the Commodity Futures Trading Supervisory Agency Number 3 of 2018 concerning Futures Broker Business Permits and Approval for Opening of Futures Broker Branch Offices. In those settings. The regulation regulates commodity futures trading and brokers or brokers who must have permission from Bappepti to carry out their activities. There is no theory directly related to legal protection. In the literature, there is the Concept of legal protection. Legal protection guarantees the fulfilment of the rights and obligations of the parties. Rights are protected by Law, while interests are individual or group demands expected to be fulfilled. Interests essentially contain powers guaranteed and protected by Law in carrying them out. Legal protection can be divided into preventive legal protection and repressive protection. Preventive protection is legal protection before a dispute occurs. Repressive legal protection is legal protection after a conflict arises. Several examples of how Law is needed to regulate economic activity. Those statements as suggested by Punj A (Punj, A., 2018) and Hardy, T., & McCrystal, S (Hardy, T., & McCrystal, S., 2022). The Concept of how understanding from the economic aspect will

help the accuracy of decisions in the field of Law was also put forward by Sophie Stoyan (Stoyan, Sophie, 2020). The relationship between law and economics is also emphasized by those who analyze the Concept of Adam Smith (Paul G. Mahoney, 2017). As John Locke said that humans from birth have the right to get protection (Bailey J., Thorseth M, 2017), then it is the obligation of the State through institutions to be able to provide legal protection to the community.

The legality of the Binomo trading platform in Indonesia

Binomo is a trading platform offered to the public. The public is given information that they will benefit by increasing or decreasing the exchange rate of foreign exchange (forex), stock prices, cryptocurrencies, and commodities. The activity of the Binomo trading platform is often referred to as a platform for binary options trading.

In short, Binomo is a platform for binary options trading. The option is to participate in financial services trading without owning a real portfolio asset (derivative transaction), namely by guessing the price change of a portfolio asset.

The legal basis for analyzing whether Binomo's activity is an activity in commodity futures trading in Indonesia is Law No. 32 of 1997 as amended by Law No. 10 of 2011, PP No. 49 of 2014 concerning Commodity Futures Management and CoFTRA Regulation No. 3 of 2018.

First, it is necessary to know the meaning of the Commodity Futures Trading Act. Article 1 of the Law provides an understanding of Commodity Futures Trading, namely: Futures Trading. It allows everything related to the sale and purchase of Commodities with Margin withdrawal and with subsequent settlement based on Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts.

While Commodities in number 2 Article 1 of the Commodity Futures Trading Law are Commodities are all goods, services, other rights and interests, and any Commodities derivatives. Those can be traded and become the subject of Futures Contracts, Sharia

Derivative Contracts, and/or other Derivative Contracts.

From the sound of the article, it can be studied the elements of a delay in commodity futures trading, namely:

1. Parties are sellers and buyers of the object of the sale and purchase agreement, namely commodities
2. There is a sale and purchase of commodities; commodities are all goods, services, rights and other interests, and any derivatives of Commodities, which can be traded and become the subject of Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts.
3. There is a margin withdrawal and settlement later
4. The sale and purchase are based on futures contracts, sharia derivative contracts, and other derivative contracts. What is meant by a Futures Contract is a standard form of contract to buy or sell a Commodity with a later settlement as specified in the contract traded on the Futures Exchange. Derivative Contracts are contracts whose value and price depend on the Commodity subject. Sharia Derivative Contracts are derivative contracts that comply with sharia principles.

There is no term option in the definition of futures trading in article 1, number 1. Still, the definition of options is contained in article 1, number 8, which states that options are contracts giving the buyer the right to buy or sell futures contracts or certain commodities at a specific price, amount and price. A certain period has been determined in advance by paying a premium. From the definition of Commodity Futures Trading and Understanding Options, the definition of options is the definition of other derivative contracts, which is one of the basics of trading commodity futures.

From the description above, it can be studied that the essential elements to be categorized as commodity futures trading are:

1. The existence of commodity goods, which can be in the form of goods, services, rights and other interests, and any derivatives of Commodities,

2. There is a margin withdrawal and settlement later
3. the existence of Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts. This contract is the basis for the emergence of rights and obligations for both parties.

The public as investors conducts option transactions for futures contracts through trading brokers that meet the requirements. Including: In the form of a Limited Liability Company, Is a member of the futures exchange. The broker has obtained a business license as a futures broker from the Futures Trading Authority, namely the Trade Supervisory Agency Commodity Futures. Knowing whether the Binomo trading platform is a commodity futures trading in Indonesia can be studied by explaining how the Binomo trading mechanism is carried out as described below.

Binomo is an online trading platform in the form of binary options. Binary options are financial products in which the party to the transaction is given one of two choices between yes or no to predict the price of an asset. (Lucas Downey, 2022) Based on information from Euronomics, it is explained that Binomo was founded in 2014 by Tiburon Corporation Limited based in Seychelles (euro_nomics, 2022). Another thing described in the CNBC Indonesia news is that the company's location comes from ST Vincent and the Gradines in the Caribbean. (Novina Putri Bestari, 2022)

People can use Binomo to trade directly or become part of a Binomo affiliate. People who deal directly will face the possibility of profit and loss. It is different if you become an affiliate. The Binomo affiliate is the party in charge of promoting the Binomo application, where an affiliate will earn if he succeeds in attracting new people to invest in Binomo. (Siti Nur Rahmawati, 2022)

Binomo is a platform under a foreign company, so foreigners manage its management. Foreign parties have roles and tasks, one of which is to offer someone with influence to join as an affiliate with a profit-sharing system. (Rifan Aditya, 2022) One of the parties in this profession is Brian Edgar as Binomo Development Manager

Those who want to trade/trade on Binomo must first create an account. Account

registration can be done in several ways. One way is to use email. (Binomo Indonesia, 2022) Based on the binomoindonesia.org website, it is explained that users must first log in to the binomo.com website if access is done through the official website or sign in to the Binomo application. The user then creates an account by registering an email and password that will be used. The user is declared successful in creating an account if he has successfully confirmed the email. Users who already have an account can then log in or log in and make trades. Account registration can also be done in other ways, such as with a Facebook account or a Google account. Binomo provides endless trading facilities, so the market will never close(iipcollaborativ. org, 2022). The mechanism allows users to trade at any time. Based on the binomoindonesia.org website, it is explained how to trade on Binomo after the user has successfully entered the Binomo account, including the following. (Binomo Indonesia, 2022)

1. A unique feature offered by Binomo is the availability of a demo account. New users who don't understand how to trade on Binomo to practice trial trading can use the demo account. The demo account provides the facility of unreal or unreal funds. Users can use several features on the demo account, including the trading period up to the amount of the purchase value and the time frame. (Irwan, 2022) A demo account will provide a deposit or initial capital of \$1000 (one thousand dollars) or approximately equivalent to Rp. 14,000,000 (four ten million rupiahs) A demo account that is not real or real causes the amount of deposit, profit, or loss obtained by the user to be only fictitious.
2. Users who feel that they are ready to trade with or without practice on a demo account can then immediately use a real account. A real account is an account that uses real funds in dollars. Users who want to trade for real can make a deposit beforehand with various alternatives, either by bank card or e-wallet (Tempo, 2022). Users can choose several account types to enjoy various

facilities, including a minimum deposit that must be paid with the account type as follows. (iipcollaborative,org, 2022)

- a. Standard
Users who choose a standard account only need to make a minimum deposit of \$10 (ten dollars) or approximately the equivalent of Rp. 140,000 (one hundred and forty thousand rupiahs). (Tempo, 2022) The assets that users can trade are only limited to 41 purchases. Users can withdraw funds held on their Binomo account with a waiting time of 3 (three) days.
 - b. Gold
Users who choose a gold account require a larger deposit than the standard account, which is a minimum of \$500 (five hundred dollars) or IDR 7,000,000 (seven million rupiahs). More significant deposit funds are comparable to the facilities provided, such as there are 51 tradable assets and the waiting time for withdrawals is only 24 (twenty-four) hours.
 - c. VIP
Users who choose a VIP account need to make a minimum deposit of at least \$1000 (one thousand dollars) or approximately the equivalent of Rp. 14,000,000 (fourteen million rupiahs). (iipcollaborative,org,2022). The VIP account party can trade as many as 61 (sixty-one) assets. Another excellent facility offered to VIP account users is the withdrawal waiting time of only 4 (four) hours.
3. The next step is that the user can choose the asset he wants to trade. Binomo offers a wide range of assets such as commodities, stocks, currency pairs, indices and commodity pairs. Users can also see the profit percentage obtained if they choose the investment. Profit percentage is based on trading time. Trading time is divided into 2 (two), namely short trading time with a period of 5 (five) minutes down and long trading time with a period of 15 (fifteen) minutes and above. An example is if a user trades \$10 (ten dollars) on an asset whose probability is 80% with a duration of under 5 (five) minutes, then the user will earn a profit of \$8 (eight dollars) if the result at the time the trade is closed shows correct or profit.
 4. The user sets the number of funds to be traded. The amount of funds traded is a minimum of \$1 (one dollar) or equivalent to Rp. 14,000 (fourteen thousand rupiahs) and a maximum of \$1000 (one thousand dollars) or equivalent to Rp. 14,000,000 (fourteen million rupiah).
 5. The user then selects the expiration time for the trade. The expiration time in question is the specified time for ending the trade. The expiry time exceeded causes the trade to be closed automatically by the system. Users will find 2 (two) lines on the chart, namely the line that shows the time of purchase and the chute that indicates the end time of the trade.
 6. The user in this step analyses the price movement of the selected asset on the chart. The analysis results are used as the basis for users to estimate whether the asset price will increase or decrease at the expiration time chosen. The user can choose the green column if the forecast indicates the asset price will increase, or the user can select the red column if the forecast suggests the asset price will decrease.
 7. Users who have selected the next asset price forecast can wait for the forecast result until the trade is closed. Users whose forecast results are correct will gain following the

percentage, while users whose estimates are wrong will experience losses.

The process from the beginning until the user gains can be seen in the following scheme :

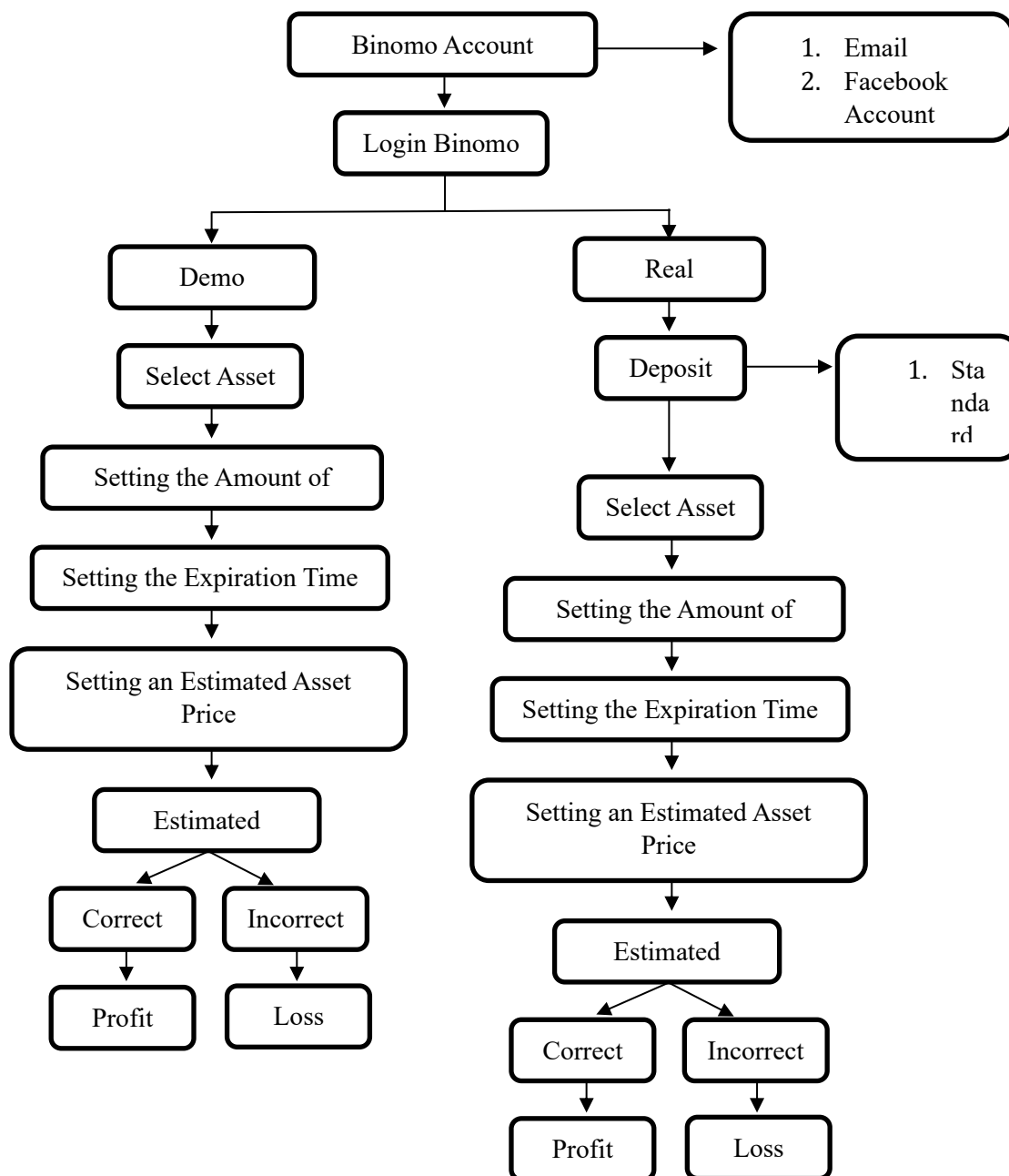


Chart 1 : Binomo platform trading mechanism chart

According to the Indonesia Police Department, as quoted in CNBC Indonesia on February 11, 2022, it explains that Binomo offers a profit percentage of 85% (eighty-five per cent) to users if they manage to estimate the asset price. (CNBC Indonesia, 2022) This percentage of profits

is high. The high rate and ease of trading can lure users into investing in Binomo. Users are likely to get gains almost equivalent to the traded investment value if they manage to predict the asset price correctly. It is important to note that users can also miscalculate, which results in losses. Users

even have the opportunity to earn high profits, but on the other hand, they have the chance to achieve high losses. Users who fail to estimate the asset price correctly will suffer a loss of 100% (one hundred per cent) of the amount of traded funds.

Based on this, Binomo is a high-risk investment platform. Binomo users make deposits, not for investment in the form of assets. Users are only required to perform an analysis of a selected asset. The investment funds used by the user are funds intended to calculate the value of the profit or loss that the user will obtain. The main focus of Binomo users is only to predict the price of the asset selected by the user when trading. User gains or losses are purely derived from the results of estimates made by users.

Based on the mechanism of commodity futures trading and the trading mechanism of the Binomo platform, it can be studied that: Based on the trading mechanism described above,

1. From the aspect of the object being traded, the community's trading activities with Binomo do not contain any traded goods. The user only guesses whether the price goes up or down. In Binary Options trading platform, traders are asked to predict or guess the price of an instrument will increase or decrease within a certain period. There are no assets traded on binary options (Irhamisyah, 2022). According to the legal concept, one of the essences of trading is the existence of an object of the agreement, and if it does not exist, then it is not trading or trading activity.
2. From the aspect of price movements, conceptually, price movements will be based on the actual activity of the object being traded (based on supply and demand for the thing, for example, the object is shared). Meanwhile, the price movement of Binomo's activity is not based on actual activity but is suspected to be a manipulation scheme in it. There is a possibility that the price could be manipulated in such a way to benefit the broker
3. From the aspect of the intermediary party to investors in Indonesia, the intermediary or broker as the party authorized by the seller does not have permission from the competent authority.

From this description, the trading platform offered by Binomo is open to trades that can be qualified as commodity futures trading. So that investors who use the Binomo trading platform as an investment cannot obtain legal protection, both implicit and explicit, according to the Commodity Futures Trading Law. Investors can use the general law that applies in Indonesia to get their rights back, of course, with all the legal consequences in its implementation.

Conclusion

Based on the description above, to analyze the legality of the Binomo trading platform, the regulation of commodity futures trading in Indonesia is used. Based on the regulation of commodity futures trading, the elements that must exist are the parties, the object of trading in commodity and futures contracts, sharia derivative contracts and other derivative contracts. In the practice of the Binomo trading platform, the affiliate who is the proxy of the seller does not get permission from the competent authority. No commodities are traded, so the contracts entered into cannot be qualified as futures contracts, sharia derivative contracts, and other derivative contracts. The Binomo trading platform cannot be limited to a commodity futures trading activity in Indonesia. The parties' legal consequences, including the Binomo trading platform investors, will not get implicit and explicit protection as commodity futures trading investors.

Acknowledgements

Thank you for Universitas Atma Jaya Yogyakarta for funding research and Publication

References;

1. Ahmad Firjatullah Hasanuddin (2019), Pendapat Majelis Ulama Indonesia (MUI) Kabupaten Malang Terhadap

- Trading Binary Option . Skripsi, Universitas Islam Negeri Maulana Malik Ibrahim Malang.
2. Bailey J., Thorseth M. (2017) Value and growth – Rethinking basic concepts in Lockean liberalism Nord J Appl Ethics , 11(1), 107–129, DOI: <http://dx.doi.org/10.5324/eip.v11i1>.
 3. Grachev L. (2019,) Comparative institutional law and economics: reclaiming economics for socio-legal research. Maastricht Journal of European and Comparative Law.; 26(3):372-393.
doi:10.1177/1023263X19840522
 4. Hardy, T., & McCrystal, S. (2022), The importance of competition and consumer law in regulating gig work and beyond, Journal of Industrial Relations.
<https://doi.org/10.1177/00221856211068868>
 5. International Organization Of Securities Commission,(2018), Statement On Concerns Related To Binary Option.
 6. Lego K, Said G, Zaidah N, I Gusti A.,Abdul K.J., Willy N H, (2020). Patent Policy on the Pharmaceutical In Indonesia, Journal of Legal, Ethical and Regulatory Issues, 23 (5).
 7. [Mustapha, Z.](#), [Kunhibava, S.B.](#) and [Muneeza, A.](#), (2021), "Legal and Shari'ah non-compliance risks in Nigerian Islamic finance industry: a review of the literature," [International Journal of Law and Management](#), Vol. 63 No. 2, pp. 275-299.
<https://doi.org/10.1108/IJLMA-03-2020-0075>
 8. Pancar Setiabudi Ilham Mukarromah , (2022), Sistem Binary Option dalam platform Binomo Dalam Perspektif Hukum Islam , Skripsi , Universitas Islam Indonesia, Yogyakarta,<https://dspace.uii.ac.id/handle/123456789/33356>.
 9. Punj, A.(2018) Special Economic Zones: Operational Adjustment of Labour Law. Journal of National Law University Delhi, 5(1), 78–98.
<https://doi.org/10.1177/2277401718787955>.
 10. Paul G. Mahoney, (2017), [Adam Smith, Prophet of Law and Economics](#), The Journal of Legal Studies, 46:1, 207-236.
 11. Rohmini Il dan Zaenal Arifin , (2022), Godaan Praktik Binary Option Berkedok Investasi Dan Trading, Jurnal Ius Constitutendum, , Magister Hukum Universitas Semarang Vol 7 No 1 .
 12. Stoyan, Sophie, (2020), "Towards a Better Explanation of Law and Economics: Revisiting Rational Choice Theory and the Market as a Framework for Legal Decisions" Master of Laws Research Papers Repository.
8.^[1]_[SEP]<https://ir.lib.uwo.ca/llmp/8>
 13. Zulfaturl Mukarromah,(2020). Forex Online Trading (FOT) Dalam Perspektif Hukum Ekonomi Islam (Telaah Kasus Para Pengguna FOT). At-Torust: Journal of Islamic Studies .
 14. <https://www.hukumonline.com/klinik/a/apakah-binomo-legal-di-indonesia-lt5bee760dea39e>, Accessed April 22.
 15. [Lucas Downey](#),
<https://www.investopedia.com/terms/b/binary-option.asp>, accessed on May 20, 2022.
 16. <https://euro-nomics.com/brokerage-firm/what-is-binomo-and-how-does-it-work/> accessed on May 16, 2022.
 17. Novina Putri Bestari,
<https://www.cnbcindonesia.com/tech/202204141511-37-312929/terungkap-ini-asal-muasal-perusahaan-judi-binomo>, diakses pada 16 Mei 2022.
 18. Siti Nur Rahmawati, <https://bisnis.tempo.co/read/1568582/indra-kenz-dan-doni-salmanan-tersandung-kasus-afilior-binomo-arti-afilior#:~:text=Afilior%20Binomo>

- [%20adalah%20individu%20yang,baru%20untuk%20berinvestasi%20di%20Binomo.&text=Seseorang%20yang%20ingin%20menjadi%20afiliasi,melakukan%20pendaftaran%20melalui%20lam%20BinPartner.](#), accessed on May 16, 2022.
19. Rifan Aditya,
<https://www.suara.com/news/2022/04/05/081203/mengenal-siapa-brian-edgar-manajer-binomo-yang-resmi-jadi-tersangka-baru-setelah-indra-kenz-ditangkap?page=all>, accessed on May 16, 2022.
 20. Binomo Indonesia,
<https://binomoindonesia.org/cara-mendaftar-dan-berdagang-di-binomo-1009113>, diakses pada 12 Mei 2022.
 21. Impact Investing Policy Collaborative,
<https://iipcollaborative.org/binomo-review/>, accessed on May 12, 2022.
 22. Irwan,
<https://voi.id/teknologi/137293/korban-binomo-bermunculan-cara-kerja-binomo-disebut-mirip-judi>, accessed on May 12, 2022.
 23. Tempo.com,
<https://bisnis.tempo.co/read/1570026/judi-berkedok-investasi-begini-cara-bermain-trading-binomo/full&view=ok>, accessed on May 13, 2022
 24. CNBC Indonesia,
<https://www.cnbcindonesia.com/tech/20220211075746-37-314578/bareskrim-binomo-janjikan-85-untung-diduga-judi-online>, accessed on May 14, 2022.
 25. Irhamsyah, (2022), Waspada Investasi Ilegal , Satgas Waspada Investasi, Webinar Hak Perlindungan Konsumen di era Ekonomi Digital , Yogyakarta, May 18, 2022.