

Problematika Perlindungan Hukum Trader Forex terhadap Jasa Expert Advisor tanpa Izin Bappebti pada Kegiatan Foreign Exchange di Indonesia = The Legal Protection Issue for Forex Traders Against the Expert Advisor Services not Licensed by Bappebti on Foreign Exchange Activities in Indonesia

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Abstrak

Penelitian ini membahas mengenai bagaimana perlindungan hukum bagi Trader Foreign Exchange atau Forex yang ditawarkan Expert Advisor tanpa izin Bappebti oleh Pelaku Usaha Jasa Expert Advisor pada pasar Valuta Asing atau Foreign Exchange. Penelitian ini disusun menggunakan metode penelitian normatif, yaitu dalam menemukan hasilnya dilakukan pendekatan melalui perundang-undangan (statute approach). Berdasarkan hasil penelitian ini adalah bahwasanya menurut Pasal 2 dan Pasal 4 Peraturan Bappebti Nomor 12 Tahun 2022 tentang Penyelenggaraan Penyampaian Nasihat Berbasis Teknologi Informasi Berupa Expert Advisor di Bidang Perdagangan Berjangka mewajibkan untuk setiap Expert Advisor memiliki perizinan dari Bappebti. Namun, sampai saat penelitian ini dibuat tidak ada Expert Advisor pada Foreign Exchange yang memiliki izin Bappebti, sehingga dapat dipastikan semua Expert Advisor yang ditawarkan Pelaku Usaha Jasa Expert Advisor pada Foreign Exchange kepada Trader Forex adalah ilegal atau tidak berizin Bappebti. Penawaran tersebut merupakan Perbuatan Melawan Hukum menurut Pasal 1365 KUHPerdara karena telah memenuhi unsur-unsur di dalam pasal tersebut. Upaya untuk mengurangi Expert Advisor tidak berizin Bappebti dapat dilakukan melalui litigasi dan non-litigasi. Simpulan penelitian ini adalah Expert Advisor wajib memiliki perizinan dari Bappebti, Penawaran Expert Advisor yang belum memiliki perizinan tersebut merupakan Perbuatan Melawan Hukum menurut Pasal 1365 KUHPerdara dan Upaya untuk mengurangi Expert Advisor tidak berizin Bappebti melalui litigasi adalah mengajukan gugatan kepada Pengadilan Negeri terhadap perbuatan melawan hukum Pelaku Usaha Jasa Expert Advisor ilegal pada Foreign Exchange dan/atau membuat laporan kepada Kepolisian RI dan Satgas PASTI, sedangkan melalui non-litigasi adalah pemerintah yang berkoordinasi melalui Satgas PASTI, Pelaku Usaha Jasa Expert Advisor mengajukan permohonan perizinan kepada Bappebti, dan Masyarakat menerapkan prinsip 2L yaitu Legal dan Logis terhadap penawaran tersebut.

.....This research discusses the legal protection for Foreign Exchange or Forex Traders offered by illegal or Expert Advisors not licensed by Bappebti by Expert Advisor Service Business Entities in the Foreign Exchange market. The research is conducted using a normative research method, which involves finding results through a legal approach (statute approach). Based on the results of this study, according to Article 2 and Article 4 of Bappebti Regulation No. 12/2022 on the Implementation of Information Technology-Based Advice Delivery in the Form of Expert Advisors in the Sector of Futures Trading, mandatory each Expert Advisor to have a license from Bappebti. However, as of the time of this research, no Expert Advisor in the Foreign Exchange market has obtained a license from Bappebti, so it is confirming that all Expert Advisors offered by Expert Advisor Service Business Entities on Foreign Exchange to Forex Traders are illegal or not licensed by Bappebti. This offer constitutes a Tort/Unlawful Act under Article 1365 of the Civil Code because it fulfilled the elements mentioned in that article. Efforts to reduce Expert Advisors not licensed by

Bappebti can be made through litigation and non-litigation. This research concludes that Expert Advisors must have a license from Bappebti, and offering Expert Advisors without such a license constitutes a Tort/Unlawful Act under Article 1365 of the Civil Code and Efforts to reduce Expert Advisors not licensed by Bappebti through litigation involve filing a lawsuit with the District Court against the unlawful actions of illegal Expert Advisor Service Business Entities in Foreign Exchange or reporting to the Indonesian National Police and the Satgas PASTI, while through non-litigation involve coordination by the government through the Satgas PASTI, Expert Advisor Service Business Entities to submit licensing applications to Bappebti and the public applies the 2L principle, namely Legal and Logical in response to such offers.