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Legal Certainty of Contract for Difference Derivative Transactions in the Alternative Trading System in Indonesia

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Abstract

Introduction: *Interest in investment in Indonesia has experienced a significant increase in recent years. This trend is driven by technological advancements that facilitate access to various investment platforms, such as digital-based applications and investment e-commerce. However, not all individuals possess adequate understanding of investment risks and potential, which may lead to suboptimal decision-making.*

Purposes of the Research: *The study aims to analyze the multilayered regulatory structure established to ensure market stability, investor protection, and alignment with national economic objectives, as well as to identify the role of key regulatory institutions within the derivative market ecosystem, particularly in relation to Contract for Difference (CFD).*

Methods of the Research: *The study utilizes a normative legal analysis methodology, examining primary legal sources, including laws, government regulations, and directives from regulatory institutions.*

Results Main Findings of the Research: *Indonesia's derivatives trading is governed by a multi-layered regulatory framework to ensure market transparency, security, and stability. The primary legal basis is Law No. 32 of 1997 on Commodity Futures Trading, amended by Law Number 10 of 2011, which establishes BAPPEBTI as the main regulator. Government Regulation Number 9 of 1999 sets operational guidelines, while BAPPEBTI Regulation No. 109/Bappebti/PER/01/2014 and No. 5 of 2017 regulate alternative trading systems, including CFD.*

Keywords: Contract For Difference; Derivative Transactions; Investmenst.

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INTRODUCTION

Investment is one of the key economic activities that plays a crucial role in driving a country's economic growth. At both individual and institutional levels, investment enables the management of surplus funds to generate future returns. As the global economy evolves, investment instruments have become increasingly diverse, ranging from capital markets and property to digital assets. In Indonesia, interest in investment has grown significantly over the past few years. This trend has been driven by technological advancements that facilitate access to various investment platforms, such as digital applications and investment-based e-commerce. Additionally, rising financial literacy has contributed to greater public awareness of the importance of preparing funds for the future. However, not all individuals possess sufficient understanding of the risks and potential of investments, which can lead to suboptimal decision-making. In the context of capital markets, for instance, the increasing number of retail investors reflects the public's enthusiasm for investing in stocks and mutual funds. Yet, market fluctuations and global economic uncertainties pose challenges, particularly for inexperienced investors.

Investment is the act of incurring immediate costs with the expectation of future rewards, such as companies building factories and installing equipment or individuals spending time on vocational education.[1] In essence, investment is an activity that involves postponing consumption or the use of funds in the present with the aim of generating future profits. Investment activities encompass concepts, fundamentals, management, subjects, objects, financing sources, risks, and alternative economic analyses of investments.[2]

In recent years, investment behavior has shifted from real investment to financial investment. Generally, investment follows the principle that the higher the expected return, the higher the potential risk—and vice versa. Investment is one of the key components in determining a country's economic level.[3] The scale of national investment is largely influenced by the government's role, as government intervention is necessary to address market failures or inefficiencies through laws and regulations. As societal matters become more complex, greater efficiency is increasingly demanded. In line with the shift toward financial instruments, securities trading has introduced derivative securities as a key financial instrument widely traded in capital markets. This development continues to grow as more companies issue and list their derivative securities on stock exchanges. The listing process further revitalizes derivative securities trading, attracting significant investor interest.[4]

The Indonesia Commodity and Derivatives Exchange (ICDX), also known as the Bursa Komoditi dan Derivatif Indonesia (BKDI), has released transaction data for the first half of 2024. During this period, ICDX recorded a total transaction volume of 5,724,852.55 lots. Of this total, 4,917,608.55 lots were transacted through the Alternative Trading System, while 807,244 lots were part of Multilateral Trading. In terms of notional value, transactions in the first half of 2024 reached IDR 10.794 trillion. Of this amount, transactions via the Alternative Trading System contributed IDR 10.718 trillion, while Multilateral Trading accounted for IDR 76 trillion[5]. These data highlight the dynamics and significant developments in Indonesia's derivatives trading, which serve as the central focus of this study.

One of the rapidly growing financial investment instruments in derivative securities trading is Contract for Difference (CFD). CFD is a financial derivative that allows investors to speculate on the price movements of an asset without owning the underlying asset (Zanuba Abi, 2024)[6]. Contract for Difference, abbreviated as CFD, was first introduced in the UK in the 1990s in response to the demands of large institutional traders and hedge funds. The underlying assets of CFD can include stocks, indices, commodities, currencies, or bonds. The primary advantage of CFD is its use of leverage, which enables investors to control larger positions than their actual capital. This provides high profit potential but also carries proportional risk. CFD has become one of the alternative investment products in the derivatives market, alongside options, warrants, swaps, and futures. Before being officially traded in the derivatives market, CFDs were widely traded on parallel exchanges,

[1] Lucas, R., & Prescott, E. "Investment Under Uncertainty". Econometrica 5 no. 39 (1971): 659-681. https://doi.org/10.2307/1909571.
[2] Tiara, G., Putri, M., & Santoso, B. "Sistem Investasi Di Indonesia" Toman 1, no. 2 (2024): 303-316
[3] Ermilova, M., Altuhova, E., Gryzunova, N., Zhdanova, O., Cerceil, Y., & Laptev, S. "Investment." *Revolutions in International Law*. (2021). https://doi.org/10.4135/9781412972024.n1369.
[4] Syazali, Emir. "Analisis Hukum Pelaksanaan Perdagangan Derivatif Di Pasar Modal Indonesia". *Bacarita Law Journal* 4 no. 2 (2024): 215-29. https://doi.org/10.30598/bacarita.v4i2.14532.
[5] Indonesia Commodity & Derivatives Exchange
[6] Zanuba Abi, N. L. A. "Praktik Contract for Differences (CFD) pada Trading Forex dan Saham Perspektif Hukum Ekonomi Syariah". *El-Uqud: Jurnal Kajian Hukum Ekonomi Syariah* 2 no. 1 (2024): 27–40. https://doi.org/10.24090/eluqud.v2i1.8303

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commonly known as the over-the-counter (OTC) market.[7] Research on CFD remains limited. Nafira (2023) examined CFDs from the perspective of Islamic economic law, concluding that CFD contains elements of *gharar* (uncertainty).[8] Raharja (2019) analyzed the juridical aspects of futures contracts on the Indonesia Stock Exchange, while Syazali (2024) explored the regulatory framework for derivatives trading in Indonesia's capital market. Widyanti (2015) discussed the characteristics and mechanisms of CFD as an alternative investment, and Suroyya (2013) investigated investor legal protection in forex margin trading. These studies have several limitations: they focus on specific aspects, lack comprehensive analysis of legal certainty regarding CFDs, do not integrate legal analysis with market practices, have restricted data coverage and research periods, and lack comparative analysis with international practices.[9] This study aims to bridge these gaps by conducting an in-depth examination of the legal certainty of CFD transactions within the alternative trading system, integrating legal analysis with market practices, utilizing the latest transaction data, comparing international practices, and providing concrete recommendations for improving legal certainty.

This research offers significant novelty: the development of a specialized analytical framework for evaluating CFD legal certainty, contributions to the legal literature on Indonesia's capital and derivatives markets, an innovative methodological approach, a conceptual model linking legal certainty and derivative market development, a developing-country perspective in global discussions, measurable indicators for legal certainty evaluation, and the identification of regulatory gaps caused by financial market digitalization. The objectives of this study are to analyze the legal framework of CFD transactions in Indonesia, assess the regulatory implementation, identify law enforcement challenges, compare regulatory practices with international standards, and formulate recommendations for improving legal certainty. The research will address questions regarding the legal framework of CFDs in Indonesia, the level of legal certainty provided, implementation challenges, comparisons with international practices, and strategies for enhancing legal certainty.

METHODS OF THE RESEARCH

The research adopts a normative legal approach, which, according to Peter Mahmud Marzuki (as cited in Muhaimin, 2020), is "a process of identifying legal rules, principles, and doctrines to address legal issues.[10] Normative legal research is conducted to develop arguments, theories, or new concepts as prescriptions for resolving legal problems[11]." The focus of normative legal research is placed on the legal norm system, including rules or laws that relate to a structured legal event. This type of research aims to provide legal arguments as a basis for determining whether an event is legally right or wrong and how it should be interpreted according to legal principles. Thus, normative legal research begins with a legal phenomenon and subsequently seeks references to legal norms, including legislation, legal

[7] Novi Wulandari Widiyanti, "Karateristik Dan Mekanisme Perdagangan Contract for Difference (CFD) Sebagai Alternatif Investasi Keuangan (Studi Kasus Pada Pasar Derivatif Di Australia)," *Jurnal Akuntansi Universitas Jember* 8, no. 1 (March 31, 2015): 25, https://doi.org/10.19184/jauj.v8i1.1220.

[8] Zanuba Abi, N. L. A. "Praktik Contract for Differences (CFD) pada Trading Forex dan Saham Perspektif Hukum Ekonomi Syariah". *El-Uqud: Jurnal Kajian Hukum Ekonomi Syariah* 2 no. 1 (2024): 27–40. https://doi.org/10.24090/eluqud.v2i1.8303

[9]Suroyya, N. "Tinjauan Yuridis Perlindungan Hukum Terhadap Investor Dalam Transaksi Forex Margin Trading Pada Bursa Berjangka Oleh Perusahaan Pialang Berjangka". Universitas Negeri Semarang. 2013

[10] Marzuki. *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group., 2007).

[11] Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

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principles, and legal doctrines taught by legal scholars, to construct legal interpretations and relationships.[12] Legal research employs various approaches to obtain information from multiple aspects regarding the issue under investigation. The research method in this study applies a statutory approach, which is essential in normative legal research since the focus revolves around legal provisions that form the central theme of the study. This research is descriptive-analytical, meaning it describes and analyzes legal provisions and theories related to the issue under study to derive conclusions. The purpose of descriptive research is to systematically, factually, and accurately depict facts, characteristics, and relationships among investigated phenomena.[13]

RESULTS AND DISCUSSION

A. Derivative Transactions, Alternative Trading System, and Underlying Asset

1. *Derivative Transactions*

A derivative is a form of contract or agreement whose value and profit potential depend on the performance of another asset, referred to as the underlying asset in this context. Derivative securities are financial instruments derived from primary securities, either in the form of ownership or debt. These secondary securities may be direct derivatives of primary securities or further evolved financial products. More specifically, a derivative is a financial contract involving two or more parties, where each party commits to buying or selling an asset or commodity being traded.[14] This transaction is conducted based on mutual agreement regarding the predetermined time and price between the buyer and seller. Moreover, the value of the assets traded in a derivative transaction is heavily influenced by the movement of the underlying instrument in the spot market. Initially, derivative transactions gained traction among companies worldwide due to their potential for significant profit and their function as a hedging mechanism.[15] However, in the Indonesian context, the distinction between derivatives used as a hedging instrument and those used as speculative tools for large profits remains unclear. This ambiguity presents high risks, as the pursuit of high returns through derivatives can also lead to significant losses.

Derivatives offer several key benefits as financial instruments. One of their primary advantages is risk transfer, where investors or businesses can transfer financial risks by using derivatives as a mechanism to hedge against uncertainty, thereby mitigating potential losses due to market fluctuations. Additionally, derivatives enhance liquidity by allowing investors to quickly liquidate financial instruments in the money market whenever they require liquidity.[16] This accelerates transactions and provides greater flexibility in asset management. Another advantage of derivatives is credit and equity creation, as they expand access to financial instruments by introducing new investment options that align with investors' needs. Overall, derivatives serve as both a risk management tool and a means to improve financial market efficiency by broadening investment opportunities and asset diversification.

[12] Liber Sonata, D., "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum," *Fiat Justisia Jurnal Ilmu Hukum* 8, no. 1 (2014).
[13] Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D* (Bandung: Alfabeta, Cv, 2013).
[14] Raharja, "Kajian Yuridis Transaksi Derivatif Kontrak Berjangka Dalam Bursa Efek Indonesia," *Jurnal Paradigma Hukum* 4, no. 1 (2019).
[15] Bob Reynold, *Understanding Derivatives.* (London: Pitman Publishing, 1995).
[16] Chance, *An Introduction to Derivatives and Risk Management*, 7th ed. (Mason, OH: Thomson South-Western, 2007).

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Unlike investments in primary securities such as stocks and bonds, which grant ownership rights, dividends, and voting rights in shareholder meetings due to equity or debt participation, investments in derivative securities operate under fundamentally different mechanisms.[17] A derivative security is a financial instrument in the form of a contract that grants the holder the right to buy or sell primary securities in the future. This enables investors to conduct transactions in accordance with the contractual terms previously agreed upon. In stock investments, shareholders acquire partial ownership of a company, receive dividends, and participate in decision-making through voting rights. In contrast, bonds function as debt instruments wherein investors lend funds to a company or government in exchange for fixed interest payments and principal repayment upon maturity. Meanwhile, derivatives do not grant ownership or voting rights but instead allow investors to profit from fluctuations in the price of primary securities. For instance, if an investor purchases a call option to buy a stock at a predetermined price, they may secure a profit if the market price rises above the contract price. Conversely, a put option enables an investor to profit if the stock price drops below the agreed-upon contract value.

Another advantage of derivative securities is their flexibility, as they can be used both for hedging to reduce investment risk and for speculation to maximize potential gains. For example, an investor holding a stock portfolio may purchase a put option as protection against a decline in stock prices. If the stock price decreases, profits from the put option can offset losses in the portfolio. Although derivative securities do not provide ownership or voting rights, they function as highly effective tools for risk management and market opportunities. With in-depth knowledge and the right strategy, investors can utilize derivative securities to improve portfolio performance and achieve their financial goals. Consequently, derivatives play an increasingly significant role in modern financial markets, offering valuable investment alternatives alongside traditional instruments like stocks and bonds.[18]

2. *Alternative Trading System*

According to the Head of the Commodity Futures Trading Regulatory Agency (BAPPEBTI) Regulation Number 5 of 2017, the Alternative Trading System (Sistem Perdagangan Alternatif) is a trading system related to the buying and selling of derivative contracts other than futures contracts and sharia-compliant derivative contracts, conducted outside the futures exchange on a bilateral basis with margin withdrawal registered with the Futures Clearing Institution.[19] The Alternative Trading System encompasses transactions involving derivative contracts other than futures contracts and sharia-compliant derivatives, with margin withdrawals recorded by the Futures Clearing Institution. The SPA is regulated by Bappebti and underwent regulatory changes through Bappebti Regulation Number 6 of 2023, which aims to enhance transparency, integrity, and customer protection. This regulation covers aspects such as improved margin resilience, strengthened transaction risk management, and security certification requirements for SPA operators. The SPA differs from multilateral trading systems conducted on exchanges, as transactions in SPA are executed directly between customers and dealers without going

[17] Elsa Indira Larasati, "Penggunaan Saham Preferen Dalam Penentuan Joint Venture," *Gorontalo Law Review* 5, no. 1 (April 2022).
[18] Syazali, Emir. "Analisis Hukum Pelaksanaan Perdagangan Derivatif Di Pasar Modal Indonesia". *Bacarita Law Journal* 4 no. 2 (2024): 215-29. https://doi.org/10.30598/bacarita.v4i2.14532.
[19] Peraturan Kepala Badan Pengawas Perdagangan Berjangka Komoditi Nomor 5 Tahun 2017

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through exchange mechanisms. This model is often referred to as the Over-the-Counter (OTC) Market, which is also implemented in various countries, including the United States.

The Alternative Trading System (SPA) and Futures Trading have fundamental differences in transaction mechanisms and the regulations governing them. SPA is a derivative contract trading system conducted outside the futures exchange bilaterally, where transactions occur directly between customers and dealers without exchange involvement. This model, known as the OTC Market, offers greater flexibility for market participants but also requires strict regulation to mitigate systemic risks. In Indonesia, SPA is supervised by Bappebti and has specific requirements regarding capital, equity, and information security. Meanwhile, Futures Trading is conducted through exchanges using a multilateral system, where prices are determined based on market mechanisms involving multiple buyers and sellers. This system ensures greater transparency, as prices are formed openly based on supply and demand. Additionally, futures trading features clearing mechanisms that secure the settlement of transactions in a structured manner. The Jakarta Futures Exchange (BBJ) and the Indonesia Commodity and Derivatives Exchange (ICDX) are two primary exchanges that facilitate futures trading in Indonesia.

The key difference between these two systems lies in market structure and transaction mechanisms. SPA offers higher flexibility but presents greater risk due to direct transactions between involved parties, while futures trading is more structured and transparent, with stricter regulations to protect investors. Both systems play a vital role in Indonesia's financial ecosystem, and a thorough understanding of each can help investors make more informed decisions.

3. *Underlying Asset*

In general, an underlying asset is defined as a financial asset that serves as the basis for determining the price of a derivative instrument. The value of a derivative instrument depends on the price movements of its underlying asset. Examples of underlying assets include stocks, bonds, commodities such as gold and oil, market indices, and currencies. In an options contract, for instance, the underlying asset can be a specific stock. If an individual buys a call option on stock XYZ, then stock XYZ is the underlying asset that determines the value of the option. If the price of XYZ stock rises, the value of the call option also increases. Conversely, in a futures contract, the underlying asset may be a commodity such as crude oil, where the futures contract grants the right and obligation to buy or sell the commodity at a predetermined price in the future. Underlying assets are also used in financial instruments based on Islamic principles, such as *sukuk*. In this context, underlying assets can be tangible assets such as land or buildings, or intangible assets such as usufruct rights from a project. The Indonesian Financial Services Authority (OJK) stipulates that underlying assets in sukuk must have economic value and must not contradict Islamic principles.

According to Imam Buchori in his journal "*Transaksi Derivatif Dalam Perspektif Hukum Islam*" (2009), derivatives are defined as "payment contracts whose values are derived from reference instruments such as interest rates, exchange rates, commodities, equities, and stock indices, which are followed by liquidity or price movements of these instruments." In this context, the reference instrument is the underlying asset.[20] M.E. Retno Kadarukmi, in "*Asas Keadilan dalam Transaksi Derivatif (Khusus yang Diperdagangkan dalam Bursa) Sebagai*

[20] Imam Buchori. "Transaksi Derivatif Dalam Perspektif Hukum Islam". *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 12 no. 1(2016):130-54. https://doi.org/10.15642/alqanun.2009.12.1.130-154.

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Objek Pengenaan Pajak Penghasilan" (2012), explains that the underlying asset must be clearly defined in a derivative agreement, including the type of asset, quantity, and valuation mechanism. This highlights that the underlying asset is an essential component in derivative transactions, determining the value and characteristics of the derivative instrument.[21]

From an Islamic finance perspective, Enceng Iip Syaripudin et al. in *"Sukuk Dalam Perspektif Hukum Ekonomi Syariah"* describe the underlying asset as a specific asset used as the basis for transactions involving contracts based on Islamic principles. In the case of sukuk (Islamic bonds), the underlying asset is a key component that differentiates it from conventional bonds, as sukuk transactions must be backed by real assets rather than mere debt.[22] Ghozi Akhyarul Ilmi, in *"Optimalisasi BMN Idle sebagai Underlying Asset Sukuk Murabahah untuk Mendorong Pertumbuhan Ekonomi Indonesia"* (2024), explains that underlying assets in the context of sukuk can include state-owned assets (BMN) with economic value. This study, utilizing content analysis and scoping review methodologies to analyze literature from various sources in depth, concludes that *murabahah sukuk* presents a viable solution for optimizing government idle assets as underlying assets.[23]

B. Contract for Difference Transaction Mechanism

The transaction mechanism of **Contract for Difference (CFD)** is central to how this derivative instrument operates, enabling traders to speculate on asset price movements without actually owning the underlying asset. This process involves several interconnected steps and key concepts, ranging from opening a position to closing it and calculating profits or losses, with brokers and margin usage playing crucial roles. Fundamentally, a CFD is a contract between two parties—the trader (client) and the broker—where they exchange the difference in the value of an asset between the price at which the contract was opened (opening position) and the price at which it was closed (closing position). The underlying asset can vary widely, including stocks, stock indices, currencies (forex), commodities, and bonds. It is important to note that in CFD transactions, no physical delivery of the underlying asset occurs; all trades are settled in cash based on price differences.[24]

The transaction begins when a trader decides to speculate on the price movement of an asset. If the trader believes the price of an asset will rise, they take a long position (buy). Conversely, if the trader predicts the price will decline, they take a short position (sell). The ability to take short positions without first owning the asset (short selling) is one of the appealing features of CFDs. Brokers provide bid and ask prices for each CFD, with the difference between these prices referred to as the spread, which serves as one of the broker's revenue sources. A fundamental aspect of CFD trading is the use of margin and leverage. Margin represents a small amount of capital that traders must deposit as collateral to open a CFD position of much higher value. For instance, if a broker sets a 5% margin requirement for a stock CFD, the trader only needs to allocate 5% of the total contract value to control the entire position. This means the trader uses leverage, which magnifies potential gains from small price movements. However, it is crucial to understand that leverage also

[21] M.E. Retno Kadarukmi. "Asas Keadilan dalam Transaksi Derivatif (Khusus yang Diperdagangkan dalam Bursa) Sebagai Objek Pengenaan Pajak Penghasilan". *Jurnal Administrasi Bisnis*, *8* no. 2 (2014) https://doi.org/10.26593/jab.v8i2.423.%25p

[22] Syaripudin, Enceng Iip, Bung Hijaj Sulthonuddin, Deni Konkon Furkony, and Abdul Hamid. "Sukuk Dalam Perspektif Hukum Ekonomi Syariah". *Jurnal Naratas* 4 no. 2 (2022):1-10. https://doi.org/10.37968/jn.v4i2.330.

[23] Ilmi, G. A. "Optimalisasi BMN Idle sebagai Underlying Asset Sukuk Murabahah untuk Mendorong Pertumbuhan Ekonomi Indonesia." *Langgas: Jurnal Studi Pembangunan*, *3 no. 2* (2024): 90–97, https://doi.org/10.32734/ljsp.v3i2.15776

[24] Schlecht, C. Maurer, dan L. Hirth, "Financial Contracts for Differences: The Problems with Conventional CfDs in Electricity Markets and How Forward Contracts Can Help Solve Them," *Energy Policy* 186 (2024): 1-9, https://doi.org/10.1016/j.enpol.2024.113981.

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amplifies potential losses if the market moves contrary to expectations. Once the position is opened, the trader monitors the price movement of the underlying asset. If the price aligns with their expectations, they close the position to realize profits. For example, if a trader buys a CFD and the asset's price rises, they close the position by selling the CFD at a higher price. Conversely, if the price moves against predictions, the trader may opt to close the position to limit losses. The profit or loss is calculated as the difference between the opening and closing prices, multiplied by the number of CFD units traded, with transaction costs subtracted or added accordingly.

The costs associated with Contract for Difference (CFD) transactions typically include the spread, commission (especially for stock CFDs), and overnight financing fees (also known as swap fees). The overnight financing fee is charged when a CFD position remains open beyond the end of the trading day, as traders essentially borrow funds from brokers to maintain leveraged positions. The amount of this fee depends on benchmark interest rates, the broker's markup, and whether the position is a long (buy) or short (sell) trade. Brokers play a central role in CFD transactions. They provide trading platforms, set CFD prices, establish margin requirements, and execute trader orders. Since CFDs are generally traded Over-The-Counter (OTC)—meaning they do not go through a centralized exchange—the credibility and regulatory oversight of brokers are crucial. Traders must ensure they select well-regulated brokers to safeguard their funds and guarantee fair trading practices.

For illustration, suppose a trader wants to speculate on the price increase of Company ABC stock, currently trading at Rp1,000 per share. The broker offers ABC stock CFD with a 10% margin requirement. The trader decides to purchase 100 units of ABC stock CFD, making the total contract value 100 units x Rp1,000 = Rp100,000. Given the 10% margin, the trader only needs Rp10,000 (10% of Rp100,000) to control the entire position. If the stock price rises to Rp1,100, and the trader closes the position, the gross profit is (Rp1,100 - Rp1,000) x 100 units = Rp10,000. After deducting transaction costs, the trader's net profit is calculated accordingly. Conversely, if the price drops to Rp900, the loss amounts to (Rp1,000 - Rp900) x 100 units = Rp10,000, plus additional trading costs. Thus, the CFD transaction mechanism provides a flexible and capital-efficient way to participate in global financial market movements. However, a deep understanding of leverage, margin, costs, and risks is essential for anyone looking to trade CFDs effectively

C. Juridical Analysis of Contract for Difference Transaction

Contract for Difference (CFD) provides significant flexibility in securities trading, allowing investors to profit from both rising (long position) and falling prices (short position), making it suitable for highly volatile markets. CFD also offers high liquidity, as it is traded through globally accessible digital platforms. In Indonesia, although the CFD market is relatively new, it has begun attracting investors seeking alternative investment opportunities with the potential for high returns in a short period.[25] However, CFD also presents challenges, particularly for novice investors. The high leverage used in CFD trading can lead to losses that exceed the initial capital if not managed properly. Moreover, as a derivative instrument, CFD requires a deep understanding of market movements, risk management strategies, and external factors such as economic policies and geopolitical events. Therefore, adequate financial literacy and strict regulation are crucial to ensure fair

[25] Widiyanti, "Karakteristik dan Mekanisme Perdagangan Contract for Difference (CFD) sebagai Alternatif Investasi Keuangan (Studi Kasus pada Pasar Derivatif di Australia)". *Jurnal Akuntansi Universitas Jember* 8, no. 1 (2015): 25-35 https://doi.org/10.19184/jauj.v8i1.1220

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and transparent CFD trading Contracts for Difference (CFDs) share many similarities with futures contracts, particularly in terms of their structure and trading mechanism. Both financial instruments enable traders to speculate on price movements without owning the underlying asset.[26] CFDs require a margin account, as they are marked-to-market daily. This means that gains and losses are settled in real time, reflecting the changes in the underlying asset's price. Unlike traditional futures contracts, where cash flows are determined by the contract's expiration and settlement terms, CFDs adjust cash flows dynamically based on fluctuations in the market price of the underlying asset.[27] As part of the modern investment ecosystem, CFD not only provides new opportunities for investors but also introduces challenges in supervision and education. When properly managed, CFD can serve as a strategic instrument for portfolio diversification and risk management in financial markets.

CFD also plays a crucial role for renewable energy generators in hedging against electricity price risks. Implementing CFD on a blockchain platform can reduce traditional risks such as counterparty credit risks and legal uncertainties, creating a decentralized and secure trading environment.[28] CFD also serves a purpose in green investment, acting as a pricing support mechanism for new technologies and encouraging desirable behaviors, such as private sector investments in more sustainable production methods. CFDs provide future stability and predictability, fostering investment in projects that require extensive development periods or might otherwise be hindered by market price fluctuations. This mechanism allows renewable energy projects to bypass wholesale electricity market volatility, ensuring a stable long-term revenue structure throughout the contract duration. A predictable long-term revenue stream offers several advantages. In the renewable energy sector, such stability plays a crucial role in project development, enabling financing through specialized leveraged debt models. Under this approach, lenders rely exclusively on project-generated cash flows for repayment (non-recourse debt), a financing method widely used for infrastructure projects and particularly attractive to institutional investors with long-term investment strategies. The extended nature of these investments allows lenders to offer lower interest rate premiums and longer debt maturities, thereby reducing capital costs for projects. This dynamic creates a positive cycle, where lower financing costs facilitate the development of additional projects, ultimately driving down energy costs over time as more renewable initiatives enter the market. This trend is evident in the offshore wind industry, as shown in the related studies.[29] Policies supporting green investment at both national and regional levels are essential not only for environmental responsibility in achieving a green economy but also for ensuring business and investment benefits.[30]

The regulatory framework governing derivatives trading in Indonesia is multi-layered and hierarchical, reflecting both the complexity of financial instruments and the country's effort to establish a transparent, stable system that protects investor interests. Given that derivatives are complex and high-risk financial instruments, Indonesia requires a comprehensive legal framework to ensure market transparency, security, and stability. The

[26] Zengeler dan U. Handmann, "Contracts for Difference: A Reinforcement Learning Approach," *Journal of Risk and Financial Management* 13, no. 4 (2020), https://doi.org/10.3390/jrfm13040078

[27] Douglas Foster, A. D. Lee, dan W. M. Liu, "CFDs, Forwards, Futures and the Cost-of-Carry," *Pacific Basin Finance Journal* 54 (2019): 183–198 https://doi.org/10.1016/j.pacfin.2018.05.004

[28] Alao, & P. Cuffe, "Implementing Contract-for-Difference Arrangements for Hedging Electricity Price Risks of Renewable Generators on a Blockchain Marketplace," *IEEE Transactions on Industrial Informatics* 19 (2023): 5679–5688, https://doi.org/10.1109/TII.2022.3185661.

[29] Agnieszka, A. *Contracts for Difference: The Instrument of Choice for the Energy Transition*. (Oxford Institute for Energy Studies, 2024)

[30] Ayu, R., & Fery, A. "The Green Investment Effect on the Regulation of Ide Well Management Cooperation Contract Schemes." *Journal of Law and Legal Reform 5, no. 4* (2024). doi.org/10.15294/jllr.v5i4.4481

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primary legal foundation regulating derivatives trading is Law Number 32 of 1997 on Commodity Futures Trading, which provides the overarching legal basis for all futures trading activities, including derivatives, and establishes the Commodity Futures Trading Regulatory Agency (BAPPEBTI) as the main regulatory body. In 2011, this law was amended through Law Number 10 of 2011 to align with modern financial market developments, expand derivative instruments, and enhance BAPPEBTI's supervisory and enforcement powers. At the implementation level, Government Regulation Number 9 of 1999 on Commodity Futures Trading Administration provides technical operational guidelines for market participants. This regulation establishes transaction mechanisms, clearing institution roles, market participant obligations, and the procedures for conducting futures trading. It also outlines the requirements for institutions seeking to operate in futures trading, including licensing from BAPPEBTI and adherence to strict risk management standards.

BAPPEBTI, as the primary regulator, has issued several technical regulations to further detail derivative trading policies. One such regulation is BAPPEBTI Regulation No. 109/Bappebti/PER/01/2014, which governs derivative contracts in the Alternative Trading System (SPA), including Contract for Difference (CFD), a popular instrument among retail investors. This regulation imposes requirements on trading providers and participants, such as ensuring transparent information disclosure and strict risk management implementation. Additionally, BAPPEBTI Regulation No. 5 of 2017 strengthens the legal framework for off-exchange derivative trading, covering transaction mechanisms, reporting obligations, and regulatory oversight by BAPPEBTI.

In the capital markets, the Financial Services Authority (OJK) plays a key role in regulating security-based derivatives, such as stocks, bonds, and indices. OJK Regulation Number 32/POJK.04/2020 on Securities Derivative Contracts serves as the primary legal framework for monitoring security-based derivatives, stipulating trading procedures, issuer and investor requirements, and transparency and reporting obligations to mitigate systemic risk. This regulation further functions as an effective risk management tool for market participants. With well-managed derivatives, market players can better control their risk exposure, which is crucial in highly volatile markets where hedging against risk is essential.[31] Consequently, this regulation benefits both individual investors and the overall stability of Indonesia's financial market (Syazali, 2024). OJK also ensures that all security-based derivative transactions are conducted prudently and in compliance with legal provisions.

Meanwhile, Bank Indonesia (BI) oversees foreign exchange derivatives through Bank Indonesia Regulation Number 20/10/PBI/2018 on Domestic Non-Deliverable Forward (DNDF). DNDF is a form of foreign exchange derivative used to protect the Rupiah's exchange rate and reduce currency fluctuation risks. This regulation outlines transaction procedures, market participant requirements, reporting obligations, and the settlement mechanism. BI ensures that all DNDF transactions adhere to prudential principles and do not pose systemic risks to national financial stability. The tax aspects of derivative trading are regulated under Government Regulation Number 17 of 2009 on Income Tax for Derivative Transactions involving futures contracts traded on the exchange. This regulation imposes a final income tax of 2.5% on the initial margin of derivative transactions, meaning

[31] Paparang, I. L. Perlindungan Hukum Terhadap Investor/Nasabah Yang Mengalami Kerugian Dalam Transaksi Trading Forex. *Litigasi 21,* no. 2 (2020), 147–167. https://doi.org/10.23969/litigasi.v21i2.3101

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the tax cannot be credited against annual income tax obligations. Additionally, supporting regulations such as Bapepam Decree Number Kep.07/PM/2003 and Bapepam Regulation Number III.E.1 of 2003 govern index-based futures contracts, setting issuer and investor requirements and outlining OJK's supervisory mechanisms.

CONCLUSION

Contract for Difference (CFD) offers investors a flexible and liquid trading instrument, enabling profit opportunities in both rising and falling markets. Despite its advantages, CFD trading involves significant risks, particularly for novice investors due to high leverage and market volatility. Adequate financial literacy and a robust regulatory framework are essential to ensure fair and transparent transactions. Moreover, CFD has evolved beyond traditional securities trading, finding applications in green investment and renewable energy projects. By providing price stability and hedging mechanisms, CFD plays a crucial role in encouraging sustainable investments and mitigating market uncertainties. Indonesia's regulatory framework for derivatives trading reflects the complexity of financial instruments and the necessity for investor protection. Multiple legal foundations, including laws, government regulations, and supervisory agencies like BAPPEBTI, OJK, and Bank Indonesia, ensure market transparency and stability. These regulations govern different aspects of derivative trading, such as transaction mechanisms, risk management, reporting obligations, and taxation policies. Through structured oversight, Indonesia aims to balance investment opportunities with market security, fostering responsible derivative trading that benefits investors and the broader financial ecosystem. Indonesia's derivatives trading is governed by a multi-layered regulatory framework to ensure market transparency, security, and stability. The primary legal basis is Law No. 32 of 1997 on Commodity Futures Trading, amended by Law Number 10 of 2011, which establishes BAPPEBTI as the main regulator. Government Regulation Number 9 of 1999 sets operational guidelines, while BAPPEBTI Regulation Number 109/Bappebti/PER/01/2014 and Number 5 of 2017 regulate alternative trading systems, including CFD. OJK Regulation Number 32/POJK.04/2020 oversees security-based derivatives, and Bank Indonesia Regulation Number 20/10/PBI/2018 controls foreign exchange derivatives like DNDF. Additionally, Government Regulation No. 17 of 2009 outlines tax policies. Together, these regulations promote investor protection and support economic and green investment initiatives. While regulations mandate information transparency and risk management, significant gaps remain in essential areas such as leverage limits, dispute resolution mechanisms, and adequate protection for retail investors. These gaps create opportunities for price manipulation, insider trading, and fraud, which can harm market participants and lead to significant legal uncertainty. The issue is further compounded by the presence of unregistered foreign CFD trading platforms operating outside the jurisdiction of BAPPEBTI and OJK, making consistent oversight and enforcement challenging. This lack of regulatory integration increases the risk of unethical and manipulative practices. To address these concerns, it is necessary to develop specific regulations for CFDs, establishing reasonable leverage limits and a transparent and fair dispute resolution mechanism. Strengthening financial literacy and investor education is also crucial to help retail investors better understand the risks associated with CFD products and make informed investment decisions.

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