

Legal Consequences of the Transfer of Liability Clause in Foreign Exchange Trading Transactions

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Abstract

This paper aims to see the legal consequences of the clause of transfer of responsibility in foreign exchange transactions. Doing a foreign exchange trading business is not an easy matter, it requires special expertise in reading world market conditions. Every actor must have the ability to read foreign exchange charts, accurately and precisely. Understanding world market sentiment can make the right decision to buy and exchange foreign currency. Legal issues arise, in essence, to be able to transact in the field of foreign exchange in this case forex margin trading, customers must go through a futures brokerage company. The company is engaged in the field of forex market commodities. There is a transfer of responsibility to consumers made at the beginning of the agreement by the brokerage company which ends up having to bear all losses in the future. The writing method used in this paper is descriptive, collecting data from literature studies. Based on the results of the analysis, consumers who experience losses are less protected by the regulations that govern them. The concept of this transfer of responsibility is contrary to the principles of freedom of contract, legal protection and justice for investors in foreign exchange trading transactions.

1. Introduction

The implementation of foreign exchange transactions cannot be separated from capital investment. Investment with the aim of economic development (Irtysheva et al., 2020). Foreign exchange trading with the understanding of foreign currency or foreign exchange (King et al., 2012). A market that trades a country's currency in a country's currency with the involvement of the world's major money markets for 24 hours. Its movement rotates from the New Zealand

market to Australia at certain hours. "The world's main forex trading centers in London, New York, Tokyo and Singapore. Where banks all over the world are participants. Forex trading occurs throughout the day ending in the Asian market." Forex with the money market group or commodity futures market (Chaboud et al., 2023). Its activities, with the money market group. Such as, buying and selling physical or cash foreign currency is carried out by foreign exchange traders. This activity with the commodity futures market group, trading contracts with a foreign exchange term by a brokerage company that has been supervised by the Commodity Futures Trading Regulatory Agency (BAPPEBTI).

Understandably, this trading market consists of one country or a country's benchmark using a benchmark for the exchange rate for buying and selling currencies that are classified as strong and/or weak. All of that is based on contracts, forward contracts, options and swaps. Currencies are traded one and the other, each currency pair becomes a separate product (Clements & Fry, 2008). For example, the US Dollar, Euro, Japanese Yen, British Pound, Canadian Dollar which influence one of the foreign exchange periods such as the US Dollar affects the market value of the Japanese Yen and others. People can make purchases, sell traded currencies for profit and the position of the transaction that is carried out.

The transaction is also carried out in two directions, in taking profit. Someone can make a purchase (open buy) then close it with a sale and vice versa, make a sale first then close it with a purchase. Then in Foreign Exchange trading it is known by the involvement of its implementers, namely: 1) Traders (Dealers), Market makers who have a use in making the Forex Market exciting. Generally, specializing in the specified currency and setting at the level of willingness determined in that currency. Usually in the form of a Bank, although there are some that are non-Bank. They make a profit from the difference in selling and buying prices from forex. Their terms are different from money changers, which are only useful in selling and buying currency physically and in cash; 2) Companies or Individuals, both can make transactions. Forex Market can also be used for smooth business. Including exporters, importers, domestic and other groups (Auboin & Ruta, 2013); 3) Arbitrator, their own actions and wills without having an obligation to provide services to consumers and no guarantee of market continuity, whether or not there are transactions. Speculators profit from price fluctuations (Klitgaard & Weir, 2004). Arbitrators profit from exploiting differences in market prices; 4) Central Bank. exchange rate stabilizer, by using forex to obtain or spend foreign currency reserves so that they can be influenced by the stability of the currency so that it has a good impact on the economy of the country concerned; 5) Futures Broker, actions and intermediaries bring together supply and demand for a particular currency. In order to carry out tasks properly, and futures brokers must have media that goes directly to dealers, to carry out

currency trading worldwide.

Contracts with forex term derivative instruments have a high level of profit, but the risk is also high (Birt et al., 2013). Customers in forex can get a lot of profit in a short time, but can also lose in the near future. Forex trading activities with the category of part of the commodity term market are supervised by BAPPEBTI with regulations with the Commodity Futures Trading Law and Government Regulation Number 49 of 2014 concerning the Implementation of Commodity Futures Trading (Saravistha et al., 2023). What needs to be known is that the trading instrument material in this commodity futures market is not only from primary commodities, but also financial instruments and foreign exchange contracts and stock indices. In fact, this money exchange business practice cannot be separated from "the bretton woods conference", namely the national monetary conference from 1994 on the initiative of the United States to determine the equality of exchange rate determination by each country present in USD. Doing foreign exchange trading business is not easy, it requires special skills in reading world market conditions. Every actor must have the ability to read foreign exchange charts, accurately and precisely. Understanding world market sentiment can make the right decision to buy and exchange foreign currency.

In practice, there are several strategies in foreign exchange that are commonly known to business people, namely the martingale trading strategy, trading by news and trading pending orders. Legal issues arise, in essence, to be able to transact in the field of foreign exchange in this case Forex Margin Trading (Chaboud et al., 2023), customers must go through a futures brokerage company. The company is engaged in the forex market commodity sector. The category of business actors in all forms of forex transactions always starts from an agreement called a mandate agreement, but the agreement is always made in a standard form. The agreement agreed by the parties does not guarantee a balance of rights and obligations in transactions. One of them can be seen from the Commodity Futures Supervisory Agency Regulation Number: 107 / BAPPEBTI / PER / 11/2013 concerning the limitation clause and transfer of responsibilities of futures brokers in standard agreements or mandate standards (Anisah & Rakhmawati, 2017). In principle, there are many events where customers must be burdened because the losses are borne by them because of the transfer of responsibility to them. There is no customer protection because the initial agreement has been instilled that all of that is a risk that must be borne personally.

Forex trading is a way out of business activities that are experiencing rapid development in Indonesia (Tambunan, 2009). Allowing unlimited profits and much greater than the storage funds. This potential for large profits is the choice of investors or customers to invest. However, in reality, futures brokers who act as intermediaries violate several statutory provisions. Many investors or customers

experience losses from foreign exchange trading (Dvořák, 2005; Agarwal et al., 2009). One example is the existence of brokers who do not have permission from the Commodity Trading Supervisory Agency.

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Article 1320 of the Civil Code does not question the media used for transactions (Cahyadi, 2019). In other words, the article does not require the form

and type of media used for transactions. Because it can be done directly or electronically. In freedom of contract, the parties can freely determine or make an agreement in a transaction in good faith. So any form of agreement is a contract. Article 1320 of the Civil Code states that for the validity of an agreement, the following requirements are required:

1. Their agreement in binding themselves (agreement or consensus), meaning that there is a conformity of will. The emergence of will or desire is not based on coercion, error or fraud from one of the parties.
2. Capacity, Every person is capable of making what is agreed upon by law is not declared incompetent, this is in accordance with the provisions of Article 1329 of the Civil Code
3. Certainty of term, the thing that is the object of the agreement must be clear or at least with the determination of the type, then about the amount and determination of what is agreed upon with the provisions of the amount (Article 1333 of the Civil Code). Clarity about the main points of the agreement or the object of the agreement is the possibility of implementing rights and obligations
4. A lawful cause (legality), in making an agreement, the contents of the agreement with the description and purpose of the objectives that become an achievement of the parties. Justification and contradiction of regulations, public order and morality are the main requirements for an agreement. Then, there are also additional conditions for the agreement, for example a peace agreement, which must be made in writing.

The agreement referred to here is between a futures brokerage company and a customer or foreign exchange trading investor made in forms that have been recorded in detail and carefully. The contents of the transaction agreement are planned in advance by the parties to the futures brokerage company (Dinwoodie & Morris, 2003). So that customers or investors only need to make an agreement if they have accepted the rules and provisions and conditions prepared in the prior determination of the futures brokerage company. The impact is that this agreement does not provide an opportunity for users to further discuss the clauses submitted by the Futures Broker. This requirement does not apply to anyone who binds themselves on a take or leave it basis.

The mechanism of the agreement by looking at the stages of the agreement contained in the form that must be filled in by prospective investors. The forms that must be filled in are starting from the account opening form, provisions for annual profits, collateral and supporting documents for complete data. Then greeted with a forex transaction settlement financing agreement as a legitimate part that cannot be separated from the securities settlement financing agreement

between the securities company and the customer. In this foreign exchange trading transaction, Article 1313 of the Civil Code also states that an agreement is an act by which one or more people bind themselves to one or more other people (Sinaga, 2023). Examining the definition of an agreement according to the Civil Code, many legal experts state that the understanding of the guarantee described in Article 1313 of the Civil Code is still weak. As a comparison, Subekti then provides an understanding of an agreement (Biondi, 2016). An agreement is an event where someone promises to another person, promising each other something.

Entering the 4.0 era, a major change has occurred, this is not only felt by the private sector, but also in government organizations and other sectors (Ellitan, 2020). Such as in government, that in public services the government has maximized the technology of the Industrial Revolution 4.0. Globalization allows for practices that can involve various people from various countries. One of the business practices is foreign exchange trading. In fact, this money exchange business practice cannot be separated from "the Bretton Woods Conference", namely the national monetary conference from 1994 on the initiative of the United States to determine the same exchange rate determination by each country present in USD.

Doing a foreign exchange trading business is not easy, it requires special skills in reading world market conditions (Czinkota & Ronkainen, 2005). Every actor must have the ability to read foreign exchange charts, accurately and precisely. Understanding world market sentiment can make the right decision to buy and exchange foreign currency. In practice, there are several strategies in foreign exchange that are commonly known to business actors, namely the martingale trading strategy, trading by news and pending order trading. Legal issues arise, in essence, to be able to transact in the foreign exchange sector in this case Forex Margin Trading, customers must go through a futures brokerage company. The company is engaged in the forex market commodity sector (Clements & Fry, 2008). The category of business actors in all forms of forex transactions always starts from an agreement called a mandate agreement, but the agreement is always made in a standard form. The agreement agreed upon by the parties does not guarantee a balance of rights and obligations in transactions. One of them can be seen from the Commodity Futures Supervisory Agency Regulation Number: 107 / BAPPEBTI / PER / 11/2013 concerning the clause on restrictions and transfer of responsibilities of futures brokers in standard agreements or mandate standards (Anisah & Rakhmawati, 2017). In principle, there are many events where customers must be burdened because the losses are borne by him because of the transfer of responsibility to him. There is no customer protection because the beginning of the agreement has been instilled that all of that is a risk that must be borne personally. Therefore, this study aims to analyze the legal consequences of the transfer of

responsibility clause in foreign exchange transactions.

2. Research Method

The normative research method is a research approach that focuses on the study of normative law or legal doctrine (Negara, 2023). This method is usually used in legal research to analyze laws, doctrines, and legal theories. This research examines the contents of laws, jurisprudence, and relevant legal literature to understand the applicable legal concepts and principles regarding the legal consequences of the transfer of responsibility clause in foreign exchange transactions (Smits & Smits, 2017).

The normative method currently used is descriptive, which describes and explains existing legal norms without trying to change them (van Gestel & Micklitz, 2014). The use of legal cases to illustrate how legal principles are applied in practice. Organizing and classifying laws to facilitate understanding and application. Although descriptive, this normative research can also include criticism of existing laws, pointing out weaknesses, inconsistencies, or areas that need reform. The normative research method is very important in legal studies because it helps ensure that research is carried out systematically and based on existing legal norms (Mackor, 2012). With this method, the research will produce a comprehensive understanding of how the transfer of responsibility clause in forex transactions impacts the parties involved, as well as to what extent the provisions comply with applicable law.

3. Results and Discussion

According to the theory put forward by Van Dunne, what is meant by an agreement is a relationship between two or more parties based on an agreement to give rise to legal consequences. Fazriah (2023) stated that an agreement is a legal relationship between legal subjects related to wealth, rights to achievements, and also other subjects have an obligation to fulfill it. The general definition of an agreement can be seen in Article 1313 paragraph (1) of the Civil Code which states that an agreement is an act by which one or more people improve themselves against another person (Tiodor et al., 2023). From Article 1313 paragraph (1) of the Civil Code, it can be seen that an agreement is an event where a person promises to another person or where two or more people promise each other to do something. An agreement is a relationship based on property law (*vermogensrechtelijke bettrekking*) between two parties, where one party is obliged to provide an achievement on behalf of the other party who has the rights to that achievement (Silalahi, 2019). Arifin (2020) provides an understanding that legal acts regarding property are from two parties or parties who promise to or assume to carry out something or not to do something, while the other party has the right to demand the implementation of the promise.

The agreement that takes place in a forex transaction is an agreement when associated with the theory of an agreement, it is said to be valid with the terms of the agreement in Article 1320 of the Civil Code. An agreement is a crucial aspect in business activities, whether carried out by individuals or legal entities. The agreement was born with the agreement of the two parties involved based on freedom of contract.

However, if we look at freedom of contract, the initial forex trading agreement with a standard clause at the beginning which contains a transfer of responsibility, has deviated from the principle of freedom of contract. Because in reality the principle of freedom of contract provides an opportunity for both parties to make a new agreement that has not been regulated in any rules. So, the agreement should not be one-sided. Freedom of contract in Civil Law is found in Article 1338 with the statement that all agreements made with validity apply as regulations for those who make them. All of this is interpreted as if every legal subject becomes the determinant in the agreement.

The principle of freedom of contract has the opportunity for the subject to make an agreement that is new in nature and has not been regulated in the Civil Code, to participate in the needs of society which is affected by rapid development. However, even so, it is not absolute. This principle works with restrictions on the agreement of one party in the agreement. Freedom of contract is a crucial principle in the agreement. The position of this principle cannot be separated from the influence of the flow of economic philosophy. The developing field, the pioneer of which is Adam Smith who emphasized the principle of no intervention in government.

Rejecting interference from agencies for his personal, especially in the economic field. Because according to him it is unfair. This is given a central place in upholding justice. Because of this, pressure from the government in the economic field and full freedom from contract correlation. This is based on the theory with the interpretation of existing and related laws and orders. The main thing about freedom of contract is related to the emphasis on the agreement and intent of the parties concerned with the reference if the contract is the result of a free choice. Things that are based on a person's understanding are attached to the basic implementation of making something happen.

Freedom of contract with a basic view that sticks to it becomes a form of freedom of contract, making what is obligatory by determining the will of the parties (Eggers, 2009). This freedom of contract is the difference between an agreement that excludes what is obligatory and based on what previously existed. Treitel (2021) uses references from two general principles, namely: General principles which explain that regarding law there are no restrictions on the conditions that may become agreements with exemption from the imposition

of unfair conditions. The confirmation of this scope is based on the principle of freedom of contract, or from parties who determine for themselves what they will carry out.

General principle with the presentation of a person who wants the law by force of an agreement. This principle wants to explain if the principle of freedom of contract with the parties in determining not wanting to make an agreement in question. Its development, this contract theory is based on the will of the parties then experiences a shift where the court makes changes and mixes the contents of the contract with propriety and also good faith. Cases of default due to monetary or economic instability, with consideration and the contents of the contract in changing circumstances. It can be noted that the development of modern law, is not only the result of an agreement between the parties but also requires propriety and good faith with the contract and the freedom of the parties, related to morals and justice. The form of this freedom is known in practice when carrying out an agreement. Fulfillment of human needs, different needs from crucial ones and become the title of obtaining rights and ownership.

The exoneration clause is part of a standard agreement or standardization in a contract. Generally from an agreement, the habit is that the agreement is usually not made together but only the party providing the service or in accordance with the intermediary in this case regarding foreign exchange. The thing to note, because these investors need to trade or turn their money in the foreign exchange realm, sometimes they only agree without re-evaluating the contents of the agreement. The mistake of the foreign exchange business actors to throw off responsibility that is detrimental to the investor. As this exoneration clause is usually included in the agreement, it shows that the essence of investors in a lower position or in this case weak must agree to the agreement. The content is not balanced between the rights and obligations of both.

On the other hand, the broker will minimize the risk for himself as much as possible charged to the investor (Khwaja & Mian, 2005). Various exoneration clauses are included which in this case benefit the business actor. Hakim (2019) explained that the exoneration clause is a clause that includes an agreement with one party avoiding the fulfillment of the mandatory payment of full compensation if there is a breach of promise and acts contrary to the law. In contract law, what is meant by a standard clause is a clause that is in an agreement which is formed and determined by only one party. The other party only signs as a form of agreement. The purpose of a standard agreement is to provide convenience for the parties in the agreement. Standard clauses are generally known to be provisions of conditions that are prepared in advance. So, in that case the parties have a strong position, using that opportunity for a standard agreement, a standard agreement is required and designed by the

parties involved, there is no further discovery in the standard agreement, the format and contents have been designed in advance by the party with more power.

The Indonesian government, through Law Number 8 of 1999 concerning Consumer Protection, has established regulations regarding the position of standard clauses regulated in Article 1 number 10 which contains regulations if the Standard Clause is a rule or provision and preparation requirements, prior determination by one party which is stated in a document, an agreement that is required or fulfilled by the consumer. Based on the meaning of the formulation, the standard clause seems to emphasize the purpose and reference for how to make it done unilaterally by the business actor, not on the content. Related to this, the reference for making is intended to fulfill the requirements in Article 1320 of the Civil Code, their agreement in binding themselves, the ability to make a contract, certain things and lawful reasons.

The development of standard clauses or clauses in standard agreements, a crucial role in the advanced business world. This standard agreement is made by business actors in the procurement of special types of transactions, with contents and provisions that are used again in product agreements for goods or services, similar to other parties without having to conduct long negotiations. This means that the actions taken are short of negotiation time. It has uses and is related to the principle of time is money. The use of Standard Clauses in an agreement is not prohibited, but rather limitations in its use, this applies when the nature and content contain the provisions of Article 18 of the UUPK. The standard clause in Article 18 is called the exoneration clause: 1) Sophisticated Investors are investors who are sophisticated in receiving, analyzing and interpreting the information obtained; 2) Naive Investors are investors who lack the ability to receive, analyze and interpret the information obtained.

Based on the risks that will be accepted, namely: 1) Conservative Investors Who Are Risk Averse, investors who have a tendency to carry out capital investments with profits that are in accordance with the word feasible. This means that investors are those who like relatively safer investments with results that can be seen from before. These investors also prioritize the level of security compared to the profits; 2) Moderate Risk Neutral Investors, the type of investor who is quite deep in understanding capital investment does not want to take risks with high returns. Investors will always see the proportion with the balance of risks that are likely to be accepted. Those who have preferences are also usually careful in determining the type of investment; 3) Aggressive Investors Who Are Risk Seekers, this one investor will usually understand the principle of High Risk Gain. Risk Seekers have a tendency to seek high returns, so they will dare to take risks in investing.

The transfer of responsibility to investors from foreign exchange trading service providers intersects with legal protection for investors. Where in the initial agreement it is clear that the overall risk is imposed on investors related to the losses that will be experienced. The instillation of the idea that this is a risk of accepting investment or trading in foreign exchange. Legal protection consists of two words, namely protection and law. The word protection is interpreted as a place to take shelter, things, actions and others. The term law according to Sulaiman (2022), is the entirety of the rules that regulate attitudes and implementation of human life together, can be enforced in practice with a sanction. Legal protection is the provision of protection for human rights that are harmed by others, this protection is intended for the community to be able to feel all the rights granted by law. Legal protection, which is intended to protect dignity and dignity, recognizes the basic rights held by legal subjects, based on legal provisions and the arbitrariness of a collection of rules, rules that can be the protection of a thing and others. Rahmat (2020) explained that legal protection is a variety of ways or legal efforts provided by law enforcement officers in providing a sense of security, thoughts and physical from disturbances and various threats from any party. Legal protection is all efforts to fulfill rights and provide assistance for a sense of security with sanctions or victims, legal protection is part of protection for the community can be realized in the form of providing restitution, compensation, medical services and legal assistance. Legal protection provided from legal subjects with good forms and media is preventive in nature, both verbally and in writing. In other words, legal protection can be considered from the description, function, has a concept with the provision of justice, order and certainty and peace.

Meanwhile, if associated with justice, of course investors do not get justice in their position in the agreement because of the transfer of responsibility. Aristotle also provides a difference between distributive justice and corrective justice. Distributive justice is justice that applies to public law, focuses on the distribution and honor of wealth and other goods obtained by members of society. Corrective justice is related to the correction of wrongs, compensation from the injured party and the appropriate law from the perpetrator of the crime. It can be said that compensation and sanctions are corrective justice according to Aristotle. The theory of justice according to Aristotle was put forward by Theo Hujibers (in Susilo, 2011), namely: 1) Justice in the distribution of positions and public property. For example, a regent who has served more than one term is more crucial than a sub-district head, so the regent must receive twice the honor of the sub-district head. The same thing is important to be given the same, and not the same thing is important to be given not the same; 2) Justice in buying and selling, the price of goods is related to the position of the parties. Now it is impossible to

do acceptance; 3) Justice as an arithmetic equality of the private and public fields. If someone commits theft, then he must be punished regardless of the position of the person involved. If an official is proven to have committed corruption, then the official must be punished regardless of his position; 4) Justice in the field of legal interpretation, because the law is general in nature, does not cover concrete issues, then the judge must have an interpretation as if he himself was involved in the phenomenon. Aristotle thought that he had to have thoughts, namely a sense of what is appropriate.

Rawls (1991) argues that justice is fairness. This opinion is rooted in Locke and Rousseau's social contract theory regarding the deontology teachings of Immanuel Kant. Some of his opinions regarding justice are.

1. This justice is the result of a proper selection.

Rawls' origin and assumption is that in reality humans in society do not know their original position, do not know their goals and life plans and do not know what society and generation they belong to (veil of ignorance). In other words, individuals in society are unclear entities, therefore people always choose the principle of justice

2. Justice becomes fairness obtaining justice from pure procedures.

This procedural justice has no standardization in determining what is called fair, the separation of the procedure itself personally. Justice can be observed with the system itself as well.

Two principles of justice, first the principle of freedom that is equal to the greatest extent of the scope: 1) Freedom to have a political role, voting rights, rights in candidacy in choosing; 2) Freedom to speak; 3) Freedom to decide a belief such as religion; 4) Freedom to be yourself; 5) Rights in the defense of private property. The second principle consists of two parts, namely the principle of difference and the principle of fair equality of opportunity. In essence, this first principle distinguishes social and economic must be regulated in providing the greatest and most profitable benefits. The term is, the difference towards the unequal from a person's prospects for obtaining basic elements and welfare. So, this principle is regulated from the structure and the main things that are prosperous. Before a trading transaction occurs, there are stages that must be passed in accepting investors or customers.

This has been certified to be in the understanding and filling out of the application in the transaction account, the document will be notified regarding the mandate stated in the implementation of this futures trading. Trading rules are carried out for acceptance in the BAPPEBTI regulation Number 5 of 2018 concerning Acceptance of Customers (Uyun & Iskandar, 2023). So it can be concluded that foreign currency trading through a broker must go through several stages first and with an agreement. The initial agreement that is often

made by futures brokers is an agreement that contains an exoneration clause. Transfer of responsibility for losses in foreign exchange trading. In theory, this is already contrary to the principle of freedom of contract, legal protection and justice. The principle of freedom of contract is a legal relationship of subjects who bind themselves to parties who have the same goals. In this case, investors are only given a standard clause at the beginning of the agreement, in essence, investors only have two choices to accept or reject the contents of the agreement. There is no legal protection due to the transfer of responsibility. Responsibility is the obligation of a person to bear something if something happens, prosecution, blame and estimates may be made. In law, the term responsibility often refers to liability and responsibility.

However, both meanings are "the state of being bound or obliged in law justice to do pay, or make good something" while responsibility with the meaning of the obligation to answer to answer for an act done, and to repair any injury it may have caused. Liability is a broad legal term and there are references to almost all risk characters, responsibility includes rights and obligations with actual examples of losses, threats and crimes, costs and conditions of obtaining tasks in the implementation of laws immediately or in the future. Responsibility with the understanding of being accountable for obligations and decisions, skills, abilities and regulatory competence (Dierdorff & Rubin, 2022). The concept is related to legal responsibility related to legal obligations. The person who is legally responsible for the actions that are determined then the actions are contrary to the law, but this responsibility can also be a person's goal by means of determining the legal order. Because of that, this legal responsibility is distinguished from individual and collective responsibility. This individual responsibility is related to cases of violations that are carried out personally then another person is responsible for violations that he did not commit. In general, the principles of legal responsibility can be distinguished, namely: 1) Fault, this principle states that someone can be held legally responsible when there is an element of error that has been made; 2) Presumption of always being responsible, with the statement that the defendant can always be considered responsible until he can prove his innocence, becoming the burden of proof from the defendant; 3) Presumption of always not being responsible, this principle is the opposite of the second principle, because in the presumption of not always being responsible it is only known as the scope of consumer transactions with limitations and restrictions that can be justified with common sense; 4) Absolute responsibility, is the principle of responsibility with a wrong determination not as a determining factor. However, the exception allows for release from responsibility, for example because of force majeure; 5) Limitation of responsibility with the principle used from the inclusion of this clause in the standard agreement. If the consumer is

given a limitation on the claim for compensation contained therein. In civil law, responsibility can be based on a lawsuit, for example due to default or an act that is unlawful (*onrechtmatige daad*).

This responsibility is based on the fact that default can be enforced when both parties have previously bound themselves in an agreement. So, in theory, the use of the transfer of responsibility wrapped in a standard clause at the beginning, if there is a lawsuit by the investor, then the agreement is null and void. An agreement can be said to be null and void in the sense that it cannot be enforced in practice. The implications obtained by investors because of this transfer of responsibility are a form of loss and injustice. Justice is a true and ideal state of morality regarding something good related to objects or people. To know justice and injustice related to the terms, meaning and understanding and the two points of justice itself.

4. Conclusion

Foreign exchange trading through a broker must go through several stages first and with an agreement. The initial agreement that is often made by futures brokers is an agreement containing an exoneration clause. Transfer of responsibility for losses in foreign exchange trading. In theory, this is contrary to the principles of freedom of contract, legal protection and justice. The principle of freedom of contract is a legal relationship between subjects who bind themselves to parties who have the same goals. In this case, investors are only given a standard clause at the beginning of the agreement, in essence, consumers only have two choices to accept or reject the contents of the agreement. There is no legal protection due to the transfer of responsibility. Regulations on futures trading are regulated in Law Number 32 of 1997 which was later amended to Law Number 10 of 2011 concerning commodity futures trading. Forex margin trading has no clear rules regarding the regulation. Further amendments regarding trade from between trades, Based on the regulation, official brokerage companies are registered and have a decree or permit from the brokerage company from BAPPEBTI. In foreign exchange trading transactions, direct involvement of BAPPEBTI is needed to supervise futures trading. In Law Number 10 of 2011, an amendment to Law Number 32 of 1997, it is explained that the rules, development of guidance and supervision of trading are by BAPPEBTI (Tambun & Putuhena, 2022). They have broad authority, with the direction and ease of organizing futures trading with order and rules. Foreign Exchange Trading Transaction Disputes are resolved in three stages first, resolved by the brokerage company itself, then from the guidance agency and finally by BAPPEBTI. Through BAPPEBTI, the first is done with a mediation system. Its use is to accommodate complaints from consumers in their case complaints. Settlement with BAPPEBTI is the last step. If this last step has not found a bright spot, then consumers can file for a judicial settlement. Therefore, it is recommended that there be an update regarding foreign exchange trading regulations more specifically so that there is no legal ambiguity that is detrimental to the parties. For consumers, they can find

out what their rights and obligations are in conducting foreign exchange transactions to avoid losses. Meanwhile, companies as media or intermediaries for foreign currency trading transactions should have better good intentions to protect consumer rights.

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