

# Legal Aspect of Cryptocurrency Transactions in Indonesia

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**Abstract.** Cryptocurrency is a digital currency system where the user uses digital payments for business activities carried out that function as a standard currency. A statutory method as well as a conceptual approach were used in this study carried out in a normative juridical manner based on statutory regulations, one of which is CoFTRA Technical Provisions for Crypto Assets in the Physical Market ' Implementation (Regulation No. 5 of 2019) (Crypto Assets). The Indonesian government then developed a set of guidelines to suit the interests of crypto asset dealers, as well as providing general guidance and clarification for the general public on the government's recognition of bitcoin and virtual money, particularly through the use of the term "virtual currency." Minister of Trade of the Republic of Indonesia, No. 99 for the year 2019. Additional arrangements are regulated by the Agency Commodity Futures Trading Supervisor in CoFTRA rules No. 3 and CoFTRA No. 5 of 2019. The existence of a marketplace where bitcoin funds can be traded is certain by CoFTRA's guidelines first so that later it will minimize fraud committed by the cryptocurrency marketplace.

**Keywords:** Cryptocurrency; Virtual Money; Payment Instrument

## 1 Introduction

The development of the internet and technology in the world is growing very rapidly in various ways, especially in the financial sector and its products. The development of financial technology has the aim of making It makes financial products and transactions more accessible to the general people. Financial technology is also advantageous because it has a flexible nature. After all, there are only a few regulations that cover it so it is not rigid like other conventional businesses. These technological developments are also present in terms of existing payment instruments that aim to make it easier for people to use them.

Money as a means of payment was created from a system of exchanging goods with goods known as the barter system in primitive times. Then because the condition of society is getting higher, the barter system of goods is increasingly difficult to use because of the inappropriate pattern of exchange. In the end, the community agreed to use the medium of exchange so that it would be used in trade in different forms that only apply to certain areas according to the needs of each country [1]. Money as a medium of exchange already has a special object monetary value that can be used to buy and sell products and services According to economists, the bits of this paper have value because everyone believes they do [3].

Indonesia is a country that is entering the 4.0 era. Era 4.0 is an era where technology is developing very rapidly so that it affects various aspects of life. Various aspects of life that influence the development of technology are social, cultural, economic, and business aspects. In addition, the rapid development of technology in the world makes more and more discoveries created by experts to find something new every day. Tech makers then began to create something unusual, namely by creating different payment tools, one of which was digital money. The creation of digital money is a breakthrough for inventors in business economic transactions.

The hassle of carrying large amounts of cash and the security factor make digital money even more enjoyable. Initially, Bank Indonesia has divided 2 (into two) payment instruments in Indonesia, in cash and non-cash. In case, it is done through cash, where cash deposits have many weaknesses so non-cash payment instruments are made which are more practical to use in the form of cards, credit notes, checks, by let giro, and others. After developing with non-cash payment tools then it developed into digital money. Getting more attention from the world community then digital money began to be used as an investment called cryptocurrency.

Cryptocurrency is a digital currency system where the user uses digital payments for business activities carried out that function as a standard currency [4]. Cryptocurrency is the name used for a system in cryptography, which is used in the process of releasing data securely and carrying out the process of changing digital tokens in a scattered manner [5]. Cryptocurrency is here to answer all the obstacles that occur in the deposit system that depends on the presence of a third party as a printing company for electronic money deposit tools. The presence of Cryptocurrency begins with discovery as well as mined gold. Then the results of this mined gold can be exchanged in the form of conventional money with the currency according to the country where the Cryptocurrency is exchanged. Cryptocurrency mining results are often used as investment tools such as stocks and gold, besides that, they are also used for electronic commercial transactions such as game applications, social media applications, and other applications.

Cryptocurrency is one of the gold eriging systems that is not affected by the effectiveness of domestic and international politics, of course, the government has the right to take advantage of appropriate taxation for data users, not only as a transaction tool [6]. Investment or investment is defined as a form of transaction or agreement between an investor (capital owner) and an investee (individual/company requiring venture capital) [7]. It can be interpreted that investment is a business transaction carried out by individuals (natural persons) or legal entities (juridical persons) for businesses to promote and maintain the value of capital, either in the form of cash (cash), equipment (equipment), immovable assets, Intellectual Rights, or skills [8].

The development of investment in Indonesia is undeniable, influenced by various factors, one of which is the important rule of law that is needed by investors [9]. The high profits obtained from the cryptocurrency investment stock game in the world have made the Indonesian people start to be tempted to invest some of their capital there, even though these activities are carried out illegally to obtain profits and investments that follow the current developments. The number of illegal actors in cryptocurrency investment has made the government start making various rules so that cryptocurrency investors will get protection so that later cryptocurrency investments can be legally enforced in Indonesia.

The Ministry of Trade, hereinafter referred to as the Ministry of Trade, through the Commodity Futures Trading Supervisory Agency, hereinafter referred to as CoFTRA, provides legal certainty In order to ensure the future of cryptocurrency in Indonesia, a Futures on crypto assets have a physical market mechanism markets will be established through several regulations. Several regulations were created to give investors a place to grow their businesses

in the digital commodity era, to provide to give legal stability and security for investors that invest in crypto asset trading, and, most significantly, to demonstrate legislation that lead to Futures on crypto assets have a physical market mechanism.

If the use of virtual money is increasing due to the ease of available transactions, Bank Indonesia is Indonesia's central bank which has the authority to regulate the use of these payment instruments then issued a statement, namely the In 2014, Bank Indonesia issued Statement No. 16/6/Dkom on Bitcoin and Other Virtual Currency, stating that Bitcoin and other virtual currencies are not legal tender in Indonesia, and that using them puts the user at risk. In addition, Law No. 7 of 2011 on Currency states that Indonesia recognizes only the Rupiah as a legitimate medium of trade.

#### **Characteristics of Crypto as Virtual Money**

Bank Indonesia then clarified the definition of virtual money in the explanation of Article 34 letter an of BI Regulation 18/2016, namely Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple, and Ven are examples of virtual money produced Gifts are mined, purchased, or sent by parties other than the monetary authority (reward). The term "virtual money" does not include electronic money [10]. Crypto, which in this case is categorized as virtual money, has several general characteristics, namely:

#### **Blockchain**

The blockchain system was introduced with the creation of Bitcoin in 2009. The blockchain is the foundation for all Bitcoin transactions ever made. When a user joins the Bitcoin network, a complete copy of the blockchain is downloaded immediately to each node (user computer). The blockchain has all of the addresses and balances from the previous system first transaction ever made to the recently completed block. Blockchain can be referred to as a public record meaning that it is easy to see transactions related to a particular Bitcoin tool. Bitcoin stands with a trustless mechanism in all networks, users can trust a system of public records stored around the world on decentralized nodes without having to build and maintain trust with counterparties (other people) or third-party intermediaries (such as banks). [11].

#### **Peer to peer (P2P)**

The application of a P2P network in Crypto means that the network creates a structure where there is no centralized server, and all members of the network are on equal footing. Because they don't have a central bank, Crypto also relies on this P2P network to run its system. With P2P, user members will be provided with information in the form of all Crypto transactions that are the same on all computers belonging to Crypto users around the world [12]. Therefore, the entire history of Crypto transactions will be publicly available. It is also necessary In the absence of a central authority, transactions must be validated to prevent double-spending.

#### **Decentralization**

As virtual money, Crypto has a different transaction concept from other currencies. Most currencies have a type of transaction called the triangle type of transaction, where the bank has an important role to act as an intermediary between the parties. The triangle type of transaction is usually referred to as centralization where the bank plays a role as a financial intermediary. While the concept of decentralization that is owned by Crypto as virtual money only requires two parties to agree with each other without intermediary other parties [13].

#### **Anonymity**

Crypto users in this case can take Users can avoid sharing any identifying information by taking efforts to better secure their identity. Related to their identity. So, in its use, Crypto users can not provide any information about their data so even though all transactions in Crypto can be seen by every user member, due to the anonymity of users, they cannot clarify to whom the transaction belongs and is sent to whom. It then makes Bitcoin users abuse the system, which

with its anonymity can create criminal acts such as buying and selling narcotics, money laundering, and other actions smooth and unidentifiable.

## **2 Research Methods**

The writing of this journal is used with normative legal research methods. The method employed in this study is both statutory and conceptual carried out in a normative juridical manner based on statutory regulations, one of which is CoFTRA 'Technical Provisions for Crypto Assets in the Physical Market' Implementation (Regulation No. 5 of 2019) (Crypto Assets). According to Peter Mahmud Marzuki, normative Technical Provisions for Crypto Assets in the Physical Market ' Implementation that are currently happening [14]. Normative research is sourced from primary and secondary legal sources, which are derived from statutory regulations and literature.

## **3 Results and Discussion**

### **3.1 Cryptocurrency Analysis as Currency**

Money is a legal tender according to Currency, as defined by Law No. 7 of 2011. The Rupiah is the name given to the currency issued by the The Republic of Indonesia is a unitary state. Indonesia is a country in Southeast Asia is a unitary state that issues money, also known as the Rupiah, is referred to as currency. 16 According to the previously stated definition, it can be concluded that Rupiah is a legal tender in Indonesia. Cryptocurrencies which are virtual money, here are some reviews according to various aspects:

#### **Overview of Crypto as a Currency of Function**

Economists generally describe the functions of something that can be called money, namely a medium of exchange, a unit of account, and a store of value [15].

- a. Crypto as a Medium of Payment
- b. Crypto as a Unit of Account (A Unit of Account)
- c. Crypto as a Store of Value

#### **Overview of Crypto as a Currency of Money Terms**

According to Prathama Rahardja in his book entitled 'Money & Banking, objects can be categorized as money if they meet the following requirements:

- a. the object must be generally accepted (acceptability);
- b. have a value that has a tendency to stay the same (stability of value),
- c. lightweight and portability;
- d. durable (durability);
- e. There is a tendency for quality to be consistent (uniformity);
- f. limited in number and not easily counterfeited (scarcity);
- g. easily divided without reducing the value (divisibility) [16]

#### **Crypto Overview of Types of Money**

As previously mentioned, the functions and conditions of money, in the use of money, the competent authority has the authority to issue and circulate money. Meanwhile, based on the grouping of roles in the money creation process, there are 3 (three) main actors, namely the monetary authority, commercial banks, and the public or the domestic private sector. It can be simplified that the monetary authority creates currency, while commercial banks create demand

deposits and quasi money. People will use the money created by the monetary authorities and commercial banks to carry out economic activities [17].

In this case, Bank Indonesia with Bank Indonesia Regulation According to the number E-money (electronic money) is a type of payment that meets the following criteria: 11/12/PBI/2009 Electronic Money (e-money) is a type of electronic payment. satisfies the following criteria:

- a. the value of electronic The holder's money is placed and managed by the issuer is not a deposit as defined by banking law;
- b. the value of electronic money is stored in an electronic medium like a server or a chip;
- c. used as a form of payment by merchants who do not accept electronic money;
- d. The holder's value in electronic money, which is managed by the holder issuer does not qualify as a deposit under banking law. [18]

### **Legitimacy of Cryptocurrency Transactions**

In general, the agreement is regulated based on "Agreement is an act by which one or more parties pledge themselves to one or more persons," according to Article 1313 BW. Regarding the validity of the agreement, 4 (four) conditions are needed according to article 1320 of the Criminal Code as follows [19]:

- a. Agree on those who bind themselves;
- b. Able to agree;
- c. Regarding a certain matter;
- d. A lawful cause.

Buying and selling transactions using Bitcoin are based on both parties' consent. It is stated that the payment instrument used for Every transaction in the Territory of According to The Unitary State of the Republic of Indonesia has a payment purpose, or other responsibilities that must be paid with money, or other financial obligations, according to Law No. 7 of 2011 activities, must use Rupiah.

Regarding regulation on Crypto and Bitcoin, Bank Indonesia first responded to Bitcoin in a Press Release On February 6, 2014, Bank Indonesia issued a statement entitled 'Statement of Bank Indonesia Regarding Bitcoin and Other Virtual Currency', which stated:

"Paying attention According to Bank Indonesia, Bitcoin and other virtual currencies are neither currencies nor legal money in Indonesia, citing Laws governing currency are Law No. 7 of 2011 and Law No. 23 of 1999. has been revised multiple times, most recently by Law No. 6 of 2009. [Emphasis added by author] Other virtual currencies, such as Bitcoin should be used with caution, according to the public. Bitcoin and other virtual currency owners and users bears all risks associated with their possession and use currencies."

### **3.2 Legal Protection Against Cryptocurrency Investments Reviewed from CoFTRA Regulation Number 5 of 2019**

In the current millennial development, cryptocurrency investment is starting to become a trend for young people among stock players to earn high profits. Stock industry players argue that cryptocurrencies such as bitcoin are still a new technology, so it's easy to attract millennials to be interested, especially for young stock players who want to get more profits more easily. Stock players in Indonesia are more interested in something new, it makes cryptocurrency investment easier to enter Indonesia. Indonesia already has several foreign marketplaces for cryptocurrency trading, one of which comes from South Korea, namely Upbit and GoPax. The high purchasing power of the Indonesian people for something new has made many foreign marketplaces flock to conduct business transactions in Indonesia.

Cryptocurrency investment still has a very long and even distant transmission of the impact of the crisis, among indications that the market capitalist of cryptocurrency is very small compared to stock indices such as the The Jakarta Composite Index (JCI), the South Korean Stock Exchange (KRX), and the Tokyo Stock Exchange are three of the most important stock exchanges in the world. (TSE) are three of the most important stock exchanges in the world are three of the world's most major stock exchanges. (JLX) [20].

In Indonesia, legal tender is governed by Law No. 7 of 2011 on Currency (Hereinafter referred to as "Currency Law"). Based on the provisions of Article 1 number 2 of the Currency Law, it is established that "Money is a legal tender." The Currency Law also specifically states that Indonesia's official currency is the Rupiah, as stated in The Currency Law's first article is numbered 1. According to the Rupiah must be used in all payments, settlements accordance to Article 21 paragraph (1) of the Currency Law, Any other financial obligations that must be paid in cash, and/or other financial transactions that take place within the country's borders Unitary State of the Republic of Indonesia.

As stated in Bank Indonesia Statement in Bank Indonesia Press Release No. 16/6/Dkom with the title "Bank Indonesia Statement Regarding Bitcoin and Other Virtual Currencies," In Indonesia, Bitcoin and other virtual currencies are not accepted as legal cash or as payment instruments in the United States. [21]. Bank Indonesia also stated in the statement that bitcoin users are solely liable for all risks associated with the usage of bitcoin and other virtual currencies, and that the Indonesian government is not liable for any dangers that may occur and be faced by users.

Along with its development, Indonesia then regulates cryptocurrency as a commodity or buying and selling of crypto assets [22]. Following it, the Indonesian government established a set of rules to accommodate the situation. The General Policy for the Implementation of Crypto Asset Futures Trading was released by the Minister of Trade of the Republic of Indonesia No. 99 of 2019 as a guide and explanation for the public on the government's recognition of bitcoin and virtual currency. in regards to the General Policy for According to Trading in Crypto Asset Futures, the government recognizes the existence of bitcoin and virtual money is being implemented. "Crypto Assets are classified as commodities that can be used as Futures Contract Subjects on the Futures Exchange," says the statement. according to Article 1 [23].

The Commodity Futures Trading Commission is in charge of overseeing commodity futures trading regulates additional arrangements under CoFTRA rules No. 3 of 2019 and CoFTRA regulations No. 5 of 2019. To maintain legal certainty and security All cryptocurrency marketplaces must meet all of the standards outlined in CoFTRA's rules Technical Provisions for the Futures Exchange's Implementation of the Physical Crypto Asset Market (No. 5 of 2019) cryptocurrency investors. Obtaining the needed documents, with a focus on proper business management concepts such as futures exchange members' rights to acquire open values, and ensuring that all requests are met customers are safeguarded to prevent money laundering and funding are all governed in CoFTRA laws of terrorism as well as the proliferation of weapons of destruction. mass"19.

As for the minimum capital cost that must be owned by crypto asset traders, they must have a minimum capital of IDR 1,500,000,000,000.00 (one trillion five hundred billion rupiahs) with a balance that must be maintained as a final capital of at least IDR 1,200,000,000,000. .00 (one trillion two hundred billion rupiahs) and Have a minimum of three (three) qualified information systems security professionals on staff (CISSP). CoFTRA Not only does the Indonesian government control marketplaces It regulates companies that want to become cryptocurrency platforms, as well as investors that wish to invest in cryptocurrencies. buy and trade cryptocurrencies.

The investor must first set up a separate account in the name of the marketplace to hold the funds that will be utilized for transaction activities. intended for the benefit of the Futures Clearing House. Investors in cryptocurrency can only sell Crypto Assets if they have a crypto marketplace balance. If the crypto marketplace commits a violation, the consequence of cancellation of approval may be imposed. As a result of Following the termination of the agreement, the crypto Asset marketplace is required to return cash or submit crypto Assets belonging to the Crypto Asset Consumers it manages, and is forbidden from accepting new crypto Asset customers. In addition to CoFTRA's regulations, Article 9 of Information and Electronic Transactions Law No. 11 of 2008 states "Every business actor that offers items through an electronic system must disclose complete and correct information about contract conditions, manufacturers and suppliers, and the products offered," according to the law. [22].

#### 4 Conclusion

Based on the foregoing, it can be concluded that the Indonesian government developed many guidelines to serve Number 99 of the Minister of Trade of the Republic of Indonesia for the general public as a reference and clarification on the government's recognition of bitcoin and virtual money, particularly through the usage of the word "virtual currency," the year 2019. Additional legislation is being considered. Furthermore, the Commodity Futures Trading Supervisory Agency regulates it in CoFTRA rules No. 3 and CoFTRA No. 5 of 2019. The CoFTRA guidelines ensure that the cryptocurrency trading platform's funds are guaranteed in advance later it will minimize fraud committed by the marketplace. cryptocurrencies. Any disputes that emerge between cryptocurrency investors and the cryptocurrency marketplace can be resolved by non-litigation and arbitration through BAKTI. In addition, dispute resolution can also be carried out by perpetrators of cryptocurrency transactions through BPSK.

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