

Consumer Protection Against Local Cryptocurrency Investments in Indonesia

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Abstract

The growing cryptocurrency market is expected to attract more investors and generate higher transaction volumes. All parties involved need to feel safe and protected, therefore legal certainty is important. This research uses a type of normative legal research. Local cryptocurrency investment regulations are regulated in Commodity Futures Trading Supervisory Agency Regulation Number 7 of 2020 Article 1 paragraph 1 explains that crypto can be traded on the Physical Crypto Asset Market, but only crypto that has been registered on the Crypto Asset List can be traded. The obligation to register cryptocurrency to be traded is in accordance with BAPPEBTI regulation number 8 of 2021. Crypto consumer protection is reviewed in Law no. 19 of 2016 concerning amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions in this regulation regulates criminal acts in the cyber sector in Indonesia specifically related to virtual currency investment, namely the crime of fraud via electronic media. Meanwhile, preventive protection is contained in Law No. 8 of 1999 concerning Article 2 concerning the principles of consumer protection which are in line with legal requirements.

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A. Background

Virtual currency, often known as cryptocurrency, is often seen as a solution to the weaknesses of current payment systems. Unregulated digital currencies, or “virtual currencies”, are created and distributed independently by their creators.[1]

This development also enters the realm of investment. *Cryptocurrency* (or “crypto” for short) currency investments are a type of investment that promises a high rate of return. Automatically, *cryptocurrency* is a digital currency that exists and can only be used in the physical world. Satoshi Nakamoto introduced the concept of investment cryptocurrency, and specifically bitcoin, for the first time in January 2009. Investing means placing money in one or more types of assets for a certain period of time with the hope of a return and/or increase in value in the future.[2]

Investing is the practice of setting aside money now so that it can grow in value (in the form of interest, dividends, or other benefits) at some point in the future. Money that could be used for immediate expenses is instead put into investment projects in the hope of reaping future benefits. Investments can be analyzed from three perspectives:[3]

- a. Money is expected and desired, so the concept of money can also be used to assess the success of an investment.
- b. The time value of money takes both the present and future into account when evaluating investment performance.
- c. Investment Benefits From this benefits perspective, it is clear that the evaluation of investment results must consider the benefits and costs resulting from the investment.

Overall, the crypto ecosystem in Indonesia is quite optimistic about the progress of the crypto ecosystem in Indonesia Land Water. Many people are now putting their money into digital currencies. Market Cryptocurrency A rapidly developing Indonesia will soon provide access to various international digital infrastructures. Also beneficial to the country is the possibility of government regulations mandating the establishment of

representative offices in the country. Along with increasing state income, this also creates many new jobs. And of course, new doors have opened for scientific progress and technological innovation. It's impossible to say for sure, but it can be assumed that some people will always want to disrupt the crypto ecosystem in some way. Sites, Telegram bots, and social media profiles can all ask you to take part in airdrops in exchange for crypto or fiat currency. This could be interpreted as a form of fraud.

A country will automatically benefit by having more sources of tax revenue. Many of the domestic crypto market mechanisms are supported by a credible ecological system. Therefore, it would be very beneficial if the government provided a positive response and legal certainty regarding the increasing interest in the domestic crypto asset market.

The growing cryptocurrency market is expected to attract more investors and generate higher transaction volumes. All parties involved need to feel safe and protected, therefore it is important for legal certainty. There are several legal regulations that form the basis for Crypto regulation in Indonesia, namely Law No. 10 of 2011 concerning Amendments to Law U No. 32 of 1997 concerning Commodity Futures Trading, Minister of Trade Regulation No. 99 of 2018 concerning General Policy for Implementing Crypto Asset Futures Trading, BAPPEBTI has also issued Regulation No. 5 of 2019, regulation No. 9 of 2019, and regulation no. 2 of 2020. The above regulations regulate the technical aspects of implementing the physical market for crypto assets on the futures exchange. crypto assets.

Regulations are good faith efforts by the rule of law to protect the rule of law. These legal protections serve to protect citizens from being denied their rights and to limit harmful actions that some people may commit against others. Fraud cases in the binary options investment market, including the recent one involving Indra Kenz and Doni Salmanan, are still making headlines for the police. Users of Indra Kenz's affiliate service, Binomo, have reported indicators of data manipulation in the application infrastructure. This is proven by the disparity between the results of joint transactions using the same amount of time and currency. Based on these facts, users of the above-mentioned services have concluded that the application in question is a type of scamming or fraud and, therefore, is different from asset trading and cryptographic signature generation applications. The absence of laws to prevent such behavior is unacceptable.

There are different schools of thought when looking at the legality of cryptographic currencies from the perspective of Islam. There are some religious authorities who approve, while others view it as a prohibition. Egypt's Grand Mufti Sheikh Shawki Allam, the Turkish government, and scholar British Syech Haitam is among those who hold the view that cryptocurrencies are prohibited by Islam. However, the Darul Uloom Zakariyya Fatwa Center in southern Africa is among those who believe that cryptocurrencies are permissible in principle.[4] Based on this background, the author created the title, “**Legal Analysis of Consumer Protection for Local Cryptocurrency Investments in Indonesia.**”

B. PROBLEM FORMULATION

Based on the background description, the problem formulation will be formulated as follows:

1. What are the local cryptocurrency investment regulations?
2. What is the concept of consumer protection for local cryptocurrency investments?

C. RESEARCH METHODS

Research on “**Legal Analysis of Consumer Protection for Local Cryptocurrency Investments in Indonesia**” including the type of normative legal research, or research

that focuses on positive law and applies in Indonesia. This research can also be called library research or research into a problem found in a review of manuscripts. In this research, the author uses legal materials to analyze the problems that occur. The issues or problems are then analyzed in depth until they can answer and provide research solutions. The analysis procedure in this research uses analytical descriptives which function as research subject to clarify conditions and circumstances. This analysis is part of a larger effort to solve problems that have been identified and build relationships between previously identified problems to better understand how to fix them. Previous research that has been reviewed is entitled Legal protection of investment activities using virtual currency in Indonesia which discusses the position of virtual currency in Indonesia. in investment activities and legal protection for investors who invest in virtual currency in Indonesia. And there is also an article entitled legal protection for digital currency (cryptocurrency) investment. These two studies only discuss the position and legal protection of crypto use in Indonesia, and do not discuss crypto products produced by Indonesian children.

D. Discussion

1. Local Cryptocurrency Investment Regulations

Currency Cryptocurrency as a payment transaction tool there are still pros and cons because it does not meet the criteria as a valid currency. The explanation of currency in Law Number 7 of 2011 concerning Currency is a reliable payment system is a form of currency accepted by a government as payment for all legal tender.

Until 2018, Indonesia is still unable to provide accurate, comprehensive and specific information regarding the regulation or legality of bitcoin. Prohibition that contains new assertions that lead to a statement containing assertions in a Press Release. Ministry of Finance Regulation no. 3/KLI/2018 which still adheres to Law No. 7 of 2011 concerning explains how virtual money is used (*cryptocurrency*) in Indonesia experienced a decline due to a number of potential risk factors. Lastly, there are several regulations that can and may be used to stop the use of digital currencies in illicit payment positions. Based on Article 21 paragraph (1) of the Law, the rupiah is a currency recognized in Indonesia. The legal basis governing transactions with currency cryptocurrency has been explained in Article 46 Paragraph (2) and Article 47 Paragraph (1) and Paragraph (2) in PP No. 82 of 2012 explains that regarding the implementation of electronic systems and transactions, these transactions are not said to be valid and can be canceled by the aggrieved parties or parties who experience losses.

Already been reported that the Indonesian Ministry of Trade (Ministry of Trade) has collaborated with the Bank of International Settlements (BAPPEBTI) on a long-term plan to build a regulated market for the physical asset Bitcoin. Through its central bank, Indonesia seeks to regulate cryptocurrency so that it can be used as a means of buying and selling digital assets.[5]

The Financial Services Authority in Indonesia has accommodated this problem by formulating regulations regarding the Indonesian government's recognition of the presence of virtual currency and cryptocurrency through the Republic of Indonesia Ministry of Trade policy No. 99 of 2019 which emphasizes the general policy for implementing crypto asset futures trading which essentially regulates that "crypto assets are designated as Commodities that can be used as Subjects of Futures Contracts traded on the Futures Exchange", which is contained in accordance with Article 1.

BAPPEBTI Regulation No. 5 of 2019, namely regarding Technical Provisions for the Implementation of the Physical Market for Crypto Assets on the Futures Exchange, which is intended as a guarantee of certainty and legal protection for investors

cryptocurrency good in a marketplace cryptocurrency which must complete the requirements set out in the regulations made by BAPPEBTI.[6]

To minimize the occurrence of terrorist financing and money laundering and to curb the spread of mass hysteria, we must adhere to a set of principles that emphasize the right of market participants to obtain value that is traded openly while ensuring consumer security.

BAPPEBTI, in its capacity as a market regulator, has also established buying and selling guidelines for cryptocurrency by institutional investors. These guidelines stipulate that crypto investors should first deposit funds into an account in a different name than the market they use to meet their long-term liquidity needs. Investors will only be allowed to sell their crypto assets in the market if they have sufficient funds in their crypto wallets. BAPTISM and the Ministry of Home Affairs, in the letter of the Coordinating Minister for the Economy Number S-302/M.EKON/09/2018 dated 24 September 2018 regarding the regulation cryptocurrency as a commodity crypto-asset traded on a futures exchange. Bitcoin is classified as a commodity that is often traded on stock exchanges as a legal investment tool, but is illegal or unreliable as a means of payment. The definition of cryptocurrency (crypto money) in the regulation above has deviated from its original intent or is instead referred to as "commodity" instead of "digital money". Then technically this regulation is followed by BAPPEBTI No. 5 of 2019. States that the profits or risks from the rise and fall of exchange rate prices are transferred to investors or members of the futures exchange by converting crypto money (*cryptocurrency*) as "merchandise". Based on this, the regulations have a special clause in each Bank Indonesia regulation which states that cryptocurrency is a "digital currency" that is prohibited for trading, but the Ministry of Trade states that it is a "digital asset" that can be traded legally. In Article 1 of BAPPEBTI Regulation No. 5 of 2019 statements such as "Crypto Assets (Crypto Assets), hereinafter referred to as Crypto Assets, are commodity-based digital assets that use cryptography, decentralized ledgers, and distributed ledgers to organize the creation of new units, verify transactions, and settle account without any third parties involved.

Cryptocurrency law or cryptocurrency in Indonesia this is regulated in the Commodity Futures Trading Supervisory Agency Regulation Number 7 of 2020 Article 1 paragraph 1 reads:

"Prospective Crypto Asset Physical Traders and/or Crypto Asset Physical Traders can only trade Crypto Assets on the Crypto Asset Physical Market which has been determined by the Head of CoFTRA in the List of Crypto Assets that can be traded on the Crypto Asset Physical Market,"

Commodity Futures Trading Supervisory Agency Regulation Number 7 of 2020. Article 1 paragraph 1 explains that crypto can be traded on the Physical Crypto Asset Market, but only crypto that has been registered on the Crypto Asset List can be traded. Commodity Futures Trading Supervisory Agency (BAPPEBTI) Regulation No. 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market for Crypto Assets (Crypto Assets) on the Futures Exchange. In Article 3. So in the Legality of sales cryptocurrency This is clearly regulated in Indonesian positive law and there are conditions and stages.

The rules described above apply not only to cryptocurrency made abroad, but also for those made in Indonesia. Because the regulations do not differentiate between cryptocurrency domestic and imported, both are treated the same. New crypto assets that will be traded must first be registered with BAPPEBTI through existing crypto asset traders so that evaluation can be carried out in accordance with established rules; rule outlined above explains the conditions under which cryptocurrency trading is permitted

in Indonesia. In conclusion *Crypto* Domestic products can be traded in Indonesia if they meet the specified requirements.

Obligation to register cryptocurrency which will be traded is in accordance with BAPPEBTI regulation number 8 of 2021. This regulation states the requirements for crypto assets that can be traded on the physical crypto asset market. Crypto assets that can be traded domestically refer to BAPPEBTI regulation number 7 of 2020 concerning determining the list of crypto assets that can be traded on the physical crypto asset market. Therefore, only certain types of crypto assets can be traded on physical crypto asset markets, limiting crypto asset traders to a predetermined pool of assets. Thus, in Indonesia, trading any crypto asset that has not been registered with CoFTRA is illegal.

2. Consumer Protection Concept for Local Cryptocurrency Investments

Commodity Futures Trading Supervisory Agency Regulation Number 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market for Crypto Assets (Crypto Assets) are the rules governing crypto asset trading in Indonesia. Sale of crypto assets based on law Indonesian contracts referring to Burgerlijk Wetboek (BW) are valid because they fulfill the contract requirements stipulated in BW Article 1320 and are supported by the principles of freedom of contract, consensus and pact contained in the BW itself. Therefore, online crypto asset transactions are prohibited by Indonesian law, as stated in Law Number 11 of 2008 concerning Electronic Transaction Information (UU ITE).

The Indonesian government then created regulations to accommodate the increasing demand for crypto asset trading, as well as to provide clarity to the public regarding the government's acceptance of bitcoin and virtual currency through a Minister of Trade Regulation Republic of Indonesia Number 99 of 2019. Regulations from the Indonesian Financial Services Authority (BAPPEBTI) will help ensure the integrity of bitcoin exchanges, reducing the possibility of theft and fraud.

Consumer protection cannot be separated from the existence of consumer protection laws, with consumer protection laws including a body of legal doctrine that mandates the use of certain substances to achieve protection that goes beyond the mere physical.[7]

Consumer protection can be thought of as a guarantee of legal security for those who use a product or service and is therefore a type of legal guarantee. When tested, consumer protections in crypto are the same as legal protections for crypto users. Below are the legal provisions that regulate crypto consumers' rights to obtain information.

a. Crypto consumer protection is reviewed in Bank Indonesia Regulations

Article 205 paragraph 1 of 2021 regulates administrative sanctions imposed on perpetrators in the form of warnings, termination of activities, revocation of PJP permits and in the Currency Law Article 33 paragraph 1 regulates sanctions in the form of imprisonment and fines.

The Bank Indonesia Regulation is a Repressive Shield Effort because it focuses on Punishments or Laws on Money Laundering in Crypto. The goal of these preventive efforts is to ensure that investors feel safe and secure by establishing legal protections for them and enforcing those protections when necessary. The existence of legal consequences makes potential perpetrators reluctant to commit criminal acts in crypto.

b. Crypto consumer protection is reviewed in Law no. 19 of 2016 concerning amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions.

In an effort to protect its citizens from the risks associated with misuse of information technology and electronic commerce, the Indonesian government has

removed new law in the form of Law Number 19 of 2016 concerning ITE, which amends Law Number 11 of 2008 concerning ITE, to do just that.

Law No. 19 of 2016 concerning amendments to Law No. 11 of 2008 concerning ITE to address legal problems in the circulation of Virtual Currency in Indonesia. In connection with the current era of globalization regarding the circulation of virtual currency, it can no longer be stopped and now it has become a business trend. To answer problems when investors or users experience losses, the articles in the ITE Law can be applied in accordance with the legal problems experienced by the injured party. , among others:

1) Hacking

Those who unlawfully gain access to the victim's electronic system can be prosecuted under Article 30 (1) of the ITE Law. Users who deliberately break into computer systems to steal data or documents violate Article 30 paragraph 2 Article 46 of the Indonesian Information Technology Law. People who unlawfully access computers or electronic systems without permission or violate the law may be subject to Article 30 paragraph 3 and Article 46 of the Indonesian Telecommunications Law.

2) Cracking

Perpetrators of crimes who change, enlarge, reduce, transmit, damage, delete, obscure or otherwise destroy electronic information and/or documents belonging to victims can be prosecuted under Article 32 paragraph (1) in conjunction with Article 48 of the ITE Law for moving or transferring electronic information and/or or Electronic Documents to the Electronic System of other people who do not have the right to violate Article 32 paragraph (2) in conjunction with Article 48 of the ITE Law.

3) Spoofing

Criminals manipulate, create, change, delete and/or destroy electronic information and/or documents with the intention that the changed information and/or documents are treated as if they only contain fictitious Article 32 paragraph 35 jo 51 UU ITE.

4) Sniffing

Criminals who damage or steal information or electronic documents from computers or certain electronic systems may face the legal consequences set out Pasal 31 47 UU ITE.

5) Online fraud

The spread of false information that results in consumer losses in electronic transactions is a form of fraud as stated in Article 28 paragraph (1) in conjunction with Article 45A of the ITE Law.

Fraud via electronic media is an example of a type of cybercrime that can be committed in Indonesia in the context of virtual currency investment. Criminals usually use operational methods by advertising their electronic products (virtual currency) through electronic media to persuade victims to invest by exchanging Rupiah for the product in question and then revealing that the product in question is a lie/fictitious. This loss is an individual setback for the victim.

To be effective as a regulatory tool, law must evolve with the times. Due to the rise of crypto transactions through digital channels, this regulation has emerged as a major precaution for user safety. This regulation sets out the procedures to be followed in the event of a legal dispute or financial loss resulting from an electronic transaction.

c. Crypto legal protection is reviewed from Law No. 8 of 1999 concerning Consumer Protection

Legal Regulation and Protection in terms of Law No. 8 of 1999 concerning Consumer Protection. Investors or users of business transactions or virtual currency trading cent coin and bitcoin models can also be categorized as consumers. As a consumer, we really need to get protection from the state. Paying attention to Article 1 of Republic of Indonesia Law no. 8 of 1999 concerning Consumer Protection which explains "Consumer Protection" is defined as "any and all efforts to ensure that consumers receive the protection guaranteed by law." Regarding the circulation and use of virtual currency in Indonesia, paying attention to government warnings and declarations, as well as using Bank Indonesia as the country's central bank and taking into account Republic of Indonesia Law no. 7 of 2011 concerning currency requires legal certainty to regulate clarity regarding its use and circulation in Indonesia. In general, it is known that there are four basic consumer rights, namely:

- 1) The right to security (*the right to safety*)
- 2) The right to obtain information (*the right to be informed*)
- 3) Right to choose (*the right to choose*)
- 4) The right to be heard (*the right to be heard*)

The existence of comprehensive regulations from the government (Bank Indonesia) regarding the use and regulation of virtual currency in Indonesia is crucial in the 1999 Consumer Protection Law. In connection with recent events in the international community regarding the storage and exchange of virtual currency, Bank Indonesia is aware of the need to establish regulations in this field to protect its investors and consumers.

In connection with ownership or as an investor in Virtual Currency, if it is related to a form of consumer protection, the principles stated in Article 2 UURI No. 8 of 1999 concerning Consumer Protection are in line with legal requirements. These principles are as follows:

- 1) Basic benefits
- 2) The basis of justice
- 3) Basic balance
- 4) Basics of peace and security
- 5) The basis of legal certainty

It can be seen from several of the regulations above that the government is making efforts to protect crypto consumers in the form of preventive and repressive efforts. Preventive efforts are preventative efforts carried out before a crime occurs. In contrast to repressive efforts, the repressive measures taken start from investigations and investigative arrests, the latter being decided by the court.

The government's consumer protection law provides preventative legal protection contained in article 2 regarding the principles of consumer protection which are in line with legal requirements. Basic consumer rights are preventative protection for crypto consumers.

Repressive efforts take the form of imposing sanctions on perpetrators of criminal acts. For example, administrative sanctions are described in Bank Indonesia Regulations. Civil sanctions in the form of compensation for losses are sanctions resulting from PMH (acts against the law). If investors' transactions are legally valid, they will receive legal protection due to losses incurred both criminally, namely losses caused by *cybercrime* and civil losses resulting from Unlawful Acts (PMH). Civil sanctions in the form of losses, based on the validity of the transaction, investors who carry out buying and selling crypto assets receive legal protection for losses that can be incurred either criminally, namely losses caused by *cybercrime* and civil losses resulting from Unlawful Actions (PMH).

The final legal protection effort is in the form of criminal sanctions listed in the ITE Law which has been explained above and several other criminal sanctions, namely, if there is an accidental or unconscious violation, the taxpayer does not receive a criminal penalty but only an administrative penalty in the form of a fine. These sanctions are regulated in Article 38 of the KUP Law. However, User *cryptocurrency* will face legal consequences accordingly with law if proven to have committed money laundering. While money laundering schemes can originate from anyone looking to increase their personal wealth, users of cryptocurrency are known to use these schemes when carrying out criminal acts such as funding terrorist organizations. Because it is difficult to trace the source of stolen funds using cryptography, this type of activity is financially risky. The subjects of transactions in cryptocurrencies are also very difficult to trace even though the records can be seen from the virtual ledger. As times progress and technology advances, especially in the fields of internet technology and the digital economy, it is becoming easier to fund terrorist activities. As a result, traditional funding methods have experienced a paradigm shift, allowing them to utilize digital technologies such as cryptocurrencies, crowdfunding, virtual currencies, crowdfunding, and social media networks.[8]

In the form of a violation of the crime of money laundering, which is regulated in article 3 of the Money Laundering Crime Law, it can be punished because it involves the crime of Money Laundering or CORRUPTION with a maximum prison sentence of 20 years and a fine of Rp. 10,000,000,000.00. And related to cybercrimes, those who intentionally enter or take data or systems owned by people in any way, can be subject to criminal sanctions as regulated in Article 30 paragraph (1) of the ITE Law. The criminal provisions according to Article 46 paragraph (1) of the ITE Law will be subject to a maximum prison sentence of 6 years and/or a maximum fine of IDR 600,000,000.00 or a maximum prison sentence of 8 years and/or a maximum fine of IDR 800,000. 000.00.

E. CLOSING

1. Conclusion

In Indonesia there are pros and cons to the use of currency cryptocurrency as a means of payment transactions. This is due to the fact that cryptocurrency has not met the criteria for currency in force in Indonesia as stated in Law Number 7 of 2011 concerning Currency. Article 46 Paragraph (2) and Article 47 Paragraph (1) and Paragraph (2) in PP No. 82 of 2012 explains that the implementation of electronic systems and transactions cannot be said to be valid and can be canceled by the aggrieved parties or parties who experience losses. Republic of Indonesia Ministry of Trade No. 99 of 2019 which emphasizes the general policy of implementing crypto asset futures trading which essentially regulates that crypto assets are designated as Commodities that can be used as Subjects of Futures Contracts traded on the Futures Exchange Regulation of the Commodity Futures Trading Supervisory Agency Number 7 of 2020. Article 1 paragraph 1 explains that crypto can be traded on the Physical Crypto Asset Market. However, only crypto that has been registered on the Crypto Asset List can be traded. Obligation to register cryptocurrency which will be traded is in accordance with BAPPEBTI regulation number 8 of 2021.

Crypto consumer protection reviewed in the Bank Indonesia Regulation is a repressive protection measure because this regulation places more emphasis on sanctions or punishment for criminal acts in crypto. Moreover, it makes perpetrators think about committing criminal acts in crypto because there are already legal sanctions. Crypto consumer protection is reviewed in Law no. 19 of 2016 concerning amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions in this

regulation regulates criminal acts in the cyber sector in Indonesia specifically related to virtual currency investment, namely the crime of fraud via electronic media.

It has become common practice for fraudsters to advertise their electronic goods (virtual currency) through electronic media, luring victims with promises of profits and ease of transactions before convincing them to invest by exchanging virtual currency and it is known that what is being offered is false/fictitious. This loss is a personal loss for the victim. So this regulation places more emphasis on punishing perpetrators. Crypto legal protection is reviewed from Law No. 8 of 1999 concerning Consumer Protection proposing preventive legal protection contained in article 2 concerning the principles of consumer protection which are in line with legal requirements. Basic consumer rights are preventive protection for crypto consumers. law. It can be seen from several regulations above that the government is making efforts to protect crypto consumers in the form of preventive and repressive efforts

2. Suggestion

- a. If you have crypto in Indonesia, you must register it first with BAPPEBTI
- b. If you want to buy crypto, you have to read the BAPPEBTI regulations to see if the crypto has been registered, if so, there is a guarantee of legal protection.

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