

REGULATION AND THE FUTURE OF CRYPTOCURRENCY IN INDONESIA

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Abstract : Cryptocurrencies is generally used as means of payment and assets. Every country in the world has its own approach in regulating the use of cryptocurrencies. In Indonesia, the use of cryptocurrency as a means of payment is not justified. Meanwhile, its use as an asset is the subject of commodity futures trading whose mechanism is carried out by the existence of an agreement and its activities by Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti). The potential for cryptocurrency growth in Indonesia can be maximized considering the advantages it offers, such as easy access, security, and financial inclusion that can help equalize access to quality formal financial services on time, smoothly, and safely at affordable costs according to the needs and abilities in improving people's welfare. In order to encourage the positive growth of cryptocurrencies in Indonesia, the government as the regulator must ensure the realization of cryptocurrencies that are safe, structured, and stable.

Keywords: *Cryptocurrency, potency, regulation*

1. Introduction

Humans and law are two things that cannot be separated. In a group of people (society), therein lies the law. This statement is supported by the popular adage Ubi Societas Ibi Ius belonging to Marcus Tullius Cicero. Law exists in society from time to time, becomes a guideline and

regulator of various lines of life, including technological developments. In Indonesia, everyone has the right to benefit from existing technology. The right to utilize technology has been guaranteed in Article 28C of the 1945 Constitution of the Republic of Indonesia (UUD 1945).

One of the technological advances that has attracted the attention of the author to be studied is the emergence of cryptocurrencies. Cryptocurrency is a peer to peer virtual currency that is exchanged with certain cryptographic principles. Referred to as virtual currency because it does not have a physical form but is a virtual object made with a mathematical formula. The first cryptocurrency launched in 2009 was bitcoin by Satoshi Nakamoto. Satoshi Nakamoto published an article entitled “Bitcoin: A Peer-to-peer Electronic Cash”. The goal of Satoshi is to develop an electronic financial system that is not controlled by any authority with minimal and instantaneous transfer fees.

Cryptocurrency is a technology that is still evolving. The emergence of fast-growing cryptocurrencies needs to be followed by proper regulation. The knowledge gap about cryptocurrencies will result in the absence of regulations (null norms). It should be observed how the government process as a regulator to able to fill the legal void of cryptocurrency by making clear legal rules starting from the operation to the protection mechanism. In fact, how is the government able to predict and prepare cryptocurrency regulatory instruments that can be used clearly for the long term in the future and avoid regulatory ambiguity (vague norm).

2. Research Method

The research method used in writing this journal is a normative research method or also called library research. It is called library research because more research is carried out on secondary data in the library, such as books and official government documents. The type of data used in this study was secondary data. Secondary data are obtained from literature studies sourced from primary, secondary, and tertiary legal materials. Primary legal materials include the Constitution of the Republic of Indonesia of 1945, and Bank Indonesia Regulation Number 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing.

3. Discussions

a. The Opportunity of Cryptocurrency in Indonesia

The emergence of bitcoin in 2009 was a success on the challenge of conducting digital transactions quickly without the need for third parties such as financial institutions or governments. In Indonesia, bitcoin began to be used since 2013. The level of development and use of cryptocurrency is very significant. This is evidenced by the fame of Bitcoin has skyrocketed since its introduction in early 2009, until 2018 it reached a price of more than Rp200 million per piece. The success of Bitcoin was followed by the emergence of the cryptocurrency industry which now has more than 1000 products sold in various cryptocurrency markets around the world. The data collected until February 18, 2022, the market capitalization of crypto assets was IDR 26,628,826,937,347,736. No.

Cryptocurrencies have the potential to simplify various sectors with their inherent advantages. Here are the advantages that cryptocurrencies have:

1) Ease of Access

Cryptocurrencies can be accessed from anywhere and at any time. Cryptocurrency can be used by anyone without standard rules as long as it has a device that allows for the use of cryptocurrency. Its use is also without going through third parties such as banks, so transactions can be carried out directly between person to person wherever they are. Fiat money is entirely controlled by the government from the creation to how it can be used (centralized system), while cryptocurrency is more flexible to use using a unicentralized system.

2) Security

The use of cryptocurrency is a safe transaction because it uses distributed ledger technology. Distributed ledger technology results in a transaction being validated if it obtains approval from all users. For an unauthorized transaction to be executed, the relevant party must be able to change all

E-ISSN: 2614-1280 P-ISSN 2622-4771 transaction records that are in all "ledgers" of each user. The use of cryptography and mathematical algorithms guarantees the security of cryptocurrency transactions. This cryptographic mechanism allows the distribution of databases to occur, so that every party in the network can verify the transactions that occur. In other words, no single entity can control or transform the data in that blockchain system. This technology makes a transaction more transparent, secure, fast, and efficient / cheap.

3) Financial Inclusion

According to Presidential Regulation Number 82 of 2016 concerning the National Strategy for Financial Inclusion, financial inclusion is a condition when every member of the public has access to various quality formal financial services in a timely, smooth, and safe manner at affordable costs in accordance with the needs and abilities in order to improve the welfare of the community. Cryptocurrencies, if they can be managed properly by the government, will be able to encourage the realization of such financial inclusion. This is because cryptocurrencies can be easily accessed by all levels of society by creating an available digital wallet account. After getting the account number of the digital wallet user when opening the account will get a PIN (Personal Identification Number) in the form of a cryptographic code. With the possession of an account number and PIN, one can already transact cryptocurrencies quickly and without restrictions.

In addition to the various advantages that cryptocurrencies have, it is undeniable that there are disadvantages and risks arising from the use of cryptocurrencies themselves, namely:

4) Financial Risk

Financial risk is the risk in the form of loss or loss of a certain amount of money experienced when making transactions with cryptocurrencies. This loss can occur in two ways, namely cyber crime or because of unlawful acts (PMH). Cybercrime may occur because the system in cryptocurrency is inevitable from attacks or attacks that will interfere with the network in

transactions. Cybercrime is an act that is intentional and without the right to cause consumer losses in electronic transactions. Meanwhile, Unlawful Acts, for example, there is an element of fraud that is carried out deliberately to cause misdirection in others in transacting cryptocurrencies. In addition, the threat of financial losses can also occur due to the volatility of cryptocurrencies. Cryptocurrency exchange rates are highly volatile with unreasonable price increases that are vulnerable to the risk of bubbles that have the potential to harm users.

5) Regulatory Risks

Regulatory risk is a risk where there are regulations that hinder the use of cryptocurrencies, such as their use as a means of payment. In a cryptocurrency transaction between countries, for example, in other countries it is allowed to make payments using cryptocurrency while in Indonesia it is not legalized, it will hinder the transaction.

6) Social Risks

The popularity of cryptocurrencies is able to give a bandwagon effect. The badwagon effect is simply a phenomenon of follow-up, that is, an external motivation to consume an item i.e. to consume because it focuses on social status on rather than emotional benefits or inner values. External factors include luxury, interpersonal influence plays an important role. Buying products for symbolic value and social motives rather than their functional usefulness, and also as a signal to others about wealth and success, exclusivity and / or personal identity.

Two of the world's major companies such as Google and Microsoft are also using cryptocurrencies. Google is working with some of the leading blockchain companies such as Paxful, Coinbase, and NewsCrypto to add Google Pay as a cryptocurrency buying feature. Google's reason for cooperating in the cryptocurrency purchase feature is the high demand among

investors. Whereas Microsoft uses cryptocurrencies in a different way than Google. Microsoft has a patent for a technology that can scan the activities of the human body, the system will then reward cryptocurrency to operators who have provided services. Two multinational companies such as Google and Microsoft that are beginning to adapt to cryptocurrencies suggest that the existence of cryptocurrencies has great opportunities and potentials that will continue to grow and must be utilized.

b. Regulation of Cryptocurrency

The state in response to a new phenomenon such as cryptocurrencies has three options, namely to completely ban it, regulate it, or ignore it. Each country has different rules of cryptocurrency law. The approaches taken by the state vary according to their respective cultures. It is this difference in the rule of law that creates confusion for both the company that makes and the user of the cryptocurrency itself if they want to carry out transactions between countries. Proper regulation is very much needed to regulate cryptocurrencies considering that Information and Communication Technology actually raises new implications or problems that need to be regulated legally including security, privacy, and consumer protection.

Law enforcement of violations or crimes arising from the use of cryptocurrencies is carried out by carrying out a comprehensive adaptation and understanding of the use of technology. Cryptocurrencies that are part of technological advances are an unavoidable necessity. The increasingly complex development of human life has resulted in various innovations in the field of technology. These technological innovations can contribute positively to human life and also have negative risks for their use. Therefore, the law must continue to synergize and interact positively with technological advances. The law exists to ensure the optimization of the potential of the technology while mitigating the negative risks of using the technology.

Bank Indonesia prohibits the use of cryptocurrencies as a means of payment that challenges rupiah currency. Through Bank Indonesia Regulation No. 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing, Bank Indonesia

urges the public that virtual currencies including bitcoin are not recognized as legal tender, so they are prohibited from being used in Indonesia so that the public is asked to be - of cryptocurrencies because all risks associated with its use are borne by yourself.

Cryptocurrency that is allowed to be used in Indonesia is as a crypto asset. Cryptocurrency as a crypto asset is the subject of commodity futures trading whose mechanism is carried out with an agreement and its activities are supervised by the Commodity Futures Trading Supervisory Agency (BAPPEBTI). On October 2, 2018, the Ministry of Trade of the Republic of Indonesia recognized cryptocurrency as a commodity that can be used as the subject of futures contracts traded on futures exchanges, through Permendag No. 99 of 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading. The regulation is then explained again in the Regulation of the Commodity Futures Trading Supervisory Agency Number 8 of 2021 concerning Guidelines for the Implementation of Physical Market Trading of Crypto Assets (Crypto Assets) on the Futures Exchange.

According to Article 1 paragraph (7) of Bappebti Regulation Number 8 of 2021 concerning Guidelines for The Implementation of Physical Market Trading of Crypto Assets (Crypto Assets) on the Futures Exchange, the definition of crypto assets is: "Crypto Assets hereinafter referred to as Crypto Assets are intangible commodities that are digital in shape, using cryptography, technology information networks, and distributed ledgers, to organize the creation of new units, verify transactions, and secure transactions without the intervention of other parties."

The presence of cryptocurrencies that oppose the existence of constitutional institutions that are the center of transactions is one of the considerations in formulating policies to regulate this. Regulations made by the government should not limit or hinder the growth of cryptocurrencies in Indonesia. The regulations should focus on creating standards that are in accordance with the principles of forming good regulations in order to support the cryptocurrency-related industry to grow stably and well

The opportunities and potentials for the use of cryptocurrencies in Indonesia are very wide open. The opportunity for the development of cryptocurrencies is based on the advantages offered such as ease of access, security, and financial inclusion that can help equalize access to quality formal financial services in a timely, smooth, and safe manner at affordable costs in accordance with the needs and capabilities in order to improve people's welfare. The use of cryptocurrency is generally divided into two, namely as an asset and a means of payment. The use of cryptocurrencies allowed under regulations in Indonesia is as a commodity asset supervised by the Commodity Futures Trading Supervisory Agency (Bappebti). In order to encourage the positive growth of cryptocurrencies in Indonesia, the government as a regulator must ensure the realization of a safe, structured, and stable cryptocurrency entity.

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Hans Christoper Krisnawangsa, dkk, Urgensi Pengaturan Undang-Undang Pasar Fisik Aset Kripto (*Crypto Asset*), *Dialogia Iuridica*, Jurnal Hukum Bisnis dan Investasi, Vol. 1, No. 1, E-ISSN: 2614-1280 P-ISSN 2622-4771

2021.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945

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