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Cryptocurrency Series: DEVELOPMENT OF CRYPTOCURRENCY RULES IN INDONESIA



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Development of Cryptocurrency Rules in Indonesia


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Crypto assets can be broadly defined as digital units of account that use cryptographic techniques to regulate the generation and distribution of units on a blockchain.¹ Crypto assets are developments in the business world that have attracted global attention, including Indonesia. As a result, regulations related to Crypto Asset trading transactions have begun to be regulated and reformed in Indonesia. Of course, this is to provide certainty to all parties involved in this transaction, especially for

Crypto Asset buyers. Crypto assets include, among other cryptocurrencies, security tokens, and various other virtual commodities.

1. *Cryptocurrency as an Instrument of Payment*

Cryptocurrency is not a legal instrument of payment in Indonesia. As regulated under Article 1 paragraph 2 of Law No. 7 of 2011 on Currency, the legitimate instrument of payment is the currency issued by the Republic of Indonesia, the Indonesian Rupiah both conventional and in the form of digital money.

Bank Indonesia emphasizes the prohibition of cryptocurrency as a means of payment through Article 34 letter a of Bank Indonesia Regulation No. 18 of 2016 on the Implementation of Payment Transaction Processing ("PBI 18/2016"), which states that Bank Indonesia prohibits payment system service providers from processing payment transactions using virtual currencies. Based on the elucidation of Article 34 letter a of PBI 18/2016, virtual currency is defined as digital money issued by a party other than the monetary authority obtained by

¹ KPMG, "Institutional of Crypto Assets", November, 2018.

mining, purchasing, or rewards, which includes Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple and Ven.

2. *Cryptocurrency as Investment Commodity*

The implementation of Crypto Asset Trading is regulated by the Commodity Futures Trading Regulatory Agency (*Badan Pengawas Perdagangan Berjangka Komoditi* or “**Bappebti**”) through several regulations, such as:

- a. Bappebti Regulation No. 5 of 2019 on Technical Framework for the Implementation of the Physical Market for Crypto Assets on the Futures Exchange, which has been amended several times and was finally revoked;
- b. Bappebti Regulation No. 3 of 2019 on Commodities That Can Be Subjected to Futures Contracts, Sharia Derivative Contracts, and/or Other Derivative Contracts Traded on Futures Exchanges (“**PB 3/2019**”);
- c. Bappebti Regulation No. 8 of 2021 on Guidelines for the Implementation of Physical Trading of Crypto Assets on the Futures Exchange (“**PB 8/2021**”).

According to Article 1 point 7 of PB 8/2021, Crypto Assets is defined as an intangible commodity in digital form, using cryptography, information technology networks, and distributed ledgers to regulate the creation of new units, verify transactions, and secure transactions without interference from other parties (“**Crypto Assets**”).

Crypto assets as a commodity, which can be used as a subject of futures contracts and traded on the Futures Exchange, are regulated in Article 1 letter f PB 3/2019 that Crypto Assets (crypto assets), which are categorized as commodities in the field of digital assets.

3. *Parties in Crypto Asset Trading*

The implementation of Crypto Asset trading transactions in Indonesia consists of, among others:

- a. Futures Exchange.

Futures Exchange is a business entity that organizes and provides systems and/or facilities for commodity trading activities based on futures contracts, sharia derivative contracts, and/or other derivative contracts.

b. Futures Clearing and Guarantee Institution (“Futures Clearing House”).

Futures Clearing House is a business entity that organizes and provides systems and/or facilities for clearing and guaranteeing the settlement of futures trading transactions.

c. Physical Crypto Asset Trader (“Crypto Asset Trader”).

Crypto Asset Trader is a party that has obtained approval from the Head of Bappebti to carry out transaction activities related to Crypto Assets either on its own behalf and/or facilitate Crypto Asset Customers.

d. Crypto Asset Customer.

Crypto Asset Customer is a party that uses the services of a Crypto Asset Trader to buy or sell Crypto Assets traded in the Crypto Asset Market.

e. Crypto Asset Storage Manager (“Crypto Asset Storage Manager”).

Crypto Asset Storage Manager is a party that has obtained approval from the Head of Bappebti to manage the Crypto Assets repository in the context of storing, maintaining, monitoring, and/or delivering Crypto Assets.

f. Physical Crypto Asset Market on the Futures Exchange (“Crypto Asset Market”).

Crypto Asset Market is a physical Crypto Assets market held using electronic means owned by Crypto Asset Traders for the sale or purchase of Crypto Assets whose market supervision is carried out by the Futures Exchange.

In short, each of these parties must fulfil several requirements set out under PB 8/2021. These requirements include:

- a. Minimum paid-up capital;
- b. Minimum level of equity;
- c. Number of certified workers;
- d. Specific system and/or online trading facilities function and/or features; and
- e. Other special requirements which apply to each party.

4. *Tradeable Crypto Assets*

Tradable Crypto Assets must meet, among others, the following characteristics:

- a. based on distributed ledger technology;
- b. in the form of utility crypto assets or crypto backed assets; and
- c. has obtained valuation based on assessment using the Analytical Hierarchy Process (“AHP”) method determined by Bappebti.

The results of the AHP assessment as mentioned above must determine the following criteriums:

- a. Crypto Asset market capitalization value (coin market cap);
- b. Is transacted on the world's largest Crypto Asset exchanges;
- c. have economic benefits related to taxation, digital economic growth, impact to the information technology industry and the competence of experts in the field of informatics (digital talent); and
- d. undergone risk assessment, including the risk of money laundering and terrorism financing as well as the proliferation of weapons of mass destruction.

As of the date of the issuance of this Legal Talks article, there are 229 (two hundred and twenty nine) Crypto Assets that Crypto Asset Traders can trade in Indonesia. This matter has been determined based on Bappebti Regulation Number 7 of 2020 on the Determination of The List of Tradeable Crypto Assets on the Physical Crypto Asset Market.

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