ASEAN Journal of
Social and Humanities
https://ajosh.org/

Regulatory Shifts and Legal Certainty in Cryptocurrency Trading: Towards an Integrated Supervision Model in Indonesia

Jundri R. Berutu, Yuhelson, Dedy Ardian Prasetyo
Universitas Jayabaya, Indonesia
Email: jundrib@gmail.com, yuhelson2870@gmail.com, deape.prasetyo@gmail.com

ARTICLE INFO
Keywords:Cryptocurrency Regulation, Legal Certainty, Financial Services Authority, Digital Economy, Emerging Markets, Indonesia, Institutional Reform.

ABSTRACT
The rapid growth of cryptocurrency trading in Indonesia reflects the increasing integration of digital assets into the national economy. Initially classified as tradeable commodities under the supervision of the Commodity Futures Trading Regulatory Agency (*BAPPEBTI*), cryptocurrencies have recently been repositioned within the financial sector's regulatory framework, following the enactment of Law No. 4 of 2023 on Financial Sector Development and Strengthening (*UU PPSK*). This study analyzes the legal and institutional implications of shifting supervisory authority to Indonesia's Financial Services Authority (*OJK*) and examines the regulatory challenges in ensuring legal certainty within this evolving digital asset landscape. Using a normative legal research method with statutory, conceptual, and comparative approaches, the findings reveal that Indonesia's regulatory landscape remains fragmented and transitional. The absence of a unified and substantive legal framework, combined with institutional overlap and limited technological oversight capacity, undermines investor protection and market integrity. This paper recommends the formulation of a dedicated cryptocurrency law, the adoption of digital supervision mechanisms, and strengthened inter-agency coordination to build a coherent and future-proof legal regime. The novelty of this research lies in its critical examination of Indonesia's regulatory transition and its proposal for a unified digital asset governance model. The study contributes to the growing body of scholarship on digital financial regulation in emerging markets and offers practical guidance for policymakers navigating the complexities of crypto-asset supervision.

INTRODUCTION

The development of digital technology has brought about major transformations in various sectors of life, especially in the economic and financial fields (Stuart O'Neill et al., 2022). Digitalization has driven a significant shift in the way people conduct transactions, from conventional systems to high-tech-based electronic systems (Peneder, 2022). One of the most prominent innovations in the last decade is the presence of *crypto assets* (*cryptocurrencies*), which are forms of digital currencies that use *blockchain* technology to guarantee the security and transparency of transactions without the involvement of third parties (Ahamad et al., 2022; Irma et al., 2021; Pilkington, 2016). *Crypto assets* have become a global phenomenon and open up promising new investment opportunities for people in various countries, including Indonesia (Huda & Hambali, 2020; Irma et al., 2021).

In Indonesia, the growth of *crypto asset* transactions is very significant. *OJK* data notes that by the end of 2024, there are more than 22 million *crypto asset* investors with a transaction value of Rp 650.6 trillion. This fact shows the high public interest in *crypto assets* as an alternative investment instrument (Disemadi & Delvin, 2021; Wardoyo & Hapsari, 2023). However, in the midst of these rapid developments, there is still legal uncertainty regarding the status of *crypto assets*, both in terms of their legal classification (whether as a currency, commodity, or digital financial asset) and which institutions are authorized to regulate and supervise it (Chang, 2019). The shift in supervision from the *Commodity Futures Trading Supervisory Agency* (*BAPPEBTI*) to the *Financial Services Authority* (*OJK*) based on Law No. 4 of 2023 has created new ambiguity among the public and market participants regarding the sustainability of consistent regulations.

This ambiguity has serious implications for legal certainty. In the context of investment and trade, legal certainty is essential to create market trust, protect investors, and ensure the continuity of digital economic activities (Davis et al., 2017; Wibowo et al., 2024). However, until now, there has been no single regulation that comprehensively regulates *crypto asset* trading in Indonesia. Existing regulations tend to be sectoral and fragmentary and have not been able to respond to fast-moving technological challenges. In addition, the difference in approach between the financial sector and the trading sector towards *crypto* exacerbates the legal uncertainty felt by the public.

The research gap lies in the lack of studies that analyze in depth the problem of institutional dualism and regulatory disharmony on *crypto assets*, especially from the perspective of legal certainty as a fundamental principle in the national legal system. Previous research has focused more on the technical aspects of *crypto* use or potential crime, but not much has normatively highlighted how the supervision and regulation of *crypto asset* trading should be directed to ensure legal certainty in Indonesia.

Based on these conditions, this study aims to analyze the existence and development of the regulation and implementation of supervision of *crypto asset* trading in Indonesia, and to find strategic solutions to realize legal certainty through strengthening the supervision and regulation system of *crypto assets* that are adaptive to technological developments and responsive to the needs of the public and market participants. This research is expected not only to contribute to the development of legal science, especially in the field of digital economy law, but also to provide practical recommendations for policymakers in formulating a consistent direction for regulating *crypto assets* and ensuring legal certainty.

METHOD

This study adopted a normative-conceptual approach to address legal regulation, institutions, and the principle of legal certainty in the supervision and trading of crypto assets in Indonesia. The approach included three main aspects: statute, conceptual, and comparative. The statute approach examined relevant laws and regulations to understand the legal position of crypto assets. The conceptual approach analyzed legal concepts such as legal certainty and supervision, while the comparative approach compared Indonesia's regulations with those of more advanced countries to identify best practices.

The study utilized secondary data comprising primary, secondary, and tertiary legal materials. Primary materials included laws, supervisory decisions, and technical regulations from *BAPPEBTI* and *OJK*. Secondary materials consisted of legal literature, journals, dissertations, and academic opinions, while tertiary materials included legal dictionaries, indexes, and statistical data from related agencies. Data collection was conducted through library research by accessing and analyzing relevant legal and academic documents.

Data analysis was qualitative, employing deductive reasoning from legal theories and normative principles to practical cases of crypto asset supervision in Indonesia. The method aimed to produce a comprehensive and objective analysis to guide the design of supervision and regulation systems that ensure legal certainty, protect investors, and support sustainable growth in the digital economy sector.

RESULTS AND DISCUSSION

The Existence of Crypto Asset Trading and the Regulation of Its Supervision in Indonesia

Crypto asset trading in Indonesia is part of a global phenomenon characterized by the emergence of non-conventional forms of digital assets. (Nitha & Westra, 2020; Rahardja, 2023) The openness of the digital market, ease of access to technology, and increasing public interest in alternative investments have made crypto assets one of the main choices in investment portfolios. However, these developments have taken place faster than the adaptation of accompanying regulations.

The existence of crypto assets was initially responded to by the government through a prudent approach. Through BAPPEBTI, crypto assets are regulated in the framework of commodity futures trading, not as a means of payment. (Rohman, 2021) This is based on the consideration that the value of crypto assets is highly volatile and has the potential to pose systemic risks if it is put into the monetary system. Supervision by BAPPEBTI is carried out by determining the types of assets that are allowed to be traded, determining exchange operators, and drafting technical regulations regarding the governance of crypto asset trading. However, in practice, this approach is limited to administrative aspects and does not include in-depth supervision of transactions, investor protection, and legal risk mitigation.

The change of supervisory regime from BAPPEBTI to OJK based on the 2023 PPSK Law is an important event that represents a paradigm shift in crypto asset management. This shift marks a recognition that crypto assets have become part of the national digital financial system, which requires a more comprehensive oversight approach. However, this transition raises a number of problems because there is no derivative legal framework that regulates the technical details of the implementation of supervision by the OJK. This results in a legal vacuum in the short term, which opens up space for gray areas in the national crypto asset market.

In addition, empirical data show that an increase in the number of investors is not followed by an adequate increase in legal and digital literacy. Many people are tempted by the lure of high profits from investing in crypto assets without understanding the regulations, risks, or legal rights. This condition shows weaknesses in the aspects of preventive and educational supervision, which should be an integral part of the legal policy of digital asset trading.

In a theoretical context, this issue confirms the importance of a systemic approach in law. According to Lawrence Friedman, the success of the legal system is determined by three main components: the structure of the law (institutions), the substance of the law (rules), and the culture of the law (public understanding). (Ansori, 2018) In this case, it appears that the unstable legal structure and substance have had an impact on the weak legal culture of society in dealing with crypto asset trading. Therefore, future regulatory and supervision efforts must be directed at strengthening the three simultaneously.

Efforts to Realize Legal Certainty Related to Supervision of Crypto Asset Trade in Indonesia

Legal certainty is an absolute requirement for the sustainability and credibility of a trading system, especially in high-risk sectors such as crypto assets. In law, certainty provides a sense of security and predictability to all parties involved in legal relations. Without certainty, the transactions carried out can cause distrust in the legal system itself, and have the potential to cause economic and social losses.

In the midst of the development of crypto assets as a new entity in the financial market, a partial and sectoral regulatory approach is no longer adequate. Indonesia needs to accelerate the drafting of a comprehensive legal framework, not only in the form of technical regulations, but also in the form of specific laws on crypto assets. This law must answer current and future legal needs, including aspects of technology-based supervision, digital law enforcement, and legal protection for consumers.

Not only that, the regulations made must also ensure consistency and vertical-horizontal harmonization. Vertical harmonization refers to the conformity between technical regulations and parent regulations (e.g. synchronization between the PPSK Law and OJK Regulations), while horizontal harmonization refers to coordination between institutions (e.g. OJK, BAPPEBTI, BI, and the Ministry of Communication and Informatics). Disharmony between regulations and between institutions has given rise to dualism, even institutional rivalry, which has a negative impact on the effectiveness of supervision.

Efforts to realize legal certainty must also be supported by strengthening the information technology-based supervision system. In the digital age, conventional surveillance is no longer effective. An integrated surveillance system is needed, capable of tracking transactions in real-time, detecting suspicious activity, and analyzing the movement patterns of funds in the blockchain network. This is in line with the concept of modern digital surveillance developed in panopticon theory by Foucault and Bentham, where power is dispersed through invisible but effective surveillance systems. (Hikami, 2022)

On the other hand, it is also important to instill a strong understanding of the law in the community through legal and digital literacy at large. Governments, financial institutions, and crypto asset exchange operators have a shared responsibility to create a digital legal culture that upholds the principles of prudence, transparency, and social responsibility. Without the active participation of the community in obeying the law and recognizing its rights, legal certainty will only become a normative concept with no implementing force.

By strengthening the pillars of legislation, institutions, technology, and community participation, the supervision of crypto assets in Indonesia will be able to transform from a reactive system to a predictive and progressive system. This will not only ensure legal certainty but also strengthen Indonesia's position in the global digital financial ecosystem.

CONCLUSION

This research found that while crypto asset trading in Indonesia has grown rapidly and undergone a regulatory shift from *BAPPEBTI* to the Financial Services Authority (*OJK*) following Law Number 4 of 2023, the transition has not been supported by clear derivative regulations or a robust supervisory infrastructure, leading to legal uncertainty, institutional overlap, and confusion among market participants. Contributing factors include insufficient public legal literacy, weak institutional coordination, and the absence of comprehensive crypto-specific legislation. The study highlights the need for the government to urgently develop detailed regulations, strengthen inter-agency coordination, establish a centralized digital supervision authority, and enhance IT-based oversight and public legal education. Theoretically, this research enriches the understanding of legal frameworks in the digital economy, while practically, it offers guidance for more responsive policy-making. For future research, it is suggested to explore the practical implementation and integration of digital supervision systems within Indonesia’s traditional financial regulatory environment to ensure more effective oversight of crypto assets.

REFERENCES

Ahamad, S., Gupta, P., Bikash Acharjee, P., Padma Kiran, K., Khan, Z., & Faez Hasan, M. (2022). The role of block chain technology and Internet of Things (IoT) to protect financial transactions in crypto currency market. Materials Today: Proceedings, 56. https://doi.org/10.1016/j.matpr.2021.11.405

Ansori, L. (2018). Reformasi Penegakan Hukum Perspektif Hukum Progresif. Jurnal Yuridis, 4(2). https://doi.org/10.35586/.v4i2.244

Chang, S. E. (2019). Legal Status of Cryptocurrency in Indonesia and Legal Analysis of the Business Activities in Terms of Cryptocurrency. Brawijaya Law Journal, 6(1). https://doi.org/10.21776/ub.blj.2019.006.01.06

Davis, K., Maddock, R., & Foo, M. (2017). Catching up with indonesia's fintech industry. Law and Financial Markets Review, 11(1). https://doi.org/10.1080/17521440.2017.1336398

Disemadi, H. S. (2022). Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies. Journal of Judicial Review, 24(2). https://doi.org/10.37253/jjr.v24i2.7280

Disemadi, H. S., & Delvin, D. (2021). Kajian Praktik Money Laundering dan Tax Avoidance dalam Transaksi Cryptocurrency di Indonesia. NUSANTARA : Jurnal Ilmu Pengetahuan Sosial, 8(3).

Hikami, I. (2022). Dilema Undang-Undang Informasi dan Transaksi Elektronik dalam Praktik Jurnalisme: Tinjauan dari Teori Panoptikon. Jurnal Studi Jurnalistik, 4(1). https://doi.org/10.15408/jsj.v4i1.25846

Huda, N., & Hambali, R. (2020). Risiko dan Tingkat Keuntungan Investasi Cryptocurrency. Jurnal Manajeen Dan Binis: Performa, 17(1).

Irma, D., Maemunah, S., Zuhri, S., & Juhandi, N. (2021). The future of cryptocurrency legality in Indonesia. Journal of Economics and Business Letters, 1(1). https://doi.org/10.55942/jebl.v1i1.87

Nitha, D. A. F., & Westra, I. K. (2020). Investasi Cryptocurrency Berdasarkan Peraturan Bappebti No. 5 Tahun 2019. Jurnal Magister Hukum Udayana (Udayana Master Law Journal), 9(4). https://doi.org/10.24843/jmhu.2020.v09.i04.p04

Peneder, M. (2022). Digitization and the evolution of money as a social technology of account. Journal of Evolutionary Economics, 32(1). https://doi.org/10.1007/s00191-021-00729-4

Pilkington, M. (2016). Blockchain technology: Principles and applications. In Research Handbook on Digital Transformations. https://doi.org/10.4337/9781784717766.00019

Rahardja, U. (2023). The Economic Impact of Cryptocurrencies in Indonesia. ADI Journal on Recent Innovation (AJRI), 4(2). https://doi.org/10.34306/ajri.v4i2.869

Rohman, M. N. (2021). Tinjauan Yuridis Normatif Terhadap Regulasi Mata Uang Kripto (Crypto Currency) di Indonesia. Jurnal Supremasi. https://doi.org/10.35457/supremasi.v11i2.1284

Satrio Ronggo Buwono, Abubakar, L., & Handayani, T. (2022). Kesiapan Perbankan Menuju Transformasi Digital Pasca Pandemi Covid-19 Melalui Financial Technology (FINTECH). Jurnal Poros Hukum Padjadjaran, 3(2). https://doi.org/10.23920/jphp.v3i2.764

Sonata, D. L. (2014). Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum. Fiat Justisia, 8(1), 15–35. https://doi.org/10.25041/fiatjustisia.v8no1.283

Tan, D. (2021). Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum. Nusantara: Jurnal Ilmu Pengetahuan Sosial, 8(2).

Wardoyo, Y. P., & Hapsari, D. R. I. (2023). Cryptocurrency Assets as Physical Collateral in Indonesia. Legality: Jurnal Ilmiah Hukum, 31(1). https://doi.org/10.22219/ljih.v31i1.24190

Wibowo, A., Alawiyah, W., & Azriadi. (2024). The importance of personal data protection in Indonesia's economic development. Cogent Social Sciences, 10(1). https://doi.org/10.1080/23311886.2024.2306751

Title

Yanova, M. hendri, Komarudin, P., & Hadi, H. (2023). Metode Penelitian Hukum: Analisis Problematika Hukum Dengan Metode Penelitian Normatif Dan Empiris. Badamai Law Journal Magister Hukum Universitas Lambung Mangkurat, 8(2)

.