

CHAPTER I

INTRODUCTION

1.1 Background

Cryptocurrency, is a currency that exists only in the digital world that is designed to work as an exchange that uses a highly sophisticated security to securely conduct financial transactions, control the process of creating additional units, and verify asset transfers. To simplify it, cryptocurrency is a digital money that is protected by a secret code and is used to transact peer-to-peer in the internet network. In accordance with the Regulation of the Minister of Trade Number 99 of 2018, it is stated that cryptocurrency and crypto assets are only designated as a commodity that can be used a Futures Contract Subjects that are traded on the Futures Exchange. Investing and trading in the cryptocurrency market has its positives, it embodies the principles of good governance to obtain transparent prices, and it facilitates innovation, growth, and the development of business activities trading in the physical market of crypto assets.¹

In the Indonesian landscape, attention towards cryptocurrencies surged particularly following the global financial instability around 2020, exacerbated by the economic repercussions of the COVID-19 pandemic.² This period witnessed an exponential rise in the adoption of digital financial services, including cryptocurrencies, as Indonesians sought alternative investment

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<https://www.oswego.edu/cts/basics-about-cryptocurrency#:~:text=A%20cryptocurrency%20is%20a%20digital,a s%20a%20virtual%20accounting%20system.>

² <https://www.kemendag.go.id/berita/siaran-pers/wamendag-jumlah-pedagang-aset-kripto-akan-terus-bertambah>

avenues and means of transaction.³ This growth was further propelled by the country's tech-savvy population, particularly among the younger demographic, who perceived cryptocurrencies as innovative tools for diversifying their financial portfolios. However, this burgeoning interest contrasts sharply with Indonesia's regulatory landscape. As per the **Regulation of the Minister of Trade Number 99 of 2018**, cryptocurrencies are not recognized as legal tender but are categorized as commodities, which can only be traded on Futures Exchanges under stringent regulations.⁴ The primary reason for this regulatory stance is rooted in macroeconomic concerns, such as the preservation of the nation's monetary sovereignty and the potential for volatility in the economy due to the unpredictable nature of cryptocurrencies

This classification aligns with the cautious approach taken by the Indonesian government and regulatory bodies like Bank Indonesia (BI) and the Financial Services Authority (Otoritas Jasa Keuangan, OJK). These institutions have expressed apprehensions over the decentralized nature of cryptocurrencies, their susceptibility to fraud, and the potential for their use in illicit activities, including money laundering and terrorist financing.

Bank Indonesia has been particularly active in ensuring that cryptocurrencies do not undermine the stability of the Indonesian Rupiah. This proactive role aligns with findings by the Asian Development Bank (ADB), emphasizing that central banks in developing economies often take a conservative stance

³ <https://www.kemendag.go.id/berita/siaran-pers/wamendag-jumlah-pedagang-aset-kripto-akan-terus-bertambah>

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<https://jdih.kemendag.go.id/peraturan/peraturan-menteri-perdagangan-nomor-99-tahun-2018-tentang-kebijakan-umum-penyelenggaraan-perdagangan-berjangka-aset-kripto-crypto-asset>

towards digital currencies to protect their currencies' stability. Despite the regulatory restrictions, the Indonesian cryptocurrency market continues to evolve. Local exchanges such as **Indodax** and **Tokocrypto** have seen significant growth in usership, providing a platform for trading and storing digital assets. These exchanges must comply with the Commodity Futures Trading Regulatory Agency (BAPPEBTI), which requires strict anti-money laundering (AML) and know-your-customer (KYC) protocols to ensure market integrity and consumer protection. The **Commodity Futures Trading Regulatory Agency (BAPPEBTI)** plays a central role in the regulation of cryptocurrency exchanges and their operations, aiming to create a secure and transparent environment for trading. The agency issues licenses, monitors compliance, and sets standards for trading processes, which includes the physical delivery of crypto assets.

The physical market of cryptocurrency and crypto assets is a market where these crypto are held using electronic devices that is personally owned by traders for transactions of buying or selling which the Futures Exchange has supervision. The first cryptocurrency to exist is named “Bitcoin”, that was created by an anonymous person or a group called Satoshi Nakamoto in 2009. The reason behind the creation of the currency was that Satoshi Nakamoto was concerned that traditional currencies such as Rupiah or the Dollar were relying so much on the trustworthiness of banks or the government to work properly, following the 2008 financial crisis. Transactions using Bitcoin works like a digital signature would work. When an individual wants to transfer their Bitcoin to someone else, they will be required to use their public key, which is

similar to what a website addresses are. After finding out the public key of the receiver, the sender of the Bitcoin would need to sign the transaction using their public key, which acts as a digital signature that proves that the sender authorized the transaction with their consent. To prevent any double-spending from happening, Satoshi Nakamoto designed transactions using Bitcoin through a technology called blockchain. This is a public ledger that records every transaction that's happening in the cryptocurrency world. While the ledger can be seen by the general public, they can't see the real identity of the sender and the receiver of the coin which makes transactions using Bitcoins very secure and private, unlike conventional banks transactions.⁵

The state of cryptocurrency in Indonesia is marked by both growth and regulatory caution. In recent years, notably after the COVID-19 pandemic, Indonesia has seen a surge of interest and adoption of cryptocurrencies such as Bitcoin, Ethereum, NFTs and other digital assets. With a large amount of tech-savvy population and an increasing demand for digital financial services, the cryptocurrency market in Indonesia has been thriving.⁶ Local crypto trading platforms such as Indodax and Tokocrypto have grown significantly in users, allowing Indonesians to trade, invest, and store their digital assets securely. Additionally, younger generations such as Gen-Z and Millennials view cryptocurrencies as an promising type of investment and a way to diversify their portfolios outside of conventional assets such as stocks or bonds. However, the regulatory environment in Indonesia that concerns cryptocurrency remains restrictive. The Indonesian government, particularly

⁵[https://www.mdpi.com/1911-8074/17/4/134#:~:text=Bitcoin%20emerged%20as%20a%20digital,Nakamoto%20\(Nakamoto%202009\).](https://www.mdpi.com/1911-8074/17/4/134#:~:text=Bitcoin%20emerged%20as%20a%20digital,Nakamoto%20(Nakamoto%202009).)

⁶ <https://sumsub.com/blog/crypto-regulations-indonesia/>

Bank Indonesia and OJK (Financial Services Authority) have stated their concerns about the volatility, decentralized nature, and the potential criminal risks that comes from investing in cryptocurrency. Indonesia's regulatory framework for digital assets such as cryptocurrencies places a strong value on consumer protection and market integrity. For local crypto exchanges, they must be registered with the Commodity Futures Trading Regulatory Agency (BAPPEBTI) in order to be legally operate in Indonesian soil. BAPPEBTI's role is to supervise these local exchanges and ensure that they operate accordingly to strict anti-money laundering and know-your-customer protocols.⁷ They aim to minimize the risk of any fraud, hacking, and illegal financial activities from happening and ensure that the cryptocurrency market operates in a secure and transparent manner. Despite the restrictions and heavy regulations that are imposed in the cryptocurrency market, Indonesians interest in cryptocurrency continues to grow, with an increasing number of participants including traders, investors, and even conglomerates. The Indonesian government, although they are cautious, seems to be open about the idea of blockchain technology, which current Vice President Gibran Rakabuming Raka discusses in their Presidential Election Debate in 2024.⁸

This thesis seeks to explore these questions in depth, providing insights into the current legal landscape of cryptocurrency in Indonesia, the reasonings behind Indonesia's regulatory stance, and outlining potential improvements that could foster a more balanced and progressive environment for

⁷ https://bappebti.go.id/resources/docs/siaran_pers_2023_10_05_texhjh1_id.pdf

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<https://www.cnbcindonesia.com/news/20231222194040-4-499730/gibran-ajak-anak-muda-ahli-kripto-bangun-hilirisasi-digital>

cryptocurrency transactions and investments. By doing so, it aims to contribute to a better understanding of cryptocurrencies' role in Indonesia's legal system, offering recommendations for regulatory enhancements that could benefit consumers, investors, and the economy at large. The author hopes to provide this thesis with a comprehensive background, addressing the formulation issues by exploring the regulatory environment, the reasoning behind why cryptocurrencies are classified as commodities, and the implications for the market and its participants. The narrative is designed to engage readers by presenting a balanced view of the potential benefits and challenges associated with cryptocurrencies in Indonesia.

1.2 Formulation of Issues

In regards to the topic of this thesis, the Author will discuss the following formulation issues in this paper:

1. Why is cryptocurrency in Indonesia only recognized as a commodity.
2. What are the laws that govern cryptocurrency transactions in Indonesia and how can the laws be improved?
3. What are the protections that crypto investors have if there happens to be a crime such as fraud or others happening in the cryptocurrency market?

1.3 Research Purposes

The Author's purpose of writing this thesis is the author aims to write a thesis on the legal protection of cryptocurrency investors in Indonesia due to the rapidly evolving landscape of digital currencies and the accompanying risks faced by its investors. As cryptocurrency gains popularity, particularly in Indonesia, where many individuals are drawn to the potential for life-changing profits, there is a urgent need for clear regulatory frameworks that safeguard investors from fraud and market volatility. The current lack of comprehensive legal regulations leaves investors vulnerable to cybercrimes and fraudulent activities, which can result in significant financial losses for the citizens of Indonesia. By addressing these issues in this thesis, the author seeks to contribute to a better understanding of the legal protections that are available and advocate for stronger regulatory measures that can enhance investor confidence and promote safer trading environments in Indonesia. This research not only aims to fill existing gaps in literature but also aspires to inform the government about the necessity of establishing a robust legal protections that align with the unique challenges that are posed by cryptocurrency investments in Indonesia.

1.4 Research Benefits

1.4.1 Theoretical Benefits

Theoretically, the Author hopes that this research will give an insight of the nature of cryptocurrency that is stated on Minister Regulation No. 99 of 2018 regarding cryptocurrency in Indonesia whether it needs to be amended, improved, or are already perfect the way they are currently according to the law. From the issues that will be provided later on, the

Author hopes that it will find a loophole in the law that needs to be specified to prevent criminal activities from happening in this digital market with a very sophisticated form of security, which can be caused by the seller or the buyer taking advantages of the loophole in the law to cheat on making more money for themselves. All in all, the Author hopes that this research will provide further knowledge on the Indonesian law regarding digital transactions, especially in the field of cryptocurrency, along with the hierarchy and the binding powers of laws and regulations in the Indonesian legal system.

1.4.2 Practical Benefits

Practically, the Author hopes that this research can provide an input for the Indonesian government regarding the benefits of investing and transacting in the cryptocurrency market whether it is for the citizens of Indonesia or the government itself. Because the cryptocurrency market in Indonesia is still not talked about enough and the people are still having doubts on whether the cryptocurrency market is a scam or not. The protection of cryptocurrency investors and holders in Indonesia that is still broad and there may have been some neglected aspects. The author realizes that a clearer wording in the form of law or regulation is needed to prevent any dispute rising from cryptocurrency platforms against their consumers, or a consumer with another consumer transacting using cryptocurrency in the internet network in the future that could arise due to the multi-interpretation that the law may have, particularly regarding the rights and protection that consumers get while transacting digitally in any cryptocurrency platforms or peer-to-peer.

In addition, the author hopes that this research can provide valuable knowledge for the general public, investors, and government officials who directly or indirectly have a relation to cryptocurrency activities in the internet world that had an experience or trying to prevent any disputes that were caused by the loopholes that the Indonesian law has to commit a crime regarding any fraud, data leak, and many more.

Framework of Writing

This thesis will be arranged into five different chapters that will ease the readers to understand the discussion of this thesis. Which will consist of the following:

- **CHAPTER I: INTRODUCTION**

This chapter consists of the introduction regarding the state of legal protection of cryptocurrency investors and holders in Indonesia, the laws that are used to regulate this matter, the research question for this thesis, the purpose of writing this thesis, and what are the benefits that the readers will gain from reading this thesis.

- **CHAPTER II: LITERATURE REVIEW**

This chapter will consist of the laws that are regulated, the loopholes in the laws that are maybe causing the disputes between people transacting or investing in the cryptocurrency market, the legal requirements and others.

- **CHAPTER III: RESEARCH METHODS**

This chapter will consist about the research methods that were used by the Author such as the types of data, the data analysis

technique, and the type of research that were conducted during the process of writing this thesis.

- **CHAPTER IV: RESEARCH RESULT AND ANALYSIS**

This chapter will consist about the analysis and the discussion of the problem regarding the legal of protection of cryptocurrency investors and holders that are transacting using cryptocurrency in cryptocurrency platforms in Indonesia along with the solution or recommendation to the government that will be provided with the author based on the research and opinion that will be specified to what the government can do to solve this matter of the vague laws that regulates cryptocurrency trading and investments.

- **CHAPTER V: CONCLUSION & RECOMMENDATION**

This chapter will consist of the Author's conclusion regarding the research that has been conducted for this thesis such as the major issues, the loopholes in the laws that regulates it, solution to the problem and the also the author suggestion and recommendations towards the government and the binding authorities that could be implemented in the future to prevent future disputes by providing a clearer legal wording and certainty and protection of all.