

TRANSITION OF CRYPTO ASSET SUPERVISION FROM BAPPEBTI TO OJK

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ABSTRAK

keywords:

Indonesia Financial,
Services Authority,
Regulatory Transfer

This article discusses the impact of rapid technological advancements in information and communication on the financial system, particularly the shift from cash-based transactions to non-cash payment methods and the emergence of cryptocurrencies. The increased adoption of digital currencies, such as Bitcoin and Ethereum, highlights the need for a comprehensive regulatory framework to ensure investor protection and financial stability. This study focuses on the role of Indonesia's Financial Services Authority (OJK) in regulating cryptocurrencies, especially following the enactment of Law No. 4 of 2023, which mandates OJK's involvement in overseeing these digital assets. The research utilizes a normative legal approach, leveraging a literature review to gather relevant literature, regulations, and legal frameworks on cryptocurrency management. Key findings reveal the existence of a dual regulatory framework involving both OJK and the Commodity Futures Trading Regulatory Agency (Bappebti), which may lead to potential conflicts and challenges in supervision. This article aims to provide recommendations for regulatory harmonization between OJK and Bappebti to enhance regulatory effectiveness and protect investors in the rapidly evolving cryptocurrency landscape. Through this analysis, the study seeks to contribute to a deeper understanding of the regulatory challenges faced by cryptocurrencies and propose policy solutions that can strengthen OJK's role in this sector.

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INTRODUCTION

Technology is essential for the sustainability of society, including in aspects related to well-being (Gaggioli et al., 2017). The rapid advancement of information and communication technology over time has had a significant impact on various aspects of life, including the financial sector (Okoro et al., 2023). One example of this impact is the shift from cash-based payment methods to cashless transactions (Allam, 2020). The application of cashless payment systems has advanced significantly and has become a common practice in society today (Humbani & Wiese, 2018). This technological development has also driven the emergence of digital currencies, which have been adopted by people in various countries, including Indonesia (Jameaba, 2022). Digital currency, often referred to as cryptocurrency ("crypto"), has had a substantial impact on the digital economy sector (Panova, 2020). This is one of the major innovations emerging from technological advancement (Coccia, 2021). Well-known cryptocurrencies, including Bitcoin, Dogecoin, Ethereum, and many others, offer new alternatives to how we transact and invest (Goleman, 2018). Crypto, often simply called cryptocurrency, does not exist in a physical form; it consists of a series of numeric symbols or formulas and is typically defined as a coin in its usage. Initially introduced as a form of digital money, crypto assets have evolved into a significant asset class with high potential and complex risks (Demertzis & Wolff, 2018). The unregulated and unsupervised use of crypto assets can create opportunities for criminal activities, such as money laundering (Soana, 2024). The growing adoption of technology and investment in crypto underscores the need for stricter oversight to prevent potential misuse. Digital platforms that facilitate crypto asset trading are increasingly used by Indonesians, making comprehensive regulation essential to protect investors and maintain financial system stability (Jovanić, 2020).

The Financial Services Authority ("OJK") plays a vital role in regulating and overseeing all activities within Indonesia's financial sector. As an institution established under Law No. 21 of 2011, OJK is responsible for maintaining financial system stability, protecting consumers, and fostering sustainable growth in the financial services sector. In its operations, OJK holds broad authority to regulate banking, the capital market,

and the non-bank financial industry, as well as rapidly evolving financial digital innovations, including crypto assets. Crypto assets offer a new alternative for transactions and investments, aligning with the public's growing interest in digital assets and their desire to optimize technology in financial activities. In Indonesia, the development of crypto technology has been quite significant in recent years, with public interest in these digital assets steadily increasing. As previously mentioned, crypto assets were initially viewed as a financial technology innovation, offering significant opportunities for investors and market participants. However, under Indonesian law, crypto is recognized as a commodity rather than a financial instrument or means of payment. Consequently, crypto assets are regulated by the Commodity Futures Trading Regulatory Agency ("Bappebti"), which serves as the primary regulator overseeing crypto trading in Indonesia. However, crypto assets are considered to have significant implications for financial stability, leading to Law No. 4 of 2023 ("Law No. 4/2023") mandating OJK as the authority responsible for regulating and overseeing crypto asset regulations.

Although OJK plays a crucial role in maintaining financial stability and overseeing the financial services sector, the enactment of Law No. 4/2023 marks a significant shift in the authority over crypto asset regulation. This law mandates OJK's involvement in regulating crypto assets due to their implications for financial system stability. This has created a potential duality of authority between OJK and Bappebti, with Bappebti regulating crypto as a commodity, while OJK is required to supervise it from a financial and stability perspective. This overlap can lead to regulatory dualism, potentially confusing market participants and investors and threatening the effectiveness of supervision within the financial sector.

In this context, this study aims to explore the role of OJK in regulating and supervising crypto assets in Indonesia and to analyze the challenges faced in carrying out this function. This study will also examine efforts to harmonize regulations between OJK and Bappebti, providing policy recommendations to strengthen OJK's role in addressing current regulatory issues. The key points covered in this study include: first, a review of OJK's role and authority in the context of financial sector supervision, including crypto assets; second, an analysis of the regulatory dualism between OJK and Bappebti concerning crypto assets; and third, recommendations to strengthen the regulatory and supervisory framework of OJK in addressing the challenges posed by crypto asset developments in Indonesia.

RESEARCH METHODS

The research method used is a normative juridical approach (normative legal research method) through library research, which involves collecting literature as the primary source for the study. Normative juridical research is conducted by examining library materials or secondary data. Based on the nature of the chosen research type, the primary references and legal sources used include Law No. 4/2023 and OJK Regulation No. 4 of 2023 concerning the Second Amendment to OJK Regulation No. 23/POJK.04/2016 on Collective Investment Contracts. The secondary legal materials used in this research are drawn from national and international journals, as well as books. The tertiary legal materials to be used include news articles.

RESULTS AND DISCUSSION

Initial Crypto Regulatory Policies at Bappebti

The history of Crypto regulation in Indonesia began with the government's concerns about the negative impacts of cryptocurrency usage, particularly as an unregulated means of payment. At its inception, cryptocurrencies like Bitcoin and other digital assets were seen as a potential threat to the stability of the country's financial system. This concern stemmed from Law No. 7 of 2011 concerning Currency, which explicitly states that the only valid and legal currency in Indonesia is the rupiah, which must be used in (i) every transaction intended as payment; (ii) the settlement of other monetary obligations; and/or (iii) other financial transactions with exceptions for (i) certain transactions in the context of the execution of the state budget; (ii) the receipt or provision of grants from or to foreign countries; (iii) international trade transactions; (iv) deposits in banks in the form of foreign currency; or (v) international financing transactions. This law emphasizes that only rupiah can be used as a means of payment for transactions within Indonesian territory, thereby rendering Crypto ineligible as a legal medium of exchange. In response to technological developments and to maintain public trust in Bank Indonesia, the bank subsequently issued regulations regarding Crypto, namely Bank Indonesia Regulation No. 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing (PBI 18/40/PBI/2016). While this regulation does not provide detailed guidelines on Crypto, one key point emphasized by BI is the official prohibition of the use of cryptocurrency as a means of payment, referring to Crypto assets as virtual currency. This was further reinforced by Bank Indonesia through the issuance of Bank Indonesia Regulation No. 19/12/PBI/2017 concerning the Implementation of Financial Technology (PBI 19/12/PBI/2017) and Bank Indonesia Regulation No. 20/6/PBI/2018 concerning Electronic Money (PBI 20/6/PBI/2018).

However, over time, the government's perspective on Crypto has changed, particularly due to the increasing popularity and use of Crypto assets worldwide, including in Indonesia. Although its use as a means of payment remains prohibited, Crypto has started to be viewed as a commodity with economic value. In 2018, the government began taking initial steps to regulate Crypto as a tradable digital commodity, evidenced by the issuance of Minister of Trade Regulation No. 99 of 2018 ("**Ministerial Regulation No. 99/2018**") concerning General Policies on the Implementation of Crypto Asset Futures Trading. This marked the involvement of Bappebti in directly drafting regulations governing the trading of crypto assets in Indonesia. Ministerial Regulation No. 99/2018 shifted the definition of Crypto from being recognized as digital money (virtual currency) to being recognized as a commodity. Article 1 of Ministerial Regulation No. 99/2018 states that crypto assets can be traded on futures exchanges, which are then technically regulated by Bappebti Regulation No. 5 of 2019 concerning Technical Provisions for the Implementation of Physical Crypto Asset Markets, which provides a legal framework and oversight for the trading of crypto assets in Indonesia. These regulations emphasize that Crypto is recognized as a commodity tradable on futures exchanges, rather than as currency or means of payment. Bappebti regulates various technical aspects related to the trading of crypto assets, including provisions for physical market operators, consumer protection, and oversight of crypto trading activities. With this regulation, crypto assets like Bitcoin, Ethereum, and others are permitted for trading, but remain under strict supervision to prevent misuse and protect investors from unforeseen risks. Subsequently, the government issued Bappebti Regulation No. 8 of 2021 to update and strengthen the previously established provisions, particularly regarding consumer protection and transparency in crypto trading. Furthermore, recent developments in *cryptocurrency* regulation in Indonesia are reflected in Bappebti Regulation No. 13 of 2022, which significantly enhances the legal framework related to the trading of crypto assets. Published on 9 November 2022, this regulation is an amendment to Bappebti Regulation No. 8 of 2021 and aims to provide clearer and more comprehensive guidelines for market participants.

One of the main focuses of this regulation is the establishment of new requirements for physical Crypto asset traders, which includes obligations to implement stricter risk management principles and more intensive monitoring of their trading activities. This regulation reflects the shift in the Indonesian government's stance, which sees cryptocurrencies as commodities, while still prohibiting their use as a means of payment. In this context, Crypto assets are recognized as commodities tradable on futures exchanges, with Bappebti acting as the primary regulator to ensure that trading is conducted transparently and securely. With these new provisions in effect, the government hopes to create a more stable and orderly environment for investors, while also protecting them from any risks that may arise due to the volatility of the crypto market.

Bappebti Regulation No. 13 of 2022 also stipulates that all physical crypto asset traders must meet certain criteria before they are allowed to operate. This includes the obligation to perform Know Your Customer (KYC) checks, where traders must verify the identities of their customers to prevent money laundering and terrorism financing. Additionally, the trading systems used by traders must be ISO-certified to ensure information security and customer data protection. With these measures, the Indonesian government aims not only to regulate crypto asset trading but also to build public trust in the industry. This regulation reflects a deeper understanding of the economic potential of digital assets and the need to oversee and manage the risks associated with such trading.

Transition of Crypto Regulation from Bappebti to OJK

The transition of regulation regarding the oversight of crypto assets from Bappebti to OJK is based on the need to accommodate the rapid development of crypto assets in the financial sector. Initially regarded as digital commodities, crypto assets have evolved into more complex financial instruments. Their usage has expanded from mere trading commodities to becoming investment tools, means of payment, and part of a broader range of financial products.

The latest regulation underpinning this transition is Law No. 4/2023, which mandates that OJK will take over the supervision of crypto assets. Previously, Bappebti was responsible for overseeing crypto assets as they were viewed as digital commodities traded on futures exchanges. However, as the usage of these assets diversified, the aim shifted from merely monitoring them from a trading perspective to also considering their integration with the broader financial sector, including capital markets and banking. Thus, supervision by OJK is deemed more appropriate.

With OJK's oversight, which has a broader mandate for supervising the financial sector—including products related to investment, banking, and capital markets—crypto assets can be regulated in a more comprehensive context that encompasses risk management, transparency, and compliance with applicable financial standards. This integration allows crypto assets to align with traditional financial products, such as mutual funds, stocks, or bonds, thereby supporting the development of a more inclusive and innovative financial ecosystem. Furthermore, this transition is expected to enhance public trust in crypto assets, as their oversight falls under an established agency known for managing the financial sector and consumer protection comprehensively.

However, during this transition period, OJK will not immediately assume full oversight and responsibility. There will be a transitional phase until January 2025, during which Bappebti and OJK will collaborate to ensure that oversight remains effective. Bappebti will continue to mitigate risks and strengthen regulations, while OJK prepares to take over by adjusting existing policies. This collaboration also includes training and outreach to stakeholders to enhance understanding of the new regulations and maintain market integrity. Thus, the synergy between these two institutions is expected to create a safer and more organized ecosystem for Crypto trading in Indonesia.

It can be said that the collaboration between Bappebti and OJK is crucial to ensure the sustainability of Crypto oversight in Indonesia. As an initial step, both institutions have drafted a comprehensive transition plan. Hasan Fawzi, the Executive Head of the Financial Technology Sector Innovation Supervisor, Digital Financial Assets, and Crypto Assets at OJK, stated that they would adopt all regulations that have been in effect at Bappebti, including licensing, oversight, and reporting mechanisms. This aims to create continuity in regulations and avoid confusion among industry players and investors.

The New Policy Approach of OJK in Integrating Crypto into the Financial Market

The OJK has taken significant steps to integrate cryptocurrencies into the national financial market system. To ensure a smooth transition, OJK has drafted the Financial Services Authority Regulation (RPOJK), which adopts all the rules and policies previously implemented by Bappebti. This effort is supported by the Draft Government Regulation ("RPP"), which ensures that all licensing, approval, and registration of Crypto products issued by Bappebti remain valid as long as they do not contradict existing regulations.

Despite the new policies from OJK, the primary focus in integrating cryptocurrencies into Indonesia's financial market is to create adaptive and inclusive regulations. This step aligns with OJK's efforts to build a regulatory framework that allows cryptocurrencies to become part of the financial market while prioritizing security and consumer protection. Currently, the RPP is designed as part of the transitional period for the oversight of cryptocurrencies and derivative trading to OJK. This oversight includes traders who have already obtained licenses from Bappebti, as well as parties engaging in activities similar to commodity futures trading (PDK). On the other hand, Bappebti continues to work towards making Indonesia a member of the Financial Action Task Force ("FATF"), an international organization focused on combating money laundering. OJK will also adopt international standards related to Crypto regulation, including recommendations from the FATF and other financial organizations, to ensure transparency, prevent money laundering, and implement more comprehensive risk management.

To implement the regulatory transition, OJK has developed a plan for the transition of Crypto oversight from Bappebti, which is split into three main phases, including:

- a. **Soft Landing Phase:** This phase aims to ensure that Crypto trading operations run smoothly with minimal disruptions. The primary goal is to provide legal certainty and continuity for Crypto market trading activities.
- b. **Initial Reinforcement Phase:** In this phase, OJK will carry out a series of initial reinforcements. This includes improving the functions and responsibilities of trading organizers, as well as strengthening governance and consumer protection aspects. As a result, the organizational structure and operational procedures will become stronger and more flexible.
- c. **Continuous Development and Reinforcement Phase:** The third phase aims to continuously develop and reinforce the infrastructure for Crypto oversight. OJK will continue to evaluate and revise regulations to ensure adaptability to dynamic market conditions. Additionally, OJK will enhance coordination with Bappebti and the Ministry of Finance to ensure consistency and effectiveness in policy implementation.

The new policy approach by OJK to integrate Crypto into the financial market is predicted to enhance market stability and transparency, while providing better legal certainty for investors and industry players. This integration is also expected to boost the national economic potential in a more organized and regulated manner. OJK's regulations regarding the development of the Crypto ecosystem in Indonesia are expected to bring significant positive changes, such as: (i) Increased Public and Investor Confidence. Clearer regulations will provide a sense of security and protection to investors, both individual and institutional, ensuring that Crypto activities are monitored well and protected by legal mechanisms. This could attract greater participation from both local and foreign investors, thereby expanding the user base of Crypto assets. (ii) consumer protection; and (iii) encouraging innovation in the Crypto industry.

Overall, OJK's regulation of Crypto is expected to positively impact the Crypto ecosystem in Indonesia by creating a safer, more orderly environment integrated with traditional financial sectors. However, it is important to note that overly strict regulations could potentially hinder innovation if not well balanced. Despite the challenges that industry players may face, improved coordination between OJK, the Ministry of Finance, and other relevant institutions is crucial for creating a healthy and transparent investment environment.

Evaluation of the Dualism in Crypto Regulation in Indonesia

The dualism of Crypto regulation in Indonesia presents complex challenges in the governance of digital assets, particularly regarding the roles of OJK and Bappebti. OJK is responsible for overseeing and

regulating the capital market, including Crypto assets falling into the category of investment products, while Bappebti supervises the trading of cryptocurrencies treated as commodities. The ambiguity regarding the legal status of cryptocurrencies between these two agencies often leads to confusion among market participants, who must comply with regulations from both authorities. On one hand, OJK has the mandate to protect investors through the implementation of principles of transparency, reporting obligations, as well as anti-money laundering and counter-terrorism financing obligations. However, OJK faces significant challenges in fulfilling this function, including limitations in human resources and technology for effective oversight, as well as the emergence of fraud cases that undermine public trust in digital assets.

Harmonizing regulations between OJK and Bappebti becomes essential to address these challenges and create a clear legal framework for the Crypto industry. One step that can be taken is the establishment of a coordination team involving both agencies, ensuring that the resulting regulations are more comprehensive and complementary to each other. In addition, joint regulations governing aspects of investment, trading, and consumer protection in the Crypto industry need to be developed to provide clarity for industry participants. Education and outreach should also be a primary focus to enhance the understanding of the public and industry players regarding applicable regulations and best practices in Crypto investment.

To strengthen OJK's role in addressing current regulatory issues, several policy recommendations should be considered. First, enhancing the capacity of human resources and technology at OJK is crucial to support the dynamic oversight of the Crypto market. Second, developing a regulatory framework that is flexible and responsive to rapid changes in the Crypto industry can help OJK tackle emerging challenges. Lastly, OJK needs to establish international collaborations with regulatory bodies from other countries to leverage experiences and best practices in Crypto regulation, as well as to build networks that support cross-border supervision. By implementing these measures, it is expected that OJK can play a more effective role in creating a stable and transparent ecosystem for the development of the digital asset industry in Indonesia, while still protecting the public interest and maintaining the integrity of the financial system.

CONCLUSION

The transfer of oversight authority for crypto assets from Bappebti to OJK is a strategic step in regulating the crypto industry in Indonesia. The Presidential Regulation and the Law on Development and Strengthening of the Financial Sector have established that OJK will take over the oversight of crypto assets in January 2025. The dualism of crypto regulation in Indonesia shows that, despite oversight from two agencies—OJK and Bappebti—this creates challenges as well as opportunities for the development of the crypto ecosystem. This dual regulatory framework can lead to uncertainty for industry players and investors, especially concerning overlapping or poorly coordinated policies. However, this issue can be addressed as OJK seeks to adopt existing regulations and gradually build new infrastructure. The ongoing gradual transition of oversight from Bappebti to OJK provides hope for the establishment of more integrated and comprehensive regulations. In line with OJK's goal of creating a safer and more organized environment for crypto assets, while ensuring consumer protection and the stability of the financial system, clear regulations are expected to enhance public trust in crypto assets, encourage innovation, and integrate the crypto sector with the traditional financial system.

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