

## LEGAL CERTAINTY OF THE USE OF CRYPTOCURRENCY AS A PAYMENT INSTRUMENT FROM THE PERSPECTIVE OF INDONESIAN POSITIVE LAW

Bambang Tresno Wahyudi<sup>1\*</sup>, Nourma Dewi<sup>2</sup>, Firstnandiar Glica Aini Suniaprily<sup>3</sup>

<sup>1,2,3</sup>Faculty of Law, Batik Islamic University, Surakarta, Indonesia

bambangtresnow@gmail.com<sup>1\*</sup>, nourmadewi03@gmail.com<sup>2</sup>, firstnandiar@gmail.com<sup>3</sup>

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### Abstract

This study aims to provide answers to the legal certainty provided by laws and regulations regarding the use of cryptocurrency as a payment instrument in Indonesia and efforts to achieve legal certainty for the use of cryptocurrency as a payment instrument in the future. Cryptocurrency is an impact of globalization that must be responded to with legal changes, given the large amount of its global use that has an impact in Indonesia. The Currency Law does not explicitly provide space for cryptocurrency, implicating limited regulatory space for its use in Indonesia. A study analyzing the guarantee of legal certainty for cryptocurrency use is needed in light of existing normative regulations and efforts to achieve such legal certainty. This research is normative with a legislative and conceptual approach. The results show that the form of legal certainty in laws and regulations regarding the use of cryptocurrency as a payment instrument in Indonesia is not yet regulated in Law Number 7 of 2011 concerning Currency, but cryptocurrencies are partially regulated as commodities that can be traded on futures exchanges, in accordance with Minister of Trade Regulation Number 99 of 2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading. This means that cryptocurrencies cannot yet be used as payment instruments but have limited transaction value on futures exchanges. Efforts to realize legal certainty for the use of cryptocurrency as a payment instrument in the future include injecting cryptocurrency as a digital payment instrument into Law Number 7 of 2011 concerning Currency, formulating technical regulations for the Regulation of the Minister of Trade and Bank Indonesia Regulations that accommodate the technical procedures for the use of cryptocurrency, and with the recognition of cryptocurrency in the updated Currency Law, its use can be guaranteed at the Deposit Insurance Corporation.

**Keywords:** Cryptocurrency, Indonesia, Payment Instruments, Legal Certainty

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## INTRODUCTION

Economic globalization has influenced several types of transactions, particularly global ones, in the application of cryptocurrency as a means of cross-border transactions. Cryptocurrency is understood as the use of several virtual transaction tools, such as Bitcoin, which is based on Blockchain. Bitcoin, as one form of cryptocurrency, is defined as cash stored in a computer and can be used in place of cash in digital/online transactions. Unlike other online currencies that are linked to banks and use payment systems like PayPal, Bitcoin is directly distributed between users without the need for intermediaries (Gaihre et al., 2018). The use of cryptocurrency in the global economy can be found in Letters of Credit (LoC) and in exports and imports. Regulation of cryptocurrency transactions, from an international legal perspective, varies widely, tailored to each country's domestic regulations. This provides the opportunity for broad and comprehensive regulation of cryptocurrency in the global economy. In general, cryptocurrency functions as a digital currency that uses cryptographic technology to regulate and verify transactions, as well as control the creation of renewable payment units or transactions.

The 2018 Group of Twenty (G20) meeting in the European Union recommended that member states develop regulations regarding the circulation of cryptocurrencies, taking into account the potential for future growth and escalation of interest in virtual assets. This has driven the growing use of cryptocurrencies as a means of cross-border/international transactions. The World Trade Organization (WTO) even concluded that the benefits of cryptocurrencies for global trade can eliminate various trade barriers (Afriansyah, 2020). However, there are challenges in implementing this technology, including legal issues. Appropriate regulations and a sound legal framework are needed to address payment and trade issues and maintain the security of cryptocurrency use. Actual conditions, on the other hand, describe Indonesian law as limited and partially regulating the use of cryptocurrencies. For example, Minister of Trade Regulation Number 99 of 2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading stipulates that Crypto Assets are designated as commodities that can be the subject of Futures Contracts (SKB) traded on Futures Exchanges. The use of cryptocurrency as a means of transaction is not yet fully regulated and recognized by national law. This is evidenced by the use of Bitcoin in international trade, generally as a means of payment for online purchases. However, Bitcoin is neither a virtual currency nor legal tender in Indonesia (Rinaldi & Huda, 2016).

The explanation of Articles 201 and 202 of Bank Indonesia Regulation Number 23/6/PBI/2021 of 2021 concerning Payment Service Providers describes Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple, and Ven as examples of virtual currency or cryptocurrency. This means they are digital money issued by parties other than monetary authorities (Honggowongso & Kholil, 2021). However, Article 1 number 2 [Law](#)No. 7 of 2011 concerning Currencyas amended by Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector, provides clear boundaries for the definition of money as legal tender issued by the state, namely the rupiah. The above indicates general recognition of cryptocurrency as a commodity that can be traded on futures exchanges, but does not function as legal tender. The regulation of the Minister of Trade Regulation Number 99 of 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading is the parameter. If money is issued by the government or authorized authority, then the money is currency. The use of currency is regulated in Article 21 paragraph (1) of Law No. 7 of 2011 concerning Currency, which is used in: (i) every transaction that has a payment purpose; (ii) settlement of other obligations that must be fulfilled with money; and/or; (iii) other financial transactions. Transactions are carried out in the territory of Indonesia. In fact, the use of bitcoin cannot be facilitated by Payment Service Providers (PJP) in Indonesia. PJP who violate this regulation are subject to administrative sanctions in the form of: (i) warnings; (ii) temporary suspension of some or all activities including the implementation of cooperation; and/or (iii) revocation of permit as PJP. In addition, individuals who do not use rupiah in payment transactions or other financial transactions are subject to a maximum imprisonment of 1 year and a maximum fine of IDR 200 million in accordance with Article 33 paragraph (1) of Law No. 7 of 2011 concerning Currency.

This situation requires accelerating regulatory adaptation to the use of cryptocurrencies as a means of cross-border transactions, due to global market demands that can stimulate national economies through cryptocurrency-based transactions. Regulatory requirements, particularly regarding accountability, security, oversight, and legal certainty regarding the use of cryptocurrencies as a means of cross-border transactions, need to be formulated. The need to keep abreast of global economic developments has become a key driver of the need for a study outlining the need to

accelerate regulatory adaptation to the use of cryptocurrencies as a means of cross-border transactions.

In terms of technological development, cryptocurrency has grown rapidly and become popular as a means of digital payment (Drozd et al., 2023). Therefore, clear regulations are needed to regulate its use in cross-border transactions. These regulations are intended to provide a legal basis that can guarantee legal certainty and ensure the security of cryptocurrency use in Indonesia. Current regulations, or as they exist, still do not specifically address the use of cryptocurrency as a means of cross-border payment, thus clearly creating a legal vacuum that impacts potential legal uncertainty. From a national security perspective, if regulations regarding cryptocurrency are not immediately formulated, there is a potential risk that unregulated cryptocurrency transactions could be used for illegal activities such as money laundering and terrorism financing. Regulation of cryptocurrency transactions can help as a preventative measure against this situation.

From the consumer protection perspective, it can also be concluded that the use of cryptocurrency as a means of cross-border payment requires adequate consumer protection to prevent losses due to fraud or transaction errors. Indirectly, cryptocurrency has the potential to increase efficiency and transparency in cross-border transactions. Regulation of cryptocurrency transactions could assist in increasing public trust in cryptocurrency use. Meanwhile, from a global economic perspective, Indonesia clearly needs clear regulations to effectively participate in the global digital economy and increase the country's competitiveness. Developing regulations for cryptocurrency as a means of cross-border payment is crucial to increase legal certainty, protect consumers, and improve transaction efficiency, as intended.

This article details a research plan that can provide answers regarding the legal status of cryptocurrency-based transactions within the national legal system and legal arguments demonstrating the need to formulate cryptocurrency regulations as a means of cross-border payment. The research results demonstrate the importance of this research, which is expected to contribute in the form of recommendations to the government regarding efforts that can be made to achieve legal certainty in the use of cryptocurrency as a payment instrument in the future. The legal issues are concreted in the formulation of the problem, which includes the form of legal certainty provided by laws and regulations regarding the use of cryptocurrency as a payment instrument in Indonesia and how efforts can be made to achieve legal certainty in the use of cryptocurrency as a payment instrument in the future.

## RESEARCH METHOD

This research is normative, employing a legislative approach. It inventories cryptocurrency regulations, both international experience and domestic regulations in Indonesia, to analyze the compatibility of one law with another (Hartono, 2022). A conceptual approach is used to conduct a comparative study of cryptocurrency use in several countries. The method is used to formulate possible measures to achieve legal certainty in the use of cryptocurrency as a payment instrument in the future (Marzuki, 2011).

## RESULTS AND DISCUSSION

### Legal Certainty in Legislation Regarding the Use of Cryptocurrency as a Payment Instrument in Indonesia

Legal certainty is one of the fundamental legal values and the primary objective within the framework of the rule of law. The legal certainty of the existing regulations regarding the use of cryptocurrency as a payment instrument in Indonesia is not yet regulated in Law Number 7 of 2011 concerning Currency. This indicates that, in terms of legal certainty, cryptocurrency cannot yet be used as legal tender. Article 1 number 2 Law No. 7 of 2011 concerning Currency (Currency Law) as amended by Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UUP2SK), provides clear boundaries for the definition of money as a legal means of payment issued by the state, namely the rupiah.

When examining aspects beyond legal tender, cryptocurrencies are partially regulated as commodities that can be traded on futures exchanges, according to Minister of Trade Regulation Number 99 of 2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading. This means that cryptocurrencies cannot yet be used as payment instruments, but they do have limited transaction value on futures exchanges. This is reinforced by the Explanation in Articles 201 and 202 of Bank Indonesia Regulation Number 23/6/PBI/2021 of 2021 concerning Payment Service Providers, which describes Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple, and Ven as examples of virtual currencies or cryptocurrencies. This

means they are digital currencies issued by parties other than monetary authorities (Honggowongso & Kholil, 2021).

Cryptocurrency regulation in Indonesia has undergone significant developments in recent years. The Indonesian government, through the Commodity Futures Trading Regulatory Agency (Bappebti) and the Financial Services Authority (OJK), has issued various regulations to regulate crypto asset trading in Indonesia (Bintarto, 2022). The following table summarizes cryptocurrency regulations within the legal framework:

**Table 1.** Cryptocurrency regulations in existing laws and regulations along with the level of legal certainty

| Legislation  | Regulatory Norms  | Information   |
|--|---|---|
| Article 2 paragraph (1) and paragraph (2) <u>Law No. 7 of 2011 concerning Currency</u>   | <p>(1) The currency of the Unitary State of the Republic of Indonesia is the Rupiah.</p> <p>(2) Types of Rupiah consist of paper Rupiah and metal Rupiah.</p>   | The Rupiah's limitations as legal tender. In this case, cryptocurrency is not legal tender in Indonesia.  |
| Article 2 Minister of Trade Regulation No. 99 of 2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading | <p><i>Further arrangement on the determination of the Crypto Asset as the Commodity that can be made as the Term Contract Subject that is traded at the Term Exchange Market, guidance, control and development is determined by the Head of the Commodity Term Trade Control Agency.</i></p>   | Further regulations regarding the designation of crypto assets as commodities that can be used as the subject of futures contracts traded on the Commodity Futures Exchange Market, along with their guidance, control, and development, are determined by the Head of the Commodity Futures Trading Supervisory Agency. This limits cryptocurrency to the Term Exchange Market.  |
| Article 204 paragraph (1) of BI Regulation No. 23/6/PBI/2021 of 2021 concerning Payment Service Providers                              | <p>Values that can be equated with money that do not fulfill the Source of Funds elements as referred to in Article 144 include:</p> <ol style="list-style-type: none"> <li>values represented digitally or in other media; and</li> <li>digital money issued by parties other than monetary authorities (virtual currency) which has the following characteristics: <ol style="list-style-type: none"> <li>expressed in a unit;</li> <li>using cryptography and distributed ledgers, or other cutting-edge technologies to regulate the creation of new units and their transaction processing mechanisms;</li> <li>used for payment purposes or to fulfill economic activities;</li> <li>can be transferred, stored or traded electronically; and</li> <li>meet other characteristics set by Bank Indonesia.</li> </ol> </li> </ol> | This article indicates that cryptocurrency is not yet specifically regulated but suggests the possibility of future regulation. The explanation of this article limits the value represented digitally or through other media to include phone credit, vouchers, and consumer loyalty rewards, or points, assets in online games. This means that cryptocurrency can be aligned with this regulatory framework, but from a legal certainty perspective, it needs to be specifically regulated by mentioning cryptocurrency in the provisions of the normative articles. |

|   |   |   |
|---|---|---|
| Article 2 paragraph (1) letters c, d, and e of Bappebti Regulation No. 2 of 2019 concerning the Implementation of Physical Commodity Markets on Futures Exchanges | Crypto Asset Trading must pay attention to legal certainty, protect Crypto Asset Customers and facilitate innovation, growth, and development of physical Crypto Asset trading business activities.   | This has significant potential to establish exclusive regulations for cryptocurrencies, as the phrase facilitates innovation in the physical trading of crypto assets. Meanwhile, legal certainty is comprehensively guaranteed.  |
| Article 1, number 5 and number 6 of OJK Regulation No. 27 of 2024 concerning the Implementation of Digital and Crypto Financial Asset Trading                     | <ol style="list-style-type: none"> <li>1. Digital Financial Assets are financial assets that are stored or represented digitally, including crypto assets.</li> <li>2. Crypto Assets are digital representations of value that can be stored and transferred using technology that enables the use of distributed ledgers such as blockchain to verify transactions and ensure the security and validity of stored information, are not guaranteed by a central authority such as a central bank but are issued by private parties, can be transacted, stored, and transferred or transferred electronically, and can be digital coins, tokens, or other asset representations that include backed crypto-assets and unbacked crypto-assets.</li> </ol> | The definition in the general provisions explains the complexity of cryptocurrency in the form of crypto assets, both backed and unbacked. Cryptocurrencies other than crypto assets fall within the scope of unbacked crypto assets, thus providing the legal basis for their limited and partial applicability within the Indonesian macroeconomic system. This guarantees legal certainty, and this OJK Regulation also regulates sanctions and principles for the use of crypto assets. Therefore, if problems or disputes arise, they can be resolved through OJK Regulation No. 27 of 2024. |

Law Number 7 of 2011 concerning Currency does not explicitly regulate cryptocurrency because, from a legislative perspective, it does not include the need for payment methods other than the rupiah. Meanwhile, digital payment methods remain limited to the rupiah currency transformed into digital form (E-Money) (Prasetyo & Sutopo, 2020). In terms of legal certainty, Article 2 paragraphs (1) and (2) of Law No. 7 of 2011, have provided limitations that what is meant by the Currency of the Unitary State of the Republic of Indonesia is the Rupiah, consisting of paper Rupiah and metal Rupiah. Therefore, normatively, recognition of legal tender in Indonesia is limited to the rupiah. Thus, the limitation or restriction of the Rupiah as legal tender implies that cryptocurrency is not legal tender in Indonesia. Therefore, from the aspect of legal certainty, cryptocurrency is not yet able to provide guarantees as legal tender.

Minister of Trade Regulation Number 99 of 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading, stipulates in Article 2, namely further regulations regarding the determination of Crypto Assets as Commodities that can be used as the Subject of Futures Contracts traded on the Futures Exchange Market, the guidance, control, and development of which are determined by the Head of Bappebti. This normatively limits cryptocurrency to the Futures Exchange Market/Term Exchange Market. However, the regulatory phrase has proven that cryptocurrency is recognized as a transactional tool (commodity category) in a specific sector (Futures Exchange Market) and has the potential to open wider space in the future for the legality of cryptocurrency as a digital payment instrument in addition to the Rupiah. The Commodity Category in question is a provision that Crypto Assets are recognized as commodities traded on the physical market of crypto assets on futures exchanges, in contrast to currencies which are prohibited as a means of payment under current (existing) conditions. The purpose of Minister of Trade Regulation No. 99 of 2018, namely providing a legal basis for crypto trading, protecting the public, preventing misuse such as money laundering and terrorism, and encouraging the growth and development of the digital economy.

This is then reinforced through various technical regulations issued by Bappebti, an agency within the Ministry of Trade. This is realized through follow-up or response in the form of drafting technical regulations such as Bappebti Regulation Number 2 of 2019 and Bappebti Regulation Number 7 of 2020, which exclusively regulate the details of the implementation, the list of tradable assets, and the requirements for business actors. Digital Commodities or Crypto Commodities from the blockchain system can be categorized as rights or interests, thus falling into the Commodity category under Law No. 10 of 2011 concerning Amendments to Law No. 32 of 1997 concerning PBK. The implication is that Crypto Assets have been given the opportunity to develop widely in the public economy and are worthy of being positioned as subjects of Futures Contracts on the Futures Exchange. To protect the public and provide legal certainty for business actors, it is necessary to implement regulations for Crypto Asset trading. Traded crypto assets must meet certain technical requirements, be proven to be verified based on a distributed ledger, have economic benefits, and be listed by Bappebti.

Bappebti Regulation Number 2 of 2019 concerning the Implementation of Physical Commodity Markets on Futures Exchanges and OJK Regulation Number 27 of 2024 concerning the Implementation of Digital and Crypto Financial Asset Trading indicate the potential for more specific regulations for cryptocurrencies. This represents a breakthrough, as cryptocurrencies have not yet been specifically regulated but offer the possibility of future regulation. In the Explanation of the article, the value represented digitally or through other media has been limited to, among other things, phone credit, vouchers, consumer loyalty rewards or points, and assets in online games. This means that cryptocurrencies can be aligned with this regulatory pattern, but from a legal certainty perspective, specific regulations need to be specified by mentioning cryptocurrencies in the content of the article's norms. Cryptocurrencies are recognized as digital commodities that can be traded on futures exchanges, but are not considered legal tender. Bank Indonesia has also partially issued regulations confirming that cryptocurrencies are not legal instruments or means of payment in Indonesia and are not recognized as official currency. However, the Indonesian Government imposes taxes on cryptocurrency transactions, namely: (i) VAT (Value Added Tax) of 1% of the value of crypto asset transactions; (ii) Income Tax (PPh) of 0.1% of crypto sales income on platforms regulated by Bappebti; (iii) Income Tax of 0.2% of crypto sales income on platforms not regulated by Bappebti. This means that, in limited economic practices, cryptocurrency is recognized by the Government as a special transactional vehicle with limited zoning.

Oversight of the cryptocurrency industry in Indonesia currently falls under the Financial Services Authority (OJK), which aims to strengthen consumer protection, market governance, and consistent oversight across all players. Therefore, cryptocurrency regulations in Indonesia continue to evolve to ensure market security and stability, as well as protect consumers and investors. The conclusion regarding the legal certainty of cryptocurrency as a means of payment needs to be examined in light of the legal tender regulations in Indonesia. Cryptocurrencies are not yet regulated or recognized as a means of payment or payment instrument under Indonesian law. For example, Bitcoin is commonly used in international trade as a means of payment for online purchases, but it is neither a virtual currency nor legal tender in Indonesia. (Prasetyo & Sutopo, 2020) This is reinforced by the Explanation of Articles 201 and 202 of Bank Indonesia Regulation Number 23/6/PBI/2021 of 2021 concerning Payment Service Providers, which states that Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple, and Ven are examples of virtual currency or cryptocurrency. This means that it is digital money issued by parties other than monetary authorities. (Honggowongso & Kholil, 2021). On the other hand, Article 1 number 2 Law No. 7 of 2011 concerning Currencies as amended by Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector, provides a definition of money as a legal means of payment issued by the state, namely the rupiah.

If money is issued by the government or authorized authority, then the money is a currency. The application of currency is regulated in Article 21 paragraph (1) of Law No. 7 of 2011 concerning Currency, which is used in: (i) every transaction that has a payment purpose; (ii) settlement of other obligations that must be fulfilled with money; and/or; (iii) other financial transactions. Transactions are carried out within the territory of Indonesia. In fact, the use of bitcoin cannot be facilitated by Payment Service Providers (PJP) in Indonesia. PJPs who violate this rule are subject to administrative sanctions in the form of: (i) warnings; (ii) temporary suspension of some or all activities including the implementation of cooperation; and/or (iii) revocation of permits as PJPs. In addition, individuals who do not use rupiah in payment transactions or other financial transactions are subject to a maximum of 1 year imprisonment and a maximum fine of IDR 200 million in accordance with Article 33 paragraph (1) of Law No. 7 of 2011 concerning Currency. The conditions above have shown the importance of this research which is related to positioning cryptocurrency as a means of cross-border payment. This

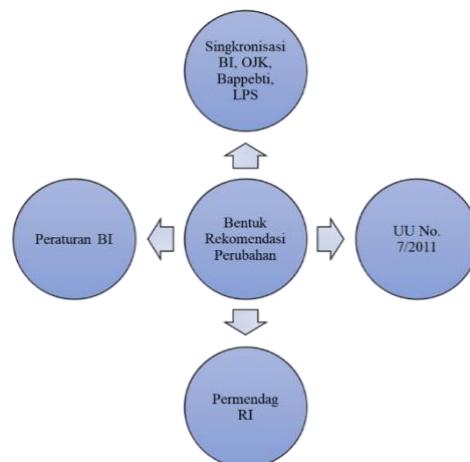
is because, in general, in international trade conducted through digital means, cryptocurrency has become a recognized means of transaction. Although there has been no research comparing its regulatory aspects across countries, media coverage is one consideration in the case study approach. Therefore, the relationship between cryptocurrency and its actual status as a means of cross-border transactions is a separate point that is expected to strengthen this research.

### **Efforts to Achieve Legal Certainty for the Use of Cryptocurrency as a Payment Instrument in the Future**

An analysis of cryptocurrency impact mitigation is a necessary factual aspect, particularly as a basis for assessing the various efforts that can be undertaken to ensure legal certainty regarding the use of cryptocurrency as a payment instrument. These efforts can be followed up with recommendations containing ideas for updating or developing regulations that exclusively address cryptocurrency use, including aspects of accountability, management, oversight, and evaluation. Based on these recommendations, efforts to achieve legal certainty regarding the use of cryptocurrency as a payment instrument in the future, particularly within the Indonesian economic paradigm, are underway.

The aim of compiling regulations is to control humans or society within certain limits, and these regulations are applied to various community institutions both for the needs of the general public and for the economy and business, including regulatory needs. In Indonesia, the development of regulations in Indonesia presents two major problems. First, the excessive quantity of laws and regulations in Indonesia. Second, the problem of unsynchronized laws and regulations (BPHN, 2019). This situation creates obstacles to policy implementation in Indonesia. From the perspective of the need for regulations regarding cryptocurrency in Indonesia, at least a definition and scope that explains the definition of cryptocurrency and the scope of its application as a means of cross-border payment are needed. Licensing and supervision are also needed to require cryptocurrency service providers to obtain licenses and submit to regulatory oversight. Consumer rights, information transparency, and dispute resolution mechanisms, as well as technical provisions that regulate technical standards for security, interoperability, and integration with other payment systems, are also needed in the regulation of cryptocurrency in Indonesia.

The development of cryptocurrency regulations in Indonesia aims to ensure legal certainty and secure implementation. As a payment method that is beginning to be used in the global economy, adaptation is urgently needed. The state is obliged to guarantee legal certainty while also addressing economic needs influenced by global economic conditions. Therefore, regulation of cryptocurrency in Indonesia is a primary goal, expected to achieve cryptocurrency regulations that guarantee legal certainty and, on the other hand, serve as a means of increasing the security of cryptocurrency applications as a means of cross-border transactions. Efforts to achieve legal certainty for the use of cryptocurrency as a payment instrument in the future include the introduction of digital payment instruments into Law Number 7 of 2011 concerning Currency, the formulation of technical regulations for the Minister of Trade Regulation and Bank Indonesia Regulation that accommodate the technical procedures for cryptocurrency use. Furthermore, with the recognition of cryptocurrency in the updated Currency Law, its use can be guaranteed by the Deposit Insurance Corporation. This can be visualized in the following table:



**Figure 1.** A chart of recommendations regarding various laws and regulations that have causality with cryptocurrency

First, the injection of cryptocurrency as a digital payment instrument into Law Number 7 of 2011 concerning Currency. The purpose of amending the Currency Law by injecting norms governing cryptocurrency as a digital payment instrument is to provide a basis for legal certainty regarding its use in Indonesia. The article structure and recommended normative content for amendment in Law Number 7 of 2011 concerning Currency are outlined in the following table.

**Table 2.** The recommendation table is in the form of an injection of the contents of norms that regulate cryptocurrency in Law No. 7 of 2011

| Law No. 7 of 2011   | Change Scheme   | Recommended Changes  |
|---|---|--|
| <p>Article 2</p> <p>(1) The currency of the Unitary State of the Republic of Indonesia is the Rupiah.</p> <p>(2) Types of Rupiah consist of paper Rupiah and metal Rupiah.</p> <p>(3) The Rupiah as referred to in paragraph (1) is symbolized by Rp.</p> | <p>Injecting norms that regulate cryptocurrency as a digital payment tool</p> | <p>Article 2</p> <p>(1) The currency of the Unitary State of the Republic of Indonesia is the Rupiah.</p> <p>(2) Types of Rupiah consist of paper Rupiah and metal Rupiah.</p> <p>(3) The Rupiah as referred to in paragraph (1) is symbolized by Rp.</p> <p>(4) Digital payment instruments other than the rupiah can only be used as investment instruments or commodities, and cannot be used as legal tender in Indonesia.</p> <p>(5) Provisions for the use of digital payment instruments other than the rupiah are regulated in Government Regulations, Ministry of Trade Regulations, and Bank Indonesia Regulations.</p> <p>(6) The government, through Bank Indonesia and the Financial Services Authority (OJK), can establish technical and procedural provisions regarding digital payment instruments other than the rupiah.</p> <p>(7) Administrative and/or criminal sanctions may be imposed on parties who violate these provisions.</p> |

The recommendations in Article 2 of Law No. 7 of 2011 above guarantee legal certainty for cryptocurrency as a digital payment instrument. This implies follow-up regulations regarding its use in Government Regulations, Ministry of Trade Regulations, and Bank Indonesia Regulations. Furthermore, the Government, through Bank Indonesia and the Financial Services Authority (OJK), can establish technical and procedural provisions regarding digital payment instruments other than the rupiah. This means that the formulation of these recommendations provides the legal basis for the limited and strict application of cryptocurrency in the Indonesian economy. Law No. 7 of 2011 is crucial because it serves as a formal gezets, or law, with a crucial role in a state governed by the rule of law (rechtstaat). If existing regulations at the law level accommodate the use of cryptocurrency in Indonesia, then derivative regulations, such as Government Regulations, Presidential Regulations, and various institutional regulations at the ministerial and agency levels, can provide a means to provide more complex regulations (Thistanti et al., 2022). This is realized in the form of derivative regulations under the Law in question, with norms that regulate the technical and procedural aspects of cryptocurrency use in Indonesia.

Second, formulating technical regulations for the Minister of Trade Regulation and Bank Indonesia Regulation that accommodate the procedural technicalities of cryptocurrency use. Crypto assets remain prohibited as a means of payment, but as an investment tool they can be included as a commodity that can be traded on the futures exchange. Considering that, from the perspective of economic growth, they can increase significant investment potential, and if prohibited, they will impact large investment outflows (capital outflow). This is in fact in line with the legal analysis pattern from an economic perspective adopted, including the implementation of Pancasila Democracy (Landess & Posner, 1980). This condition is caused by consumers seeking markets that legalize crypto transactions. Crypto assets will first be regulated in a Minister of Trade Regulation that includes Crypto Assets as a commodity traded on the Futures Exchange. Further regulations related to

technical matters and to accommodate input from Ministries/Institutions will be drafted in the form of implementing regulations in the form of Bappebti Regulations. The regulations that must be included ideally include: (i) usage procedures; (ii) the institution responsible for implementing the rules; (iii) supervision; (iv) sanctions; (v) dispute resolution; and (vi) evaluation. The ideal scope of the institutionalization is focused on derivative regulations of the Law, as can be realized in the Regulations of the Minister of Trade, Bank Indonesia Regulations, the Regulations of the Commodity Futures Trading Regulatory Agency (Bappebti), and the Regulations of the Financial Services Authority.

Third, a continued effort to synchronize the institutions of Bank Indonesia, the Financial Services Authority (OJK), the Deposit Insurance Corporation (LPS), and the Commodity Futures Trading Regulatory Agency (Bappebti). Synchronization is crucial to ensure a comprehensive and ideal legal system regarding cryptocurrency use in Indonesia. Strengthening these institutional aspects is one way to ensure legal certainty for cryptocurrency use in Indonesia, which requires consistency and standardization in the application of various laws and regulations, as outlined in the recommendations for changes and updates outlined in the summary of this article.

## CONCLUSION

The legal certainty provided by legislation regarding the use of cryptocurrency as a payment instrument in Indonesia is not yet regulated in Law Number 7 of 2011 concerning Currency, but cryptocurrencies are partially regulated as commodities that can be traded on futures exchanges, according to Minister of Trade Regulation Number 99 of 2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading. This means that cryptocurrencies cannot yet be used as a payment instrument, but they do have limited transaction value on futures exchanges.

Efforts that can be made to realize legal certainty in the use of cryptocurrency as a payment instrument in the future include injecting cryptocurrency as a digital payment instrument in Law Number 7 of 2011 concerning Currency, formulating technical regulations for the Regulation of the Minister of Trade and Bank Indonesia Regulations that accommodate the technical procedures for the use of cryptocurrency, and with the recognition of cryptocurrency in the updated Currency Law, its use can be guaranteed at the Deposit Insurance Corporation.

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