

BITCOIN LAW AS AN INVESTMENT ASSET IN THE ERA OF DIGITAL ECONOMY

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Abstract: This article is to find out the law of bitcoin as a currency that is widely used as a means of payment and public investment in the era of the digital economy. From the data obtained now the use of bitcoin there are already around 200,000 Bitcoin investors in Indonesia who at least represent transaction flows worth Rp. 4,000,000,000, (four billion) per day. Bank Indonesia as the authority in the financial sector states that bitcoin is not a legal currency that can be used for transactions in trade so that this will create a legal vacuum. **The approach** method used in this study is a normative approach by reviewing applicable laws and regulations relating to bitcoin currency. The data source used is secondary data from the results of literature research which is then analyzed qualitatively. **The results** showed that public ignorance of bitcoin's legal position as a means of payment in trading and investing will have an impact on the bitcoin user community not getting legal protection. For this reason, it needs socialization and education from the government so that people are not deceived in the use of bitcoin.

Keywords: Bitcoin, Payment Instrument, Investment Asset, Digital Age

Introduction

Indonesia is entering the era of digital economy which has great potential to develop. Government reports show that 77% of Indonesia's population are active internet users orreaching 212.9 million people in January 2023. In 2022, the contribution of Indonesia's e-commerce sector is USD 59 billion or equivalent to 76% of the value of Indonesia's digital economy. It is even projected to reach USD 130 billion in 2025 (Kominfo, 2023) . This very rapid technological development makes the movement of trends or styles of shifting business transactions towards digital or the internet. The world is now shifting towards a new direction, that is, no longer using physical money, but using *digital currency* or *virtual currency* protected by cryptography (*cryptocurrency*) one form of currency is bitcoin. (Wijaya, 2016)Bitcoin can be used as a trading tool. Judging from the function of bitcoin, it can be said that bitcoin is a means of payment for the purchase of goods or services. Today, there are many stores and places of purchase that apply or accept it as payment for the goods and services they sell. Bitcoin also serves as an investment vehicle. This form of digital money investment is almost the same as conventional investment that can be purchased if the price is cheap enough. Once the price rises, it can be resold. However, investing in bitcoin is quite risky because of the significant fluctuations in the value of bitcoin. In Indonesia, there are several problems related to Bitcoin regulation at this time, namely the absence of a law that regulates bitcoin. Bitcoin is not a legal currency, there is no supervision from authorized agencies and the risk is borne by the user himself. (Dwicaksana, (2020))(Nurdiansyah, 2019)This will cause various legal problems, one of which is related to aspects of legal protection for people who use bitcoin payments if there is a loss when making payments

through the bitcoin system. (Saputra, *Perlindungan Hukum Terhadap Masyarakat Pengguna Sistem Pembayaran Bitcoin Dan Investasi Bitcoin Di Indonesia Ditinjau Dari Hukum Perlindungan Konsumen.* , 2021)

Literature Review

Bitcoin is one of the many cryptocurrencies that exist. Like the US Dollar or rupiah which is one of the many fiat currencies in the world, Bitcoin is one of the cryptocurrencies. Bitcoin was created in 2009 by someone under the pseudonym Satoshi Nakamoto. This cryptocurrency is the cryptocurrency with the largest market cap ever. In terms of market cap has also beaten the market cap of shares of the world's largest banks.(Mahessara, 2018)

Bitcoin was created with the aim that the rules of the transaction tool should be. This is because, conspiratorially, fiat currencies are believed to have been controlled and toyed with by some of the global elite. On the other hand, the fact is that the purchasing power of the dollar, as a reference to world currencies, also continues to decline from year to year. Inflation causes a continuous rise in the price of goods and services. Finally, if we only save paper money, it means that directly or indirectly, our wealth is stolen through massive deficiencies in the financial system. Bitcoin is designed to allow people to have anonymous identities in the ownership and transfer of wealth, from one wallet (electronic wallet) to another. Then because Bitcoin does not go through intermediaries, fees in transactions are much lower than using the services of conventional financial institutions.

Investment comes from the word invest which means planting, investing or investing money. In the Big Indonesian Dictionary (KBBI), investment is defined as investing money or capital in a company or project for the purpose of obtaining profits.

According to... Investment is defined as the commitment of a sum of money or other resources made today in the hope of obtaining benefits in the future. Investment is a form of postponement of present consumption to obtain consumption in the future, in which there is an element of uncertainty risk so that compensation is needed for the delay.

While arguing that investment is the association of sources in the long term to generate profits in the future. In other words, investment is the investment of funds in a certain amount at the present time to get greater benefits in the future.

Bitcoin as a medium of exchange

Bitcoin as an alternative tool in investing... Although only done in a small community but there are still many bitcoins that are still used as a means of payment whether it is for legal activities or not, bitcoin which offers speed in cross-border transactions and a high level of anonymity makes it chosen as the preferred means of payment in certain communities. In practice bitcoin aims to replace conventional money in transactions. Money in general is an object that is generally accepted in the process of exchanging goods and services (Manurung & Rahardja, 2004). The first condition of an object said to be money is economic goods because it contains scarcity so that the object is difficult to obtain, in the conventional money system the definition of rare objects is precious metals such as gold which has a function to support money issued by the government.

Method

This research is a normative legal research with a statutory approach and legal principles. The source of data used is secondary data taken from literature search which is then analyzed qualitatively

Result and Discussion

Bitcoin has several characteristics namely digital and intangible, bitcoin is global so the value of this digital money is the same in any country. Therefore, its value does not change even though virtual currencies are traded between countries. Transactions using bitcoin are *peer-to-peer*. This means that the transaction in question is between one person online and another person. Another characteristic of bitcoin is that it is decentralized. Bitcoin is flexibly accessible. Bitcoin trading is a transaction where there are no banks involved and everyone is responsible for their own money. The user has the code to complete the transaction. If a person decides to trade using bitcoin, then he should know in advance the dishonest nature of this currency. This means that it should not rely too heavily on anyone in the system in existing transactions.

The advantages or benefits of bitcoin; Faster and cheaper ; Digital money speeds up the process of sending assets in just a few seconds with the help of computers and the internet. So, there is no need for a long series of processes. Plus, using bitcoin is cheap. Not tied to any country; Another advantage of bitcoins is that they do not belong to any country. No institution or government has printed this digital currency. Digital money is printed for physical use by users to make transactions and transfers. Guaranteed security and anti-counterfeiting; With bitcoin, anyone can make a transaction without revealing the person's identity, just like with Bitcoin. In addition, this digital currency also helps prevent counterfeiting, which is common in traditional transactions.

Bitcoin weakness; Transactions are *irreversible*; Limited quantity ; Pseudonym transactions ; Due to its pseudonymous nature, it can see all transactions that have been made, but you don't know who the addresses holding digital currency accounts are or where they are located. Forgot *wallet key* ; The existence of a wallet is an important consideration when investing in bitcoin currency. Part of the technological revolution, but its use also depends on the culprit. If someone forgets their password while using the wallet, they won't be able to access the other bitcoin currency.

Bitcoin is included in the form of *Virtual Currency*, which is digital money issued by parties other than monetary authorities. The definition of *Bitcoin* currency has not been explicitly regulated based on the rules in Indonesia, but is known as Bitcoin Asset. Article 1 point 7 of the Regulation of the Commodity Futures Trading Supervisory Agency Number 8 of 2021 concerning Guidelines for Implementing Bitcoin Asset Physical Market Trading (BAPPEPTI Regulation 8/2021) defines that Bitcoin Assets are intangible commodities that are digital, using bitcoingraphy, technology networks, and distributed large opens, to regulate the creation of new units, verify transactions, and secure transactions without party intervention other. Through Bitcoin Assets emerged various types of *Bitcoin* that circulated digitally

The regulation governing currency in Indonesia is Law No.7 of 2011 concerning Currency. The use of payments through bitcoin and bitcoin investment is different from the currency described in Law No. 7 of 2011. That "The prevailing currency in the territory of the Republic of Indonesia is rupiah". In addition, the Deputy Governor of Bank Indonesia (BI) and a statement by the Head of the Payment System Policy and Supervision Department of BI. conveyed his statement that bitcoin and other virtual currencies are not legal currencies and means of payment in Indonesia. And then in the statement from Bank Indonesia appealed to the Indonesian people to be careful in the use of bitcoin and other virtual currencies, because all risks related to their use or ownership are borne by the user or or the owner himself. Thus, Bitcoin is not an official means of payment in Indonesia because based on Article 21 and Article 22 of Law of the Republic of Indonesia No. 7 of 2011 concerning Currency that Rupiah must be used in every payment traffic including international trade

transactions, deposits in banks in the form of foreign currency, international financing transactions must use Rupiah. (Melia M. &., 2022)Based on Article 202Bank Indonesia Regulation Number 23/6/PBI/2021 concerning Payment Service Providers(PBI 23/2021), types *Bitcoin* Currently developing includes:*Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple, dan Ven*. Wide variety of types *Bitcoin* It is currently in the spotlight in international trade which is used as a means of payment for buying and selling online.

Long before the Bitcoin phenomenon was *widely discussed lately, a Coordinating Minister for Economic Affairs Letter Number S-302 / M.EKON/09/2018 (Letter of the Coordinating Minister for the Economy) was issued which stated that Bitcoin assets are prohibited as a means of payment but can be used as an investment tool to be included as commodities that can be traded on futures exchanges. Bitcoin trading in Indonesia is approved and supervised by the Commodity Futures Trading Supervisory Agency (Bappebti).*

Through the Coordinating Minister for Economic Affairs Letter, Bappebti issued Regulation of the Commodity Futures Trading Supervisory Agency Number 7 of 2020 concerning the Determination of the List of Bitcoin Assets that Can Be Traded in the Physical Market of Bitcoin Assets (Bappebti Regulation 7/2020) which announced *that Bitcoin is not recognized as legal tender in the territory of the Republic of Indonesia, but only functions as an asset that can be traded in the Physical Market of Bitcoin Assets.*

Risks of Using Bitcoin Rupiah currency is a means of payment in Indonesia contained in Law Number 7 of 2011 concerning Currency. So the risk is that all losses must be borne because bitcoin regulations do not yet exist in Indonesia. Protection of the Community The occurrence of losses can make Law No. 8 of 1999 concerning Consumer Protection as a reinforcement if legal problems arise regarding Bitcoin investment in the future as long as the government has not legalized Bitcoin by applying special rules regarding Bitcoin investment procedures. With these legal problems, aggrieved parties can carry out legal settlements by reporting parties who violate the agreement to the authorities. If it meets the elements of violation of law, it is possible for the case to proceed to court through litigation settlement. The legal rules in filing a lawsuit in court are contained in Article 4 paragraph 1 of Law No. 8 of 1999 concerning Consumer Protection. Investor or user of business or trade transactions *virtual currency model centcoin* And bitcoin can also be categorized as consumers (Saputra, . *Perlindungan Hukum Terhadap Masyarakat Pengguna Sistem Pembayaran Bitcoin Dan Investasi Bitcoin Di Indonesia Ditinjau Dari Hukum Perlindungan Konsumen.* , 2021)

Consumer users urgently need protection from the state. Taking into account Article 1 of the Law of the Republic of Indonesia No. 8 of 1999 concerning Consumer Protection which states "Consumer Protection is all efforts that ensure legal certainty to provide protection to consumers." In relation to the use and circulation of Virtual Currency in Indonesia and taking into account the affirmation or statement from the Government, namely Bank Indonesia as the central bank and taking into account UURI No. 7 of 2011 concerning currency, legal certainty is needed to regulate clarity on its use and circulation in Indonesia. The Indonesian Ulema Council (MUI) in its VII National Deliberation in 2005, provided the criteria for benefit in its decision No. 06/MUNAS/VII/MUI/10/2005 as follows: a. Benefit according to Islamic law is the achievement of the goals of sharia (maqāshid ash-shari'ah), which is manifested in the form of the maintenance of five primary needs (ad-dharūriyat alkham) namely religion, soul, reason, property, and heredity; b. The benefit permitted by the Shari'ah is a benefit that does not contradict the nash; Those who have the right to determine whether or not something according to shari'ah are institutions that have competence in the field of sharia and are carried out through ijihad jama'i. Departing from the provisions above that bitcoin is not one form of currency issued in a country, because it

is based on the legality side of positive law, namely the existence of a circular letter from Bank Indonesia which states that bitcoin is not recognized as one form of currency circulating in the country. The aspect to be considered is from the side of madharatan which is greater than the benefits taken if used as a means of payment or transaction and even as a commodity. Because of any risk of weaknesses in its security in the event of misuse or criminal action against the use or access to bitcoin itself, especially if it is controlled by other irresponsible parties, so that if so everything must be borne by the community or bitcoin users. Of course, there will be a greater risk of danger to the community or bitcoin users. , and that which Shubāt should be abandoned, because it does not bring benefits at once that is the goal of the Islamic Shari'ah i.e. its own benefit will not be realized(Nainggolan, 2023)(Nurhisam, 2020)(Arifin, 2021)

Conclusion

Bicon's position as an investment asset in Indonesia is regulated in the Regulation of the Commodity Futures Trading Supervisory Agency Number 8 of 2021 concerning Guidelines for Implementing Physical Market Trading of Bitcoin Assets, while as a means of payment until now Bitcoin has not been legalized. In Indonesia, Rupiah is the only official currency as a means of payment. Thus, in the future the Government can draft new laws / policies on bitcoin virtual money. And for the Indonesian Ulema Council (MUI) can also think again of the fame and legal certainty for Muslims in the use of Bitcoin as virtual money that is increasingly massively used in the era of digital economy so that people do not hesitate in using bitcoin virtual money Socialization and education are also needed by the community in the midst of the wave of digital economic revolution. So that inclusive and sustainable economic growth and development in Indonesia can be achieved in 2045.

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