



## Sandbox Policy: Crypto Asset Expansion Setting Efforts

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### Abstract

*Crypto Asset Trading is Growing Rapidly in Recent Years. Throughout January-May 2021, Crypto Asset Users managed to grow more than 50%, from around 4 million people last year, to 6.5 million people today. Likewise, if viewed from the side of the value of crypto assets in Indonesia, which swelled to Rp. 370 trillion. That number rose five times compared to the previous year, which was recorded at only Rp. 65 trillion. The Increase in Investors in the Digital Asset Commodity Business is Due to the Digitalization of the Economy. This Research Uses Qualitative-Normative Research Methods By Reviewing And Describing Library Materials Relevant To Sandbox Policy To Find Out How The Regulatory Model Is Specifically Regarding Crypto Investments, an investment that is relatively new and requires protection so that people feel safe and comfortable doing so. crypto investment. This study results show that the Government uses sandbox policy modeling to accommodate changes in responding to the necessity of disruption and fundamental innovation in dealing with the growth of crypto assets in the country, with a sandbox policy where crypto trading is allowed to continue, at the same time regulations will be corrected, by guaranteeing confidentiality. As well as transactions, so that people will be protected in making crypto investments.*

**Keywords:** *sandbox policy, crypto currency as a commodity, the role of Bappeti*

### A. Introduction

This 21st century can be called the post-information technology century where new approaches to information, processing, use and transmission are born. Information technology today permeates all aspects of human activity including economic aspects. With the advancement of information technology, there are also instruments for making payments other than using cartel money and giral money both domestically and internationally. It triggers a variety of innovations that are becoming more efficient, secure, fast and comfortable.<sup>1</sup>

The evolution of money from year to year shows the existence of an increasingly advanced civilization in the fields of science and technology. One of the developments of money is cryptocurrency or virtual currency can be said to be a response to the obstacles faced by today's payment systems. A virtual currency is an unregulated digital currency, usually controlled and issued by its owners.<sup>2</sup> Virtual currencies are an invention in the virtual world, where the boundaries of space and time, including the state of power that is typically

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<sup>1</sup> Afrizal, Marliyah Marliyah, Fuadi Fuadi, Analisis Terhadap Cryptocurrency (Perspektif Mata Uang, Hukum, Ekonomi Dan Syariah), E-Mabis: Jurnal Ekonomi Manajemen dan Bisnis p-ISSN: 1412-968X, e-ISSN: 2598-9405. Vol 22, no.2 (2021)

<sup>2</sup> Damsar, & Indrayani. (2018). Pengantar Sosiologi Pasar. Jakarta: Prenadamedia Group



inherent in conventional currency, are abolished.<sup>3</sup> The first virtual currency that emerged was Bitcoin, created by someone who claimed to be Satoshi Nakamoto, even though until now no one has known what he really is.<sup>4</sup>

According to the European Central Bank, 2015. A virtual currency is a digital representation of money not issued by the Central Bank and whose value is not supported by a governmental entity. In this way, virtual currencies create a monetary system that is governed by trust between users.<sup>5</sup> Referring to the opinion of He et. al., 2016, virtual currencies are representations of digital values issued by private developers and denominated in their own account units. Virtual currencies can be acquired, stored, accessed and traded electronically and can be used for various purposes as long as the parties to the transaction agree to use them.

The idea of creating a new currency, eventually emerged based on the science of cryptography; which is an essential branch of science in the field of information security and algorithms.<sup>6</sup> That the use of cryptography could potentially boost people's lives in the field of digital currencies, called Crypto Currencies.<sup>7</sup> The word "crypto" in crypto currency refers to the encryption or cryptography created by the instrument and then added to the blockchain database. While "currency" refers to recognition as a means of exchange between its users.<sup>8</sup>

As part of the development of information technology, a new type of financial instrument, crypto currency has been born and developed. This viral currency can be used as an electronic transaction tool. Besides, the owner can also use crypto to invest or trade. Now, transactions can be done online without the involvement of intermediaries like banks. Transactions are done instantly, cross-country even cross-continental, cheaper, faster and easier and the unbeatable, more guaranteed confidentiality.<sup>9</sup>

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<sup>3</sup> Supriatna, N., Ruhimat, M., & Kosim. (2006). Ilmu Pengetahuan Sosial: Geografi, Sejarah, Sosiologi, Ekonomi. Bandung: Grafindo Media Pratama.

<sup>4</sup> Wijaya, D. A. (2016). Mengenal Bitcoin & Cryptocurrency. Medan: Puspantara

<sup>5</sup> Mora, H., López, F. A. P., Tello, J. C. M., & Morales, M. R. (2019). Virtual Currencies in Modern Societies: Challenges and Opportunities. In Politics and Technology in the Post-Truth Era. <https://doi.org/10.1108/978-1-78756-983-620191012>.

<sup>6</sup> Oscar Darmawan. Bitcoin Mata Uang Digital Dunia. Jakarta: Jasakom.com, 2014

<sup>7</sup> J. Bartlett. The Dark Net: The Random House.2014

<sup>8</sup> Mohd Noh, M. S., & Abu Bakar, M. S. (2020). Cryptocurrency as A Main Currency: A Maqasidic

<sup>9</sup> Ausop, A. Z. & E. S. N. A. (2018). Teknologi Cryptocurrency Bitcoin Untuk Investasi Dan Transaksi Bisnis Menurut Syariat Islam The Perspective Of Islamic Syariat On Cryptocurrency Technology Of Bitcoin For Investment And Business Transactions. *Sosioteknologi*, 17(1), hlm 74



Taking into consideration the characteristics of crypto currencies that are vulnerable to abuse for illegal activities, such as money laundering, terrorist financing, etc., as well as observing the growing number of crypto-currency users in Indonesia, the need for crypto regulation becomes inevitable. This requires designing a proper regulatory framework, which, on the one hand, can be in line with the regulatory concerns in the financial services sector, and on the other, the regulation also needs to give the crypto industry enough spirit and breath given the fast-growing trade in crypto assets. In the end, liquidity has to do with the existence of regulation.

## **B. Research Methods**

The research aims to see how a responsive regulatory effort to financial technology innovation is an activity of updating business processes, business models, and financial instruments that provide new added value in the financial services sector by involving a digital ecosystem, with regard to crypto investment, an investment that belongs to new and requires protection so that people feel safe and comfortable in making crypto investments.

The field of study of regulatory sandbox modeling is in the realm of government science in an eclectic sense that is in line with the law science in carrying out the functions of government in the form of regulation and empowerment for the perpetrators of financial technology start-ups, investors and society. The Research Method uses a qualitative approach of normative nature, using the primary material of legislation related to sandbox regulatory Financial Services Authority Letter No. 21/SEOJK.02/2019 on Regulatory Sandbox and various other government policies related to Commodity Futures Trading Act No. 10 of 2011 on Amendments to the Act no. 32 of 1997 on Commodities Futures Trade. And the most recent and relevant secondary material for this research. The primary and secondary materials are then grouped and studied and then described so that they can be easily understood.

## **C. Results and Discussion**

### **1. Sandbox Policy, a policy that is responsive to financial technology innovation**

Bank of Indonesia Communications Department Chief Erwin Haryono explains that Sandbox is literally a sandbox. This sandbox is used to let children play in the sand before they play on a real beach filled with waves. With the aim that children [in this case financial



tech offenders] can play [or innovate] without having to be disturbed by the waves. Thus, the Sandbox is one of Bank Indonesia's efforts to maintain financial technology innovation in the payment system business. In general, this is also one of the efforts to accelerate the digital financial economy.

The Sandbox of Bank Indonesia covers three functions, firstly, the innovation lab function. The innovation lab is a means of innovation development that has not been used or has been used in the payment system industry in a limited way. *Second, industrial sandbox, the industrial function of the sandbox as a means of innovation that has been used in the payment industry and then needs to be encouraged to be widely used. Third, the regulatory sandbox, as a means of innovation to the policies or provisions in the payment system.* Essentially, the three functions are to make it easier for innovators to innovate, as well as for central banks to provide facilities and digital workplace facilities that address the digital theme of Nusantara.

The regulatory framework for crypto currencies in Indonesia tends to be conventional. In this case, the crypto currency market is allowed to grow only in the futures exchange area, but not allowed to be used as a means of payment, Indonesia must have a basic framework in setting up crypto-currency regulations, which on the one hand should be in line with the objectives of regulators in maintaining the stability of the national financial system, and on the other also need to encourage fintech innovation.

The question is when is the right time to make a settlement against crypto? If the crypto currency market is relatively small and closed then the state only needs to intervene at a minimum level to protect national interests, such as to fight crime of money laundering and terrorism. (Financial Action Task Force, 'Guidance For A Risk-Based Approach: Virtual Currencies' (2015) State intervention in the crypto currency market under these conditions does not include consumer protection that may arise as a result of a fall in the exchange rate of crypto which means that it can harm investors who have bought at a higher price. (Financial Action Task Force, 'Guidance For A Risk-Based Approach: Virtual Currencies' (2015) However, if the crypto currency reaches a certain level of scale so that sufficient concerns become the concern of regulators, then the state should intervene more strictly by requiring the crypto-currency industry to implement consumer protection. (Financial Action Task Force, 'Guidance For A Risk-Based Approach: Virtual Currencies' (2015) Under these conditions, crypto currencies are allowed to grow alongside financial institutions as long as there is no exposure to banking risks or implications of banking crimes. BIS



([https://www.bis.org/publ/bcbs\\_nl21.htm](https://www.bis.org/publ/bcbs_nl21.htm)) Recommends a number of things if banks in a country are allowed to transact with crypto currencies or provide similar services, namely due diligence, governance and risk management, disclosure, and supervisory dialogue.

Technically, the Financial Services Authority of the Republic of Indonesia has issued Distribution No. 21/Seojk.02/2019 on Regulatory Sandbox. The Regulatory Sandbox is a test mechanism carried out by the Financial Services Authority to assess the reliability of business processes, business models, financial instruments, and governance of the Organizer, with the aim of ensuring that Digital Financial Innovation (DIF) meets the following criteria:

1. innovative and forward-looking;
2. use of information and communications technology as a primary means of providing services to consumers in the financial services sector;
3. supporting inclusion and financial literacy;
4. useful and widely used;
5. can be integrated into existing financial services;
6. using a collaborative approach; and
7. Pay attention to consumer protection and data protection aspects.

On the X. of the Time Frame of Implementation Regulatory Sandbox stated that:

1. Regulatory Sandbox is implemented for a maximum period of 1 (one) year and may be extended for 6 (six) months if necessary.
2. Regulatory Sandbox extensions may be granted subject to consideration including but not limited to:
  - a) the complexity of the business model;
  - b) unfinished risk mitigation;
  - c) influence on consumer protection; and
  - d) There's an inadequate security system.

Based on the explanation above, and looking at the scope of the regulatory sandbox setting, it is clear that the Bank of Indonesia's attitude is normatively non-resistant to financial technology innovation. With the regulatory sandbox testing program and supervision carried out by Bank Indonesia, then financial technology start-ups will be better at running their businesses because there is support from the regulators. On the other hand, with good governance, consumers will be more secure when using financial technology



systems and services, so it is expected that the industry and markets of financial technology will be very conducive to innovation.

May the imposition of the Financial Services Authority on financial technology entrepreneurs not just be a norm. The hopes can be empirically demonstrated by the large number of financial technology players who succeed in becoming a start-up unicorn, so that the economy in the financial industry can be driven by financial technology entrepreneurs. (Bambang Pratama, 2018) Since the development of investment activities in Indonesia cannot be ruled and is influenced by various factors, one of them is the important regulatory factor that is very much needed by investors.

## **2. Crypto currency as a legal commodity**

According to He et al, 2016. The concept of money is associated with the authority of the state government to regulate the issuance of banknotes and metal coins. Currency refers to the units of counts and measurements prescribed by the Law. In the narrow sense, the currency refers to notes and coins issued by the Central Bank. The currency is a legal means of payment under the law of the State. Currencies in Indonesia are regulated in the Law of the Republic of Indonesia No. 7 of 2011 on Currency.

In the Indonesian legal system, crypto currencies cannot be used as a means of payment because other than crypto currency does not fully meet the elements as a currency, the use of cryptocurrency in pricing quotations as well as payment of goods and services is contrary to the RI Act No. 7 of 2011 on Currencies.

However, crypto has acquired a clear legal attribute, namely as a commodity that can be traded on futures exchanges, because of its volatility nature, another term for volatility is market mood. Volatility is a term commonly used to describe the measure of the rate of price fluctuation of an object over time. The sharper the rise that occurs in the short term, the higher the volatility. And the other way around. Trading or investing in a crypto asset makes a person richer in an instant. However, the same activity can also make anyone sink in days, hours, or even minutes. And above all that, we usually praise and blame the high volatility that crypto has. At the end of the day, that's the uncertainty that then becomes the space for many sentiments to influence the price.

In general, a commodity is a physical asset that meets a need, is produced in large quantities and can be exchanged, i.e. its individual units are fully exchangeable. Digital commodities or cryptocurrencies of the blockchain system can be categorized as rights or



interests, thus falling into the category of commodity in the Act No. 10 of 2011 on Amendments to the Law No. 32 of 1997 on Commodity Futures Trading.

The Ministry of Commerce of RI (Kemendag) through the Commodity Futures Trading Supervisory Authority (Bappebti) has officially given legal assurance regarding crypto assets in Indonesia. There are four written regulations that legalize the trading of digital commodities such as crypto assets, among them:

- 1) Bappebti Regulation No. 2 of 2019 on the Maintenance of the Physical Market of Commodities on the Futures Exchange.
- 2) Bappebti Regulation No. 3 of 2019 on commodities that can be subjected to futures contracts, Sharia derivatives contracts and/or other derivative contracts traded on futures exchanges.
- 3) Bappebti Regulation No. 4 of 2019 on Technical Terms of Maintenance of the Digital Physical Gold Market on Futures Exchange.
- 4) Bappebti Regulation No. 5 of 2019 on Technical Terms of Maintenance of the Physical Market of Crypto Assets on Futures Exchange.

Retrieved from Bappebti's official website, this crypto asset has the following functions.:

- a) Providing legal certainty to perpetrators of crypto asset trading in Indonesia.
- b) Provides protection to Crypto Asset Clients from possible losses from crypto asset trading.
- c) Facilitating innovation, growth, and development of physical trading activities of Crypto Assets in Indonesia.
- d) Prevent the use of crypto assets for illegal purposes such as money laundering and terrorist financing as well as the development of weapons of mass destruction; (amanat UU Tindak Pidana Pencucian Uang dan UU Tindak Pidana Pendanaan Terorisme).

With the creation of Bappebti's lawful and legally-based regulations on crypto assets, crypto asset trading is expected to be more regular, transparent, and competitive.

### **3. Bappebti's role in implementing the Sandbox Policy**

Although it is true that crypto is a digital currency, some countries, including Indonesia, have included crypto in the commodity category. That is, crypto can be officially traded at 13 crypto asset traders that have been registered at Bappebti as both investment



and trading assets. In fact, setting crypto as a commodity could have a good impact because people would feel safe to invest in these assets.<sup>10</sup> .

The Bank of Indonesia has embarked on various ways related to activities involving crypto currencies. In accordance with its authority, Bank Indonesia in 2014 warned the public to be cautious in investing using bitcoin because its value is fluctuating and tends to be used for fraud. Then, in 2016, Bank Indonesia banned payment system providers, including fintech companies (in 2017) from engaging in transactions using crypto currency systems.

In its development, BAPPEBTI took a progressive step by issuing regulations that allow the physical trading of crypto currencies on futures exchanges. By issuing this Bappebti Regulation No. 5 of 2019, it should not be seen as inconsistent with the BI policy that prohibits the use of crypto as a means of payment. This is given that BAPPEBTI works according to its authority, because crypto is a commodity, and the Bank of Indonesia is operating according to their authority and capacity in the payment system, which does not accept the classification of crypto currency as a currency.

The regulatory framework for crypto currencies in Indonesia tends to be conventional. In this case, the crypto markets are allowed to grow only in the futures exchange area, but not allowed to be used as a means of payment Indonesia should have a basic framework in setting up crypto regulations, which on the one hand should be in line with the regulatory objectives of maintaining the stability of the national financial system, and on the other hand should also encourage fintech innovation. The way is, firstly: by banning financial institutions (such as credit institutions, institutions in payment systems) from buying, keeping or selling crypto because of the risks in the financial services sector; and secondly, by enacting provisions that focus on anti-money laundering and consumer protection efforts.

After issuing BAPPEBTI regulation number 5 year 2019, all physical traders of crypto assets that carry out crypto sale activity must make registration to BAPPABTI and meet the requirements related to risk mitigation, financing, information systems, etc. When

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<sup>10</sup> Artikel ini telah tayang di *Bisnis.com* dengan judul "Mengenal 'Kotak Pasir' alias Sandbox yang Dirilis BI. Apa Itu?", Klik selengkapnya di sini: <https://finansial.bisnis.com/read/20210527/563/1398439/mengenal-kotak-pasir-alias-sandbox-yang-dirilis-bi-apa-itu>. Author: M. Richard. Editor : Annisa Sulisty RinDownload aplikasi *Bisnis.com* terbaru untuk akses lebih cepat dan nyaman di sini: Android: <http://bit.ly/AppsBisniscomPSiOS>: <http://bit.ly/AppsBisniscomIOS>



the physical trader of such crypto assets meets the requirements, they are entitled to apply for licensing as a legitimate physical trader of cryptocurrency assets with the fulfillment of more stringent additional requirements. If they do not apply for permission until one year from the date of registration, then their registration will be cancelled.

The requirements applied to a physical trader of crypto assets are quite strict and complex. The capital requirement deposited at the time of registration of Rs.100 billion and the physical trader of crypto assets are required to maintain the final capital balance of at least Rs.80 billion. Further, at the moment of the submission of the license, the physical traders of cryptocurrency assets must have the deposited capital of a minimum Rs.1 trillion and maintain a final capital saldo of at most Rs.800 billion.

The requirement for the amount of capital deposited is considered too high because it is credited with financial institutions, such as banks. So far, not a single company has applied for registration. These provisions are likely to be deliberate only to regulate physical traders of large-scale crypto assets.

Consumer data protection is also a concern by BAPPEBTI, so the physical trader of crypto assets is obliged to keep customer data unless otherwise mandated by legislation. Data disclosure can be done for example in the case of compliance with anti-money-laundering provisions. Consumer protection related to price information and education regarding the risk of trading in crypto currencies has also been covered in this provision by requiring the physical trader of crypto assets to inform the customer before the transaction is carried out.

Another requirement to mitigate business disruption is the obligation to transfer all user accounts and funds to other traders who have obtained BAPPEBTI permission, in case the physical trader of the crypto asset cancelled its registration because it did not meet the requirement for applying for authorization.

The BAPPEBTI regulation has generally covered all aspects that become regulatory concerns in the financial services sector, namely, among other things, the risk of settlement failure, risk of fraud, operational risk, implementation of anti-money-laundering programs and, consumer protection. But it can be said that these rules are too strict for a new business to start. The focus of the regulation not only covers efforts to combat crime of money-laundering and consumer protection, but also complex prudential regulation principles, demonstrated by high financing requirements and other requirements



related to a wide range of risk aspects. This requirement may be applicable to a physical crypto trader with a large turnover, while for a start-up it may be difficult to meet the requirement. In fact, so far, no company has granted BAPPEBTI a license as a legal agency to trade crypto currencies in commodity futures markets.

Over time, the physical market trading of crypto assets continues to increase and the market segmentation is expanding, marked by the rising price of the crypto asset. In view of the potential, BAPPEBTI also issued Bappebti Regulation No. 7 of 2020 on the establishment of a list of Crypto Assets that can be traded in the physical market of Cripto Assets. This regulation establishes 229 types of crypto assets that are registered and tradable.

As for the objective of BAPPEBTI Regulation No. 7 of 2020 to improve and create a climate of favorable investment and prevent the use of illegal crypto assets. Besides, use of cryptocurrency assets is quite vulnerable and feared to be abused for the purposes of money laundering, terrorist financing or the development of weapons of mass destruction.

In article 1113 BAPPEBTI fulfils the functions of: (1) formulation of technical policy in the field of construction, regulation and supervision of commodity futures trade and construction of physical markets, (2) implementation of the technical policy on construction, arrangement and oversight of trade in commodity futures and the construction of a physical market, (3) formulation of the standards, norms, guidelines, criteria and procedures in the area of building, regulating and supervising trade in futures of goods and construction of a physical market (4). provision of technical advice and evaluation in the spheres of the construction, setting and overseeing of the trade in goods futures, and physical market construction, (5) safeguarding of technical implementation policies in the areas of construction of futures trading activities, (6) execution of construction and development of the natural market, (7) implementing the administration of the Agency. This new type of investment requires protection so that people engaged in virtual currency activities can feel safe and comfortable.

#### **D. Conclusion**

Like a two-eyed knife, sometimes an advantage can simultaneously become a weakness, and that picture probably applies to the sale of crypto assets. Crypto assets are an investment instrument that is now popular among investors. Basically, crypto is a digital asset



that utilizes blockchain technology. The security of this asset is protected by cryptography. Taking into account the characteristics of crypto that are vulnerable to being abused for illegal activities, such as money laundering, terrorist financing, and so on, as well as observing the growing number of crypto currency users in Indonesia, the need for crypto settlement becomes inevitable. This requires designing a proper regulatory framework, which, on the one hand, can be aligned with the regulatory concerns in the financial services sector, and on the other, the regulation also needs to give the industry the right spirit and breath.

The Financial Services Authority of the Republic of Indonesia has issued Broadcast No. 21 /Seojk.02/2019 on the Regulatory Sandbox, which is a progressive step by issuing regulations that allow the physical trading of crypto currencies on futures exchanges. Protection of commodity futures trade is carried out under direct supervision by the supervisory body for commodities futures trading (BAPPEBTI).

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