Juridical Analysis of Cryptocurrency Transaction on The Binance Market in Terms of Commodity Futures Trading Regulatory Agency Regulations

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Juridical Analysis of Cryptocurrency Transaction on The Binance Market in Terms of Commodity Futures Trading Regulatory Agency Regulations

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Abstract: The presence of Bitcoin as a digital currency whose management is handled by the developer as money might result in its restriction; consequently, the legality and legal ramifications of buying and selling Bitcoin, particularly on the Binance market, are still being determined. The goal of this research is to look at Regulation Number 5 of 2019 regarding technical provisions for holding a physical cryptocurrency market on commodity futures exchanges in the use of cryptocurrency on the Binance market, such as requirements for establishing a physical crypto asset market or trade, dispute resolution procedures, and legal protection.

Keywords: cryptocurrency; blockchain; bitcoin; virtual currency; futures trading

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1. Introduction

Technology has become a massive requirement as the digital age has progressed, pushing technology users to connect and conform to shifting patterns of behavior and habits. Economic progress aided by technology broadens societal perceptions of activities carried out in cyberspace in the commercial sector, particularly in transactions. Selling and buyers no longer need to meet in person and spend cash to do business because it can now be done online anytime.

Because of the advent of goods from digital innovation, such as cryptocurrencies, virtual memory has a significant interest. Cryptocurrency was designed to eliminate the need for someone to control the financial system entirely. Cryptocurrency answers financial sector challenges by utilizing low-cost and easily accessible technologies to develop and integrate into current systems (Wijaya, 2018). Cryptocurrency is a technology that uses a blockchain-controlled database. It is widely utilized as digital money, yet its benefits and drawbacks must be addressed (Burhanuddin, 2022).

The Bitcoin growth in Indonesia has both advantages and disadvantages. According to Bank Indonesia (BI), bitcoin is not an actual payment and should not be utilized since it violates Law No. 7 of 2011 on Currency. Bank Indonesia Regulation (*Peraturan Bank Indonesia/PBI)* No. 18/40/PBI/2016 on the Implementation of Payment Transaction Processing. There is also *PBI* No 19 /12/PBI/2017 on Financial Technology Implementation. Cryptocurrency may only be utilized as a commodity on futures exchanges, according to Commodity Futures Trading Supervisory Agency Regulation No. 5 of 2019, which outlines technical conditions for structuring the physical market for crypto assets on commodity futures exchanges.

Because cryptocurrency assets have fulfilled commodity elements, they are classified as intangible commodities in the form of digital assets that can be traded in commodity futures trading (Manik & Ni Ketut Supasti Dharmawan, 2022). Even though there are regulations governing cryptocurrencies, it is believed that they are insufficient to cover all aspects of cryptocurrency, which are pretty complex due to the existence of cryptocurrencies whose issuance and control are carried out by the developer, not regulated by any particular authority, so it is not legally incorporated and not bound by law and is usually only accepted and used by specific communities such as the Binance market as a trading platform. (LPPI, 2019).

2. Research Methodology

This research implements qualitative methods with a normative juridical approach, carried out by studying cryptocurrency according to applicable laws and regulations and using techniques for collecting primary and secondary legal materials, which are inventoried and classified according to the issues discussed.

3. Discussion

Commodity Futures Trading Commission Regulations pertain to cryptocurrency transactions on the Binance market.

With increased segmentation, the physical market for crypto assets is growing more saturated. It is defined by an increase in the physical market price of certain crypto asset coins transacted by potential crypto asset dealers. Bitcoin is one of them. There are no restrictions in trading that prevent the selling and purchase of cryptocurrencies on exchanges such as Binance. With the publication of Commodity Futures Trading Regulatory Agency Regulation Number 5 of 2019 about Technical Provisions for Organizing Physical Asset Markets Crypto, cryptocurrency is officially recognized as a commodity asset that may be traded on futures exchanges.

Bappeti's foundation for legalizing cryptocurrency asset exchange on the Binance market is based on several applicable regulations, including Law No. 10 of 2011, which states that „Commodities are all goods, services, rights, and other interests, as well as any derivatives of commodities that can be traded and become the subject of futures contracts, sharia derivative contracts, and other derivative contracts." The Commodity Futures Trading Commission Regulation Number 5 of 2019, explaining Technical Provisions for Organizing the Physical Crypto Asset Market, classifies bitcoin as an intangible product. According to Civil Code article 503, an intangible thing does not have a physical form; it is a privilege bestowed on a tangible object. As a result, ethereal items are associated with a specific benefit over a specific object with a shape. It contradicts the premise of Bitcoin, which has no physical form. It has no foundation concerning the preceding rights since it lacks underlying physical assets and is a digitalized asset. At the same time, other commodities, such as agriculture, plantations, mining, manufacturing, and fisheries, have a physical form (Ausop & Aulia, 2018). As a result, the author believes that categorizing cryptocurrencies as good is less important.

Even though the Commodity Futures Trading Commission Regulation No. 5 of 2019 concerning Technical Provisions for Organizing a Physical Crypto Asset Market already regulates the provisions for organizing a crypto asset market, Article 3 Paragraph 2 letter e states that „Crypto assets can be traded if they have economic benefits, such as taxation, growing the informatics industry, and the competence of experts in the field of Informatics," the regulation does not regulate the trading of crypto assets. It is unknown what kind of tax is levied, whether it is income tax, value-added tax, or goods and services tax. If the holder/owner of Bitcoin does not record it as an asset, it might result in an underground economy danger.

4. Legal Relationships of the Parties in Transactions on the Binance Market

The legal relationship between the user who sells and the user who buys is known as the seller-buyer relationship. Article 1457 BW states, „A sale and purchase agreement is an agreement in which one party binds himself to surrender the object, while the other party binds himself to surrender at an agreed price." The Binance market is a cryptocurrency exchange that connects sellers and buyers. The cryptocurrency object in this context refers to a digital asset that exchanger users trade.

Users who sell cryptocurrency to other members can be said to be business actors. According to Article 1 paragraph (3) of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection, „Business Actors are any individual or business entity, whether in the form of a legal entity or not a legal entity, that is established and based or carried out activities within the jurisdiction of the Republic of Indonesia, either individually or collectively."

Users who buy cryptocurrency are considered consumers under the provisions of Article 1 paragraph (2) of the Law of the Republic of Indonesia No. 8 of 1999 concerning Consumer Protection, which states that consumers are defined as anyone who uses commodities or services provided in society for personal gain, family, other people, or other creatures rather than monetary gain.

Users who make purchases must pay the agreed-upon sum at the time and location specified in Article 1513 of the Civil Code. The term „price" denotes an amount of „money." If it is not agreed upon, the buyer must pay at the time and place of delivery, according to Article 1514 BW.

5. Legal Protection and Settlement for Binance Users Who Buy and Sell Cryptocurrency

Binance's Terms of Service require its users to follow local laws on the use of Binance services and other requirements applicable in the user's local jurisdiction, including all elements of taxes, collection, reporting, and payments to the appropriate authorities. It must also not violate the public interest, morals, or legitimate interests of others, including any activity that might irritate, disturb, or negatively impact others ("Binance Terms of Use," 2022).

According to the Commodity Futures Trading Regulatory Agency Regulation No. 5 of 2019 concerning Technical Provisions for Organizing the Physical Market for Crypto Assets on Futures Exchanges, the forms of legal protection for parties buying and selling cryptocurrency include:

1. According to Article 2 Paragraph (1), crypto asset dealers shall adhere to sound corporate governance principles, the goal of establishing a crypto asset market, legal clarity, and legal protection.

2. According to Article 3 Paragraph (2), crypto assets can be traded in the form of utility and crypto-backed assets using distributed ledger technology and are included in the world's most significant crypto asset exchange transactions.

3. Article 15 Paragraph (1) states that Physical Crypto Asset Traders must keep clients' crypto assets safe.

4. Article 15 Paragraph (2) states that crypto asset dealers must hold at least 70% of total crypto assets handled offline or in cold storage.

Furthermore, it gives protection under Law Number 11 of 2008 following Information and Electronic Transactions. According to Article 9, "Every business actor terms, manufactures, and offers the product being offered". Before registration, Binance Market, as a business actor, has outlined the terms of the contract, manufacturers, and items sold on the website page in the terms and conditions part.

Transactions as a crypto asset bring together the interests of numerous parties, resulting in unavoidable disagreements. The conflict resolution method through the courts resulted in all parties confronting each other to defend their rights. A decision indicating a win-lose solution is the conclusion of a dispute resolution (Amriani, 2011). Furthermore, the use of Alternative Dispute Resolution (APS) and Alternative Dispute Resolution (ADR) techniques for dispute resolution is governed by Law Number 30 of 1999 regulating Arbitration and Alternative Dispute Resolution. ADR procedures available to business players include negotiation, consultation, binding opinions, mediation, conciliation, adjudication, and arbitration. Article 22 of the Commodity Futures Trading Regulatory Agency Regulation Number 5 of 2019 concerning Technical Provisions for Organizing the Physical Market for Crypto Assets on the Futures Exchange states that the resolution of disputes in crypto asset transactions is carried out through deliberation to reach a consensus. If no consensus is reached between the parties, the parties can settle through the Commodity Futures Trading Arbiter.

6. Conclusion

According to Commodity Futures Trading Regulations Number 5 of 2019 concerning Technical Provisions for Organizing the Physical Market for Crypto Assets on Futures Exchanges, the Binance market is governed by terms and conditions that govern all aspects of cryptocurrency buying and selling transactions, such as certification, implementation, procedures, and requirements for establishing a physical market for assets. However, the Commodity Futures Trading Regulation has tax loopholes.

The establishment of cryptocurrency laws by Bappeti's foundation needs to be judged more to accommodate all of the risks associated with its usage in electronic transactions in Indonesia. The government should also have particular legislation to manage intangible goods in the digital realm, such as cryptocurrency.

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