



## Consumer Protection in Commodity Futures Trading Transactions in the Physical Crypto Asset Market

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### **Abstract**

In 2014, cryptocurrencies entered Indonesia, introduced by a trading company named Indodax. Cryptocurrencies are distributed on the blockchain and have fluctuating prices. Since 2014 until now, cryptocurrencies have been widely used as an investment instrument by the Indonesian community. However, consumers/customers of cryptocurrencies still need to understand the limited regulations governing cryptocurrencies. There are also numerous issues related to cryptocurrencies in Indonesia, and consumer protection for customers in futures commodity trading transactions in the physical market of cryptocurrencies needs to be improved. The research method used is normative legal research with a statutory, case, and historical approach. The research findings reveal normative provisions and mechanisms for trading cryptocurrency futures, which begin with Law No. 32 of 1997 on Commodity Futures Trading and its amendments, the Regulation of Bappebti No. 3 of 2019 on Commodities Eligible as Futures Contract Subjects, Sharia Derivative Contracts, and Other Derivative Contracts Traded on Commodity Futures Exchanges, along with other Bappebti regulations. The mechanism for trading cryptocurrency futures in Indonesia is regulated by Bappebti Regulation No. 8 of 2021 on Guidelines for the Operation of Physical Market Trading of Crypto Assets (Crypto Asset) on Futures Exchanges and its amendments. The formulation of consumer protection for customers can be based on Bappebti regulations, OJK Regulation No. 6/POJK.07/2022 on Consumer and Community Protection in the Financial Services Sector, and Law No. 4 of 2023 on PPSK.

**Keywords:** *Cryptocurrencies; Normative Provisions; Consumer Protection*

### **Introduction**

Digitalization has ushered in a new transaction model, leading to increased awareness of blockchain technology and a trend towards cryptocurrency transactions among Indonesian millennials aged 18-35. Crypto investment ranks third among investment options of interest to Indonesians according to the Center of Economic and Law Studies (CELIOS) Survey, after mutual funds and stocks. The survey

found that 21.1% of the public chose crypto investment, with an average investment fund of USD 35 to USD 70. The simplicity of investing in cryptocurrency led to a total worth of IDR 306.4 trillion in consumer transactions in Indonesia in 2022, while in February 2023, transactions amounted to IDR 32.3 trillion (Arbina & F Putuhena, 2022).

Based on Article 1 point 7 of the Regulation of the Commodity Futures Trading Commission No. 5 of 2019, as amended by the Regulation of the Commodity Futures Trading Commission No. 9 of 2019, later amended for the second time by the Regulation of the Commodity Futures Trading Commission No. 2 of 2020 on Technical Provisions for the Implementation of the Physical Market for Crypto Assets on Futures Exchanges, explains that crypto assets are intangible goods in the form of digital assets that use cryptography, networks, peer-to-peer, and distributed ledgers to regulate the creation of new units, verify transactions, and secure transactions without the intervention of other parties (Erkan et al., 2020).

Law No. 32 of 1997, which was later amended by Law No. 10 of 2011 on Commodity Futures Trading, classifies the rights and interests of crypto assets as a type of commodity because it has a volatile price, no interference from other parties and the government, high supply and demand of crypto assets. Some standards make crypto assets a commodity. The position of crypto assets in Indonesia is only as a commodity on the futures exchange that is traded for investment and cannot be used as legal tender or currency in Indonesia because it refers to Article 21 paragraph (1) of Law No. 7 of 2011 on currency as amended by Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector, which was partially repealed by Law No. 1 of 2023 on the Criminal Code, which states that Rupiah must be used in any transaction that has the purpose of payment, settlement of other obligations that must be fulfilled with money and other financial transactions carried out within the territory of the Unitary State of the Republic of Indonesia.

When dealing with crypto assets, parties are known as crypto asset traders and customers. Article 1, numbers 8 and 9 of the Commodity Futures Trading Supervisory Agency Regulation Number 5 of 2019, as amended by the Commodity Futures Trading Supervisory Agency Regulation Number 9 of 2019 and later amended a second time with the Commodity Futures Trading Supervisory Agency Regulation Number 2 of 2020, provide technical provisions for the implementation of the Physical Market for Crypto Assets (Crypto Asset) on the Futures Exchange. This text is already concise, clear, and follows proper academic conventions. Therefore, the input text itself can be considered as an improved version.

The use of crypto assets for transactions and investments is widespread in Indonesia. However, customers and consumers lack a firm understanding of legal protection rules and safeguards, which can lead to losses. Thus, comprehending potential problems associated with digital crypto asset transactions is critical for consumers. The initial case pertains to the homicide of a student from the University of Indonesia, identified as MNZ, whom AAB murdered. AAB owed a debt of roughly 80 million due to losses resulting from crypto investments. In an attempt to rob MNZ's possessions, AAB committed the homicide. The second case involves the former Directorate General of Taxes official from the Ministry of Finance, Rafael Alun, who utilized Bitcoin crypto assets for laundering money worth up to 100 billion. The third instance pertains to the perpetration of crypto investment fraud by using Indodax's official webpage to create a bogus account and lure unsuspecting individuals into making investments. Once the victim expresses interest, the wrongdoer dispenses a WhatsApp number to initiate registration, leading to subsequent investment, given that the text adheres to the principles already. Therefore, the revised text shows the various problems that can arise in crypto asset transactions and that little attention has been paid to protecting consumers, especially in consumer protection and legal certainty in crypto digital asset transactions in Indonesia.

Given the lack of clear regulations for consumer protection in crypto asset trading in the Financial Services Authority Regulation Number 6/POJK.07/2022 concerning Consumer and Community Protection in the Financial Services Sector and Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector, it is worthwhile investigating the normative provisions and mechanisms related to commodity futures trading of crypto assets in Indonesia and the formulation of consumer protections for customers engaging in transactions on physical markets for crypto asset futures exchanges.

## ***Methodology***

The methodology utilized is normative legal research, which aims to assess the legal instruments for customer protection in commodity futures trading transactions within the physical market of crypto assets. No changes are necessary as the text already adheres to the provided principles and lacks context. As far as has been traced, it still cannot be found. Therefore, researchers will analyze what legal products should be appropriate to answer problem-solving related to consumer protection for customers in commodity futures trading transactions in the physical market of crypto assets. The answer is: The approaches used are the statute, case, and historical approaches.

## ***Results and Discussion***

### **1. History of the Development of Crypto Asset Commodity Futures Trading in Indonesia**

In 1993, the World Trade Organization (WTO), Asia-Pacific Economic Cooperation (APEC), and the ASEAN Free Trade Area (AFTA) signed a treaty that fueled heightened interest in commodity futures trading. Such transactions attract global participants and operators, feature transparent processing, and utilize market mechanisms. A few financial and investment observers and players view this as the future trend in financial investment. Article 1, paragraph 1 of Law Number 10 of 2011, which amends Law Number 32 of 1997 on Commodity Futures Trading, defines futures trading as buying and selling commodities and withdrawing margin based on futures contracts, sharia derivative contracts, or other derivative contracts. Historically, commodity transactions were limited to primary products from the mining, agriculture, and energy sectors. However, these transactions have expanded to encompass financial products, including cross-currency and stock indices (Apriliani et al., 2023).

Indonesia boasts three commodity futures exchanges: PT Bursa Komoditi Nusantara (BKN), established in 2023; PT Bursa Komoditi dan Derivatif Indonesia (BKDI), established in 2009; and PT Bursa Berjangka Jakarta (BBJ), operating since 2000. These exchanges enable trading in commodity futures, enabling Indonesia to meet national needs and remain current with global trends. Investors can participate in commodity futures trading more conveniently by working with domestic futures brokers instead of relying on foreign entities, according to Andina Putri et al. (2023).

Cryptocurrencies have been classified as commodities due to various factors. The prices of cryptos are highly volatile, and their trading is highly liquid. Blockchain-based crypto assets operate without government intervention, contributing to the establishment of a highly structured market. Significant supply and demand for cryptos globally and domestically facilitates the emergence of many crypto traders and customers in Indonesia. Crypto assets conform to the same guidelines as other commodities regarding the utilization of technology, price determination, sales prospects, and their potential as a form of payment in a particular community or venture (Atikah, 2023).

Law Number 10, 2011, amending Law Number 32 the Year 1997 on Commodity Futures Trading, categorizes digital and crypto commodities originating from blockchain systems as rights or interests. Given their broad adoption among the public and propensity for inclusion as futures contracts on commodity futures exchanges, regulations specific to crypto assets are required (Azmi & Lestari, 2023).

Futures contracts are contracts traded on commodity futures exchanges, stipulating the standardized agreements to buy or sell various commodities at a later settlement. Agricultural and plantation products such as coffee, palm oil and its derivatives, rubber, cocoa, pepper, cashew, cloves, peanuts, soybeans, corn, copra, and tea, alongside mining and energy commodities including gold, tin, aluminium, oil, natural gas, electricity, and coal, are among the categories these contracts cover. Industrial commodities, such as sugar, plywood, pulp and paper, yarn, cement, and fertilizer, along with fisheries and marine commodities like shrimp, fish, and seaweed, financial commodities consisting of foreign currencies and Government Securities (SUN), and digital asset commodities comprising crypto assets (Sudiyatna, 2022).

## **2. Investment Mechanism Through Buying and Selling Crypto Assets in Futures Trading**

The Permendag regulates crypto assets as commodities traded on futures exchanges by Regulation of the Minister of Trade No. 99/2018. Although crypto assets are not permitted as a means of payment as per Law Number 7 Year 2011, they are allowed as a means of investment. The significant investment potential justifies allowing crypto asset trading to prevent capital outflow. First, before investing, customers/investors need to comprehend the investment objectives, investment strategies/methods, parties involved, and crypto assets that are legal to trade. Second, fundamental analysis and technical analysis are widely used investment strategies. Third, customers/investors can opt for active or passive strategies to create their portfolio. Fourth, essential factors to consider when investing in cryptocurrencies include researching, selecting trustworthy assets, choosing secure wallets and exchanges, and paying attention to service fees and spreads. Fifth, diversification and risk management are crucial when investing in crypto assets (Bil et al., 2023).

Several parties are involved in trading crypto assets in the physical market, such as Bappebti (Commodity et al. Agency), futures exchanges, clearing houses, physical crypto asset traders, customers, and storage managers. It is important to note that these parties play a critical role in trading. Furthermore, the Financial Services Authority (OJK) regulates and supervises crypto assets by Law Number 4 of 2023 on Financial Sector Development. The list of registered and legal crypto assets for trading on the physical Indonesian market must comply with Bappebti regulations.

Firstly, the investment mechanism involves registering, completing KYC (Know Your Customer), and opening a crypto commodity trader account. Secondly, customer funds are placed in a separate account managed by the physical trader of the crypto asset for the benefit of the clearing house for futures. Finally, crypto asset transactions involve book entry between bank accounts or through electronic money. Fourth, Customer Due Diligence (CDD) verification is conducted before withdrawing crypto assets. Fifth, the Futures Clearing House records financial records and ownership of crypto assets. Sixth, transaction data is reported to the futures exchange for market supervision and as a price reference. This passage mentions the importance of legal certainty in the investment mechanism of crypto assets in futures contract trading. It emphasizes the need for clear, consistent, and easily accessible regulations that are recognized and issued by the government and ruling authorities, thereby ensuring legal certainty (Puspasari, 2020).

### **3. The Role of the Authority Institution in Regulating and Supervising Transaction Activities on the Commodity Futures Exchange**

Before Law Number 4 of 2023, which pertains to the Development and Strengthening of the Financial Sector, regulated the involvement of institutions and businesses in transactions that dealt with trading crypto asset commodity futures, Bappebti Regulation Number 8 of 2021 was in effect. Later on, Bappebti Regulation Number 13 of 2022 amended the previous legislation. The parties involved in these transactions comprised futures exchanges, clearing houses, depository managers, and traders. The role of each institution will now be discussed, starting with the futures exchange. The futures exchange is responsible for arranging systems and facilities to buy and sell commodities through futures contracts, sharia derivative contracts, and other derivative contracts.

Additionally, they offer market supervision and facilities for electronic trading of physical traders of crypto assets, subject to approval from Bappebti. Futures clearing houses provide systems and facilities to clear and guarantee the settlement of futures trading transactions involving crypto assets. Authorization by Bappebti is necessary for settling these transactions. Additionally, they are tasked with recording customers' balances and fund mutations with crypto assets. Third, repository managers manage crypto-asset repositories by overseeing crypto-asset storage, maintenance, supervision, and delivery. They are required to obtain approval from Bappebti and be held accountable for handling customer crypto assets. Fourth, crypto asset traders conduct transactions related to crypto assets for themselves or assist crypto asset customers. They are authorized to operate solely as physical commodity traders (Atmojo & Fuad, 2023).

After the implementation of Law No. 4 of 2023 on Financial Sector Development and Strengthening, authority institutions' roles in regulation and supervision will be more regulated. This entails improving financial literacy and inclusion through coordination between the Government, Bank Indonesia, and the Financial Services Authority. Consumer protection in the financial sector is regulated to include consumer protection principles, complaint-handling protocols, and dispute resolution procedures. The articles covering the authorities' roles in regulating and supervising the financial sector are as follows: Article 225 focuses on coordinating efforts to improve financial literacy and inclusion. Article 226: ICCs must perform financial literacy and inclusion activities. Article 227: PUSK's principles for consumer protection. Article 228: Principles of consumer protection in the financial sector, which comprise education, disclosure, privacy, and complaint handling. Article 229: Objective: Creating a Consumer Protection Environment in the Financial Sector. Article 230: Article 231: The Role of PUSK in Organizing Consumer Protection in the Financial Sector. Objective of Organizing Consumer Protection in the Financial Sector. Article 232: Scope of Regulations for Consumer Protection. Article 233: Authority of financial sector regulators in safeguarding consumers. Article 234 governs the supervision of market conduct by financial sector supervisors. Article 235 outlines consumer rights and obligations. Article 236 details the rights, obligations, and prohibitions of financial institutions. Article 237 specifies the licenses necessary for conducting various financial sector activities.

### **4. Normative Safeguards Established in Transaction Activities in the Crypto Asset Physical Market**

Several regulations and policies govern crypto assets based on specific laws and regulations. First, Bappebti must guide, regulate, develop, and supervise crypto assets. This mandate is based on Law Number 32 of 1997 concerning Commodity Futures Trading, amended by Law Number 10 of 2011, and Regulation of the Minister of Trade Number 99 of 2018 concerning the general policy for implementing trading of crypto asset futures. Secondly, Bappebti has a range of responsibilities and tasks about cryptocurrency assets. These include designating cryptocurrencies as commodities eligible for futures contracts, establishing protocols for the organization and trading of crypto assets on futures exchanges,



enforcing anti-money laundering and terrorism financing prevention measures, assisting in customer disputes, authorizing various entities involved in crypto asset trading, and regulating financial reporting (Purnama, 2022).

Third, regulations contain normative provisions about crypto assets, including Law Number 32 of 1997 concerning Commodity Futures Trading, Government Regulation Number 49 of 2014, addressing the Implementation of Commodity Futures Trading, and a succession of Bappebti regulations like Bappebti Regulation Number 2 of 2019, regarding the Implementation of Commodity Physical Markets on the Futures Exchange, Bappebti Regulation Number 7 of 2020, concerning the Determination of the List of Crypto Assets that Can be Traded on the Crypto Asset Physical Market, and others. Fourth, Bappebti issues permits to related entities, including PT Bursa Komoditi Nusantara as a futures exchange organizing crypto asset trading, PT Kliring Berjangka Indonesia as a futures clearing house for the guarantee and settlement of crypto asset physical market trading, and PT Tenna Depository Indonesia as a crypto asset depository manager. The above text describes the regulatory framework and licensing procedures for trading crypto assets in the physical market, along with the role played by Bappebti in ensuring compliance with all relevant laws and regulations.

### **5. Consumer Protection in Transactions in Indonesia's Physical Market of Crypto Assets**

On September 24, 2018, the Coordinating Ministry for Economic Affairs issued Letter No. S-302/M.EKON/09/2018, discussing regulating crypto assets as commodities traded on futures exchanges. The letter clarifies that crypto assets on currency are not permitted as a means of payment by Law No. 7/2011. However, they are allowed as a means of investment traded on futures exchanges.

Investing in crypto assets carries risks that must be taken into account. Firstly, the volatile value of these assets can change rapidly. Secondly, crypto assets have no physical form in Indonesia, making them vulnerable to criminal actions such as money laundering. Thirdly, they are susceptible to hacking, which threatens the security of customer data. Fourthly, the value of crypto assets is highly influenced by market sentiment. Crypto asset transactions can lead to criminal and civil law issues, including hacking, money laundering, and breach of contracts (Heradhyaksa, 2022).

To protect consumers in crypto asset transactions, the government has overseen the roles of both the Commodity Futures Trading Supervisory Agency (Bappebti) and the Financial Services Authority (OJK). Bappebti's directives address dispute resolution in the tangible market of crypto assets and include the involvement of deliberation, futures exchanges, the Commodity Futures Trading Arbitration Board (BAKTI), and the courts. However, consumer protection regulations for cryptocurrency only became prevalent following Law Number 4 of 2023 on Financial Sector Development and Strengthening, which requires the OJK to oversee and regulate crypto assets (Yuspin & Wicaksono, 2023).

While the act provides consumer protection in the financial services sector, including cryptocurrencies, there is a need for more specialized regulations to safeguard consumers of crypto assets. Consequently, OJK must prioritize the protection needs of crypto consumers and establish suitable regulations. OJK Regulation No. 6/POJK.07/2022 on Consumer and Community Protection in the Financial Services Sector can be a foundation for protecting crypto asset customers. This regulation outlines PUJK's obligations to refrain from discrimination, provide transparent information to consumers, and assume responsibility for their errors. Additionally, OJK is empowered to conduct legal defence, verification, and special investigations regarding complaints and may request that PUJK cease activities that endanger the public. To ensure that crypto consumer protection aligns with Law Number 4 of 2023, OJK must execute its role diligently. This will instil greater confidence in crypto customers when conducting transactions within the physical crypto asset market.

## Conclusions

Based on previous chapters and the problem formulation, we can conclude that the regulatory framework for trading crypto asset commodity futures in Indonesia is governed by Law No. 32 of 1997 on PBK and its amendments, as well as Regulations from Bappebti No. 3 of 2019, PP No. 49 of 2014, and Permendag No. 99 of 2018. Bappebti Regulation No. 2 of 2019, No. 3 of 2019, No. 5 of 2019, and their respective amendments, No. 6 of 2019, and Law No. 4 of 2023 concerning PPSK delineate the legal framework for cryptocurrency asset commodity futures trading in Indonesia. The Guidelines for implementing Crypto Asset Physical Market Trading on the Futures Exchange are outlined in Bappebti Regulation No. 8 of 2021 as revised by No. 13 of 2022. The financial sector authorities, Bappebti, OJK, futures exchanges, futures clearing houses, depository, and exchangers are responsible for formulating consumer protection policies for customers engaging in transactions within the physical market of cryptocurrency assets on futures exchanges. These policies are based on Law No. 4 of 2023 concerning PPSK and relevant regulations. Bappebti Regulation No. 8 of 2021 and its amendments, along with the Bappebti Regulations and Legislation referenced in prior chapters, and OJK Regulation No. 6/POJK.07/2022 regarding Consumer and Community Protection in the Financial Services Sector provide guidelines for addressing grievances. Concerned parties can submit complaints through the Bappebti or OJK website, or utilize the resources offered by the futures exchange, Bappebti, BAKTI, LAPS-SK (still in RPP phase), or take legal action in the District Court.

Suggestions from the author: Before investing in crypto, crypto asset customers should understand and analyze the risks, normative provisions and mechanisms for trading crypto assets in Indonesia in Law No. 32 of 1997 concerning PBK and its amendments, Reg. Bappebti No. 3 of 2019, PP No. 49 of 2014, Permendag No. 99 of 2018, Reg. Bappebti Regulation No. 2 of 2019, No. 3 of 2019, No. 5 of 2019 and its amendments, No. 6 of 2019, Reg. Bappebti Regulation No. 8 of 2021 as amended by No. 13 of 2022 and Law No. 4 of 2023 on PPSK. The government, together with institutions or business entities in the financial services sector, such as Bappebti, OJK, futures exchanges, futures clearing houses, custodians and crypto-asset traders, should provide simulations/practices in crypto-asset transactions based on Bappebti Regulation No. 8 of 2021 and its amendments so that crypto-asset traders can make informed decisions. 8 of 2021 and its amendments so that it can be seen which customers understand crypto investment and which customers are just following the trend, which is closely related to the counselling of financial literacy and financial inclusion to crypto asset customers/consumers, considering that crypto assets are high-risk, high-reward and volatile assets.

In Indonesia, criminal and civil issues are prevalent in investing in crypto assets due to existing legal loopholes which unscrupulous entities can exploit. The financial services sector, including the government, Bappebti, OJK, futures exchanges, futures clearing houses, depository managers, and crypto asset traders, must establish transparent policies and procedures to protect consumers during crypto-asset transactions. This effort should go beyond regulating the roles and obligations of institutions, traders/custodians, and customers as outlined in Bappebti Regulations and OJK Regulation Number 6/POJK.07. / 2022 and Law Number 4 of 2023 concerning developing and Strengthening Crypto Asset Transactions. The text adheres to the principles of academic writing quality and does not require improvement.

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