

# **Regulation of cryptocurrency in Indonesia**

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## Introduction

With the emergence of cryptocurrency, many countries are taking notice of its innovative financial tools. According to Manthovani (2023) cryptocurrency can be defined as a form of digital currency that is not governed by any central authority and is based on mathematical concepts, that are protected by cryptography, where the transaction takes place on the Internet and each transaction is encrypted using certain cryptographic algorithms. The first type of cryptocurrency, namely Bitcoin, occurred in 2009 (FATF, n.d.). Since then, the global crypto population has increased by 178% to nearly 300 million people used as payment products or investment tools (Noor, 2023). However, one of the main risks associated with cryptocurrency is money laundering which creates new risks on a global scale. It is reported that from 2017 to 2021 it was recorded that \$33 billion in cash was laundered by using cryptocurrency, whereas the UN evaluates about \$800 billion to \$3 trillion in money (Chainalysis, 2021).

In Indonesia, virtual currency also found its popularity where the value of cryptocurrency reached 859.4 trillion Rp., by 2021, and at the end of 2022, it counted 16.55 million crypto users (Noor, 2023). Regrettably, this also has had an impact on Indonesia where cryptocurrency is frequently utilized for money laundering purposes (Fajri and Urumsah, 2023). The majority of researchers claim in Indonesia that this is due to the anonymous nature of cryptocurrency transactions, which makes it challenging to identify the parties involved. However, this research identifies that in Indonesia the root of the criminal causes that lead to cryptocurrency is not just the anonymous nature of cryptocurrency but also national legislation and lack of a licensing mechanism. To combat the increasing trend of criminal fraud, the Indonesian government should implement strong legislation and regulation systems, such as the approach taken by Malaysia. Although Malaysia and Indonesia shared basic concepts of national legislation for cryptocurrency, only Malaysia was able to construct a clear strategy, despite initially having similar approaches.

This research aims to analyze the regulatory approaches regarding cryptocurrency of the Malaysian government and the perception of this approach implementation in the Indonesian context with some adaptation to the national legislation. This research identifies two main causes of the Indonesian government regarding cryptocurrency that leads to money laundering, then the possible integration of licensing mechanisms based on the Malaysian experience.

## **Discussion 1**

### **The vulnerability of Indonesia's regulation of cryptocurrency**

The lack of clear regulations on cryptocurrency in Indonesia allows criminals to exploit loopholes in the national act. According to Wardani (2021), the circulation of cryptocurrency in Indonesia is not entirely regulated by legislation, and the use of this tool as a means of transaction is not legally certain yet. This is because the Central Bank of Indonesia (Financial regulator) prohibited processing payment transactions using cryptocurrency (Winnie 2021). Justify it with high risks to the national security of Indonesia such as decentralization and crypto laundering. Unfortunately, the Financial regulator cannot completely ban its use of it, because, the Decree of the Indonesian Commodity Trading Supervisory Agency (Bappepti), allows the existence of cryptocurrency as a physical market for crypto assets of futures exchange (Leo Handoko, 2021). Since then, in Indonesia cryptocurrency has been considered a commodity asset rather than a mode of payment, hence it can be freely utilized in the country. However, this two-contradiction position of the government points to a loophole, because the government's regulation mechanism for cryptocurrency is based solely on traded commodities asset requirements (Leo Handoko, 2021), and regulatory control for crypto customers is still absent. This means that it allows Indonesian users to buy cryptocurrency without identity verification and crypto sellers also are not mandated to prevent adequate risk assessment on their customers to prevent the potential use of cryptocurrencies for money laundering and financing of terrorism. According to Apriliani (2019), the possibility of pseudonymous transactions of virtual currency already attracted terrorist organizations to store real money in cryptocurrency. They explain one case when Ghost Security Hackers Group hacked terrorist organizations' (ISIS) crypto accounts in systems that had

approximately 41.1 billion rupiahs in Bitcoin. Consequently, the purpose of this money would be utilized for criminal purposes. In other cases, the terrorist threatened to bomb one of the Natural Silk shopping malls and demanded managers a ransom of 100 BTC. This incident made it clear that in such cases, the Indonesian government, after providing BTC, could not trace cryptocurrency, and criminals were well aware of its potential.

However, despite the issue in the national act of the Indonesian government, the absence of a licensing regulatory mechanism for cryptocurrency exchanger services and crypto websites already leads to money laundering activity. In the article, "Criminal Law Policy in Handling Digital Asset-Based Money Laundering Indonesia " Akbar (2020) claims that in Indonesia Bitcoin Exchange and Bitcoin trading websites are associated with criminals as money laundering tools. Akbar explains this because crypto providers have no rules or regulations for anti-money laundering programs, which leads to the possibility of laundering money. This means crypto services organizations that provide exchanger services of any type of cryptocurrency to rupiah which also provide services to send, receive, and store it, stay out of Indonesian regulation. This view is supported by Wardani (2021) who also criticized the Indonesian government for the absence of clear regulation regarding crypto providers. Wardani in his article provides one of the popular cases related to the Liberty Reserve money-transmitting service. This service has the world's oldest, safest, and most popular payment system, including Indonesia. Unfortunately, the service facilitated money laundering on a massive scale by using an anonymous transaction process that was difficult to track. The process involves depositing the illicit funds into a digital currency system and later converting them back to cash or transferring them to another account. The service processed 78 million transactions worth up to \$8 billion, which included identity fraud, credit card theft, hacking, and Ponzi fraud. Consequently, while in Indonesia crypto exchanges are not required to report any suspicious transactions for now, such providers might freely launder money. In conclusion, the uncertain status of cryptocurrency in Indonesia's legal system creates a vacuum that could worsen money laundering activities.

## **Discussion 2**

### **Understanding of Malaysian regulatory approaches**

The Malaysian government's effective regulation of cryptocurrency is a result of its adaptation to national legislation. According to a report by Paul (2022) in Capital Com, Malaysia started regulating cryptocurrencies in 2018 and is ahead by 18-24 months compared to other countries, including economically strong Asian nations. Moreover, Malaysia is on the same list of the top European countries that have strong cryptocurrency security measures to prevent risks associated with cryptocurrency fraud (Mikhayelov, 2023). This view is supported by Nawang (2021) who clarifies that the reason that the regulation of cryptocurrency is correctly working is that it not just lies in the licensing mechanism but in how the Malaysian government defines cryptocurrency. He explains, that in Malaysia a cryptocurrency is considered "a distributed digital ledger, whether cryptographically secured or not, on which a digital representation of value is recorded, that acts as a medium of exchange and is interchangeable with any currency, and can be credited or debited from an account." Nawang adds that in this regard the lack of a clear definition of the term 'cryptocurrency' in the Financial Services Act (FSA) and Islamic Financial Services Act (IFSA) has been resolved with the introduction of two new definitions. Digital currency and digital tokens are now defined in Order 2019, addressing the previous lack of clarity. Such steps allowed Malaysia to regulate cryptocurrency circulation because, after the integration of new definitions, all crypto providers are required to apply for Capital Markets Services License. Consequently, due to unclear definitions of cryptocurrency by the Indonesian government, it is necessary to redefine the concept of cryptocurrency in the national Act before integrating licensing mechanisms.

On the other hand, Malaysia's licensing approach strategy might be a guide to Indonesian regulations that might help regulate crypto providers. The reason for that the usage of cryptocurrency follows a similar pattern in Malaysia and Indonesia, despite their different regulatory approaches. As mentioned previously, in both countries' cryptocurrency is not recognized as a payment tool but as a commodity asset. In his article, Nugroho (2023), discusses that in Indonesia

there are still no official rules and regulations prohibiting or sanctioning people who buy and sell online using bitcoin, and regulation of cryptocurrency is narrow, aimed to protect just investors. While regarding Malaysian regulations cryptocurrency providers must follow certain obligations (Franciska Mifanyira 2020). Firstly, they need to register and obtain a license from the government. Secondly, they must conduct risk profiling of their customers. Thirdly, they need to perform customer due diligence (CDD). Finally, they must maintain the records for at least six years. If cryptocurrency providers ignore prescribed requirements and do not apply for a Capital Markets Services License, they will expose operators to a fine of up to RM10 million and/or up to 10 years in prison (Norazida, 2023). This approach is not just allowing the Malaysian government to integrate anti-money laundering and financial terrorism financing obligations for crypto services they also are able to protect investors of cryptocurrency. In his article, Nawang (2020) discussed how the Malaysian regulation systems were tested in courts. He explains that the crypto provider services and users conflicted, where users due to the technical issue of the systems had mistakenly transferred 22.6 Bitcoins instead of only 11.3 Bitcoins. After understanding the double transfers by users, they requested crypto providers to return the additional bitcoin which was already sent to the third address. However, despite the crypto providers initially ignoring requests to return the money, the Malaysian court obligated providers to get it back. These cases demonstrated that licensing crypto providers gives the government controlling tools to prevent illegal activity on both sites of the crypto users. Consequently, the licensing method of the Malaysian government might be a possible solution to control the circulation of crypto providers in Indonesia.

## **Conclusion**

This research already has explored the Indonesian cryptocurrency circulation and identified the loopholes in the national act. Moreover, the unclear definition of cryptocurrency in the national act regarding cryptocurrency results in terrorist organizations freely usage of cryptocurrency for illegal activity without leaving any trace for the government. Uncontrolled crypto exchanger's services or crypto websites are already utilized by criminals as money laundering tools which might distract the national security of the country. To sort it all out, Indonesia needs to analyze countries with strong crypto regulation backgrounds such as Malaysia. This is because while Indonesia and Malaysia share the same understanding of cryptocurrency, Malaysia has already established effective regulations with strong cryptocurrency measures. The effectiveness of Malaysian regulation included adding the definition of cryptocurrency in the Financial Services Act (FSA) and Islamic Financial Services Act (IFSA). Furthermore, these steps also allow the Malaysian government to regulate crypto providers because now they must be to obligated license systems. In addition, the Integration license mechanism for Indonesia would be useful because it helps prevent the uncontrolled circulation of cryptocurrency and money laundering activity in the country. However, additional research is needed to ensure that the national acts of Indonesia and license mechanisms would work without contradiction.



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