

Legal Review of Cryptocurrency as A New Method in The Crime of Money Laundering

Diana Darmayanti Putong

Department of Law Science, Universitas Negeri Manado, Indonesia, 95618

*Corresponding author: dianaputong@unima.ac.id

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ABSTRACT

The continuation of the electronic media that is widely discussed today is virtual money, commonly known as cryptocurrency. Cryptocurrency can also be referred to as an unformed commercial object; actually in digital form which can be used in electronic transactions. This study aims to analyze the existence of virtual money (cryptocurrency) in stock trading in Indonesia and to find out the responsibilities of money laundering offenders who use virtual money (cryptocurrency) in stock trading. The research method used is normative legal research. The results show that the existence of virtual money (cryptocurrency) in stock trading in Indonesia when used as currency unification, transact, trade or as a means of payment with businesses in this case, especially stock trading in Indonesia can be said to be invalid in terms of Law Number 7. 2011 concerning Currency. Users of virtual money (cryptocurrency) in Indonesia are quite widely used in business, which can be seen in Indonesia itself that virtual money (cryptocurrency) such as Bitcoin and Centcoin are circulating. Then, the responsibility of the perpetrators of money laundering who use virtual money (Cryptocurrency) in stock trading, where this action has a very negative impact on the Indonesian State, especially in terms of business because people who have committed these crimes take advantage of technological advances unwise so that the perpetrators can be ensnared based on Law No. 8 of 2010 concerning the prevention and eradication of the crime of money laundering.

Keywords: *Virtual Money, Cryptocurrency, Money Laundering Crime*

INTRODUCTION

Indonesia is a country based on law. The law has the characteristics of controlling and requiring someone to obey the rules that are made and then establish these rules so that the legal function can run according to its own function. The law produced by humans in this case contains provisions that must be carried out and determines an action that applies to citizens, so that the intended meaning is, the law that takes place in the Unitary State of the Republic of Indonesia at this time is called "Positive Law", which has a legal meaning that applies to all citizens of the Republic of Indonesia. In Indonesia, national law is systematically structured based on hierarchies and is guided by the ideals of the Pancasila law, so that it can be implemented in reality through the basics of national law through legislation and jurisprudence in the process of formulating positive law. Law is always moving forward and responsive to various kinds of new developments in society. This means that legal progress is always lagging behind with developments in new aspects such as social, technological, and other aspects. A more dominant consequence of the emergence of technological developments in all parts of life today is various potential challenges faced by individuals in general. It can be concluded that technological advances are also very influential in the economic field, such as transacting with business by not using cash in, cash, but utilizing technological advances through income and capital movements with efficient time which creates a tendency to worry about misuse problems that trigger unwanted consequences.

The continuation of the electronic device that is currently being discussed is about virtual money called cryptocurrency, then the writing of virtual money (cryptocurrency) will be called cryptocurrency. Cryptocurrency can be called a commercial object without using cash, in digital form, and can be used for electronic transactions. Virtual currency is digital money that is the result of technology through a cryptographic system that aims to provide security guarantees that cannot be imitated. Cryptography is a technique to enable the secure transmission of information (Kelly, 2018). The impact of using cryptocurrencies seen from the prospect of Indonesian law can trigger various crimes that cause losses from several parts, namely the economy, law, or state security. The development of cryptocurrency can be one of the new modes of money laundering, in this case, it can also be said to be money laundering because there is the potential for money laundering based on using digital signatures and the use of fake identities. Because this action aims to disguise funds and various information from transactions with virtual currencies, namely cryptocurrency, which is actually a currency without a physical form formed with information technology Cryptocurrency that currently dominates the international world today is Bitcoin Bitcoin is a form of cryptocurrency that can be is said to be like a digital currency that is in a peer-to-peer (P2P) network, which is the opposite type of network to the server-based type. In this system, the computer acts as a server that will serve requests for information or data processing that comes from clients. In P2P networks all computers are said to be nodes, which can connect to the network acting as servers and can also be clients. Peer-to-peer networks make it easier for users to interact directly without using the services of a third party.

Money laundering is a special crime. Special criminal acts can be interpreted as legislation in a special section that has criminal sanctions in this case regulated by special legislation outside (the Criminal Code), both criminal and non-criminal legislation but has criminal sanctions (Syamsuddin, 2016). Indonesia is a developing country that is a destination for entrepreneurs at home and abroad with the aim of increasing and increasing wealth by buying and selling shares which can be in the form of investment. Shares are securities that can be traded on the stock exchange. The definition of shares is proof of ownership of a company that carries out a public

offering with a predetermined percentage of a company that makes a public offering (go public) in a certain nominal percentage. A responsive capital whose equal units can be rotated in various ways of trading and also prices can change at any time depending on performance losses and gains.

METHOD

This study uses normative legal research methods; research that analyzes the relationship and alignment between legal principles, legal norms, and scholars' opinions (theories) as well as other rules related to the subject matter discussed (Aziz, 2012). The problem approach used is legislation and a conceptual approach. The statutory regulations in question are written regulations that are implied in the State Gazette and are determined by the authorized official through predetermined provisions and contain a norm that binds everyone in general. Meanwhile, the conceptual approach is a concept that develops in society. Sources of legal materials used in this study, namely primary legal materials, are legal materials that are authoritative, have meaning, where the authorized institution produces a result of actions and activities, and is free to experiment but has a limit (Marzuki, 2011). The 1945 Constitution of the Unitary State of the Republic of Indonesia, the Criminal Code, Law Number 7 of 2011 concerning Currency, Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Law Number 8 1995 concerning the Capital Market, Regulation of the Minister of Trade of the Republic of Indonesia Number 99 of 2018, Regulation of the Commodity Futures Trading Supervisory Agency Number 5 of 2019. Secondary legal material is the collection of legal materials obtained from laws and regulations, various readings or literature, as well as opinions of expert's degree (doctrine) relevant to this research study.

RESULTS AND DISCUSSION

The Existence of Virtual Money (Cryptocurrency) in Property Trading

The development of increasingly rapid information and communication technology has the necessity to be careful and optimistic. Seeing the progress of business opportunities that leads to digital or cyberspace is a promising opportunity for everyone who is in the business. The world today is moving towards the actual direction of using virtual money (cryptocurrency) no longer using cash like paper money or coins. It is known that the origin of the existence of money is because people feel difficulty in carrying out exchanges which can be called barter. Barter is an activity of exchanging goods or services. On the other hand, the scope of bartering is narrower due to the difficulty of these people to meet each other. The cryptocurrency was created using cryptography which aims not to be easily imitated with a very complicated mechanism so that it cannot be duplicated and easily changes hands if you do not have access or a network to the cryptocurrency. Currently, it is found that there are many cryptocurrencies that are used among the public for various purposes of transacting. Cryptocurrencies can check every transfer of funds that carry out these activities without the intervention of third parties such as central banks. Currently, in Indonesia, there are already circulating virtual currencies (cryptocurrencies), such as Cryptocurrency (Bitcoin) and Cryptocurrency (Cent coin). As in the characteristics of

cryptocurrencies that utilize cryptographic techniques in the system, there are two important techniques in the cryptocurrency system, namely digital signatures and hash functions.

a. Digital signature

This digital signature is an important component because in general there are benefits, namely to ensure and know the identity of the digital signature, ensure that the person cannot deny it, and ensure that the document affixed with the signature has not changed.

b. Hash Function

The hash function is a function that aims to calculate the value of

Data. A function that is used to calculate the unique value of arbitrary-sized data. The benefits of hash functions are to protect data confidentiality and ensure data cannot be changed and can produce and represent data. The emergence of cryptocurrency virtual currency in Indonesia is currently getting a very positive response and gives the effect of someone's curiosity about cryptocurrency. Over time, cryptocurrency is growing rapidly because it can be used as a means of investment, trading, or payment through an electronic system. It should be noted that based on the concept of cryptocurrency, it is an alternative bridge for world currencies that is truly guided by supply and demand, related to a large number of requests so that prices increase and the number of goods offered so that the prices decline. The use of cryptocurrencies among the public has prompted Bank Indonesia to issue which Bank Indonesia urges cryptocurrency users to be wise and careful in using cryptocurrencies. This is because cryptocurrencies do not have specific rules governing them and are not recognized as legal tender in Indonesia. The Commodity Futures Trading Regulatory Agency (BAPPEBTI) synergizes to carry out an assessment and relevance of cryptocurrency for economic development or in terms of business. Indeed BAPPEBTI has declared cryptocurrency as a commodity subject in the futures trading exchange. Talking about money, of course, it can be seen that money has developed from time to time. If in the past money was only in physical form, now there is money in virtual form. Along with the times, there are also various ways for people to hoard their wealth, such as by buying and selling virtual currency as a form of investment that can be withdrawn at any time.

Responsibilities of Actors

The Crime of Money Laundering Using Virtual Money (Cryptocurrency) in Stock Trading Criminal Law is a law that contains regulations in which there is a necessity, obligation, and prohibition for violators who can be punished, namely body torture (Gunaedi & Effendi, 2015). The rapid advancement of technology has given rise to various forms of crime that have an international network where financial institutions are a means and a target, this can be said to be the crime of money laundering. The crime of money laundering does not stand alone because assets are placed, transferred, or transferred by means of renewal obtained from criminal acts, in this case, there has been another crime that preceded it. (Predicate Crime). According to Sutedi (2008), money laundering is an activity that has the aim of hiding the origin of the money or assets and is then manipulated in such a way as to become assets that seem to come from legal activities. The existence of cryptocurrencies gives rise to indications of money laundering crimes, the main strategy being (follow the money) following the money. Cryptocurrencies and similar currencies are often used extensively for crime, but they are not yet fully on the radar of criminal justice. The existence of cryptocurrencies has posed a significant risk or is simply a potential threat it is an obligation for law enforcement agencies to ensure that existing or potential risks are more widely recognized and understood..

CONCLUSION

Conclusion The existence of virtual money (cryptocurrency) in stock trading in Indonesia when used as currency unification, transacting, trading or as a means of payment with businesses, in this case, especially stock trading in Indonesia can be said to be illegal in terms of its use in terms of Law Number 7 of 2011 concerning Currency. Users of virtual money (cryptocurrency) in Indonesia are quite widely used in terms of business, which can be seen in Indonesia itself already circulating virtual money (cryptocurrency) such as Bitcoin and Cent coin. Then, the responsibility of the perpetrators of money laundering crimes who use virtual money (Cryptocurrency) in stock trading where the act has a very negative impact on the State of Indonesia, especially in terms of business because people who have committed these crimes take advantage of technological advances unwisely so that the perpetrators can be snared. Based on Law no. 8 of 2010 concerning the prevention and eradication of money laundering.

The government has the authority in carrying out the tasks that have been determined. It is hoped that in this case the government can revise the law related to cryptocurrencies, and can make special rules regarding the cryptocurrency so that its existence is clear and relevant among the public because it is related to that until now Indonesia does not have clear rules regarding the use of virtual money (cryptocurrency). . Cryptocurrency users are expected to always be careful and wise in using the application of these digital assets so that unwanted events do not occur. Furthermore, the government should play a more role in this matter because the money laundering crime case has a very negative impact on the State and causes a very large loss. Therefore, the government can cooperate with related institutions such as the police because the disclosure of cases always begins with the discovery of the initial crime committed by the perpetrator. On the other hand, the government is expected to block sites or cryptocurrency providers that run illegally before the rules on cryptocurrency are passed. Because cryptocurrency can be a means to make money laundering.

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