

International Journal of Financial Systems

Volume 2, Number 1

Article History

January-June 2024

Received : 10/21/2023

Page : 1-28

Revised : 06/24/2024

E-ISSN : 3025-8537

Accepted : 06/26/2024

P-ISSN : 3025-8480

Available Online : 06/29/2024

DOI : <https://doi.org/10.61459/ijfs.v2i1.34>

TECHNOLOGICAL INNOVATION OF THE CRYPTO- ASSET FINANCIAL SECTOR IN INDONESIA AFTER LAW NUMBER 4 OF 2023 CONCERNING THE DEVELOPMENT AND STRENGTHENING OF THE FINANCIAL SECTOR

ABSTRACT

Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector (UUP2SK) has provided changes to all regulatory and supervisory authorities over the operationalisation of cryptocurrencies, which were previously in the hands of the Commodity Futures Trading Supervisory Agency (Bappebti) to the jurisdiction of the Financial Services Authority (OJK). After the enactment of UUP2SK, the authority to regulate and supervise crypto assets is now under the purview of OJK, with the transition of taking over all responsibilities related to crypto assets, but there is no regulation that regulates in detail the procedures for the transfer of authority.

Nurul Izmi*

Abdhy Walid Siagian²

Keywords : Commodity, Crypto Asset,
Financial Services Authority.

JEL : K22

¹² Faculty of Law, Andalas University, Padang, Indonesia

¹ Email : contactizmi@gmail.com, ² Email : abdhywalidsiagian@mail.ugm.ac.id

I. INTRODUCTION

The concept of cryptocurrency was first envisioned in the early 1980s by David Chaum, a computer scientist and business administrator from the United States. He was a cryptographer who developed the algorithm that later became the foundation of modern web-based encryption. This algorithm allowed for secure and tamper-proof information exchange between parties, laying the groundwork for electronic currency transfers. Chaum's algorithm ensured that transactions could not be altered or controlled, thus enabling peer-to-peer transactions (Rouse, 2016).

Cryptocurrency began to gain significant popularity among the public around the year 2010 (Rouse, 2016). Since then, the phenomenon of virtual currency has become more widely known to the public. Cryptocurrency is essentially a set of cryptographic codes designed to be stored on a computer device and transferable much like email, making it a feasible means of payment in commercial transactions (Honggowongso, 2021). Cryptocurrency operates using blockchain technology, which is a system where multiple parties can exchange information without relying on a central authority. The presence of cryptocurrency in Indonesia started in early 2013 and has continued to grow since then. There are many types of cryptocurrencies circulating globally, including Bitcoin, Ethereum, Binance Coin (BNB), and more, and their development can be tracked on websites like Coin Market Cap (Coin Market Cap, 2022).

The status of cryptocurrency as a digital currency brings significant implications for its users, particularly in the realm of transactional exchange. Many countries have legalised the use of cryptocurrency as a means of exchange. Some of the countries that have legalised cryptocurrency include the United States, Finland, Nigeria, and even El Salvador, where cryptocurrency has been recognised as legal tender. In Indonesia, the regulations pertaining to means of exchange are guided by Law Number 7 of 2011 concerning Currency, which stipulates that the official currency within the jurisdiction of Indonesia is the Rupiah. Article 1, Paragraph (1) of the law states that the currency of the Republic of Indonesia is the Rupiah. This law ensures that, to this day, only the Rupiah can be used as a means of exchange in Indonesia. Consequently, the use of cryptocurrency as a means of exchange in Indonesia is prohibited.

The ban on the use of cryptocurrency as a means of exchange in Indonesia does not imply a complete ban on the use of cryptocurrency in the country. According to a survey conducted by Triple A (Coin Market Cap, 2022), Indonesia ranks 9th in the world for the highest number of cryptocurrency users. Consequently, the Indonesian government has officially recognised cryptocurrency as a crypto asset through the Ministry of Trade Regulation No. 99 of 2018 concerning the

General Policy of Crypto Asset Futures Trading, which designates Crypto Assets as commodities that can be the subject of futures contracts traded on futures exchanges, with further regulations established under the Commodity Futures Trading Regulatory Agency of Indonesia (Bappebti).

In response to this, Bappebti issued Regulation No. 3 of 2019 concerning Commodities that Can Be the Subject of Futures Contracts, Sharia Derivatives Contracts, and/or Other Derivatives Contracts Traded on Futures Exchanges. This regulation added crypto assets as one of the forms of commodities, making crypto asset transactions accessible in Indonesia through the physical crypto asset market because, as of now, there are no dedicated cryptocurrency futures exchanges available in Indonesia. Bappebti also issued Regulation No. 8 of 2021 concerning Guidelines for the Operation of Physical Crypto Asset Trading in Futures Exchanges as an implementing regulation for conducting cryptocurrency buying and selling transactions in Indonesia.

Normatively, crypto assets as commodities are subject to Law Number 10 of 2011 on Amendments to Law Number 32 of 1997 on Commodity Futures Trading (UU PBK), which further regulates the technical aspects of commodity transactions on futures exchanges. According to Article 1, Section 2 of UU PBK, commodities encompass all goods, services, rights, and other interests, as well as any derivatives of commodities, which can be traded and become the subject of futures contracts, sharia derivatives contracts, and/or other derivatives contracts regulated by the Head of Bappebti. At present, there are numerous types of crypto assets in circulation, but only 501 crypto assets are listed and can be traded in Indonesia. This determination was made by the government through the Commodity Futures Trading Regulatory Agency (Bappebti) Regulation No. 4 of 2023 on the Designation of a List of Crypto Assets That Can Be Traded in the Physical Crypto Asset Market. Additionally, there are 25 prospective crypto asset traders that have obtained registration marks and are currently under the supervision of Bappebti until the establishment of dedicated crypto asset futures exchanges, at which point these prospective traders will officially become crypto asset traders.

Previously, the authority to oversee the operation of crypto assets resided with the Commodity Futures Trading Regulatory Agency (Bappebti). However, with the enactment of the UUP2SK in 2023, concerning the organisation of financial sector authority, one of which is the Financial Services Authority (OJK), as stated in Article 8, Number 4:

"(1) The Financial Services Authority carries out regulatory and supervisory tasks for... e. activities in the ITSK sector and digital financial assets and crypto assets."

The UUP2SK then served as a guideline for organising crypto assets in Indonesia. Furthermore, the UUP2SK introduced specific changes in the supervisory framework, no longer under the purview of Bappebti. This is stated in Article 312 of the UUP2SK:

"(1) Upon the effective date of this law, the transition of regulatory and supervisory tasks for activities... b. commodities that are included as financial instruments subject to futures contracts, sharia derivatives contracts, and/or other derivatives contracts as referred to in Article 3A in Article 20 of this law, from the Commodity Futures Trading Regulatory Agency to the financial sector authority, must be fully completed within a maximum of 24 (twenty-four) months."

The UUP2SK further clarifies that the transfer of regulatory and supervisory tasks to the financial sector authority, in this case, OJK, pertains to the regulation and supervision of commodities that are considered financial instruments subject to futures contracts, sharia derivatives contracts, and/or other derivatives contracts related to derivatives in the capital market and digital financial assets, including crypto assets. The transfer of authority poses a threat in the form of disrupting the current supervisory system because Bappebti authorised the establishment of a Crypto Asset Futures Exchange in July 2023, while there are not government regulations in place yet concerning the procedural details of transferring the responsibility for the organisation and supervision of crypto assets from Bappebti to OJK.

II. LITERATURE REVIEW

A. Crypto Asset

In terms of terminology, according to the Indonesian Dictionary, an asset (*aset*) is something that has exchange value or is considered capital or wealth. Meanwhile, crypto (*kripto*) is a form of cryptography that utilises information technology networks to verify transactions. The term "cryptography" comes from the Greek word "criptos," meaning secret, and "graphy," which means writing, resulting in "cryptography," which is the practice and study of creating secret information (Denning & Elizabet, 1982).

Cryptography systems transform information from plain text that is easily readable into a seemingly random code and provide a mechanism to decipher the message (Kelly, 2015). The main classes of cryptographic systems are codes and ciphers (Kelly, 2015). A code is a system in which words, syllables, letters, or symbols are replaced with specific groups of letters or numbers (code groups), typically consisting of 2 to 5 letters or numbers listed in a codebook (Eilertsen, 2000). Cryptographic systems must meet three main requirements:

1. Efficiency: The encryption and decryption processes must be efficient, as data is typically encrypted before transmission.
2. User-Friendly: The system should be easy to use.
3. Security: System security should be based on the confidentiality of keys, not the algorithm. The encryption and decryption processes in a cryptographic system should be robust and not easily deciphered by someone who only knows the encryption method, as the encryption methods may be public knowledge (Denning & Elizabet, 1982) .

The definition of cryptoassets according to Article 1 Number 7 of the Regulation of the Commodity Futures Trading Regulatory Agency on Guidelines for the Operation of Crypto Asset Physical Market Trading (Crypto Asset) on the Futures Exchange is non-physical commodities in digital form, utilising cryptography, information technology networks, and distributed ledgers. In futures exchanges, crypto assets are traded in the Crypto Asset Physical Market, which is conducted using electronic means owned by physical crypto asset traders, with oversight by futures exchanges in Indonesia.

According to a report from Triple A, a digital asset payment company based in Singapore that conducted a global survey on crypto ownership, the data was collected using the following methods: (a) Country Weighted Scoring, (b) Global Weighted Scoring, (c) Outlier Research, and (d) Primary Data Collection. The results of the research show that in 2022, the global cryptocurrency ownership rate reached an average of 4.2% with a total of 320 million crypto users. Here is a table showing the percentage of crypto users worldwide, as quoted from the Triple A report:

Table 1: Number of Cryptocurrency Users Worldwide

No	Country	Number of Crypto Users	Percentage of Population
1	USA	46,020,521	13.74%
2	India	27,416,309	2.00%
3	Pakistan	26,457,317	11.50%
4	Nigeria	22,332,791	10.34%
5	Vietnam	20,210,834	20.27%
6	China	19,883,262	1.33%
7	Brazil	16,652,150	7.75%
8	Russia	14,647,694	10.10%
9	Indonesia	12,237,009	4.45%
10	South Africa	7,712,116	12.45%

Through a report from Triple-A, the demographic results of crypto asset users were obtained, namely: (a) 63% male and 37% female users, (b) 72% are under 34 years old, (c) 71% of users have a Bachelor's degree or higher, and (c) the average crypto user earns an annual income of US\$25,000 or an amount of Rp380,625,000,- Indonesia is included in the top 10 crypto asset user countries in the world, based on this data of the 12 million population in Indonesia, 4.5% of them are crypto asset users. Based on data from The Commodity Futures Trading Authority (CoFTRA), crypto investment transactions in Indonesia have reached IDR 478.5 Trillion since July 2021 or increased 5 (five) times, and the value of transactions in the Indonesian crypto market can earn an average of IDR 1.7 Trillion per day. Data on crypto asset ownership in Indonesia has increased from only 2.7% in 2020 to 4.5% in 2021, which proves an increase of 5 million crypto asset users in Indonesia. Most crypto-asset owners in Indonesia are generally aged 18 to 48 at 78%, and only 4% of crypto-asset users are 45 years old and above (Haq et al., 2021).

The Ministry of Trade, in this case Bappebti, then categorised crypto into crypto assets which are a form of commodity in Indonesia. Commodities contained in Article 1 Point 2 of the Commodity Futures Trading Law (PBK Law) explain that commodities are

"all goods, services, rights, and other interests, and any derivatives of commodities, which can be traded and are the subject of futures contracts, sharia derivative contracts and/or other derivative contracts". Crypto assets are included in the "other interests" form of commodities.

Currently, there are 501 crypto assets determined by the Head of Bappebti through the Commodity Futures Trading Supervisory Agency Regulation Number 4 of 2023 concerning the Determination of the List of Crypto Assets that Can be Traded in the Crypto Asset Physical Market. The rules for determining the list of crypto assets adopt a positive list approach which aims to minimise the risk ratio of trading crypto asset types that do not have a clear background or are widely used for rug pull or other illegal purposes (Moreland, 2023).

Bappebti regulates the procedures for the requirements and mechanisms for the criteria for the types of crypto assets that can be traded contained in Article 3 of Bappebti Regulation No. 11/2022 which contains:

1. Based on *distributed ledger technology*

Distributed ledger technology (DLT) or commonly known as blockchain is a digital database that is shared, updated, and synchronised with the consensus of the parties involved in the network. There are differences between DLT and data storage methods in the financial business sector in general that use centralised ledgers. In a centralised ledger, uploading, maintaining, recording transactions and

transaction evidence is done by one authorised party with verified notifications. Security by DLT is guaranteed by a single party that controls the database. In DLT, everyone who enters the network can control the database by mutual agreement (Asian Development Bank, 2019).

2. In the form of *utility crypto assets* or *crypto backed assets*;

Crypto assets according to their characteristics can be divided into several types, namely: (1) *cryptocurrency*, which is a digital token based on blockchain technology that operates independently, independent of any central bank, and has a purpose as a medium of exchange whose value depends on demand and supply in the market; (2) *utility token*, which is a utility crypto asset, a type of digital token based on blockchain technology that is issued to fund the development of a business that can later be used to buy goods or services issued by the issuer whose value depends on the demand for the products offered by the issuer; (3) *asset-backed tokens*, or commonly referred to as crypto assets, are digital tokens that represent ownership of a tangible asset in the real world such as natural resources in the form of petroleum or gold whose value depends on the value of the *underlying asset*; and (4) *security tokens*, are digital tokens that are similar in nature to securities. If someone owns a *security token*, the holder will have a share of the issuer company, which can be in the form of profits, financial assets, or voting rights in determining decisions in a company. Therefore, its value depends on the value of the company that issued the crypto asset (PWC, 2019).

3. Having an assessment result using the *Analytical Hierarchy Process (AHP)* method determined by Bappebti

The assessment using the AHP method must consider the provisions, namely; (1) the *market cap* value of Crypto Assets (*coin market cap*); (2) being included in major Crypto Asset exchange transactions in the world; (3) having economic benefits, such as taxation, growing the digital economy, the informatics industry and the competence of experts in the field of informatics (*digital talent*); and (4) having conducted a risk assessment, including the risk of money laundering and financing of terrorism and proliferation of weapons of mass destruction (Article 3 Paragraph 3 Bappebti Regulation No. 8/2021).

Contained in the Appendix to Bappebti Regulation No. 11/2022 regarding the guidelines for determining crypto assets traded on the physical market of crypto assets which states that in order to improve monitoring of the list of crypto assets traded by prospective crypto asset physical traders or crypto asset physical traders need to do the following:

- a. Develop a standard operating procedure for monitoring and valuation of special crypto assets that is prepared by considering the general principles

and criteria for determining crypto assets, and other criteria can be added according to the needs of risk assessment of physical traders of crypto assets;

- b. Establish special standard operating procedures for customers who buy or sell crypto assets, with additional procedures for risk mitigation;
- c. Actively monitor and assess crypto assets that crypto asset physical traders facilitate trading in independently;
- d. Actively submit the results of monitoring and assessment related to the development of crypto assets, especially the existence of negative issues on crypto assets traded on crypto asset physical traders to Bappebti, the Futures Exchange, and the Crypto Asset Committee; and
- e. Conduct self-restriction if based on the risk assessment of the crypto asset physical trader, the crypto assets traded at the crypto asset physical trader are not in accordance with the risk criteria set by the crypto asset physical trader.

B. Authority in the Implementation and Supervision of Crypto Assets

1. Before the ratification of UUP2SK

Before UUP2SK came into existence, Bappebti was the authorised institution in conducting the administration and supervision of crypto assets. Bappebti is a state institution domiciled under the Ministry of Trade in carrying out the formulation and implementation of policies in the field of development, guidance, and supervision of commodity futures trading, warehouse receipt systems, and commodity auction markets.¹

Bappebti is a state institution that was born from the law, through Law Number 32 of 1997 concerning Commodity Futures Trading which has now been revised into Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading. The foundation of the birth of Bappebti is a manifestation of the challenges of globalisation and free trade, the presence of Bappebti is intended to take efficient and effective steps in trading activities through risk management due to fluctuations in commodity prices.

Through Law Number 10 of 2011 concerning Commodity Futures Trading, it is explained that Bappebti is a government agency whose main task is to provide guidance, regulation, development, and daily supervision of futures trading activities. The composition and organisational position of Bappebti is regulated by Presidential Regulation. Article 5 of Law 10 of 2011 concerning Commodity Futures Trading regulates the objectives of Bappebti, namely;

¹ *Ibid.*

1. Realising orderly, fair, efficient, effective, and transparent futures trading activities in an atmosphere of fair competition;
2. Protecting the interests of all parties in futures trading; and
3. Realising futures trading activities as a means of price risk management and transparent price formation.

Bappebti in carrying out its obligations as a state institution that plays a role in commodity futures trading has functions among others:

1. Formulation of policies in the field of development, guidance, and supervision of commodity futures trading, warehouse receipt systems and commodity auction markets;
2. Implementation of policies in the field of development, guidance and supervision of commodity futures trading, warehouse receipt systems and commodity auction markets;
3. Formulation of norms, standards, procedures and criteria in the field of warehouse receipt systems and commodity auction markets;
4. Implementation of technical guidance and supervision in the field of warehouse receipt systems and commodity auction markets;
5. Implementation of evaluation and reporting in the field of development, guidance and supervision of commodity futures trading, warehouse receipt system and commodity auction market; and
6. Implementation of the administration of the Commodity Futures Trading Supervisory Agency.

Therefore, Bappebti is an institution that plays a role in realising commodity futures trading activities to be orderly, fair, efficient and effective, as well as fostering an atmosphere of healthy competition. Bappebti is present to act as a protector of the interests of all parties in commodity futures trading which functions as a risk manager and price formation (Badan Pengawas Perdagangan Berjangka Komoditi, 2018).

Looking at the official Bappebti website, there are 25 (twenty-five) prospective crypto asset physical traders that have received a registration mark from Bappebti. As stated by Article 40 Paragraph (1) Bappebti Regulation No.8/2021, namely, *"Before the Futures Exchange and Futures Clearing House receive approval from the Head of Bappebti, business actors carrying out activities as listed in Article 13 Paragraph (2) must submit a registration application to Bappebti to obtain a registration mark as a prospective Crypto Asset Trader."*

The existence of the registration mark indicates that the prospective trader has fulfilled the criteria made by Bappebti as a crypto asset physical trader. The registration period as a prospective crypto asset physical trader is only valid until the Futures Exchange and Futures Clearing House have received approval from

the Head of Bappebti. Among the prospective crypto asset physical traders are listed in the following Table 2.

Table 2: 25 Prospective Crypto Asset Physical Traders in Indonesia that have been Authorised by Bappebti

PROSPECTIVE PHYSICAL TRADERS OF CRYPTO ASSETS	NO. REGISTER SIGNATURE	DATE OF PERMISSION	WEBSITE
PT TUMBUH BERSAMA NANO	007/BAPPEBTI/CP-AK/03/2022	2022-03-22	nanovest.io
PT. KAGUM TEKNOLOGI INDONESIA	008/BAPPEBTI/CP-AK/04/2022	2022-04-22	kripto.ajaib.co.id
PT. ASET DIGITAL BERKAT	001/BAPPEBTI/CP-AK/11/2019	2019-11-21	www.tokocrypto.com
PT. ASET DIGITAL INDONESIA	005/BAPPEBTI/CP-AK/02/2022	2022-02-11	www.incrypto.co.id
PT. BUMI SANTOSA CEMERLANG	012/BAPPEBTI/CP-AK/4/2022	2022-04-28	https://pluang.com/produk/pluang-crypto
PT. CIPTA KOIN DIGITAL	009/BAPPEBTI/CP-AK/05/2020	2020-05-29	koinku.id
PT. COINBIT DIGITAL INDONESIA	009/BAPPEBTI/CP-AK/04/2022	2022-04-22	www.coinbit.id
PT. GALAD KOIN INDONESIA	001/BAPPEBTI/CP-AK/01/2022	2022-01-28	www.galad.id
PT. GUDANG KRIPTO INDONESIA	013/BAPPEBTI/CP-AK/4/2022	2022-04-28	www.gudangkripto.id
PT. INDODAX NASIONAL INDONESIA	002/BAPPEBTI/CP-AK./01/2020	2020-01-31	www.indodax.com
PT. INDONESIA DIGITAL EXCHANGE	008/BAPPEBTI/CP-AK/05/2020	2020-05-29	https://digitalexchange.id
PT. KRIPTO MAKSIMA KOIN	003/BAPPEBTI/CP-AK/01/2022	2022-01-28	kriptomaksima.com
PT. LUNO INDONESIA LTD	007/BAPPEBTI/CP-AK/03/2020	2020-03-31	www.luno.com
PT. MITRA KRIPTO SUKSES	002/BAPPEBTI/CP-AK/01/2022	2022-01-28	kriptosukses.com

PROSPECTIVE PHYSICAL TRADERS OF CRYPTO ASSETS	NO. REGISTER SIGNATURE	DATE OF PERMISSION	WEBSITE
PT. PANTHERAS TEKNOLOGI INTERNASIONAL	004/BAPPEBTI/ CP-AK/01/2022	2022-01-28	pantheras.com
PT. PEDAGANG ASET KRIPTO	006/BAPPEBTI/ CP-AK/02/2022	2022-02-23	www.pedagangasetkripto.com
PT. PINTU KEMANA SAJA	003/BAPPEBTI/ CP-AK/02/2020	2020-02-04	https://pintu.co.id/
PT. PLUTONEXT DIGITAL ASET	011/BAPPEBTI/ CP-AK/05/2020	2020-05-29	http://www.plutonext.com
PT. REKENINGKU DOTCOM INDONESIA	006/BAPPEBTI/ CP-AK/03/2020	2020-03-30	www.rekeningku.com
PT. TIGA INTI UTAMA	001/BAPPEBTI/ CP-AK/01/2020	2020-01-31	TRIV.CO.ID
PT. TRINITI INVESTAMA BERKAT	010/BAPPEBTI/ CP-AK/05/2020	2020-05-29	www.bitocto.com
PT. UPBIT EXCHANGE INDONESIA	002/BAPPEBTI/ CP-AK/12/2019	2019-12-13	https://id.upbit.com and https://upbit.co.id
PT. UTAMA ASET DIGITAL INDONESIA	010/BAPPEBTI/ CP-AK/04/2022	2022-04-22	https://www.bittime.com
PT. VENTURA KOIN NUSANTARA	011/BAPPEBTI/ CP-AK/4/2022	2022-04-28	www.vonix.id
PT. ZIPMEX EXCHANGE INDONESIA	004/BAPPEBTI/ CP-AK/02/2020	2020-02-24	www.zipmex.com

Source: www.bappebti.go.id

Even though they have obtained a list mark from Bappebti, if later the futures exchange and futures clearing house have received approval from the Head of Bappebti, then prospective crypto asset physical traders that already have a list mark are required to submit an application for approval as crypto asset physical traders to Bappebti no later than 1 (one) month after the futures exchange and futures clearing house have received approval from Bappebti.

2. After the UUP2SK

The birth of UUP2SK changed the authority in the administration and supervision of crypto assets which was originally in Bappebti to move to the OJK. The Financial Services Authority (OJK) as an institution that was born from the law with the aim of structuring the organising structure of institutions that carry out regulatory and supervisory duties in the financial services sector which includes the banking sector, capital markets, insurance, pension funds, financing institutions, and other financial services institutions whose authority is regulated through Law Number 21 of 2011 concerning the Financial Services Authority (OJK Law). The definition of OJK is set out in Article 1 Point 1 of the OJK Law which defines that OJK is an independent institution free from interference from other parties, which has the functions, duties, and authority to regulate, supervise, examine, and investigate. Article 6 of Law Number 4 Year 2023 on Financial Sector Development and Strengthening (UUP2SK) also expands OJK's regulatory and supervisory duties, namely:

- a. financial services activities in the banking sector;
- b. financial services activities in the capital markets sector of financial derivatives and carbon exchanges;
- c. financial services activities in the insurance, guarantee, and pension fund sectors;
- d. financial services activities in the sector of financing institutions, venture capital companies, microfinance institutions, and other FSIs;
- e. activities in the Financial Sector Technology Innovation (ITSK) sector as well as digital financial assets and crypto assets;
- f. behaviour of financial services business actors as well as the implementation of consumer education and protection; and
- g. financial sector in an integrated manner as well as conducting systemic impact assessments of financial conglomerates.

After the UUP2SK, OJK's regulation and supervision covers commodities including financial instruments that are the subject of futures contracts, sharia derivative contracts, and/or other derivative contracts related to capital market derivatives and digital financial assets including crypto assets.

OJK in order to carry out its regulatory duties is given the authority contained in Article 8 of the OJK Law including;

- a. stipulating regulations for the implementation of this law;
- b. establishing laws and regulations in the financial services sector;
- c. establishing OJK regulations and decisions;
- d. establishing regulations regarding supervision in the financial services sector;
- e. establishing policies regarding the implementation of OJK duties;

- f. stipulating regulations regarding the procedures for determining statutory managers in financial services institutions;
- g. establishing organisational structure and infrastructure, as well as managing, maintaining, and administering assets and liabilities; and
- h. stipulating regulations regarding the procedures for imposing sanctions in accordance with the provisions of laws and regulations in the financial services sector.

In connection with the UUP2SK, the law added the scope of OJK's authority, namely;

- a. giving a written order to the FSI to conduct a merger, consolidation, takeover, integration, and/or conversion;
- b. establishing exemptions for certain parties from the obligation to perform the principle of disclosure in the field of capital markets in the context of preventing and handling financial system crises;
- c. establishing policies regarding the utilisation of information technology in the holding of GMS or other meetings based on the provisions of laws and regulations; and
- d. providing data and information required by the government, in the context of handling national economic problems involving banks and/or Financial Services Institutions under the supervision of the Financial Services Authority.

In addition to the authority mentioned above, in Article 9 of the OJK Law to carry out supervisory duties, OJK has the authority:

- a. establishing operational policies for the supervision of financial services activities;
- b. overseeing the implementation of supervisory duties performed by the Chief Executive;
- c. conducting supervision, examination, investigation, consumer protection, and other actions against financial service institutions, actors, and/or supporters of financial service activities;
- d. giving written orders to financial service institutions and/or certain parties;
- e. appointing a statute manager;
- f. determining the use of statute managers;
- g. determining administrative sanctions against parties who violate laws and regulations in the financial services sector;
- h. granting and/or revoking: 1) business licence; 2) individual licence; 3) effectiveness of registration statement; 4) registered certificate; 5) approval to conduct business activities; 6) endorsement; 7) approval or determination of dissolution; and 8) other determinations.

The presence of UUP2SK regulates the provision that OJK is the authorised

institution in the regulation and supervision of crypto assets contained in Article 8 Number 4:

"(1) The Financial Services Authority carries out regulatory and supervisory tasks for ... e. activities in the ITSK sector and digital financial assets and crypto assets."

The consequence born from this Article is a change in the authority to regulate and supervise crypto assets, which was previously under the institution of Bappebti and now changes to be under the supervision of the OJK. This is stated in Article 312 of the UUP2SK:

"(1) Upon the effective date of this law, the transition of regulatory and supervisory tasks for activities... b. commodities that are included as financial instruments subject to futures contracts, sharia derivatives contracts, and/or other derivatives contracts as referred to in Article 3A in Article 20 of this law, from the Commodity Futures Trading Regulatory Agency to the financial sector authority, must be fully completed within a maximum of 24 (twenty-four) months."

There have been several studies related to the crypto asset. However, until this present time, no research has focused on analysing crypto assets after UUP2SK had been enacted.

Table 3: Previous Research

Authors	Objectives	Research Methods	Key findings
Ezra Putranda Setiawan	Knowing the legality of bitcoin investment and knowing the dispute resolution in bitcoin investment which continues to increase.	The research method used is library research where data collections are from various sources including books, articles, or media related to the object of research discussed, while the approach used is a normative juridical approach.	In Indonesia, there are no regulations governing the use of bitcoin either as a transaction tool or as an investment asset. However, Bank Indonesia (BI) and the Financial Services Authority (OJK) continue to prohibit the use of cryptocurrencies as a means of payment.

Authors	Objectives	Research Methods	Key findings
Syahrul Sajidin	Knowing and understanding the legality of <i>cryptocurrency</i> as a means of payment in Indonesia.	The research method used is <i>descriptive normative</i> .	Cryptocurrency cannot be categorised as money or electronic money based on the criteria/categories stipulated in Bank Indonesia Regulation Number 20 Year 2018. However, the use of crypto assets is recognised as a subject of digital asset trading in commodity futures in the Minister of Trade Regulation Number 99 of 2018.
Muhammad Said Honggowongso, Munawar Kholil	Finding out the legality of bitcoin in e-commerce transactions as a substitute for rupiah currency.	The research method used in this legal writing is descriptive normative legal research and uses a statutory approach.	In terms of regulatory substance, the thing that needs to be considered so that bitcoin is a legal tender is the need to state digital money as a third type outside of paper Rupiah and metal Rupiah in the Currency Law. In addition, it is also necessary to compare the value of digital currencies such as bitcoin with rupiah so that Bank Indonesia as the central bank can control every transaction using bitcoin.

III. DATA AND METHODOLOGY

The research method used in this research is normative legal research, with a normative juridical approach. This research uses a focus on normative legal research methods. Hartono (2006) said, in normative legal research, a search can be made for legal principles. According to Sunaryati Hartono, normative legal research can search for legal principles, legal theories, and the formation of new legal principles. Meanwhile, according to Bagir Manan, normative research is a study of existing legal principles and principles that focuses on research on library data or so-called secondary data (Soekanto & Mamudji, 2001). The normative legal approach method in this research is used with the intention of discussing the provisions in national laws and regulations relating to the implementation of crypto assets. In addition, this research also uses qualitative analysis of literature studies by tracing primary, secondary, and tertiary legal materials. The legal materials will be analysed using descriptive, evaluation, and argumentation techniques to answer the research results regarding the optimisation of the implementation of crypto assets in Indonesia.

IV. RESULT AND DISCUSSION

A. Challenges and Obstacles in the Implementation of Crypto Assets in Indonesia before the Presence of Law Number 4 of 2023 on Financial Sector Development and Strengthening

Law Number 4 Year 2023 on Financial Sector Development and Strengthening (UUP2SK) creates a new regulatory and supervisory system in the administration of crypto assets. Prior to the UUP2SK, the authority to regulate and supervise crypto assets rested with Bappebti as contained in the Minister of Trade Regulation No. 99/2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading (Permendag No.99/2018) which stipulates crypto assets as a commodity that is the subject of futures contracts and can be traded on the Futures Exchange, and this basis then gave birth to Bappebti Regulation No. 8 of 2021 concerning Guidelines for the Implementation of Crypto Asset Physical Market Trading on the Futures Exchange (Perba No.8/2021). There is a transfer of authority in the implementation of crypto assets which was previously in Bappebti, then transferred to the Financial Services Authority (OJK) as stipulated in Article 312 paragraph (1) of the UUP2SK. Against this analysis, the author provides an analysis regarding the implementation of crypto assets in Indonesia before the enactment of UUP2SK by dividing it into several factors, namely:

1. Obstacles to the Implementation of the Crypto Asset Physical Market based on Bappebti Information

Based on the Minister of Trade Regulation No.99/2018 which authorises Bappebti to make further regulations related to the implementation of crypto assets. Bappebti has formed regulations related to the implementation of crypto asset trading transactions, starting from determining the list of asset types that can be traded on the Crypto Asset Physical Market through Bappebti Regulation No. 11/2021 which determines 383 types of crypto assets that have been deemed to meet the requirements specified in Bappebti Regulation No. 11/2021 until finally the crypto type is eligible for trading. The obstacles faced by Bappebti come from the large number of crypto asset lists circulating in the world at large. Reporting from coinmarketcap, in total there are 8869 types of crypto assets circulating in the world. However, until now Bappebti has only determined 383 types of crypto assets that can be traded. The difference is quite large, so Bappebti does find obstacles to verify which types of crypto can be widely circulated and used by Indonesians safely.

In addition to determining the types of crypto assets that can be traded, in forming implementing regulations, Bappebti coordinates with related ministries or institutions as stated by Andy Panroy, Bappebti who said:

If from obstacles, there must be but we also coordinate. With experts, then other ministries and institutions, for example PPATK in the preparation of regulations, we coordinate with other ministries and institutions, for example. Bappebti Regulation No. 8/2021, there is Customer due diligence (CDD), which is input from PPATK to prevent money laundering. Secondly, for example, from our experts before obtaining tradable crypto assets, we convey to business actors and experts that there are crypto assets proposed to determine how they assess them. We give the form. We give the parameters according to the first attachment of Bappebti Regulation No.11/2022. So, all obstacles exist, but until now they can be mitigated.

Therefore, it is certainly necessary to create regulations that fulfil the aspects of certainty, usefulness, and justice so that later the regulations can run properly. One of the institutions in question is the Financial Transaction Reports and Analysis Centre (PPATK) as an institution that focuses on eradicating money laundering. In addition, Bappebti also coordinates with the crypto asset user community in policy formation. Crypto assets are a new thing in the commodity system in Indonesia, therefore the formation of the regulations used must also be considered and invite participation from parties directly related to crypto assets.

2. Crypto Assets as Subject of Futures Contracts traded on the Futures Exchange

The implementation of commodity futures trading is basically inseparable from the subject of futures contracts, derivative contracts, and/or sharia derivative contracts. The implementation of futures trading is basically the object of trade is a promise or agreement to deliver or receive certain goods at a later date (Lestari, 2019). The concept of implementing investment in futures trading by buying commodity futures contracts through brokers/futures broker representatives. For this reason, if you want to invest in the futures exchange, it cannot be done directly by the general public. However, it must be through brokers/futures brokers representatives through an investment cooperation agreement between the parties and later brokers who will take part in all forms of transactions from customers entered into the futures exchange (Lestari, 2019).

A contract mechanism that is carried out at a certain price where the delivery of coal is agreed to be carried out in the future and the contract system is made between parties who do not know each other (ICDX Group, 2021). The contract will be directly binding at the time of the agreement between the buyer and seller, where at the time the contract is made, an obligation arises between the parties making the agreement which is recognised by the ICC as one form of manifestation of the principle of freedom of contract contained in Article 1338 of the ICC. In futures trading contracts, there is no secondary market. All contracts are primary contracts and every contract (with a specific contract subject) that occurs (opens) must be registered with the local exchange (ICDX Group, 2021).

Settlement of transactions on the futures exchange is done by physically delivering the goods to the Buyer which is commonly called *physical* delivery by handing over money to the party who benefits through *overbooking* which is called *cash delivery*, as for the provisions of *physical delivery* or *cash delivery* can be seen through the *specification of the product* before the sale and purchase is submitted (Samsul, 2010). Futures contracts are used as a hedging tool that is expected to benefit both parties. The parties make transactions on commodities in the future using the price that has been agreed upon at the beginning of the signed contract.

In the initial regulation of the determination of crypto assets as a commodity, it was stated that crypto assets are a subject of futures contracts contained in Article 1 of MOT No. 99/2018 which states that *crypto* assets are designated as Commodities that can be used as Subjects of Futures Contracts traded on the Futures Exchange. Normatively, the position of crypto assets as the subject of futures contracts is clearly written explicitly in the regulation. The existence of futures contracts in futures exchange transactions is one form of providing legal

protection guarantees, especially for investors.

However, in practice, crypto asset transactions have not used futures contracts because Bappebti has not accommodated special regulations related to the systematisation of crypto assets into futures contract subjects because there has been no further study from Bappebti to issue crypto assets in the form of futures contracts. So that what is currently done by prospective crypto asset physical traders is only in the form of physical transactions. The current goal of Bappebti is to improve the physical market first and set regulations related to it to minimise investors being harmed. Crypto assets are certainly different from other types of commodities that already exist in Indonesia, in practice the value of crypto assets moves very volatily. When viewed from coinmarketcap every day, the value of crypto assets continues to move with fluctuating numbers. That unpredictable movement is the risk of investing in crypto assets, *high risk high return*. For crypto asset customers, they admit that playing crypto assets has a *high risk*. However, the results obtained can benefit many times the capital.

Indonesia is the first country that seeks to make regulations regarding the implementation of crypto asset transactions and of course it requires comprehensive studies in following up on the sustainability of crypto asset regulations in the future. In other countries, although crypto has been legalised as a currency or investment, none of these countries have made special regulations regarding its implementation. In fact, although until now crypto assets are the subject of futures contracts, Bappebti in the interviews conducted acknowledged that in its implementation the futures exchange can not only accommodate commodity futures contract transactions, derivative contracts, and/or other derivative contracts. According to Yovian Andri as Coordinator of the Formulation of Legislation and Legal Services of the Commodity Futures Trading Supervisory Agency (Bappebti Rorundak Bureau), that physical commodity transactions can also be held which are contained in Article 15 of the PBK Law which explains that Bappebti can organise a physical market. This is also confirmed in Article 3 of Law Number 10/2011 which means that Commodities that can be used as the subject of Futures Contracts, Sharia Derivative Contracts, and/or other Derivative Contracts are regulated by Regulation of the Head of Bappebti.

Although in the regulation, the implementation of the physical commodity market can be done on the futures exchange. However, the existence of the Minister of Trade Regulation No.99/2018 which explicitly states that crypto assets are the subject of futures contracts is a legal misalignment. This then creates a misconception of understanding about the form of crypto assets themselves. Bappebti itself in this case has confirmed that further study is actually needed to make crypto assets a futures contract. The realisation of crypto assets as futures contracts is very possible because this is the mandate of the Minister of Trade

Regulation No.99/2018. However, future studies are needed so that this can be accommodated in a form of regulation that provides legal certainty for investors.

Based on a statement from Bappebti, that currently Bappebti aims to stabilise the physical market for crypto assets and when it is stable, further studies will be made on crypto assets as a subject of futures contracts, but if later the crypto asset futures exchange has been approved by Bappebti, the crypto asset physical market can operate in the exchange. Crypto assets as the subject of futures contracts is an innovation made by the government in order to protect its citizens. However, the concept of peik crypto assets creates some difficulties in the implementation of running its regulation. In its implementation, Article 16 of Law Number 10/2011 also gives futures exchanges the task of drafting futures exchange rules and regulations with the approval of Bappebti. Therefore, the crypto asset futures exchange cannot trade other commodities because of course there are differences between crypto asset commodity transactions and other commodities.

3. Efforts Offered by the Commodity Futures Trading Supervisory Agency in Facing the Vacancy of Crypto Asset Futures Exchange Before the Birth of UUP2SK

The regulation of determining crypto assets as a commodity is a form of government effort to provide legal certainty for the community. Of course, the existence of legal certainty automatically provides legal protection for citizens who are customers of crypto assets. Although the implementation of crypto assets is not one hundred percent in accordance with existing regulations to make crypto assets the subject of futures contracts. However, Bappebti as an institution that oversees the implementation of commodities in Indonesia seeks to protect parties related to crypto assets in Indonesia by first ratifying regulations related to the implementation of the physical market for crypto assets in Indonesia through Bappebti Regulation No.8/2021. The legal protection provided by the government, in this case the Ministry of Trade, then determines crypto assets to be a commodity that is the subject of futures contracts held on futures exchanges in the Minister of Trade Regulation No.99/2018. However, the existing implementing regulation, namely Bappebti Regulation No.8/2021, only states that crypto assets are organised through physical markets. The presence of a special futures exchange for crypto assets has not yet been established, as it is known that in fact the institution of the futures exchange is still in the process of verification by Bappebti.

Of course, to make crypto assets the subject of futures contracts requires preparation. Such as a comprehensive study before Bappebti prepares implementing regulations, as well as futures exchange institutions that oversee crypto asset transactions, one of these institutions is the Futures Clearing House,

which is contained in Article 25 of Law Number 10/2011, namely, "The implementation of the Futures Exchange is equipped with a Futures Clearing House, which is a business entity in the form of a limited liability company that has obtained a business license as a Futures Clearing House from Bappebti". The Futures Clearing House is tasked with providing facilities for the implementation of guarantees and settlement of futures contract transactions, sharia derivative contracts, and/or other derivative contracts, and/or physical commodity transactions. Regardless of the absence of a crypto asset futures exchange as a forum for organising crypto asset transactions in accordance with what is mandated by Law Number 10/2011, the Minister of Trade Regulation No.99/2018, and Bappebti Regulation No.3/2019 does not immediately relinquish the responsibility of Bappebti in its role as a government agency whose main task is to foster, regulate, develop, and supervise futures trading. Confirmed through an interview conducted with Andy Panroy on 4 October 2022, that Bappebti itself has several ways to provide legal protection to crypto asset customers, namely:

a. Preventive Legal Protection

1) Institutions

Prospective crypto asset physical traders who have been given a registration mark by Bappebti are then required to conduct daily reports, monthly reports, and quarterly reports. The report will see what the Crypto Asset Customer is doing and how the transaction is going. Activity reports and financial reports are also used as parameters by Bappebti to see whether there will be transactions that are out of the ordinary or suspicious.

2) Types of Crypto Assets

When accessed through coinmarketcap, there are thousands of types of crypto assets in circulation. In this case, Bappebti selects crypto assets that can be traded on the physical market, which is realised in Bappebti Regulation No. 11/2022 which determines 383 types of crypto assets that can be traded on the crypto asset physical market. One of the methods in the assessment carried out is the *Analytical Hierarchy Process (AHP)*. Bappebti stated that of the many crypto assets proposed to Bapepti. Later, Bappebti and a team of experts will conduct a study or make an assessment based on AHP. If the score is above 6.5, it means that the crypto asset is eligible for trading in Indonesia, but if it is below that, it is not eligible for trading. In Bappebti Regulation No.11/2022 it is stated that "The guidelines for determining crypto assets traded on the Crypto Asset Physical Market as referred to in paragraph (3) consist of general guidelines for assessing the suitability of crypto assets, and technical guidelines for the implementation of crypto asset assessments which contain general principles and criteria for

determining crypto assets as listed in Appendix I to the Bappebti Regulation."

Article 2 of Bappebti Regulation No.11/2022 states that, "Prospective Crypto Asset Physical Traders or Crypto Asset Physical Traders may submit proposals for the addition and/or reduction of Crypto Assets in the list of Crypto Assets traded on the Crypto Asset Physical Market to Bappebti through the Crypto Asset Futures Exchange to be stipulated in the list of Crypto Assets traded on the Crypto Asset Physical Market. If we look at the current situation, namely that the futures exchange institution has not been established, the implementation of the assessment of the proposed addition or reduction of crypto assets along with its evaluation is carried out by the Crypto Asset List Assessment Team which includes 1) Bappebti; 2) Associations in the field of Crypto Asset trading; and 3) Business actors in the field of Crypto Asset Physical Market Trading that have been registered by Bappebti.

b. Repressive Legal Protection

Bappebti does not only prevent but also provides legal protection in the form of repressive legal protection by conducting audits in the form of *onsite* supervision. *Onsite* supervision, which is carried out directly and regularly or at any time based on risk mapping calculations as stated in Circular Letter Number 758 / BAPPEBTI / SE / 12/2019 concerning Submission of Periodic and Timely Reports on the Implementation of Crypto Asset Trading. If, for example, deficiencies or violations are found, Bappebti can impose sanctions by warning or freezing or if necessary, revoking the registration mark. This is contained in Article 48 of Bappebti Regulation No.8/2021 which states that, "Prospective Crypto Asset Physical Traders who do not carry out one of the obligations as regulated in Article 16 paragraph (1) or paragraph (2), Article 35 paragraph (2) or Article 41 are subject to administrative sanctions in the form of:

- a. written warning;
- b. suspension of business activities; or
- c. cancellation of registration as a prospective Crypto Asset Physical Trader.

Although at this time, the futures exchange institution has not yet been established and currently crypto assets have not been made the subject of futures contracts. However, currently it is only regulated as a physical commodity transaction, but Bappebti is still trying to create legal certainty for crypto asset customers by providing legal protection as mentioned above. In fact, the formation of crypto asset regulations in Indonesia is a form of legal certainty and requires a more comprehensive study because crypto assets are intangible goods that have fluctuating values. The government must evaluate or adjust where this crypto asset will be taken in the future. Will it be developed as a futures contract or remain as a physical transaction as currently issued by Bappebti. If later crypto

assets are still used as physical commodity transactions, then the government must revise or update the Minister of Trade Regulation No.99/2018 which states that crypto assets are the subject of futures contracts. However, if crypto assets are the subject of futures contracts, then the government is obliged to make further studies and consider the systematics of crypto assets as the subject of futures contracts, especially in the regulations on its implementation guidelines.

B. OJK's Role in Optimising the Implementation of Crypto Assets in Indonesia After Law Number 4 of 2023 on Financial Sector Development and Strengthening.

UUP2SK is a manifestation of financial sector reform in Indonesia by focusing on providing arrangements in the form of: (1) institutional strengthening of financial sector authorities with regard to independence; (2) strengthening governance and increasing public trust; (3) encouraging the accumulation of long-term financial sector funds for welfare and sustainable development financing support; (4) consumer protection and (5) financial sector literacy, inclusion and innovation. In UUP2SK, there are institutional specifications of financial sector authorities such as the Financial Services Authority (OJK), Bank Indonesia (BI), and the Deposit Insurance Corporation (LPS). As one of the objectives of the UUP2SK is to regulate the strengthening of supervisory and regulatory relationships between institutions in the financial sector in order to realise financial system stability in Indonesia.

The birth of UUP2SK has an impact on the implementation of crypto assets in Indonesia, based on Article 312 of UUP2SK explains that the transfer of regulatory and supervisory duties of the OJK financial sector authority includes commodities including financial instruments that are the subject of futures contracts, sharia derivative contracts, and / or other derivative contracts related to capital market derivatives and digital financial assets including crypto assets. The existence of this task transition has an impact on the implementation of crypto assets in the future because the UUP2SK does not regulate concretely regarding the systematic implementation of crypto assets but leaves it to the authorised institution, namely the OJK, to manage the task of regulating and supervising crypto assets.

The presence of UUP2SK mentions the financial sector authorities that are members of the Financial System Stability Committee consisting of the Minister of Finance, the Financial Services Authority, Bank Indonesia, and the Deposit Insurance Corporation. One of the financial sector authorities mentioned in UUP2SK is OJK, which in this case has the authority to regulate and supervise crypto assets in Indonesia, which was previously one of the duties and functions of Bappebti. UUP2SK provides attribution of authority to OJK as a transfer of regulatory and supervisory duties on digital financial assets, including crypto assets which will then be supervised by the Chief Executive of the Financial Sector

Technology Innovation Supervisor, Digital Financial Assets and Crypto Assets who leads the task of supervising financial service activities in the ITSK sector and digital financial assets including crypto assets. The transfer of authority provided by this law is feared to disrupt the existing crypto asset ecosystem. Therefore, OJK is required to be progressive and responsive in adjusting all regulations in the implementation of crypto assets.

It is necessary to adjust the existing crypto asset regulations with OJK Regulations (POJK) which then become guidelines for the implementation of crypto assets. As is known, that previously through the Minister of Trade Regulation No.99/2018 explained that:

"establishing crypto assets as commodities that can be used as the subject of futures contracts traded on the Futures Exchange has not been carried out optimally by Bappebti in its implementation"

Of course, the designation of crypto assets as a commodity under the Ministry of Trade is no longer relevant due to the presence of the UUP2SK which mandates that crypto assets are the authority of the OJK institution. Meanwhile, the Minister of Trade Regulation No.99/2018 is the basis for legal certainty regarding the implementation of crypto assets in Indonesia. Therefore, it is feared that there are several regulations that are not relevant to the new authority mandated by UUP2SK because they conflict with the legal principle of *lex superior derogate legi inferiori*. Where in this case the position of the law is higher than ministerial regulations and automatically if it has been transferred to the OJK, crypto assets are not the authority of the Ministry of Trade.

The hierarchy of laws and regulations that places laws in a higher position can be seen in Article 7 of Law Number 12/2011 on the Establishment of Legislation, which states:

"The hierarchy of laws and regulations in Indonesia is as follows: a) Constitution of the Republic of Indonesia Year 1945; b) Decree of the Ralyat Consultative Assembly; c) Law/Government Regulation in Lieu of Law; d) Government Regulation; e) Presidential Regulation; f) Provincial Regional Regulation; and g) Regency/City Regional Regulation."

Apart from the various types of laws and regulations mentioned above, there are other regulations that are recognised and have binding legal force as long as they are ordered by higher laws and regulations or formed based on the authority of the legislator (Simabura, 2022). Other regulations include, *"regulations stipulated by the MPR, DPR, DPD, Supreme Court, Constitutional Court, BPK, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions of the same level established by law or government regulations by law, Provincial DPRD, Governor, Regency/City DPRD, Regent/Mayor, Village Head or equivalent."*

Based on these arrangements, the government must immediately finalise government regulations regarding further provisions regarding the transition of OJK's regulatory and supervisory duties on crypto assets so that OJK can responsively issue policies related to the implementation of crypto assets with the aim of maintaining the crypto asset implementation ecosystem in Indonesia. Government regulations as a derivative of UUP2SK will be a guideline for OJK to carry out the transition of regulatory and supervisory duties on crypto assets from Bappebti. There is an urgency for the government to issue the government regulation as soon as possible because UUP2SK provides a maximum period of 6 (six) months for the government to issue the government regulation since UUP2SK was enacted, namely on 12 January 2023. Meanwhile, until now, no such government regulation has been found.

Commodity transactions are basically carried out on a market called a futures exchange. Until now, in Indonesia there have been 2 (two) futures exchanges that actively conduct commodity futures trading. The futures exchanges include PT Bursa Berjangka Jakarta (BBJ) which has been operating since the end of 2000 and PT Bursa Komoditi Derivatif Indonesia (BKDI) which has been operating since 2009 and 1 (one) Crypto Asset Futures Exchange which was recently established by Bappebti in July 2023.

V. CONCLUSION AND RECOMMENDATIONS

A. Conclusion

The task of regulating and supervising crypto assets in Indonesia before the UUP2SK was the authority of Bappebti. However, in its implementation, there are still challenges and obstacles. Basically, crypto assets are commodities that are the subject of futures contracts traded on futures exchanges, but in its implementation, crypto assets are currently organised on the crypto asset physical market because the futures exchange institution has not yet been established. Bappebti at that time endeavoured to maintain the crypto asset transaction ecosystem so that the crypto asset physical market could be supervised and fostered by Bappebti. Currently, in the situation of transferring the institutional authority of crypto assets, Bappebti establishes a Crypto Asset Futures Exchange in Indonesia.

The enactment of UUP2SK has regulated the transfer of the entire authority of duties and regulation of digital financial assets, which includes the transfer to OJK. The provisions related to the systematisation of the transition must first be outlined through a government regulation and UUP2SK provides a period of 6 (six) months for the government to finalise the government regulation. However, in fact, almost 9 (nine) months after the law was passed, the government regulation

has not yet been found. So that this has an impact on the OJK's supervisory work system for crypto assets which is hampered. With this transfer of authority, OJK is required to be responsive in adjusting crypto asset policies that were previously in Bappebti. There are many arrangements that must be adjusted, starting from the form of crypto assets, crypto asset trading venues to the guidelines for organising crypto assets which will later be under the OJK institution. Therefore, OJK must prepare related adjustment arrangements to fill the void of legal certainty in organising crypto assets in Indonesia so that the crypto asset trading ecosystem in Indonesia is maintained.

B. Recommendations

1. Urging the Government to immediately issue a Government Regulation governing the provisions of the transition of regulatory and supervisory duties on digital financial asset activities to the OJK, which was previously under the institution of Bappebti so that the ecosystem for the implementation of crypto assets in Indonesia continues to run properly.
2. Providing recommendations to OJK to evaluate the implementation of crypto assets from the challenges and obstacles to the implementation of crypto assets in Bappebti.
3. Requesting OJK to issue a POJK related to guidelines for organising crypto assets in Indonesia.
4. Urging OJK to adjust all Bappebti Regulations related to crypto assets into POJK.
5. Conducting socialisation to crypto asset users in Indonesia.

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