

Legal Protection Against Cryptocurrency Investors: Overview of Indonesian Consumer Protection Law



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ABSTRACT

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Information and communication technology advancements has spawned numerous innovations, including cryptocurrency. Cryptocurrency is a currency that only exists in Indonesia as a digital asset. The volatile and uncontrollable value of cryptocurrencies causes investors to suffer losses. This study aims to determine the legal protection of cryptocurrency investors in Indonesia under Consumer Protection Law. This study employs a descriptive qualitative methodology with a normative approach through legislation. According to the findings of this study, The Consumer Protection Act provides legal protection for cryptocurrency investors by regulating the rights and responsibilities of consumers and business actors.



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1. Introduction

Information and communication technology are essential to a nation's development. The development of information and communication technology has spread across the archipelago. Information and communication technology has altered the lives of people in Indonesia, where everything is beginning to be digitized. The field of business transactions is one of the aspects of the lives of people in Indonesia that has been digitized.¹ Through the use of cyberspace, the process of exchanging money can be conducted similarly to conventional business transactions. The use of virtual currencies is an element of digitalized business

¹ Mykola Inshyn, Leonid Mohilevskyi, and Oleksii Drozd, 'The Issue of Cryptocurrency Legal Regulation in Ukraine and All Over The World: A Comparative Analysis', *Baltic Journal of Economic Studies*, 4.1 (2018), 169–74 <https://doi.org/10.30525/2256-0742/2018-4-1-169-174>

transactions.² Currently, the most well-known virtual currency is cryptocurrency. Cryptocurrency is a digital currency that can be employed in commercial transactions. It can be said that cryptocurrency is an evolving account of the emergence of currencies. Using cryptographic technology, all cryptocurrency data transactions are encrypted using specific cryptographic algorithms. Cryptocurrency is distinct from digital currency. The cryptocurrency network is completely peer-to-peer and decentralized, with no central authority or third party. Using a blockchain-based system, all transactions will be recorded. Bitcoin, Ethereum, Ripple, Altcoins, Litecoins, Dash, Dogecoin, NXT, etc., are well-known cryptocurrencies among the general public.³

Essentially, cryptocurrency can be used as a payment method, similar to currency in general, and it can be a digital asset commonly referred to as a crypto asset or crypto asset. According to several Bank Indonesia regulations, including PBI Number 11/12/PBI/2009 concerning Electronic Money, which stipulates that electronic money in Indonesia must use the rupiah currency, Indonesia prohibits the use of cryptocurrencies as a payment method. In addition, according to PBI Number 17/3/PBI/2015, the rupiah can be used as a means of payment in Indonesia. In Indonesia, Cryptocurrency can still be utilized as a digital asset.⁴ By issuing Minister of Trade Regulation Number 99 of 2018 concerning General Policy for the Implementation of Crypto Asset Futures Trading, the Indonesian Ministry of Trade acknowledges cryptocurrency as a commodity that can be used as a futures exchange object (Crypto Assets). Currently, there is a massive increase in the number of investors in cryptocurrencies in Indonesia. Within a year, between 2020 and 2021, it increased to 138%. By releasing cryptocurrencies, Indonesian artists have also enlivened the existence of cryptocurrency investment in Indonesia. Anang Hermansyah with asix tokens and Wirda Mansyur with i-coins are among these artists.

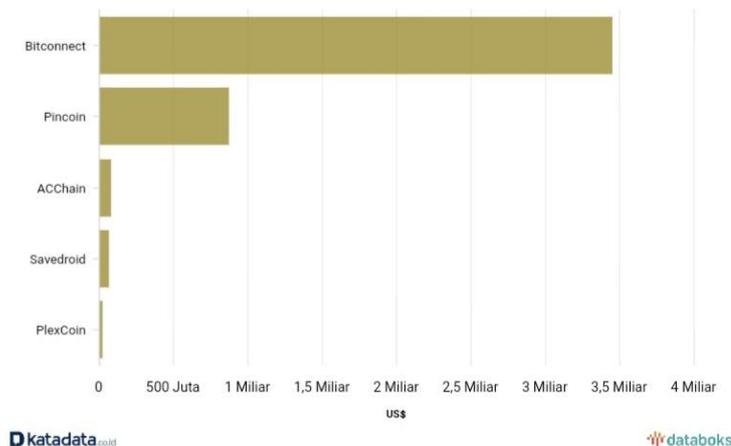
This lucrative investment in cryptocurrencies is exploited by irresponsible parties. Under the guise of cryptocurrency investment, electronic fraud crimes arose due to the existence of cryptocurrencies.⁵

² Jean-François Hennart, 'Digitalized Service Multinationals and International Business Theory', *Journal of International Business Studies*, 50.8 (2019), 1388–1400 <https://doi.org/10.1057/s41267-019-00256-2>

³ Doc Arsov, 'Periodic Table of Cryptocurrencies: Blockchain Categorization', *Available at SSRN* 3095169, 2017 <https://doi.org/10.2139/ssrn.3095169>

⁴ M Todd Henderson and Max Raskin, 'A Regulatory Classification of Digital Assets: Toward an Operational Howey Test for Cryptocurrencies, ICOs, and Other Digital Assets', *Colum. Bus. L. Rev.*, 2019, 443 <https://doi.org/10.7916/cblr.v2019i2.3423>

⁵ Lars Kaiser, 'Seasonality in Cryptocurrencies', *Finance Research Letters*, 31 (2019) <https://doi.org/10.1016/j.frl.2018.11.007>

Image 1. The cryptocurrency fraud case with the biggest losses (2021)

Source: Yahoo Finance on databoks by Katadata

According to the image above, there is an electronic fraud disguised as a cryptocurrency investment.⁶ The image above depicts a case of electronic fraud disguised as a cryptocurrency investment that resulted in the largest losses in the history of the world. Bitconnect is the largest cryptocurrency fraud with a total loss of \$3.5 billion. In addition, Pincoin, ACChain, Savedroid, and PlexCoin have substantial total losses. Therefore, the Indonesian government, through the Ministry of Trade, enacted a number of cryptocurrency-related regulations. The Regulation of the Minister of Trade No. 99 of 2018 on the General Policy for the Implementation of Crypto Asset Futures Trading is one of these regulations. The regulation describes crypto as a commodity that can be the subject of Futures Exchange contracts. However, cryptocurrency is an uncontrollable commodity. This creates the potential for crypto investors to incur losses.

As some of them are engaged in a transaction, the legal relationship between buyers and sellers of cryptocurrency assets can be characterized as one between consumers and business actors. Legal certainty should exist for all consumers to receive consumer protection.⁷ As some of them are engaged in a transaction, the legal relationship between buyers and sellers of cryptocurrency assets can be characterized as one between consumers and business actors. Legal certainty should exist for all consumers to receive consumer protection. As some of them are engaged in a transaction, the legal relationship between buyers and sellers of cryptocurrency assets can be characterized as one between consumers and business actors. Legal certainty should exist for all consumers to receive consumer

⁶ Daniel Dupuis, Deborah Smith, and Kimberly Gleason, 'Old Frauds with a New Sauce: Digital Assets and Space Transition', *Journal of Financial Crime*, 2021 <https://doi.org/10.1108/JFC-11-2021-0242>

⁷ Jakob Søren Hedegaard and Stefan Wrba, 'The Notion of Consumer under EU Legislation and EU Case Law: Between the Poles of Legal Certainty and Flexibility', in *Legal Certainty in a Contemporary Context* (Springer, 2016), pp. 69–88 https://doi.org/10.1007/978-981-10-0114-7_5

protection. Based on the above explanation, the focus of the discussion in this research is the Legal Protection of Cryptocurrency Investors in Indonesia in terms of Law Number 8 of 1999 concerning Consumer Protection.

2. Research Method

A research method is a procedure or strategy for discovering the truth through a series of systematic steps. The research method describes the author's intended methodology.⁸ This research utilizes qualitative methods. The qualitative content of qualitative research focuses on quality and emphasizes meaning. This research is descriptive in nature. Descriptive research describes a variable, symptom, or circumstance as they are. This type of descriptive research is intended to describe an object and provide the most accurate information possible. This research uses a normative approach through legislation as its methodology. Examining laws and regulations pertaining to legal issues, namely legal protection for cryptocurrency investors, in order to obtain a legal argument that can answer the question of how this method is implemented. This study's sources include both primary and secondary legal sources. Consumer Protection Law No. 8 of 1999 is the primary legal source utilized in this study. The secondary legal sources utilized for this research include books, journals, and other information pertaining to the legal protection of cryptocurrency investors.

3. Results and Discussion

Currently, the Indonesian government is actively soliciting investment. Investment activities are regarded as one of the primary drivers of national economic expansion. Cryptocurrency is a business trend whose users use it as an investment vehicle. By exchanging rupiah for cryptocurrencies, cryptocurrency users and investors speculate on price fluctuations.⁹ Crypto is classified as a commodity by the Indonesian government because its value fluctuates and it cannot be regulated. Investors in cryptocurrencies can be positioned as consumers and sellers of cryptocurrencies as business actors.¹⁰ The volatile nature of cryptocurrencies, which cannot be controlled and exist solely in cyberspace, exposes crypto investors to a number of risks, including: first, *hacking*, which is a crime that intentionally and without rights accesses the internet and/or electronic

⁸ Abdul Kadir Jaelani, Resti Dian Luthviati, and Muhammad Jihadul Hayat, 'Permits for the Transfer of Agricultural Land Functions to Non-Agriculture in the Land Purchasing and Sale Process', in *International Conference on Environmental and Energy Policy (ICEEP 2021)* (Atlantis Press, 2021), pp. 216–19 <https://doi.org/10.2991/assehr.k.211014.046>

⁹ Masithoh Masithoh and Ahmad Imam Hambali, 'Virtual Money Exchange (Cryptocurrency) with Real Money (Rupiah) Based on Sharia Economic Law Perspective', *International Journal of Social Service and Research (IJSSR)*, 2.6 (2022), 518–25 <https://doi.org/10.46799/ijssr.v2i6.122>

¹⁰ George Bouchagiar, 'Initial Coin Offering and Cryptocurrencies: Shifting Trust Away from Human Actors and toward a Cryptographic System', *Journal of Financial Risk Management*, 7.04 (2018), 386 <https://doi.org/10.4236/jfrm.2018.74022>

systems without the permission of the owner in any way by violating, breaking through, or breaking into the security system. Second, *cracking* is an act of changing, adding, reducing, transmitting, destroying, deleting, transferring, or hiding information or electronic documents belonging to the victim. Third, *spoofing* is an act of manipulating, altering, and destroying electronic documents with the aim that these electronic documents can be considered as if they are authentic data. Online Fraud, is a series of deceptive acts that mislead and result in consumer losses in an electronic transaction. Drastic losses and the volatile and uncontrollable nature of cryptocurrencies can make investors suffer drastic losses when the value of crypto plummets.

Risk A personal loss was sustained by the investor. The potential risk borne by cryptocurrency investors demonstrates that their position is weak.¹¹ The relationship between crypto investors and crypto businesses is governed by law. A legal relationship (*rechtbetrekkingen*) is a relationship between two or more legal subjects that gives rise to rights and responsibilities between the parties.¹² Article 2 of Law No. 8 of the Republic of Indonesia pertaining to consumer protection states: "Consumer protection is based on benefits, justice, balance, consumer safety and security, and legal certainty."

Consumer protection principles can be described as follows: (1) the principle of benefit, namely the provision of consumer protection, is advantageous to the interests of both consumers and business actors; (2) the principle of justice, which entails maximizing and providing benefits to consumers and business actors in order for them to obtain their rights and fulfill their obligations fairly; (3) the principle of balance, namely providing a balance between the material and immaterial interests of consumers, business actors, and the government; (4) the principle of consumer security and safety, namely the provision of security and safety guarantees to consumers when consuming and/or utilizing goods and/or services; and (5) the principle of legal certainty, which entails ensuring justice for consumers and business actors.

On the basis of the elaboration of these principles, it is clear that the state provides guarantees to consumers who use, utilize, and consume consumer goods and services.¹³ Similarly, investors as consumers and sellers of crypto assets as business actors are guaranteed and protected by the state with regard to cryptocurrencies. The state, through its government, has the authority to enact

¹¹ Philip W S Newall and Leonardo Weiss-Cohen, 'The Gambification of Investing: How a New Generation of Investors Is Being Born to Lose', *International Journal of Environmental Research and Public Health*, 19.9 (2022), 5391 <https://doi.org/10.3390/ijerph19095391>

¹² Lutfillah Lutfillah, Dawairoh Dawairoh, and Syamsul Fatoni, 'Legal Relationship and Rights Fulfillment of Salt Pond Workers/Laborers in Sumenep Regency', *Veteran Justice Journal*, 3.1 (2021), 67-78 <https://doi.org/10.33005/vj.v3i1.53>

¹³ Abhijit Biswas and others, 'Consumer Evaluation of Low Price Guarantees: The Moderating Role of Reference Price and Store Image', *Journal of Consumer Psychology*, 12.2 (2002), 107-18 https://doi.org/10.1207/S15327663JCP1202_04

enduring laws and regulations following the dynamics of the times in order to provide security, comfort, peace, and justice in a fair manner, as well as legal certainty for cryptocurrency investors. In addition, the implementation of the rights and obligations of consumers and business actors, as outlined in Articles 4–7 of Law No. 8 of 1999 of the Republic of Indonesia on Consumer Protection, can also be carried out as a preventative measure for investors' legal protection.¹⁴ These articles outline the following rights and responsibilities as consumers and business actors.

Consumer rights are: (a) the right to comfort, security, and safety in consuming goods and/or services; (b) the right to choose goods and/or services and to obtain such goods and/or services in accordance with the exchange rate and the promised conditions and guarantees; (c) the right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services; (d) the right to have their opinions and complaints heard on the goods and/or services used; (e) the right to obtain proper advocacy, protection, and efforts to resolve consumer protection disputes; (f) the right to receive consumer guidance and education; (g) the right to be treated or served correctly and honestly and not discriminatory; (h) the right to obtain compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or not properly; and (i) rights regulated in the provisions of other laws and regulations.

Instead of customer rights, there are consumer obligations: (a) read or follow information instructions and procedures for the use or utilization of goods and/or services, for security and safety; (b) have good faith in making transactions for the purchase of goods and/or services; (c) pay according to the agreed exchange rate; and (d) follow the efforts to settle consumer protection disputes properly.¹⁵

Business Actors' Rights can be summarized into five: (a) the right to receive payments following the agreement regarding the conditions and exchange rates of traded goods and/or services; (b) the right to obtain legal protection from consumer actions with bad intentions; (c) the right to carry out proper self-defense in the legal settlement of consumer disputes; (d) the right to rehabilitate reputation if it is legally proven that consumer losses are not caused by goods and/or services traded; and (e) rights regulated in the provisions of other laws and regulations. Obligations of business actors are: (a) have good intentions in carrying out their business activities; (b) provide correct, clear, and honest information regarding the condition and guarantee of goods and/or services as well as provide an explanation of the use, repair, and maintenance; (c) treat or serve consumers

¹⁴ Iwan P Manung, Budi Santoso, and Joko Setiono, 'Online Buying and Buying Regulation Based on Law Number 8 Year 1999 Concerning Consumer Protection and Law Number 19 Year 2016 Regarding Amendment to Law Number 11 Year 2008 Concerning Electronic Information and Transactions', Available at SSRN 4225322, 2022 <https://doi.org/10.2139/ssrn.4225322>

¹⁵ Lego Karjoko and others, 'The Urgency of Restorative Justice on Medical Dispute Resolution in Indonesia', *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 16.2 (2021), 362–92 <https://doi.org/10.19105/al-lhkam.v16i2.5314>

correctly and honestly and non-discriminatory; (d) guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services; (e) provide opportunities for consumers to test, and/or try certain goods and/or services as well as provide guarantees and/or guarantees for goods manufactured and/or traded; (d) provide compensation, compensation and/or compensation for losses resulting from the use, use and utilization of traded goods and/or services; (e) provide compensation, compensation and/or replacement if the goods and/or services received or utilized are not under the agreement.

By adhering to the rights and responsibilities of consumers and business actors, it is possible to reduce the risks associated with cryptocurrency investments.¹⁶ In addition, the Consumer Protection Law of the Republic of Indonesia No. 8 of 1999 regulates non-governmental organizations (NGOs) as described in Article 44 paragraphs (2) and (3) of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection. According to these articles, non-governmental consumer protection institutions are responsible for assisting consumers in fighting for their rights, including receiving consumer complaints. If cryptocurrency investors feel disadvantaged, they can file consumer protection complaints with non-governmental organizations. The existence of non-governmental consumer protection organizations is also consumer protection for cryptocurrency investors.¹⁷

4. Conclusion

It has become a business trend for its users to invest in cryptocurrencies. The Ministry of Trade, through the Commodity Futures Trading Regulatory Agency, is responsible for regulating cryptocurrency as a commodity asset (BAPPEBTI). Investors are positioned as consumers, whereas crypto asset sellers are positioned as business actors. The relationship between consumers and business actors is governed by Consumer Protection Law No. 8 of 1999. The Consumer Protection Act provides legal protection for cryptocurrency investors by regulating the rights and responsibilities of consumers and business actors. In addition, the Consumer Protection Act regulates non-governmental organizations in an effort to provide cryptocurrency investors with legal protection.

¹⁶Rian Saputra and Silaas Oghenemaro Emovwodo, 'Indonesia as Legal Welfare State: The Policy of Indonesian National Economic Law', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022) <https://doi.org/10.53955/jhcls.v2i1.21>

¹⁷Don Wells, 'Too Weak for the Job: Corporate Codes of Conduct, Non-Governmental Organizations and the Regulation of International Labour Standards', *Global Social Policy*, 7.1 (2007), 51–74 <https://doi.org/10.1177/1468018107073911>

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