

Electronic Transactions Against Virtual Money (Cryptocurrency) Stock Trading Special Criminal Law Perspective

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ABSTRACT

Virtual currency was designed as an alternative legal tender, originally for use in virtual communities, and certain online gaming sites. The number of such virtual currencies is constantly growing and reaching out to activities in the real world. Currently there are a large number of virtual currencies in circulation and they can be obtained either directly (through mining, bilateral transactions with investors, from companies that sell virtual currencies, purchase of certain goods, etc.) or indirectly through the exchange of virtual currencies. Cryptocurrency can also be referred to as unformed commercial objects; it is actually a 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 find out the responsibility of money laundering perpetrators who use virtual money (cryptocurrency) in stock trading. The research method used is normative legal research. The results showed that 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 invalid in terms of its use⁷ Of 2011 On 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 (cryptocurrencies) such as Bitcoin and Centcoin. Then, the responsibility of money laundering perpetrators who use virtual money (Cryptocurrency) in stock trading which is very

negative for the state of Indonesia, especially in terms of business because people who have committed these crimes take advantage of technological advances unwisely so that perpetrators can be charged based on law no. 8 of 2010 on the prevention and eradication of money laundering.

Keywords: Stock Trading, Cryptocurrency, Special Crimes

INTRODUCTION

Along with the development of information technology, it is also developing alternative instruments to make payments other than using banknotes and giral money both in domestic and international scale. This triggers various innovations that are increasingly efficient, safe, fast and convenient.

As part of the development of Information Technology, a new type of financial instrument, cryptocurrency has been born and developed. This virtual currency can be used as an electronic transaction tool. In addition, the owners also use cryptocurrency to invest and trade. Now business transactions can be done online without involving intermediaries such as banks. Transactions are made instantly, cross-country, transcontinental, faster, easier, cheaper, and more confidentially.

Cryptocurrency has become the first implementation of Blockchain technology and its potential is not limited to payment systems alone. Decentralized applications

created can basically affect such areas of life as the economy, science, education, art, culture and others.

The beginning of the cryptocurrency era was in 2008 with the release of a paper by someone with the pseudonym Satoshi Nakamoto. The first Cryptocurrency to be introduced was Bitcoin, and it began operations in 2009. Due to the popularity of Bitcoin, other cryptocurrencies are becoming popular among investors as well as retail consumers). The high public interest, resulting in the price of Bitcoin soared. Like other cryptocurrencies bring negative impacts to various sectors. Central banks and monetary authorities warn against the risks associated with trading exchanges cryptocurrency. The world's largest bitcoin collapsed arena losing all cryptocurrency. Many countries reject cryptocurrency as a legal currency due to its negative publicity, namely the Silk Road case in July 2013. Silk Road is a hidden internet marketplace for illegal drugs and services that has been shut down by the Federal Bureau of Investigation (FBI). Buyers use Bitcoin to transact and because of its main features make the name of the buyer unknown.

Internationally, Bitcoin transactions are still debated. Countries around the world have been paying attention to the development of Bitcoin and other cryptocurrencies. The reactions were mostly negative despite varying reaction rates. In Indonesia there are pros and cons to the use of cryptocurrency as a means of payment transactions. This is because cryptocurrency has not met the criteria as a currency in force in Indonesia as in law Number 7 of 2011 on currency.

Cryptocurrency can be referred to as commercial objects without using cash, in digital form and can be used for electronic transactions. Virtual currency is a digital money that is the result of a technology through a cryptographic system aims to provide security guarantees with inimitable bias. Cryptography is a technique for enabling the secure transmission of information. The impact of using cryptocurrency seen from the prospect of

Indonesian law can trigger various crimes that cause harm 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 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 false 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 by Information Technology.

Special crimes that occur which is a continuation of the transaction keuangan gunan to obscure the money from the proceeds of crime in this virtual money into the category of money laundering. Special crimes can be interpreted as legislation in a special section that has criminal sanctions in this case regulated in special legislation outside (criminal law), both criminal and non-criminal legislation but have criminal sanctions. Indonesia is a developing country that is the goal of entrepreneurs at home and abroad who aim to multiply and increase wealth by buying and selling shares that can take the form of an investment. Stocks are securities that can be traded on the stock exchange. The definition of shares is a proof of ownership of a company that holds a public offering with a predetermined percentage of a company that makes a public offering (go public) in a certain nominal and percentage. A responsive Capital whose units are equal in number can be rotated on various ways of trading and also the price can change at any time depending on the losses and profits of the company's performance. Thus, this study aims to analyze virtual money (cryptocurrency) transactions in stock trading in Indonesia in a special criminal law perspective

LITERATURE REVIEW

The true inventor of cryptocurrency is David Chaum. The idea aims to protect

private transactions as well as eliminate the financial footprint of the government and issuing bank. The design was to offer a currency that was not controlled by financial and political concerns like paper money. Cryptocurrencies use complex algorithms that ensure transactions cannot be altered so as to securely enable peer-to-peer transactions. David Chaum eventually started the Digicash company in the late 1980s. His company built a house in the Netherlands. The idea is a blind decentralized currency as an alternative to the central bank. Digicash eventually monopolized control of the currency and became a new type of central bank. The official Central Bank rallied against Digicash and in the end, regained control.

After several unsuccessful attempts by others to establish a foothold in the cryptocurrency market, Bitcoin arrived in place in 2008. Bitcoin was first issued in 2008 by its founder who using an anonymous identity named Satoshi Nakamoto. The first Coin launched was Bitcoin there are only 21 million coins in the world. Where is the purpose of this Bitcoin it is a substitute for fiat money. This can happen because the coin increases every year by leaps and bounds because of its uniqueness and rarity. At the time Bitcoin was first released there was still no price aka zero (0) at the beginning of 2021, Bitcoin reached an all time high that is Rp.500.000.000, - / the coin (Trading View, 2021). So no wonder Bitcoin is a cryptocurrency that Silk Day is celebrated, Delvin studies the practice of Money Laundering and Tax Avoidance in Cryptocurrency transactions tend to be difficult to control and monitor by the government. Apart from that, most of these cryptocurrencies have an anonymity feature which has advantages and disadvantages of its own is the presence of these features privacy and identity of the user can maintained but on the other hand this feature allows cryptocurrency users to register identity that is different from the original identity so this will also be bad if

misused because by using this fake identity the government cannot track or investigate anyone who has made transactions in this cryptocurrency, therefore, cryptocurrency often becomes a recourse to commit criminal acts such as not criminal money laundering, illegal trade (trafficking drugs and human beings) even tax evasion committed by investors. Thus the need for strict supervision and regulation to avoid this happening.

1. Definition Of Cryptocurrency

Cryptocurrency is a combination of two words "cryptography" means secret code and "currency" means currency. Cryptocurrency using the network internet for digital currency transactions in virtual form. Cryptocurrency as a digital currency will certainly take advantage of existing technology that is wrong one is to use the blockchain system that is with the aim of transactions in this cryptocurrency can achieve decentralization, transparency and immutability then apart from that, cryptocurrency also uses the concept of cryptography, which is a transaction system from this cryptocurrency directly connects the sender and recipient without any involvement from any party, therefore the concept of cryptography is considered to be able to maintain the security of this digital currency.

Andy Greenberg argues that cryptography or cryptography is an activity of sending messages securely by using science and art. Cryptography has a way of working is to use mathematical science in sending messages so that the message sent can be received by the recipient without any interference from third parties, which is how the transaction works in this cryptocurrency is different from transactions using fiat money as in general. In ancient times the Romans and Egyptians have it uses cryptography to transmit messages even though it is still in a simple form.

Cryptocurrency is a concept/improving things will be money, numnastik, investment and technology. However,

- c. Mining (Mining). The term mining or mining is something that cannot be separated from cryptocurrency. In the process of mining (mining) Users of this cryptocurrency should be able to complete the preparation of complex cryptography to verifies transactions and records in a blockchain. Greater user power increase the chances of being able to solve them. This mining process there are several ways, namely between other:
- a) Mining pool that users of cryptocurrency join with other users to mining coins together; and
 - B) Cloud mining, where users ask others to do mining cryptocurrency coins through third-party websites. When the mining process is complete then as miners get crypto coins as rewards. The mining process requires a complete computer with high spesifikasi and electricity the big one

MATERIAL AND METHODS

This study uses normative legal research methods; research that analyzes the relationship and alignment between legal principles, legal norms, and scholarly opinions (theories) and other rules related to the subject matter discussed. The problem approach used is legislation and conceptual approach. The legislation in question is a written regulation which is implied in the state gazette and determined by the competent authority through the provisions that have been set and in which there is a norm that is binding on everyone in general. Meanwhile, the conceptual approach is a concept that develops in society.

The source of legal material used in this study is the primary legal material is a legal material that is authoritative, has a meaning, where the institution is authorized to produce a result of actions and activities, free to experiment but has a limitation. Constitution of the Unitary State of the Republic of Indonesia year 1945, Criminal Code, Law Number 7 year 2011 on Currency, Law Number 8 year 2010 on prevention and Eradication of Money

Laundering, Law Number 8 year 1995 on Capital Market, Regulation of the Minister of trade of the Republic of Indonesia number 99 year 2018, regulation of Commodity Futures Trading Supervisory Agency Number 5 year 2019. Secondary legal material is the collection of legal material obtained from legislation, various readings or literatures, as well as the opinions of scholars (doctrines) that are relevant to this research study.

RESULTS AND DISCUSSION

1. Stock Trading Using Cryptocurrency

The development of an information and communication technology that is getting faster, has a must be thorough and optimistic. Seeing the progress of business opportunities that lead to digital or cyberspace is an opportunity that can be promising for everyone involved in the business. Today's world is moving towards the actual direction of using virtual money (cryptocurrency) no longer using cash like paper money or metal. It is known that the origin of the existence of money caused people to feel difficulty in carrying out exchanges that can be called barter. Barter is an activity of exchanging goods or services. On the other hand, the scope of barter is narrower due to the difficulty of the person to meet each other.

Cryptocurrencies are created using cryptography which aims not to be easily replicated with a very complicated mechanism because they cannot be duplicated and easily change hands if they do not have access or network to the cryptocurrency. Currently, it is found that there are many cryptocurrencies that are used among the community for the purpose of various transactions. Cryptocurrencies can check any remittances that carry out such activities without the intervention of third parties such as central banks. Currently in Indonesia already circulating virtual currency (cryptocurrency), such as Cryptocurrency (Bitcoin) and Cryptocurrency (Centcoin).

The emergence of cryptocurrency virtual currency in Indonesia is currently getting a positive response and gives the effect of someone's curiosity about the cryptocurrency. Over time cryptocurrency is growing rapidly because it can be used as a means of investment, trading, or payment through electronic systems. Note that based on the concept of cryptocurrency, it is an alternative bridge to the world currency that is really guided by supply and demand, related to the amount of demand so that the price increases and the number of goods offered so that the opposite decreases in price. The use of cryptocurrency among the public has encouraged Bank Indonesia to issue a decree in which Bank Indonesia urges cryptocurrency users to be wise and careful in using cryptocurrency. Because cryptocurrency does not have specific rules governing and is not recognized as a legal tender in Indonesia.

Commodity Futures Trading supervisory agency (BAPPEBTI) synergizes to conduct 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. Speaking of money, of course it can be seen that money develops over time. If in the past money was only in physical form, now there is money in virtual form. Along with the development of the era, there are also various ways for people to accumulate their wealth such as by buying and selling virtual currencies as a form of investment that can be disbursed at any time.

2. Cryptocurrency As A Tool In Committing Further Crimes Which Are Part Of A Special Crime, Namely Money Laundering In Stock Trading.

Criminal law is a law that contains regulations in which there is a must, obligation, and prohibition to violators who can be threatened with punishment, namely a bodily punishment. The rapid advancement of technology gives rise to various forms of crime that has an

international network where financial institutions are a means and target, this can be said as a crime of money laundering (money laundering).

The crime of money laundering does not stand alone because the property is placed, moved, or diverted by way of renewal obtained from the crime, in this case there have been other crimes that preceded it. (Predicate Crime). Money laundering is an activity that has the purpose of hiding the origin of money or property that comes from and then manipulated in such a way as to be property that seems to come from legal activities. The existence of cryptocurrency raises an indication of the crime of money laundering, the main strategy that is done is (follow the money) follow the money. Cryptocurrencies and similar currencies are often widely used 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 only a potential threat it is the duty of law enforcement agencies to ensure that existing or potential risks are more widely recognized and understood.

3. The Indonesian Government's Efforts to Prevent the Use of Virtual Currency as A Means of Digital Transaction Crime By Implementing Money Laundering In Order To Mix The Proceeds Of Crime In Stock Trading

Efforts that can be done by the government of Indonesia in preventing the use of VC as a means of cyber laundering crime include:

- a. Establishing a law that specifically regulates Virtual money transactions, namely: drafting special regulations related to VCS is actually an important step. In some developed countries such as the United States, Japan and Singapore have been prepared tax regulations related to VC. Currently, the development of technology, especially digital or virtual systems is taking place very rapidly. So, it is predictable that new types of virtual currencies, both similar and more sophisticated and

complex than the current ones, will continue to appear in the future. Even now there are many new types of VC that aim to "replace" the position of Bitcoin, such as Litecoin and Ethereum. Indonesia as one of the countries in Southeast Asia with high virtual currency transactions should make legislation that specifically regulates virtual currency transactions. This is so that virtual currencies can be monitored so that they are not used as a means of money laundering. In its drafting, the regulator may refer to ratified international money laundering conventions, such as the Palermo Convention. In addition, regulators can review the regulations of other countries that have regulated similar efforts to then be used as input.

- b. Optimizing the role of Know Your Customer principles in existing laws and regulations, namely: Indonesia can make the US preventive efforts as input to optimize the application of Know Your Customer principles in existing laws and regulations. Position of Indonesia that does not recognize the VC as a legal tender and not classifying it into other forms, such as property, makes any activity that uses VC taxable. The Directorate General of taxation itself has not yet issued guidance on the taxation aspects related to bitcoin or other types of VCs. The absence of tax provisions on VC transactions results in the absence of control over the transactions made. This will increase the likelihood of using VC as a means of money laundering through cyberspace. Therefore, it is important for the Indonesian government to regulate taxation on VC transactions that serve as revenue for the state treasury and as a means of control over VC transactions. Control over VC transactions aims to prevent the use of VC as a means of money laundering through cyberspace.

CONCLUSIONS

Cryptocurrency in stock trading in Indonesia when used as a currency unification, transacting, trading or as a means of payment with businesses in this case, especially stock trading in Indonesia, its use can be said to be invalid in terms of Law Number 7 of 2011 on 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 (cryptocurrencies) such as Bitcoin and Centcoin. Then, the responsibility of money laundering perpetrators who use virtual money (Cryptocurrency) in stock trading which is very negative for the state of Indonesia, especially in terms of business because people who have committed these crimes take advantage of technological advances unwisely so that perpetrators can be charged based on law no. 8 of 2010 on the prevention and eradication of money laundering.

Efforts that can be done by the Government of Indonesia in preventing the occurrence of similar cases in Indonesia is to establish a special law regulating VC transactions in which there are mechanism of recognition of service users and the origin of funds based on the principle of knowing the customer. In addition, Indonesia can take precautions by optimizing the role of Know Your Customer principles in existing laws and regulations. Optimization of the application of the principle of recognizing service users can be done by giving a definition of "money transfer business activity organizer" as one of the reporting parties in the PP TPPU law. In addition, by adding "fiat money exchanger service providers to virtual money and vice versa" as one of the reporting parties in the PP TPPU law. Another effort that Indonesia can do is to establish a definition or classification of VC so that transactions using VC can be taxed to prevent money laundering.

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