

## Legality of Bitcoin as Transaction Payment in Indonesia

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**Abstract:** Bitcoin becomes a medium of exchange competing with official currency in a state, including in Indonesia. Despite its less popularity among lower-middle class of society, its existence feels to be existent and greater. In globalization era, its presence is considered as capable of replacing the role of official currency. Every country has different preference in treating bitcoin; China and South Korea prohibit it firmly, but instead Japan considers it as a reality, thereby accepting it as the medium of payment. In Indonesia, the media of exchange allowed are rupiah and other currencies based on legislation. It builds on Law Number 7 of 2011 about Currency. In Indonesia, there is no regulation underlying the transaction using bitcoin, and even Bank of Indonesia as the institution governing the payment traffic prohibit its use.

**Keywords:** Legality, Bitcoin, Medium of Payment

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### I. INTRODUCTION

As time progresses, economic activity changes as well, for example something not existent in the past now exists in the present and vice versa. Originally, before money was created as a medium of transaction, human beings used barter system in trading. Barter-system economy is an economic arena in which a product is exchanged with another one. Every product basically functions as money. When economic actors had found money as a medium of transaction, it was approved to be a medium of exchange in economic world. Money, as a medium of exchange, should comply with three conditions: acceptable generally, functioning as a means of payment, and recognized legally by government (Dumairy, 1997).

In modern economy, the role of money increases with its function. Money serves not only as a medium of exchange but also as a unit of counting or a measure of value, a means of piling richness, and standard delayed payment, and even recently as commodity (Indra Darmawan, 1992). Payment system also changes over times, recalling the history of payment system evolution in economy. The form of money keeps changing over times. At one time, precious metal such as gold was used as the main medium of payment. Then, paper asset such as check and bill began to be used as a medium of payment and considered as money (Frederich S, 2010). In globalization era, economic activity occurring within society develops as well. One effect of economic development occurring is e-commerce activity. The development of e-commerce also results in the need for a quick, safe, and confidential payment system. Regarding this need, a fundamental problem to consider is trust. On the other hand, ecommerce development has also encouraged the medium of payment development from cash-based instrument previously to a new medium of payment called non cash-based instrument recently, in which this non cash based instrument has developed as well so that it is no longer paper-based but paperless. One of paperless payment medium developing recently is virtual money (Axel Yohandi, 2017). One of virtual money types becoming trend in the present technology development is Bitcoin. Bitcoin is a payment network based on peer-to-peer and open source technology. Every bitcoin transaction is stored in Bitcoin network's database. When transaction using Bitcoin occurs, buyers and sellers will be automatically registered in Bitcoin's database network (Oscar Darmawan, 2014). China and South Korea prohibit the circulation of digital money or *cryptocurrency*, one of which is bitcoin; in contrast, Japan allows its circulation. Even the use of bitcoin in Japan has entered into retail shop. In Japan, the regulation of Bitcoin is governed by an institution managing the circulation of yen currency called Financial Services Agency.

### II. METHODOLOGY

This study is a normative law research. This research done by statute approach. The source and type of Law Material is consists of primary law material including legislation, particularly related to financial transaction, such as Law Number 7 of 2011 about Currency, Bank of Indonesia's Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing. It also consists of secondary law

material, including the one related and relevant to primary law materials, such as books and journal related to Bitcoin.

### **III. LITERATURE REVIEW**

Bitcoin is a cryptocurrency that has recently emerged as a popular medium of exchange, with a rich and extensive ecosystem. Bitcoin is a consensus network that enables a new payment system as completely digital money. It can be considered as the decentralized peer-to-peer payment network that is powered by its users with no central authority or middlemen. For a simple user, Bitcoin is something like cash on the internet. Bitcoin is known as a crypto-currency as it relies on 'cryptography' to generate the 'currency' and validate related transactions. There is a global, public log maintained, called the blockchain that records all transactions between Bitcoin clients. The security of the blockchain is established by a chain of cryptographic puzzles. The group or networks of participants solving these puzzles are known as 'miners'. Each miner that successfully solves a cryptopuzzle is allowed to record a set of transactions, and to collect a reward in Bitcoins (Chinmay A. Vyas, 2014).

Bitcoin is supported by a distributed network of users and relies on advanced cryptography techniques to ensure its stability and reliability. A Bitcoin is simply a chain of digital signatures (i.e., a string of numbers) saved in a "wallet" file. This chain of signatures contains the necessary history of the specific Bitcoin so that the system may verify its legitimacy and transfer its ownership from one user to another upon request. A user's wallet consists of the Bitcoins it contains, a public key, and a private key. The public key is the address to which another party can send Bitcoins, and the private key is what enables the wallet's owner to send his own Bitcoins to someone else (Jonathan B. Turpin, 2014).

### **IV ANALYSIS AND DISCUSSION**

#### **1. Bitcoin Use in China, South Korea, and Japan**

Economy and technology development results in significant change in financial sector, particularly in the term of payment medium. Originally, human beings made transaction using barter system in the past; then it developed into commodity use. As economy develops, transaction is made using money, in which money is made of metal and paper as its basic materials. As time progresses, money can be manifested in the form of check and ticket and clearing account enabling the payment using fund transfer from account balance between financial institutions such as bank.

The more developed the age, the more developed are the technology and the economy leading to the development of trading transaction payment system from the conventional payment system into the internet-based one, or called e-commerce. One of international only payment media needed in e-commerce transaction is Bitcoin. Bitcoin is an electronic currency using peer-to-peer payment network.

The Chinese government announcement to extend its ban on ICOs and mandate the closure of all cryptocurrency exchanges operating in China. All exchanges were required to shut down their operations by October 1st. However, reports emerged stating that Okcoin and Huobi would be permitted to continue to operate until the end of October. Leading bitcoin exchange BTCC stopped accepting deposits in Yuan and cryptocurrencies. Although the exchange will stop all trading operations by September 30 2017, BTCC has stated that it will continue to process withdrawals until October 31 2017. The Chinese government's decision to cease the operations of all cryptocurrency exchanges except for Okcoin and Huobi right before the nation's virtual currency regulations are set to come into effect, has led to speculation that the surviving exchanges may be the only cryptocurrency exchanges permitted to operate in China moving forward (news.bitcoin, 2017).

Chinese regulator has issued a command to close BTCC on September 4, 2017. Chinese Central Bank has prohibited the local companies from making transaction related to virtual money. This prohibition follows the concern with selling action that can make Bitcoin value reaching US\$ 60 billions of total amount since cryptocurrency transaction reached the highest point (Republika, 2017). China prohibits the existence of bitcoin for some reasons: Bitcoin's exchange rate (value) is fluctuating purely following the market mechanism. Government cannot control it exchange rate, unlike yuan against US\$. Government does not like an ungovernable thing. To those understanding the movement of Bitcoin, it can be a profitable investment. However those not understanding it can just follow others and entrust their money to buy Bitcoin through any places so that fraud can occur. The presence of bitcoin can damage investment world in China. In addition, the reasons of why China prohibits Bitcoin are that China is the center of virtual money transaction and that Bitcoin transaction is traced difficultly. It is utilized by those irresponsible for money laundering purpose, illicit drug selling, smuggling, and other illegal activities (Finance Detik, 2017).

The South Korean government is cracking down on bitcoin, with proposed legislation seeking to limit how conventional banks interact with bitcoin and other cryptocurrencies. The law would prohibit South Korean

companies from providing settlement services for cryptocurrency transactions, a crucial part of credit and debit card transactions. Another set of rules issued restricted financial firms from investing in cryptocurrencies more broadly, although the rules also levied capital gains tax on any money conventional investors made from buying and selling the currency. The proposed law would also prohibit companies from selling bitcoin anonymously, in accordance with the “Know Your Customer” rules implemented as an anti-money laundering practice at banks across the world. Many US bitcoin providers have already adopted know your customer procedures, after a number of high-profile money laundering prosecutions against noncompliant providers. There may be even stricter rules on the way. In a statement, the government floated the idea on a nationwide ban on cryptocurrency exchanges, although it’s unclear whether such a ban would be politically or technically feasible (Theverge, 2017).

South Korea has decided to prohibit initial coin offering (ICO) practice. This prohibition is released because the practice can be worryingly a speculative investment that will exert adverse effect. Some situation shows that people have distributed money to very speculative and non-productive direction (TeknoKompas, 2017).

Across the water in Japan, a more advanced model of permitted exchange trading appears to be delivering positive economic results. Analysts have even said that Bitcoin investors alone could already be contributing as much as 0.3% to the country’s GDP (Bitcoinis, 2018).

## **2. The legality of Bitcoin as the Medium of Transaction Payment in Indonesia**

Recently, the development of transaction using bitcoin impacts on or has implication to its users. It is well established that transaction using bitcoin gives the businesspersons (merchants) a fresh space or tempting profit, and gives its users flexibility as their medium of transaction. However, the users or the community will encounter many effects of it. Its security aspect cannot be accountable for; as we know previously, bitcoin is a form of unrecognized currency, so it is considered as illegal currency (Luqman Nurhisam, 2017).

In Indonesia, it can be said that bitcoin does not meet some elements and criteria as the currency prevailing in Indonesia. It is in line with Article 1 clause 1 of Law Number 7 of 2011 about Currency mentioning that: “Currency is money issued by Republic of Indonesia state, thereafter called Rupiah”.

Then, Article 1 clause 2 of Law Number 7 of 2011 about Currency states that money is a legal medium of payment.

Considering the articles above, it can be said that money is a legal medium of payment and the money should be published by government or authority authorized by the state to publish currency. Considering the Law Number 7 of 2011 about Currency, the currency recognized by Indonesia is rupiah.

Bitcoin itself is a currency issued by the state, but it is released using cryptography system of computer networks. Article 1 clauses 6 and 7 of Law Number 7 of 2011 about Currency mentions that basic materials used to produce money are paper and metal. Corresponding to the provision, there are two forms of rupiah currency in Indonesia: paper and metal or coin. Meanwhile, bitcoin is neither in coin nor paper nor metal. It is a digital currency controlled with computer network software.

Considering the Article 21 clause (1) of Law Number 7 of 2011 about Currency, Rupiah is obligatorily used in:

- a. Every transaction with payment purpose;
- b. Completing other obligation that should be met with money; and/or
- c. Other financial transaction conducted in Republic of Indonesia areas.

From the explanation above, it can be said that bitcoin cannot be used as a legal transaction instrument in Indonesian areas where the transaction should be met with money. When the transaction should be completed with money as the payment instrument, the instrument allowed based on the article is rupiah type of money. Therefore, it can be concluded that in Indonesia, Bitcoin is not a legal payment instrument, as it is not issued by Indonesia state. Bitcoin is issued using cryptography system of computer networks, in which Bitcoin is a type of digital money. Not all transactions can be done using Bitcoin as its instrument of payment; it can be used in certain transaction. However, in Indonesia, every transaction can be completed using rupiah money, in which rupiah is a legal money in juridical manner in Indonesia.

Based on Article 27 of Bank of Indonesia’s Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing, the Provider of Payment System Service, in addition to being subjected to this Bank of Indonesia’s Regulation, should also comply with the provision of legislation, including the one governing about:

- a. An obligation of using Rupiah for payment transaction conducted in Republic of Indonesia’s areas;
- b. Trading transaction through electronic system; and
- c. Electronic system and transaction organization

The essence of Article 27 of Bank of Indonesia's Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing is similar to Article 21 clause (1) of Law Number 7 of 2011 about Currency. That is, every payment transaction conducted in Indonesian areas is required to use Indonesian currency, Rupiah, obligatorily. Rupiah currency is the only legitimate currency that can be used legally to make transaction in Indonesian areas. Therefore, Bitcoin cannot be used as a legal transaction instrument to make transaction legally, particularly in Indonesian areas.

Considering the provision of Article 34 letter a of Republic of Indonesia's Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing, the Provider of Payment System Service is prohibited from processing the payment transaction using virtual currency. The explanation of Bank of Indonesia's Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing mentions that "virtual currency" is digital money published by the one other than monetary authority, obtained by means of mining, purchasing, or reward, including Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple, and Ven. Not included into the definition of virtual currency is electronic money. The explanation of Article 34 of Bank of Indonesia's Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing mentions clearly that Bitcoin is included into virtual currency. As aforementioned, according to the provision of Article 34, the Provider of Payment System Service is prohibited from processing the payment transaction using virtual currency. From the provision and the explanation of article above, it can be said that virtual currency is an illegal instrument of payment in Indonesian areas, in juridical manner, while bitcoin is a type of virtual currency, so that it can be concluded that Payment System Service is prohibited from processing the payment transaction using Bitcoin, as bitcoin is a virtual currency and not a legal instrument of payment in Indonesian areas.

Considering the provision of Article 34 letter a of Bank of Indonesia's Regulation Number 18/40/Pbi/2016 about the Organization of Payment Transaction Processing, the Provider of Payment System Service breaking the provision can be imposed with administrative sanction including:

- a. Reprimand
- b. Fine;
- c. Temporary ceasing of some or all payment system service activities; and/or
- d. License revocation as the provider of payment system service.

Based on the Article 21 clause (2) of Law Number 7 of 2011 about Currency, the obligation as included in clause (1) obliging Rupiah to be an instrument of financial transaction no longer applies to:

- a. Certain transaction in the attempt of implementing the state income and expenditure budget;
- b. Receiving grant from or giving grant to abroad;
- c. International trading transaction;
- d. Deposit in bank in the form of foreign exchange; or
- e. International costing transaction.

Considering the provision of Article 21 clause (2) of Law Number 7 of 2011 about Currency, it can be concluded that bitcoin can be used as an instrument for certain transaction. Bitcoin can be used, among others, for transnational transaction, the one conducted across countries in which the transaction can be done using bitcoin. Not all of these international transactions can be made using bitcoin. Bitcoin can be used in certain transaction only. In Indonesian areas, transaction using bitcoin is indeed not allowed because it is not a legal instrument of payment in juridical manner, but in Indonesia there is no prohibition of using Bitcoin as a means of investment.

## **V CONCLUSION**

In Indonesia, Bitcoin is not a legal payment instrument, because according to the Law Number 7 of 2011 about Currency, the legal instrument of payment in Indonesia is money, rupiah. Not all of international transactions can be made using bitcoin. Bitcoin can be used in certain transaction only. In Indonesian areas, transaction using bitcoin is indeed not allowed because it is not a legal instrument of payment in juridical manner, but in Indonesia there is no prohibition of using Bitcoin as a means of investment.

In the presence of Bitcoin, Indonesian government is expected to issue a clear specific regulation about Bitcoin immediately, in order to give law certainty particularly to Indonesians using Bitcoin as the instrument of transaction payment or as investment only. A clear regulation is expected to give clarity about the legality of Bitcoin in Indonesia, so that it can give the people a view particularly on using bitcoin as an instrument of transaction or as investment.

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