

IMPLEMENTATION OF KNOW YOUR CUSTOMER (KYC) IN CRYPTO ASSET IN INDONESIA

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Abstract

During this pandemic of Covid-19, many people changed their transactions from offline to online transactions. One of which is transactions using crypto assets. Crypto assets can be said to be a type of digital currency generated from a very complex cryptographic algorithm in order to provide a safe and convenient medium for users. One of the advantages of transactions using crypto assets is that when making transactions you don't have to show your identity. But it can make it possible to become a new tool for criminals to store and process data and money from crimes perfectly. This study will discuss the importance of KYC in crypto assets transactions and how KYC will help in minimizing the threat or problems during transactions. KYC itself is a principle applied by the bank in order to know in depth the identity of a customer and monitor customer transaction activities including reporting activities on suspicious transactions. The importance of applying the KYC principle to crypto assets is in terms of minimizing the crime that will occur as well as providing a huge advantage that businessmen can easily monitor client activities and avoid the risk of adverse things that relate to crypto assets.

Keywords

Crypto asset, Cryptocurrency, Indonesia, KYC

1. Introduction

Nowadays, the development of technology in the world, especially in Indonesia, is increasing rapidly and has changed all aspects of human life which have caused the emergence of many activities that can be done easily, namely by using digital means or relying on internet technology (online) which of course is an option for many people. One of the activities carried out is to make transactions online. An online transaction is a transaction carried out by sellers and buyers online through the internet media where each party no longer has to meet or meet face to face in person just to make a transaction, one of the transactions that can be done online is a transaction using crypto assets. A transaction using crypto assets is a digital asset transaction that is used to make transactions virtually on the internet network and this digital currency is known as "Cryptocurrency".

During the Covid-19 pandemic, one of the alternatives used by many people to seek profits is to try to invest in crypto assets. The trend of making investments using crypto assets in Indonesia began in 2020, reporting from the databox website, namely in 2020 crypto asset transactions in Indonesia were at Rp 64.9 trillion. However, in 2021 crypto asset trading is increasing, which was previously at IDR 64.9 trillion then increased by 1,222% to IDR 859.4 trillion. Then in 2022, namely in May, the number of crypto asset trading transactions in Indonesia has reached IDR 192 trillion. In

addition, based on a survey conducted by Finder in December 2021 Indonesia is in the 4th position in the highest number of Crypto users in the world. (Figure 1)

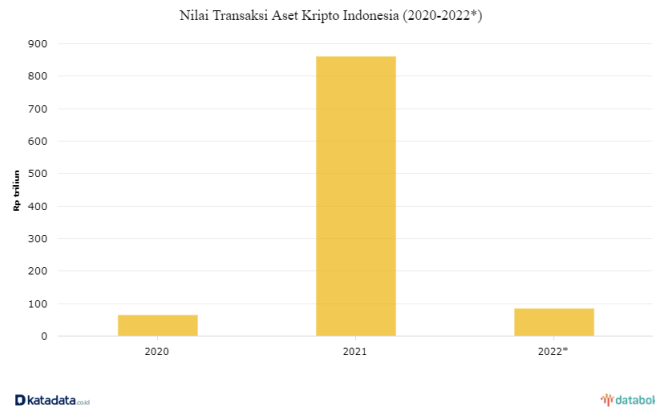


Figure 1. Transaction Value of Indonesian Crypto Assets (2020-2022*)

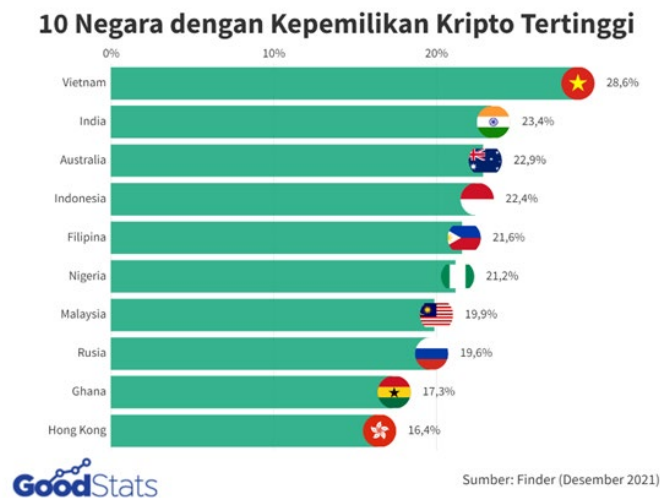


Figure 2. 10 Countries with the Highest Crypto Holdings

Due to the development of crypto asset transactions, it is possible for a problem to arise, namely because the price of crypto assets is purely determined by the results of sales and offers made by sellers and buyers so that the Government cannot determine or regulate the prevailing price of a crypto asset. In addition, the nature of transactions made using crypto assets is private where the transactions can be carried out anonymously, making it possible for criminals to conduct illegal business, or worse, to cause a wider impact of threats to society and institutions and much more. (Figure 2)

Inda Rahardian, a UII lecturer in a webinar entitled "Cryptocurrency Problems in Indonesia" stated that "With the massive crimes that can be caused by digital transactions, she advised everyone to be more careful. This can be done in 2 ways, namely Know Your Customer (KYC), namely knowing and recognizing each customer who will make a transaction, through research or alternative data and transaction monitoring, namely monitoring every transaction to be carried out."

In this study, we will discuss more about the role of KYC principles in transactions using crypto assets. KYC itself is a principle used by banks to find out the identity of customers, monitor customer transaction activities including reporting suspicious transactions, the purpose of the KYC principle is to be able to detect early whether there are transaction activities that violate the law. However, many people disagree with the application of KYC to crypto asset transactions, because it is contrary to the moral values that exist in crypto and they do not want companies or

regulators to direct them on what to do and is considered contrary to the nature of blockchain and decentralization which is to allow customers to remain anonymous and keep their personal information confidential from any central authority.

However, there are also advantages derived from implementing KYC on crypto assets which are to address malicious activities adjacent to the crypto space, such as ransomware attacks that block user access to computers or networks until payments are made and KYC can also help in improving the public image of crypto by going through stronger identification procedures, can help to let go of its links to money laundering and other criminal companies and also businesses can gain a proper understanding of their customers and their financial transactions and are able to reject applicants with dubious or risky backgrounds. Thus, businesses can easily monitor client activity and avoid risks related to crypto assets.

Based on the problems contained in the background above, the main problems of writing research raised by the author are as follows:

1. Why is the application of KYC principles in transactions using crypto assets in Indonesia so important?
2. Will the application of KYC principles be able to help in overcoming problems that occur in transactions using crypto assets?

2. Literature Review

2.1. Definition And History of Cryptocurrency

Cryptocurrency is a binary data set designed to serve as a medium of exchange. Individual coin ownership records are stored in a digital ledger, which is a computerized database using strong cryptography to secure transaction records, to control the creation of additional coins, and to verify the transfer of ownership of coins. Cryptocurrencies are generally fiat currencies, as they are not supported or converted into commodities. Some crypto schemes use validators to maintain cryptocurrencies. In the proof-of-stake model, owners place their tokens as collateral. In return, they gain authority over tokens in proportion to the amount they stake. Generally, holders of these tokens gain additional ownership in the tokens over time through network fees, newly minted tokens, or other reward mechanisms.

According to Christian Newman in his book entitled "Bitcoin From Beginner To Expert: The Ultimate Guide To Cryptocurrency And Blockchain Technology (Cryptocurrency Trading, Mining And Investment)" he stated that Cryptocurrency itself is a digital currency that is created and stored electronically. As a digital currency, Cryptocurrency does not have a physical form like fiat currency because, there is no governing authority or centralized body controlling it. The nature of cryptocurrency itself is decentralization so that it is not controlled by one entity and all activities of transactions using cryptocurrency will be recorded on a transparent and secure public ledger.

Regarding the history of crypto assets as based on the book "The Bitcoin Genesis" it began in November 2008 with a username Satoshi Nakamoto who released a paper to the cryptographic mailing list. The paper consists of nine pages and is titled "Bitcoin: A Peer-to-Peer Electronic Cash System". There is confusion about the meaning of Bitcoin and how it should be used. After the beta period, the program was refined to make it easier to understand to use.

2.2. Schemes Of Cryptocurrencies

1.2.1. Centralized Exchanges

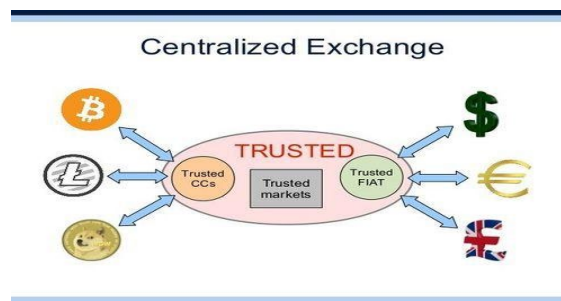


Figure 3. Centralized Exchanges Scheme

Centralized Exchanges is an organization that coordinates cryptocurrency trading on a large scale, using a business model similar to traditional asset exchanges such as stock exchanges. Centralized Exchanges directly participate in the market by "removing" trading. They usually keep a digital order book, which is a list of open buys and sell orders, consisting of volume and price. They match buyers and sellers and announce the current market price based on the last price the asset sold. Usually, these Centralized Exchanges offer additional services, such as the storage of crypto assets. They often require users to deposit their crypto assets on an exchange before trading can happen. (Figure 3)

1.2.2. Decentralized Exchanges (Peer-to-peer)

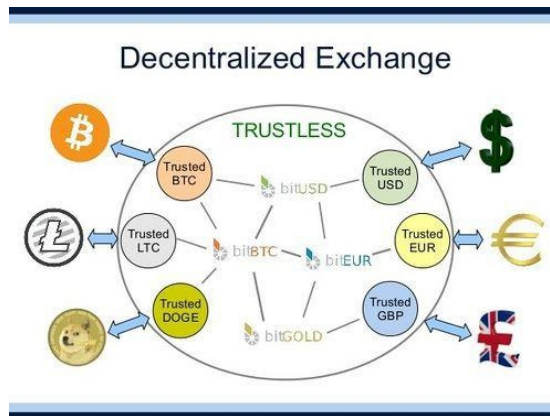


Figure 4. Decentralized Exchanges Scheme

Decentralized platforms are non-custodial, which means users remain in control of their private keys when transacting on the DEX platform. In the absence of a central authority, DEXs use self-executed smart contracts under specified conditions and record each transaction to the blockchain. These trustless and secure transactions represent an accelerating segment of the digital asset market, and are pioneers of new financial products. DEX platforms take a different approach to facilitating the buying and selling of digital assets. Instead of using an intermediary organization to remove transactions, DEXs take advantage of the functionality of self-executed smart contracts. In the absence of intermediaries, DEXs take a non-custodial framework in which we can maintain control over our own private keys and cryptocurrency funds.

2.3 Definition and History of Know Your Customer (KYC)

In the banking world, the principle of knowing customers (KYC) is a principle applied by banks in order to know in depth the identity of a customer and monitor customer transaction activities including reporting activities on suspicious transactions. The application of KYC includes both ordinary bank customers (face to face customers) and non-face to face customers, such as customers who make transactions via telephone, correspondence, and electronic banking.

In the Opinion of Prof. Venkatesh U. Rajput of Chetan Business School, Institute of Management and Research, Hubli, he argued that KYC is due diligence and bank regulations regulated by financial institutions and other companies where they must identify their clients or customers to ensure the information, they have is relevant to conduct business activities with them. In Bank Indonesia Regulation Number 3-10-PBI-2001 concerning the Application of Know Your Customer Principles, namely in Article 1 number 2, the definition of KYC is a principle applied by banks to find out the identity of customers, monitor customer transaction activities, including reporting suspicious transactions.

The early history of KYC can be traced to the enactment of The USA Bank Secrecy Act (BSA) in 1970 where at the time of the Vietnam War, there was a deadly confrontation between Kent State students and the Ohio National Guard, as well as the Nixon administration that was laying the foundations for the War on Drugs. As part of this policy agenda, the White House voiced its support for establishing a law, which, based on the policy of the BSA itself requires banks to comply with certain reporting requirements with respect to financial transactions that exceed certain thresholds and suspicious transactions. Then, the American Government also issued a stricter legislation around KYC

which is included as part of the Patriot Act, Title III of the Patriot Act which is a regulation regulating the Provision of various tools to prevent terrorist activities requires financial institutions to meet two requirements to comply with higher KYC obligations, namely: Customer Identification Program (CIP) and Customer Due Diligence (CDD).

2.3 The Application of KYC Principles

2.3.1 Customer Due Diligence (CDD)

Or it can be referred to as CDD is a process of collecting profiles and relevant customer information. Then, the data will be evaluated to find out if there is a potential risk of terrorist financing or money laundering after the process has been completed and the company has also determined the level of risk to the customer as well as by determining the Level of risk will usually help companies decide the follow-up they will take with proper checks and appropriate solutions. The legal basis for cdd is no. 14/27/PBI/2012 issued by Bank Indonesia in connection with the Implementation of Anti-Money Laundering and Prevention of Terrorism Financing for Banks.

2.3.1 Enhanced Due Diligence (EDD)

Or it can be referred to as EDD based on No. 14/27/PBI/2012 issued by Bank Indonesia that the EDD action is a more in-depth action than CDD because the EDD itself is already in contact with prospective customers who have a high risk of possible money laundering or terrorist financing and the process of the EDD itself is usually carried out by direct interviews with these customers and The importance of identification procedures aimed at obtaining confidence that the prospective customer is providing true information and is a customer acting for himself and not a fictitious customer, as well as knowing adequate information about the activities that may be carried out by the customer and the possible patterns of transactions he is carrying out so that a low risk assessment can be carried out, medium, or high.

2.3.3 Application of KYC in Crypto Assets

In its application, KYC is considered to be able to help to overcome malicious activities related to crypto assets because the KYC system requires to carry out smooth and seamless identity verification, but also guarantees that any data received from consumers is well managed and maintained. So that in implementing KYC on kripo assets, it can improve the public image of crypto throughout the economy, besides that it can help crypto to release its connection to money laundering problems and other criminal companies. It can also drive broader adoption and investment in the crypto asset business.

3. Methods

Research is a scientific way to obtain data with certain objectives and uses based on empirical, rational and systematic science. Which method is done in order to be acceptable to the human senses; done in reasonable ways; and using logical steps. This research will be carried out in a juridical - normative way, where this research will be carried out by reviewing applicable laws and regulations or applied to a certain legal problem or library materials relevant to the research to be carried out.

4. Data Collection

In this study, the authors used a type of data collection tool, namely through:

- **Literature study**, is any effort made to collect information that is relevant to the topic or problem that will or is being studied. This Literature Study is an important step in the scientific method in order to find data sources that will support research. In conducting literature studies, information can be obtained from books and scientific essays, research reports, theses, theses and dissertations, regulations, provisions, and others, be it physically or electronically.
- **Interview**, according to the KBBI, an interview is a question-and-answer session conducted with someone to be asked for his information or opinion about something that is considered important to know.

5. Results and Discussion

5.1 Use of Crypto Assets in Transactions in Indonesia

In today's era of development and use of technology, one of the activities carried out by the community is to carry out buying and selling activities. Which activity can no longer only be done face-to-face but can already be carried out

indirectly by using electronic devices or internet networks as an intermediary. In Indonesia, juridically, buying and selling activities via the internet have been expressly regulated in Law No. 11 of 2008 concerning Electronic Information and Transactions and Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions, namely as based on Article 1 paragraph 2 of Law No. 19 of 2016 which says that "Electronic Transactions are legal acts carried out using computers, computer networks, and/or other electronic media.

There are several types of business relationships that can be done through the internet, namely:

- **Bussines To Bussines Transaksi bussines to bussines (B2B)**
- **Bussines To Customer Transaksi bussines to customer (B2C)**
- **Costumer To Costumer**
- **Government To Public**

Based on the types of transactions that have been mentioned, transactions using crypto assets can be categorized into B2C and Customer to Customer types because there are several crypto assets that are included as commodities and in Indonesia there are many companies that are engaged as exchangers in crypto asset transactions, such as PT. Indodax Nasional Indonesia which is one of the merchants that provides crypto asset exchanger services and PT. Indodax Nasional Indonesia. Indodax also provides a wide selection of types of crypto assets that can be purchased or exchanged by consumers (in this case PT. Indodax) and other companies. In carrying out its business activities as a crypto exchanger in Indonesia, the company must be officially registered with the Commodity Futures Trading Supervisory Agency (Bappebti).

In addition, transactions using crypto assets can also be carried out between each customer in a peer-to-peer (P2P) manner, namely by means of each customer can act as a seller and buyer in their transactions and the transaction does not have to be done through a third party and the nature of the transaction is private, so that each party does not have to show its identity at the time of making the transaction and can have the potential to make transactions cheaply, securely, and almost instantly.

5.2 Legal Issues in the Use of Crypto Assets in Transactions in Indonesia

Because of the development of crypto asset transactions, it presents a new opportunity, namely with the existence of technological innovations that usher in a new era where making payments and using financial services becomes cheaper, faster, more accessible, and allows it to flow across borders quickly. Crypto assets have the potential to be a faster and cheaper means of payment because it is possible for instant access to a variety of financial products from digital platforms and allows instant currency conversion and decentralized finance where crypto assets can be a more innovative, inclusive and transparent financial platform.

Despite the potential for profits, the rapid growth and increasing adoption of crypto assets also poses financial problems, namely because the price of crypto assets is purely determined by the results of sales and offers made by sellers and buyers so that the Government cannot determine or regulate the prevailing price of a crypto asset. In addition, the price of the crypto asset itself is often manipulated by market participants or simply exploited, the asset is stolen directly, and the taxes owed are often not reported, as well as the nature of the transactions made using crypto assets are private in which the transaction can be carried out anonymously, so that it is possible for criminals to conduct illegal business, or worse, to pose a wider impact of threats to society and institutions.

5.3 Regulation Regarding Crypto Assets in Indonesia

Juridically in Indonesia, crypto as an investment vehicle is referred to as a crypto asset. Based on the provisions of Article 1 number 7 of the Regulation of the Commodity Futures Trading Supervisory Agency (Perbappebti) Number 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market for Crypto Assets on the Futures Exchange "Crypto assets are intangible commodities that take the form of digital assets, using cryptography, peer to peer networks, and distributed ledgers, to organize the creation of new units, verify transactions, and secure transactions without the intervention of others".

Crypto Assets in Indonesia have actually been accommodated by several regulations, including the Regulation of the Minister of Trade of the Republic of Indonesia Number 99 of 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading (Crypto Asset). Crypto assets have developed widely in society,

especially in Indonesia and are one of the commodities traded on the Futures Exchange, as regulated in the provisions of Article 1 of the Regulation of the Minister of Trade of the Republic of Indonesia Number 99 of 2018 and Article 1 letter f of the Regulation of the Commodity Futures Trading Supervisory Agency of the Republic of Indonesia Number 3 of 2019 concerning Commodities That Can Be Used as Subjects of Futures Contracts, Sharia Derivative Contracts, And/Or other Derivative Contracts Traded On Futures Exchanges that "Crypto Assets are designated as commodities that can be used as Subjects of Futures Contracts traded on futures exchanges".

In addition, provisions regarding the implementation of Crypto Asset trading on the Futures Exchange and its technical provisions have been regulated in the Regulation of the Commodity Futures Trading Supervisory Agency Number 2 of 2019 concerning the Implementation of the Commodity Physical Market on the Futures Exchange and is regulated more specifically in the Regulation of the Commodity Futures Trading Supervisory Agency Number 5 of 2019 About the Technical Provisions for the Implementation of the Physical Market of Crypto Assets (Crypto Assets) on futures exchanges. Based on the consideration of letter c of permendag Number 99 of 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading (Crypto Asset), the Legis Ratio of the existence of some of these regulations is to protect the public and provide legal certainty to business actors in the field of crypto asset futures trading.

5.4 The Existence of KYC in Indonesia

With the development in the field of knowledge and technology, the variety of crimes committed by irresponsible parties has become more advanced. One of the purposes of committing a crime is to generate or get a large amount of money, besides that there is also a mode of hiding or manipulating the origin of the wealth owned to avoid taxes. The wealth obtained from a crime is not necessarily directly used by the perpetrators because if it is used directly, it makes it easier for law enforcement to track the whereabouts of the property.

In an effort so that wealth is not easy to trace, the perpetrators include it in the financial system. Banks are one of the financial systems that can be used to hide the proceeds of their crimes. In an effort to prevent this from happening more and more rampantly, banks apply the principle of knowing customers (KYC) with the aim of assisting them in knowing the identity of customers, monitoring customer transaction activities including reporting suspicious transactions. In addition, with this KYC principle, banking institutions can better serve and manage customer finances because they know certain risks from these customers. In carrying out its supervision, the Bank is supported by the OJK as an independent institution and free from interference from other parties, which has the functions, duties, and authorities of regulation, supervision, examination, and investigation.

In today's digital era, the Financial Services Authority (OJK) encourages financial institutions to use the Know Your Customer (KYC) system or the digital version of e-KYC. The KYC process through digital is one of the alternatives to make banking performance in Indonesia more efficient. As a result, the company will avoid money laundering because customers cannot falsify data in the imposition of e-KYC, as well as the financing of terrorism. It is hoped that many parties can provide verification of knowing customers electronically, so that consumers can enjoy a better service process and obtain more integrated financial services.

In Indonesia, the implementation of e-KYC has long been carried out. With the e-KYC process, it will eliminate the face-to-face process when verifying potential customers. In e-KYC, verification is carried out online and in real time with direct authorization from the customer. There are several sectors that have currently implemented e-KYC in Indonesia, including banking, insurance, fintech to brokers. In the banking sector, e-KYC is carried out for customers who want to open a new account without having to visit a branch office. Not only that, e-KYC is also used by the banking industry for online credit applications, pension fund disbursements to digital customer service services. The same is also done in the insurance industry. In the fintech industry, especially for those engaged in the P2P sector, e-KYC will make it easier for customers, be it lenders or borrowers.

The use of e-KYC will unlock greater user acquisition potential. This is because this is also supported by people's online activities that tend to increase. After three years, the implementation of e-KYC is carried out by brokers to quickly verify the identities of potential investors and traders. In addition to offering a fast and convenient verification process, e-KYC is predicted to be able to save operational costs in the financial sector.

5.5 KYC Regulation in Indonesia

In Indonesia, the Principle of Knowing Your Customer (KYC) has been regulated in various laws and regulations as follows:

- Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering
- Permenkeu No. 30/PMK,010/2010 concerning the Application of Know Your Customer Principles for Non-Bank Financial Institutions
- Bank Indonesia Regulation No. 14/27/PBI/2012 concerning the Implementation of Anti-Money Laundering and Counter-Terrorism Financing Programs for Commercial Banks
- POJK No. 12/POJK.01/2017 concerning the Implementation of Anti-Money Laundering and Prevention of Terrorism Financing in the Financial Services Sector

Based on the table above, it can be said that the entire implementation of KYC rules in laws or other provisions will be used as internal policy standards owned by each company.

5.6 Application of KYC on Crypto Assets in Indonesia

In Indonesia regarding crypto asset trading, OJK has expressly prohibited financial service institutions from using, marketing, and/or facilitating crypto asset trading and urged institutions/ministries that supervise legal entities outside the OJK's authority, to ensure the use of bank accounts in accordance with applicable regulations. Both legal entities that carry out savings and loans, trade, and/or investment businesses involving public funds, which are beyond the authority of the OJK to supervise. So that efforts are made to ensure that bank accounts are not used to commit unlawful acts such as fraud, gambling, money laundering, illegal investments, and/or containing Ponzi schemes, banks are asked to be vigilant so that bank accounts are not used as a reservoir of funds from activities such as crypto or investments with Ponzi schemes.

6. Conclusion

During the current pandemic, there is an increase in the number of people who make transactions online, where transactions using crypto assets are one of the people's choices in making a transaction. In Indonesia, transactions using crypto assets have not been fully regulated in the applicable provisions which makes people who want to make transactions have to bear the consequences caused by losses incurred through the transaction. Based on the results of research in Indonesia in conducting transactions using crypto assets, it is only supervised by Bappebti, but regarding the use of crypto assets for illegal purposes such as money laundering and terrorism financing as well as the development of weapons of mass destruction. This has been regulated in Bappebti Regulation No. 6/2019 which regulates the implementation of AML-CFT programs by crypto asset traders in accordance with regulations regulated in ba, such as the obligation of the Customer Due Diligence Process, the obligation to monitor transactions and the obligation to report any suspicious crypto asset transactions.

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Biographies

Ayuning Sawitri Salsabila is a senior student at Business Law Department, Faculty of Humanities, Bina Nusantara University, Jakarta, Indonesia. She is energetic and ambitious and also likes to try new things. Her hobbies are listening to music, playing games, and sometimes writing stories. During her time as a senior student at Bina Nusantara University, she had joined so many organization such as Mootcourt, International Law Student Associate (ILSA), Aikido, and Bersama Dalam Musik (BDM). She has interest in Cyber Law, Consumer Law, and Intellectual Property Rights.

Bambang Pratama is a lecturer in Bina Nusantara University. He earned a bachelor's degree from Bhayangkara University Jakarta, a Master's degree from Muhammadiyah Jakarta and a Doctoral degree in Catholic Parahyangan University Bandung. All of his higher education is in the legal field, focusing on intellectual property rights and cyber law, and he has done many research and policy research from 2011 until now.