



Civil Legal Consequences of Asset Use Crypto as a Pawn Guarantee

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Abstract

*As specified in the Civil Code's Article 503, crypto assets as intangible commodities can be categorized as intangible objects. In addition, since crypto assets have economic value and can be traded, they can be used as collateral. Documents known as "proof of storing crypto assets" are provided by the depository management as evidence of ownership of cryptocurrency assets. The purpose of this research is to examine the characteristics of cryptocurrency assets as collateral and the legal ramifications of lien asset loss. Furthermore, what legal ramifications arise from employing cryptocurrency assets as security for a lien. This study approach combines secondary data from literature reviews with a kind of normative legal research. Furthermore, to analyse the data, qualitative analysis is employed. The findings indicated that the crypto asset feature can be used as collateral for a lien because the feature meets the lien requirements that protect the interests of creditors. One of these is *inbezitstelling*, which means that the mortgaged object is owned by the creditor.*

Keywords: *Default; Legal Effect; Liability; Object of Guarantee*

A. Introduction

Compared to the past, the role of money is increasingly important in contemporary economics. Money is not only a means of exchange, but it serves as a way to hoard assets and a unit of account or computation, a standard of deferral payments, and even today that can function as a commodity.¹

In addition to the fact that payment systems are always changing, the history of the development of payment systems in the economy can also be seen. Money also changes with its development. In the past, precious metals like gold were utilised as forms of payment. Means of payment made of paper, such as checks and banknotes, came into use and were considered money.

Almost all aspects of human life are progressing as a result of very rapid technological developments. Along with the changes that occur in the current era of globalization, people's economic activities are also developing. Online financial transaction activities, also known as e-commerce, are one of the impacts of today's economic development.² Virtual money is one of the emerging paperless payment methods. The emergence of crypto asset, or virtual currency became a social phenomena with the emergence of cryptocurrency as a result of e-commerce technical improvements. A collection of computer storable cryptographic codes is called a cryptocurrency, sent similarly used as a means of payment in commercial transactions and to send emails.

The Commodity Futures Trading Supervisory Agency Number 5 of 2019 Regulation's Section 1 Point 7 outlines the technical requirements for the execution of the cryptocurrency asset physical market on the futures exchange state. Peer-to-peer networks and digital assets that employ

¹ Roselyne Hutabarat, *Practical Bank Letter Writing : Menulis Surat Perbankang Praktis* (Jakarta: Erlangga, 2023).

² Lathifah Hanim, "Pengaruh Perkembangan Teknologi Informasi Terhadap Keabsahan Perjanjian Dalam Perdagangan Secara Elektronik (E-Commerce) Di Era Globalisasi," *Jurnal Dinamika Hukum* 11, no. Edsus (2023): 57–92.



encryption as a mode of payment are examples of crypto assets, which are intangible commodities and dispersed ledgers, to supervise the formation of new entities, safe transactions once they have been verified, without the need for outside assistance.

However, according to articles, services, rights, and other interests that are exchangeable are considered commodities under Law Number 10 of 2011 about Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading, furthermore to any derivatives of those products covered by contracts for derivatives, contracts for sharia derivatives, and/or other derivative contracts.³

A futures exchange is a place where cryptocurrency assets may be exchanged in the physical market like commodities. This is an actual marketplace where traders of cryptocurrency assets may buy or sell cryptocurrency using an electronic platform run by a futures exchange or their own physical dealers.⁴

In connection with the background explanation, as specified by the Civil Code's Article 503, crypto assets, as intangible commodities, can be categorized as intangible objects. In addition, crypto assets can be used as collateral because they have economic value and can be traded. Documents referred to act as proof of ownership for any cryptocurrency assets held by the depository manager as proof of crypto asset storage. However, according to Article 12 Paragraph (3) Technical Requirements for the Futures Exchange's Physical Asset Crypto Asset Market Implementation: Commodity Futures Trading Supervisory Agency Number 5 of 2019 Regulation, creditors must be more careful if crypto assets become collateral objects. This is because there are risks associated with assets in cryptocurrency. Therefore, cryptocurrency assets are not regarded as primary collateral; rather, they are solely regarded as supplemental collateral. This also applies to collateral objects such as shares, which are only considered additional collateral due to their volatile value.

A legal analysis of the use of cryptocurrencies as a form of payment in Indonesia and the obligation of the Indonesian government regarding the use of cryptocurrencies as a form of payment in Indonesia, as examined by Rasji, are just two of the aspects of cryptocurrencies that have been covered in prior research.⁵ Cokorda Gede Bagus Mahardinata Pemayun investigated the

³ Presiden Republik Indonesia, *Undang-Undang Republik Indonesia Nomor 32 Tahun 1997 Tentang Perdagangan Berjangka Komoditi*, 1997, www.bphn.go.id.

⁴ Erlandy Alief and Reda Sukmawan, "NFT (Non-Fungible Token), Objek Jaminan, Dan Implikasi Hukum Dalam Penerapannya," *INNOVATIVE: Journal Of Social Science Research* 3 (2023): 2988–2997.

⁵ Rasji; Melia, "Analisis Hukum Terhadap Penggunaan Aset Kripto Sebagai Alat Pembayaran Di Indonesia," *Jurnal Kewarganegaraan* 7, no. 2 (2023): 1714–1720, file:///C:/Users/User/Downloads/025.+Analisis+Hukum+Terhadap+Penggunaan+Aset+Kripto+Sebagai+Alat+Pembayaran+di+Indonesia.pdf.



legal standing of cryptocurrency investors in Indonesia as well as the efficacy of Indonesian laws and regulations as a means of safeguarding investors' interests.⁶

According to the study's goal, cryptocurrency assets can serve as collateral as their features satisfy the requirements of pawning, which safeguard creditors' interests. One of these is *inbezitstelling*, in which the property being pawned is under the creditor's custody. Crypto assets can be used as collateral, but not as principal collateral, according to the study's conclusions. This is because the value of cryptocurrency assets fluctuates greatly, making them extremely dangerous. According to Book II on Things in the Civil Code, Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading, and Regulation of the Commodity Futures Trading Regulatory Agency Number 5 of 2019 concerning Technical Provisions for the Operation of the Physical Market for Crypto Assets on the Futures Exchange, crypto assets as collateral have adequate legal force.

In the case of collateral institutions that burden crypto assets, there are two guarantee institutions that make it possible to charge crypto assets as intangible commodities, such as fiduciary and lien guarantee institutions, given that the objects of both guarantee institutions can include movable objects, both tangible and intangible. Therefore, the author wants to conduct a study on the title: " Civil Legal Consequences Of Asset Use Crypto As A Pawn Guarantee ".

B. Research Method

This study uses a normative research design, which is library legal research as normative legal research only examines secondary data or library materials. In the meantime, a legislative method is used in the research. The type of study utilized is classified as descriptive analysis. The goal of descriptive research is to describe the events and occurrences that are the subject of the study without giving them special emphasis. The Civil Code, Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading, Regulation of the Commodity Futures Trading Regulatory Agency Number 5 of 2019 concerning Technical Provisions for the Operation of the Physical Market for Crypto Assets on the Futures Exchange, and legal materials that offer explanations regarding primary legal materials, such as books, scientific works, and those related to this research. A qualitative approach is the data writing method appropriate for descriptive legal study. This entails data analysis that combines information from laws, rules, and scientific publications pertaining to this study in order to uncover and extract

⁶ I Made Dedy Priyanto Cokorda Gede Bagus Mahardinata Pelayun, "Perlindungan Hukum Bagi Pelaku Investasi Aset Kripto Di Indonesia," *Jurnal Kertha Wicara* 15, no. 06 (2025): 344–356.



truth from literature. In order to get well understood conclusions, this data is then qualitatively examined.

C. Results and Discussion

1. Characteristics of Crypto Assets in Pawn Guarantee Institutions

As specified in the Civil Code's Article 1150, a lien is a legal promise that bestows authority and privilege on the lien holder, namely the right to take precedence over the repayment of the goods over other debtors. The Civil Code regulates the lien (*pand*) as a material guarantee institution for movable objects.⁷ A lien is a right that a creditor has over moveable property that has been given to them by the debtor or another individual in their name. That grants other creditors authority, except to give precedence to auction costs and to retain objects after they are mortgaged.⁸

The aforementioned drafting of Article 1150 of the Civil Code has demonstrated, that a lien is the right to guarantee certain property being possessed by the debtor or someone acting on their behalf as collateral to settle certain obligations, it grants the bearer of the lien priority over other creditors, or *voorrang*, after taking precedence over auction costs and costs to protect the lien from the proceeds of sale through public auction of the lien.

Basically, crypto asset are just another type of currency.⁹ Current crypto asset it is more considered rather of being used as a means of commerce or a unit of account (money). Crypto, as an intangible object, can be considered an object of guarantee in the Civil Code due to the fact that it is an intangible object. In its transactions, the crypto working system does not use third parties. To issue a crypto token, the manager issues proof of ownership in the form of a document showing that the asset is stored. In the event that you own cryptocurrency assets, they may be utilised as collateral. If crypto assets are used as debt collateral, you must know their ownership, which can be seen from documents issued by the authorities. With ownership seen from the documents issued, it is well known, the proper collateral institution for this crypto asset is a lien institution if possible to be used as collateral.

⁷ Habib Adjie and Emmy Haryono Saputro, "Perlindungan Hukum Bagi Pemilikobjek Gadai Atas Pelelanganobjek Gadai," *Jurnal Hukum Bisnis* 1, no. 1 (2015): 52–65.

⁸ Ana Suheri, "Perlindungan Hukum Bagi Nasabah Perusahaan Pegadaian," *MORALITY : Jurnal Ilmu Hukum* 6, no. 2 (2020): 154–165.

⁹ Alexey Mikhaylov, "Cryptocurrency Market Analysis from the Open Innovation Perspective," *Journal of Open Innovation: Technology, Market, and Complexity* 6, no. 4 (2020): 1–19.



The adoption, technology, security, and useful applications of cryptocurrency are all hot topics that are currently being researched.¹⁰ Many people have taken an interest in cryptocurrency, including investors, researchers, financial institutions, and policymakers.¹¹

In this situation, crypto, which is a digital asset of a fluctuating nature, does not yet have laws that allow it to be used as collateral. In addition, as explained earlier, crypto has a fickle nature. Therefore, some guarantee institutions still do not accept crypto as an object of guarantee. This is due to the difficulty of estimating the amount of crypto when it is rupiah. If it can be an object of guarantee, it will be an additional guarantee rather than the object of the main guarantee. Regrettably, the legal difficulties surrounding crypto asset are extensive, putting its users at serious danger.¹²

Crypto is defined as an intangible asset in Law Number 5 of 2019 pertaining to Technical Provisions for the Establishment of a Physical Cryptocurrency Asset Market: The term "crypto assets," which is frequently used, are digital representations of intangible goods used for transaction verification, secure transactions, and employ cryptography to control the issuance of additional units. Network between friends, and a distributed ledger.

A blockchain controlled database, which is frequently utilised as a virtual money with advantages and disadvantages, is what cryptocurrency entails.¹³ Utilising computers or other appropriate digital equipment to do bitcoin transactions without the assistance of other parties makes it an effective use of time and energy.¹⁴

In civil law, collateral subjects are intangible items that can be utilised as collateral objects. Regarding the technical provisions for the implementation of the Crypto Asset Physical Market (crypto asset) as outlined in Article 1 Paragraph 7 of BAPPEBTI Regulation Number 5 of 2019, because crypto assets already have a legal umbrella to use, crypto should only be utilised as auxiliary items.

¹⁰ Nandan Gowda and Chandrani Chakravorty, "Comparative Study on Cryptocurrency Transaction and Banking Transaction," *Global Transitions Proceedings* 2, no. 2 (2021): 530–534, <https://doi.org/10.1016/j.gltp.2021.08.064>.

¹¹ Nektarios Aslanidis, Aurelio F. Bariviera, and Óscar G. López, "The Link between Cryptocurrencies and Google Trends Attention," *Finance Research Letters* 47, no. PA (2022): 1–8, <https://doi.org/10.1016/j.frl.2021.102654>.

¹² W Srokosz and T Kopciński, "Legal and Economic Analysis of the Cryptocurrencies Impact on the Financial System Stability," *Journal of Teaching and Education* 4, no. 2 (2015): 619–627, <http://www.universitypublications.net/jte/0402/pdf/F5N180.pdf%0Ahttp://universitypublications.net/jte/0402/index.html>.

¹³ Gunawan A. Tauda, Andy Omara, and Gioia Arnone, "Cryptocurrency: Highlighting the Approach, Regulations, and Protection in Indonesia and European Union," *Bestuur* 11, no. 1 (2023): 1–25.

¹⁴ Dewa Ayu Fera Nitha and I Ketut Westra, "Investasi Cryptocurrency Berdasarkan Peraturan Bappebti No. 5 Tahun 2019," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 9, no. 4 (2020): 712.



Regarding collateral, the object of the guarantee will be estimated dependent on the amount owed by the debtor to the lender, however because of how quickly the crypto industry is evolving, it will be difficult to match the nominal amount of crypto with the debtor's debt. For now, there are no laws or guarantee institutions that allow crypto assets to be guaranteed. This happens for many reasons, in it:

1. Experiencing a loss of capital, meaning the loss that occurs when the purchase price is higher than the selling price. As a result, crypto users incur losses.
2. Losing assets if you buy and sell crypto incorrectly.

The intangible nature of cryptocurrency stems from its shape, which is invisible and untouchable. The Civil Code actually covers intangible objects. Crypto has monetary value, as do intellectual property rights. The authorities issue crypto ownership documents to show that the crypto is owned by the owner, when viewed from the ownership documents and only certificates as collateral, the concept of collateral is meant to be a lien guarantee.

A fiduciary guarantee is simply a possession or certificate that can be used as collateral, unlike a lien guarantee in which goods and certificates are given to a pawnshop. A return to the fickle crypto system, which makes difficult valuation for collateral institutions does not allow crypto asset to be used as collateral. Not only about the fluctuating nature of crypto, but to date there is no law regulating crypto as auxiliary items.

Regarding the legitimacy of crypto asset as collateral objects, in civil law, collateral law allows crypto asset to be collateralized because they have monetary value. The objective of the guarantee, which is essentially an *assecoir* (additional) agreement, is essential for the execution of the guarantee, which usually occurs after the agreement of the receivable debt. Crypto can be used as collateral, but due to its nature that is not easy to estimate, it can only be used as an enhancer and not as the main collateral.

In accordance with Regulation Article 1 Point 7 concerning Technical Provisions for the Implementation of the Crypto Asset Physical Market on the Futures Exchange (PERBAPPEBTI 5/2019) is a regulation pertaining to commodity futures trading supervisory agency number 5 of 2019, cryptocurrency assets are digital assets that represent intangible goods, the production of additional units, the confirmation of transactions, using distributed ledgers, symbiotic relationships, and encryption to ensure transaction security without the involvement of third parties.

However, commodities are defined as all products, services, and rights in Article 1 Point 2 of Law Number 10 of 2011 regarding Amendments to Law Number 32 of 1997 Concerning Commodity Futures Trading, as well as other interests and other commodities derivatives that are



exchanged and covered by contracts for derivatives, including futures contracts, contracts for derivatives under sharia law, among others.¹⁵

A futures exchange is a place where in a physical market, cryptocurrency assets may be exchanged like commodities, which is a physical market for crypto assets conducted through an electronic platform supplied via a futures market or held by actual cryptocurrency traders to purchase or sell cryptocurrency.

Article 503 of the Civil Code states that cryptocurrency assets are intangible commodities, can be categorized as intangible objects. In addition, because they have economic value and can be traded, collateral can be made out of cryptocurrency assets. Proof of crypto asset storage documents are provided by the depository management as evidence of ownership of cryptocurrency assets.

However, creditors must be more careful if they become collateral objects because there are risks to crypto assets, as stated in Article 12 Paragraph (3) of PERBAPPEBTI No. 5 of 2019, one of the risks of price fluctuations.¹⁶ Therefore, crypto assets are only used as additional collateral, not as principal collateral. This also applies to collateral objects such as shares, which are used only as additional collateral due to their capricious value.

In the case of collateral institutions that burden crypto assets, there are two guarantee institutions that make it possible to charge crypto assets as intangible commodities, such as lien guarantee institutions and fiduciary guarantee institutions, because the scope of objects of both institutions includes movable and immovable objects. However, between the two guarantee institutions there are differences, which are as follows:

1. Mastery of his collateral.

According to the terms of Civil Code Article 1152, creditors or third parties have the authority to own collateral objects in a lien guarantee institution. However, in accordance with Article 1 Point 2 of Law Number 42 of 1999 concerning Fiduciary Guarantees, the original object owner continues to be the owner of any collateral items. If crypto assets have a lien guarantee, thus, evidence of ownership papers can be held by the management of the crypto asset repository in the form of evidence of crypto asset storage, without contradicting Article 1152 of the Civil Code. However, should the debtor, the cryptocurrency asset's

¹⁵ Indonesia, *Undang-Undang Republik Indonesia Nomor 32 Tahun 1997 Tentang Perdagangan Berjangka Komoditi*.

¹⁶ Kepala Badan Pengawas Perdagangan Berjangka Komoditi Republik Indonesia, *Peraturan Badan Pengawas Perdagangan Berjangka Komoditi Nomor 5 Tahun 2019 Tentang Ketentuan Teknis Penyelenggaraan Pasar Fisik Aset Kripto (Crypto Asset) Di Bursa Berjangka* (Indonesia, 1991), https://drive.google.com/file/d/15WUW_SS0BfP-cK65DqIWFUeD_izthIXC/view.



owner, guarantee, does not qualify, the creditor must block the crypto asset from being transferable or authorized for disbursement to the creditor.

2. The act that binds it.

There is no obligation for the original lien deed to be secured for the lien because The Civil Code's Article 1151 merely specifies that the lien agreement must be proved in every possible way to prove the principal consent. On the other hand, fiduciary guarantee deeds are created by notarial deeds in Indonesian, under the Fiduciary Guarantee Act's Article 5.

3. The publicity.

In terms of publicity principles, collateral liens do not need to be registered. Unlike assures fiduciary, The Fiduciary Guarantee Law's Article 11 makes this explicit, together with Section 2(2) of Government Regulation Number 21 of 2015, which addresses the cost of creating a fiduciary guarantee deed and the procedures for registering fiduciary guarantees, that electronically using the fiduciary guarantee registration system, commodities burdened with fiduciary guarantees must be recorded.¹⁷ In a lien guarantee, publicity is obtained by handing over the lien object to a creditor or third party, also known as *inbezitstelling*, so that the lien is born. However, for fiduciary guarantees, the same day is noted as the birth in the fiduciary registration book.

4. The execution.

In accordance with Civil Code Articles 1155 and 1156, there is a parate of execution and underhand sale of collateral liens. In contrast, there are three models for execution fiduciary guarantee: execution parate, execution title, and underhand sale, which are provided for in section 29 of the Fiduciary Guarantee Act.

A right or interest can be considered a digital commodity or a crypto commodity derived from the blockchain system. Therefore, commodities categories are included in Law Number 10 of 2011 about Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading. Article 1 Point 7 of BAPPEBTI Regulation Number 5 of 2019's Technical Provisions for the Implementation of the Crypto Asset Physical Market on Futures Exchanges defines crypto assets as digital assets that are intangible commodities. Crypto assets are also included in the commodity category, the production of fresh units and transaction verification, and using cryptography to secure transactions without third parties' involvement, distributed ledgers and peer-to-peer networks.

¹⁷ Presiden Republik Indonesia, "Peraturan Pemerintah Republik Indonesia Nomor 21 Tahun 2015 Tentang Tata Cara Pendaftaran Jaminan Fidusiadan Biaya Pembuatan Akta Jaminan Fidusia," *Menteri Keuangan Republik Indonesia* (2015).



Crypto assets can be regarded as proprietary as they contain components that are freely owned, can be used in any way, and do not conflict with normal rules or regulations. As stated in Article 570 of the Civil Code, this is the policy, that attests: 'The freedom to use and enjoy property is known as property rights. If it doesn't violate any laws or broad guidelines issued by the appropriate government and doesn't infringe upon the rights of others, none of them lessen the likelihood of rights being denied in the public interest and providing fair compensation in accordance with legislative rules. If it doesn't violate any laws or broad guidelines issued by the appropriate government and doesn't infringe upon the rights of others, none of these lessen the likelihood that rights may be violated in the public interest and that legal measures will provide just recompense.'¹⁸

Crypto assets can be classified into the category of objects, as stated in Section 499 of the Code of Civil, since they are tradable: "Goods according to the Law are everything that can be the object of property rights under the Law."

In compliance with the drafting of Civil Code Article 503, crypto assets and intangible commodities can be classified into the category of intangible objects: "Some are tangible, and some are intangible." This is due to the fact that crypto assets have monetary value and can be traded. In addition, proof of ownership of crypto assets does not occur physically, but in the form of digital transaction records found in ledgers spread across the internet network. A crypto certificate of deposit is a document used by custodians to show that they own crypto assets. It is possible to move crypto assets from one wallet to another, similar to moving money from a bank account, so crypto assets are also considered movable objects.

Bitcoin has material rights as material collateral or liens. Although physical collateral is common, it is difficult to apply to crypto collateral as an object. As long as the creditor cannot access the debtor's wallet, it is difficult to pay off the debt, but the court decision states that the debtor's crypto assets and personal data reside on the internet, making it impossible for the creditor to repay the debt. Liens and fiduciary guarantees are examples of important types of guarantees that can be used on crypto assets. As agreed with the collateral creditor, the promised and trusted bond can be used by the debtor when insuring crypto assets.

The properties of crypto assets meet the terms of a lien that protect the interests of creditors, so that lien collateral can be used for crypto assets. One of them is *inbezitstelling*, which means the mortgaged object is owned by the creditor. If a lien guarantee is provided, the manager of the cryptocurrency asset repository is in charge of proving who owns the cryptocurrency, hence it is

¹⁸ Trisadini Prasastinah Usanti, *Buku Referensi Hukum Perbankan Hukum Jaminan*, ed. Leonora Bakarbesy (Surabaya: PT. Revka Petra Media, 2014).



compliant with Civil Code Article 1152. However, on condition that the creditor blocks the crypto asset so that it cannot be transferred and gives power of attorney in its disbursement to the creditor if the debtor defaults.

Cryptocurrency assets can serve as auxiliary items, as described above; However, this cannot be used as a significant guarantee. This is because crypto assets are very risky due to their highly volatile value. As collateral, cryptocurrency assets are governed by powerful laws. The basis for this is Book II of the Civil Code. The Commodity Futures Trading Supervisory Agency Number 5 of 2019 Regulation regulates the Technical Provisions for the Implementation of the Crypto Asset Physical Market on the Futures Exchange. It amends Law Numbers 10 of 2011 and Law Number 32 of 1997 on Commodity Futures Trading.

2. Legal Liability for Loss of Asset Liens

Basically, an arrangement between the lien party and the lien receiving party is called a lien. There are two parties involved in a lien agreement, in accordance with Civil Code Article 1150. The lien giver is the person who gives the lien and the lien recipient is the person who receives the lien. Rights and obligations arise after the creditor and debtor parties reach an agreement. Based on The Civil Code's Article 1155 governs the rights and responsibilities of both parties.

A lien, also known as a *pandnemer*, is an individual or organization that provides collateral for a loan provided by a debtor (*pandgever*). In Indonesia, a pawnshop company is a recognised legal body designated to oversee pawn establishments. According to Article 7 paragraph (2) in accordance with *Pegadaian Public Companies (Perum) Government Regulation Number 103 of 2000*, the purpose of this company is to prevent the public from illegal pawns, usury practices, and other unreasonable loans.

Under The Civil Code's Article 1154, creditors are not allowed to transfer mortgaged goods to their property, even if the lien defaults, because the lien agreement is based on the delivery of movable property to the creditor. Under Article 1156 of the Civil Code, the lien recipient must notify the lien or debtor of the transfer of the lien assets. The creditor is responsible for the lost lien if there is an obligation of such creditor. According to Article 1157, the Civil Code's first paragraph, "If there has been carelessness, the debtor is only liable for the loss or degradation of the goods."

When it comes to a pawn item made of cryptocurrency, in the event of a loss of such assets, it must be indicated the cause. This is because crypto assets are digital assets secured by cryptographic technology. To protect cryptocurrency owners from fraud, cryptography ensures that crypto asset



cannot be counterfeited or duplicated. In addition, in the event of asset loss, this is usually caused by cybercrime.

Transactions made over the internet are not spared from the virtual crime known as cybercrime. Cybercrime is an offense committed on the internet by using computers as a tool of crime.¹⁹ As a digital currency, cryptocurrency is definitely one of the targets of cybercrime. As a result, many criminals take advantage of it to commit fraud to people who are making cryptocurrency investments.²⁰ Many people in society are not aware of the increase in cryptocurrency investment online, because they have no idea and no experience about the world of cryptocurrency investment, so they become victims of internet crime.

Developers of cryptocurrency exchange platforms should improve the data protection of cryptocurrency investors by implementing the term multi-factor verification, or two-step verification system, to reduce crime on the internet, especially when conducting cryptocurrency transactions. The cryptocurrency exchange platform allowed by BAPPEBTI is very secure, so cryptocurrency investor customers do not have to fear their funds stored in their wallets being stolen or if hackers break into it, cryptocurrency exchanges are fully responsible for losing cryptocurrency investor customer funds.

crypto asset are a prime target for cybercrime attacks, for example, for various types of investment scams, such as hacking and extortion. Hacking is one type of cybercrime in the world of cryptocurrency. This is an attempt to break into someone else's account with the intention of stealing crucial data, without the account owner's knowledge or consent. Hacking often takes place on the internet, especially in the case of cryptocurrency transactions. Cryptocurrency hacking is the theft of a user's wallet, resulting in their crypto coin funds being stolen and lost. Wallet is a special application used by crypto coin owners to store their coins, and user is the term investor who invests his funds in crypto investments.

Indonesia has better cryptocurrency regulations than before due to the large number of cryptocurrency investor enthusiasts. The government evaluates cryptocurrency rules annually to provide clear legal protection for investors in crypto asset. The Ministry of Trade and the Commodity Futures Trading Supervisory Agency (BAPPEBTI) are working together to provide legal protection for bitcoin investors. Regulation Number 11 of 2022 of the Commodity Futures

¹⁹ Dirk F. Gerritsen, Rick A.C. Lugtigheid, and Thomas Walther, "Can Bitcoin Investors Profit from Predictions by Crypto Experts?," *Finance Research Letters* 46, no. PA (2022): 1–7, <https://doi.org/10.1016/j.frl.2021.102266>.

²⁰ Quinn DuPont, "The Politics of Cryptography: Bitcoin And," no. January 2014 (2016): 1–23.



Trading Supervisory Agency regarding the Determination of the List of Crypto Assets Traded in the Physical Market of Crypto Assets provides this protection.

Rights and interests are attached to crypto assets. Commodities are defined as all things, services, and rights in Article 1 Number 2, together with any derivatives of commodities that are traded and covered by futures, sharia, or other derivative contracts, and other interests. Thus, crypto can be traded like gold. Because gold is included in the category of commodity futures. With this law, legality in making crypto investments is acceptable.

The rule known as Commodities Futures Trading Supervisory Agency Number 2 of 2019 requires the Futures Exchange to develop a physical commodities market and simplifies the liquidity of commodity futures trading transactions. The list of cryptocurrency assets that will be selected is subject to suggestions and debates governed by the Commodity Futures Trading Supervisory Agency Number 6 of 2019 Regulation. In connection with the establishment of the physical commodities market on futures exchanges, the legislation pertains to the execution of anti-money laundering and terrorist funding programmes, along with collaborative research conducted by committees and futures exchanges for cryptocurrency assets.

However, Indonesian consumers' usage of crypto asset as payment is prohibited because it is not legal and will cause many problems. Since crypto assets belong to the category of futures for commodities, their sole utility is as an investing instrument. The government should establish regulations that allow crypto asset trading because the economic potential of crypto investment is getting bigger every year. Legislation No. 10 of 2011 amending Law No. 32 of 1997 concerning the Trading of Commodities Futures, for example, makes transactions easier for cryptocurrency investors.

As a result of this law, all forms of crime, especially terrorism relating to cryptocurrency transactions, can be dealt with, as described in Article 2, guidelines for blocking futures brokers if registered in terrorism financing.

The responsibility of the user in case of incurring losses while trading on the cryptocurrency exchange platform lies with the user who has been recognized as a verified member at the beginning of the agreement and has agreed to bear the risk of loss caused by damage, delay, or, error or loss of orders due to his own fault Investment in cryptocurrency is like a double-edged sword: you can get huge profits, but you can also incur heavy losses. Such losses lead more to volatility, which results in rapid price increases that allow for quick profits as well as vice versa. Agency Number 5 of 2019 for Supervision of Commodity Futures Trading Regulation states that cryptocurrency exchange platforms are accountable to users if they take actions that cause harm to other users.



This regulation relates to the technological requirements for establishing a physical bitcoin asset market on futures exchanges.

Provide back to or provide clients it oversees cryptocurrency assets, as well as being forbidden from taking on new clients for cryptocurrency assets. Therefore, the article states that cryptocurrency exchange platforms are fully responsible for losses suffered by customers if such platforms are responsible for losses caused by their own actions.

The platform must claim that the loss was caused by i.e. data leaks that occurred by cryptocurrency exchanges due to poor customer data protection. This provision provides for the settlement of disagreements between connected parties and the organisers of the actual market for cryptocurrency assets. If there is a dispute, deliberation is the first step towards peace. Furthermore, if disputes continue to occur, a second stage will begin, which will be resolved through the district court or BAPPEBTI.²¹

The cryptocurrency exchange platform allowed by BAPPEBTI is very secure, so cryptocurrency investors do not have to fear their funds being stored in their wallets stolen. If the break in is carried out by thieves, the cryptocurrency exchange platform is fully responsible for the loss of cryptocurrency investors' funds. However, the Indonesian government must establish regulations governing how peer-to-peer lending providers as recipients of crypto asset pawn objects. This is done so that the peer-to-peer lending organiser can be fully accounted for if it is proven to be the fault of the organizer.²²

3. Civil Legal Effects of Using Crypto as Collateral for Liens

In its execution, pawning is carried out by pawnshop institutions. Since 1901, pegadaian, a non-bank financial institution, has been lending to the public in a way that is well known in Indonesia. The only company officially allowed to carry out financial activities such as financing is pawnshops, which provide funds to the public through pawnshop laws. Its main task is to provide loans to the community so that informal financial institutions, which often take advantage of the community's funding needs, do not harm the community. Financial institutions such as loan sharks and ijon usually take advantage of people who need loans or have financial difficulties to get funds or interest at very high rates.

²¹ Tifani Haura Zahra, Susilowati Suparto, and Helitha Novianty Muchtar, "Dispute Resolution in User Agreement on Cryptocurrency Sales Platform That Are Not Based on Indonesian Legislation," *Media Hukum Indonesia (MHI)* 2, no. 1 (2024): 85–94, file:///C:/Users/User/Downloads/228-685-1-PB.pdf.

²² Rico Nur Ilham et al., "Risk And Return Model of Digital Cryptocurrency Asset Investment In Indonesia," *Al Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan* 16, no. 1 (2022): 357.



Products and services offered by pawnshops that are quite well-known in the community are lending on the basis of lien law, which means that the borrower must deliver movable goods.²³ The first consequence is that the value of the movable goods to be mortgaged greatly affects the amount of loan given to each borrower. Furthermore, pawnshops can provide goods value assessment services because they have appraisal equipment and staff who are experienced and trained in assessing the value of goods to be mortgaged.

A pawn guarantees movable objects, as explained earlier. There are several ways of transfer or delivery of objects, both tangible and intangible movable objects. The author will explain more about the transfer of rights of intangible movable objects if the crypto asset is an intangible movable object.

A palpable moveable object's transfer is governed by Civil Code Article 612, paragraph (1), stating that: "The transfer of movable property, except the incorporeal, shall be made by the actual surrender of the property by or on behalf of the owner, or by the surrender of the keys of the building, where the property is located."

Receivables in the name (*aan naam*) and other intangibles are used to divert movable and other intangible objects. In other words, after issuing a deed, whether under hand or authentic, there is an obligation to notify the debtor, or the debtor, that the transfer will have legal consequences for the creditor.

If the debtor does not pay within the time limit agreed in the agreement or after the debtor receives a warning to pay, the creditor may execute or object liens to pay off the debtor's debt. The Civil Law's Article 1156, paragraph (1), states this., reminding: However, whether the promise is broken by the lien or the debtor, the debtor may demand before a judge that the lien be sold in the manner prescribed by the judge to pay off the debt as well as interest and costs. In addition, the judge can also handle the claim of the debtor, can grant that the lien will remain with the debtor for an amount to be determined in the judgment up to the amount owed, including interest and costs.

As preferred creditors, execution must be easy, such as mortgage holder creditors, lien holder creditors, and fiduciary beneficiary creditors, who by law are entitled to execute collateral by requesting fiat execution from the chief justice of the district court or making a hand-carried sale pursuant to an agreement with the lien creditor.

²³ Slamet, "Perjanjian Gadai Dan Proses Penyelesaiannya," *Mahkamah Agung Republik Indonesia Direktorat Jenderal Badan Peradilan Agama* (Jakarta, 2022), <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/slamet-s-ag-s-h-m-h>.



In the event that the debtor fails, according to the guidelines of Civil Code Article 1156, paragraph (1), thus, the creditor may sue the debtor in court. The judge may say the following in his decision:

1. How pawn goods are sold;
2. The creditor has a lien in a certain amount that is proportional to the debtor's debt.

Accounts receivable or borrowing agreements usually have collateral. The accounts receivable agreement serves as the main or basic agreement and the guarantee agreement serves as an additional or supplementary agreement. Therefore, depending on the main agreement, a guarantee may or may not exist and the guarantee must not exceed or be less than what is stipulated in the principal agreement.

In principle, Articles 1131 and 1132 BW are sources of guarantee, which guarantee that the creditor will receive his rights from the debtor.²⁴ In addition, the article divides guarantees into two categories: general and special guarantees. One common type of guarantee is a guarantee given to all creditors that all of the debtor's assets will be secured. Although the guarantee is not explicitly mentioned in the clause of the agreement, the creditor still retains his rights under the law, namely article 1131 BW. However, no creditor takes precedence in payment. However, a special guarantee is a guarantee that arises due to a unique arrangement between the creditor and the debtor designating a specific object as collateral for the principal agreement, such as a lien, fiduciary, or lien guarantee. There are two types of guarantees: material and individual. The nature and character of the guaranteed object is followed by the material guarantee.²⁵

From the point of view of material law, digital assets are defined as moving but intangible objects that have characteristics and can be transferred easily through digital technology and the internet. By using electronic networks and the internet, Digital assets may be transferred between wallets and kept on servers and smart devices. One type of crypto asset, such as Bitcoin, can also be transferred from cold storage to mobile phone storage as desired.²⁶

If the crypto asset pawn debtor does not qualify, they can apply for a bail seizure, which consists of two aspects. The process of applying for bail is the first topic. Rather, the second aspect relates to how the court confiscates the bail. In judicial practice, both things are intended and justified simultaneously.

²⁴ Dilmil-jakarta.go.id, "Kitab Undang-Undang Hukum Perdata Burgerlijk Wetboek" (2014): 1–549, file:///C:/Users/User/Downloads/Kitab Undang-Undang Hukum Perdata.pdf.

²⁵ Rizka Syafriana, "Comparison Of Execution In Bank Guarantee And Fiduciary," *IJRS: International Journal Reglement & Society* 4, no. 3 (2023): 217–222, file:///C:/Users/User/Downloads/405-1453-1-PB.pdf.

²⁶ Hariyanto Hariyanto, "Bitcoin Sebagai Aset Debitor Pailit Dalam Hukum Kepailitan Di Indonesia," *Masalah-Masalah Hukum* 51, no. 3 (2022): 299–313, <https://ejournal.undip.ac.id/index.php/mmh/article/viewFile/42906/22542>.



Confiscation of crypto assets can be done through additional confiscation procedures, such as by filing a confiscation petition with the court. Pawn institutions can ask BAPPEBTI and Crypto Exchanges to help execute crypto assets after a Court Determination Letter for the seizure of such assets. Commodity Futures Trading Law Number 32 of 1997 states that BAPPEBTI is an institution owned by the Ministry of Trade. Pawn institutions can ask BAPPEBTI for help to provide a list of futures exchanges used by debtors to store their crypto assets.

Execution of bail will take place after the application for bail is granted and the bail can be accessed. There are at least two ways to execute the object of lien, in accordance with the guidelines of Indonesian Civil Code Article 1155:

1. Closed sale requires the intermediary of the court, that is, to ask the judge to sell the lien indirectly. Thus, the First Paragraph of The Civil Code's Article 1156 states: However, in the event that the lien or debtor breaks their agreement, then the creditor may demand that the lien be sold to pay the debt and interest, pursuant to the judge's decision, or that the judge grant permission to the creditor to retain the lien until the amount to be decided by the judge, including debts, interest, and expenses.
2. With the help of the State Wealth and Auction Service Office or auction house, as this is a type of direct sale. So, if all parties agree that the creditor is entitled to execute without court approval, the creditor can easily enlist the help of the auction house or the State Wealth and Auction Service Office to sell the lien.

Currently, Indonesia does not have a specific law or institution that regulates the seizure of crypto asset guarantees. The only institution in Indonesia responsible for crypto assets is BAPPEBTI (Komiditi Futures Trading Supervisory Agency), which BAPPEBTI still does not have the authority to handle crypto cases in Indonesia.²⁷

The application process for crypto asset collateral can be used to seize crypto assets, nevertheless, in contrast, because these crypto assets are intangible and operate online, therefore, third-party assistance is needed to freeze or block such assets. Therefore, if you want to guarantee crypto assets as collateral, you must use the stock pawn mechanism, for example by creating a new wallet containing a number of crypto assets that are guaranteed and owned by creditors by mutual agreement. In addition, it can use third parties such as the Crypto Exchange or the Indonesian Central Securities Depository as a provider of Sub Securities Guarantee Accounts to store and block collateralized assets.

²⁷ Cyndiarnis Cahyaning Putri, "Non-Fungible Token: Suatu Urgensi Serta Konstruksi Hukum Dalam Perspektif Hukum Perjanjian," *Widya Yuridika* 6, no. 2 (2023): 217.



The Lien Agency can execute the assets once the application is approved by the court. They can do so by selling the assets privately with court intermediaries or through public auction with the help of the State Wealth and Auction Service Office or auction house.

D. Conclusion

The nature of crypto assets qualifies a lien that protects the interests of creditors, so the nature of the asset can be used as collateral for a lien. One of them is *inbezitstelling*, which means that the mortgaged object is owned by the creditor. If a lien guarantee is provided, the manager of the cryptocurrency asset repository has the evidence of ownership, so it does not conflict with The Civil Code's Article 1152. In the event of the lost crypto assets mortgaged, the cryptocurrency exchange platform is fully responsible for the investor's or debtor's customer funds. However, despite this, it is highly recommended that the Indonesian government establish regulations governing how peer-to-peer lending providers as recipients of crypto asset pawn objects act, so that the party responsible for the loss of crypto assets if proven to be the fault of the peer-to-peer lending operators. If crypto assets are used as collateral for a lien, unqualified debtors can apply for bail, which consists of two aspects. Crypto asset confiscation can be done using other confiscation procedures, such as filing a confiscation petition to the court, pawn institutions can request assistance from BAPPEBTI, crypto exchanges, or platforms that provide services to execute crypto assets after the issuance of a court determination for crypto asset confiscation.

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