Legal Basis Governing About Bad Stocks and Tokens in Indonesia

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Abstract. The digital stock market and cryptocurrencies are becoming an invention that is considered to be the new face of the world economy. Especially during the pandemic, which makes people have a lot of free time at home, encouraging them to learn new things, such as how to invest. This has led to an increase in the number of investors in both the stock market and the cryptocurrency market. Along with the progress of the investment climate and the rapid increase in awareness of investing, various phenomena have emerged that concern the condition of the stock market and the cryptocurrency market. Phenomena such as the presence of stocks and crypto tokens have poor fundamentals, which makes the performance with this type of investment highly volatile and manipulable. This is certainly a significant problem, especially for new investors who are just entering the investment world. It is likely if they put their capital into bad stocks and tokens, it will cost them their money and get out of the investment world. Therefore, the author here wants to identify regulations that can regulate this bad stocks and tokens phenomenon.

Keywords: Regulation · Stock market · Cryptocurrency

1 Introduction

In today's era of technological progress, Various kinds of innovations emerge from all aspects of life that have the aim of facilitating human life in the future. It is also undeniable that developments in the field of economics & business have triggered various kinds of innovations that direct the economic & business fields towards a more modern direction with the form of digitization of the economic & business system. Especially in the era of the industrial revolution 4.0, the economic system is required to develop according to the times to align the existing economic system with the basis of digital and technological systems. Especially in this digital era, many conventional business opportunities can be converted into digital businesses which certainly have a large market share. There are many types of products that can be produced from economic developments, including digital capital market securities companies and cryptocurrencies.

Digital capital market securities and also cryptocurrencies are products of technological developments in the economic sphere. Capital market securities themselves are

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one of the instruments in economic & business activities. Definition of a securities company itself is a company that already has a license from the Indonesian Financial Services Authority to carry out various activities on the stock exchange, such as being an intermediary in buying and selling transactions on the stock exchange, underwriters, or other activities by the provisions of the Indonesian Financial Services Authority as a capital market supervisor. In essence, a securities company is an intermediary between a customer and a company issuer to carry out buying and selling transactions for stocks, bonds, mutual funds, and also products contained in the stock exchange.

Meanwhile, cryptocurrency is one of the new financial instruments that has also emerged from the influence of technological developments. Cryptocurrency itself is a financial instrument in the field of transaction tools. At first, the cryptocurrency project itself was prepared to replace the conventional transaction system that still uses currency. The form of cryptocurrency can be divided into coins as well as tokens. The difference between the two lies in the blockchain network system used, where the blockchain network system itself is an ecosystem system that stores data digitally and is connected to cryptography. The blockchain system used in crypto coins is a standalone blockchain system owned by the manager of the digital asset. Whereas in crypto tokens, the system used is not its blockchain system but hitchhiking to a large pre-existing blockchain system.

During the pandemic, many people want to learn new things amid time concessions during the Covid-19 pandemic. One of the new things that many people have learned during the pandemic is the importance of awareness of investment. According to Schroder Investment Management, the pandemic era has made people literate in investment, this certainly has a good impact on the investment climate in Indonesia. Where the more people who are literate in investment, the more financiers there will be and making the investment climate in Indonesia have a larger market stockization and have a good impact on the country's economy. According to data from PT Custodian Sentral Efek Indonesia or KSEI, Indonesian capital market investors in August 2020 increased by 21.66% compared to the number of investors in 2019, and at the end of 2021, the number of stock investors increased to 7.48 million capital market investors.

Meanwhile, in terms of cryptocurrencies, the increase in awareness of investment has experienced a very large spike. Interest from the public in crypto assets continues to increase over time. What makes investing in crypto assets attractive is the view of a financial system that is new and different from conventional investment systems in general. This makes people more interested in cryptocurrencies than other forms of investment, this is evidenced by the faster growth of investors in cryptocurrencies compared to stock investors. In 2021 according to Bappebti, the number of crypto investors was recorded at 11.2 million investors and in February 2022 this number increased to 12.4 million crypto asset investors. When compared to the number of investors from the capital market, the number and rapid growth of crypto asset investors is far superior to that of capital market investors.

2 Discussion

The phenomenon of the rapid growth in the number of investors, both capital market and crypto asset investors, has left a new problem. In its development, the form of investment assets of any type must have two opposite sides. These two sides are assets that have good fundamentals and also assets that have poor fundamentals. Bad stocks and tokens have the same basis, which is a form of investment product that has very volatile price movements and whose price can be influenced by market participants to achieve certain interests. This can have both good and bad impacts on capital holders who want to invest in one of these types of bad stocks and tokens. It is known that people who are new to the world of investment tend to be more interested in stocks and bad jokes. This is due to the sentiment that makes the product with poor fundamentals more profitable.

This is caused by if the price of a product is very volatile, then at the time of price increase, there can be a very large profit if investors enter when the price is cheaper or known as average down. However, this can happen the opposite if the product is bearish, especially up to rug pull, the capital of investors can run out in that instant. Therefore, this poor trading of stocks and tokens can also be equated with gambling, this is because even if you use an analysis based on the fundamental level of a product, the analysis can only slightly help guess the price of the product and be more suggestive of gambling. Also, new investors who invest in products with weak fundamentals tend to only follow the trend in determining to buy and sell an existing product or known as FOMO or Fear of Missing Out, With various issues about bad stocks and tokens that seem to be a favorite for new investors, a regulation is needed that regulates how and what are the limits for an investment product that is worthy of being marketed on an investment platform to potential investors.

So far, investment instruments in Indonesia have been regulated in laws and regulations that discuss the capital market. The legislation is Law No. 8 of 1995 concerning the capital market and is the legal basis for all those concerned with the capital market in Indonesia. The Law contains 18 chapters that explain the meaning, institutions and professions, types of investment products, procedures, violations, examinations, investigations, and criminal provisions related to the capital market. Based on the topic discussed, namely bad stocks, can be related to Chapter XI of Law No.8 of 1995 which discusses fraud, market manipulation, and insider trading.

Article 91 of Law No.8 of 1995 states that: any party is prohibited from taking actions, either directly or indirectly, to create a false or misleading picture of trading activities, market conditions, or the price of securities on the stock exchange. And also in Article 92 of Law No.8 of 1995 explains that each party, either alone or together with other parties, is prohibited from conducting 2 (two) or more securities transactions, either directly or indirectly, thus causing the price of securities on the stock exchange to remain, rise, or fall to influence other parties to buy, sell, or hold securities. In this article, it is explained that the activity of influencing other parties to withhold, sell or buy securities for a specific purpose is a prohibited act.

However, in reality, at the moment, there are many examples of parties making trading signals. A trading signal is a hint given by a party to influence the other party, whether the purpose is only to help other investors in analyzing the stock price of an issuer or aiming to take its profit which in essence the activity of trading signals can affect the price of a stock. In general, the party who gives trading signals works as a stock dealer or a party who has a relationship with the stock dealer. A stock dealer is a party who has a lot of capital and also shares that can be in the form of individual individuals or a group. By having such a large source of capital, stock dealers can enter the market and can influence and control the price of a stock, this certainly aims to get a large profit. Usually, stock dealers target small stocks whose stock prices are still very volatile, which is often referred to as bad stocks.

The cryptocurrency ecosystem is also inevitable from the cases that occur in the capital market. Many parties are doing various ways to benefit from trading crypto assets. What has happened recently in the local crypto market is the emergence of tokens created by public figures or known as celebrity tokens. In general, celebrity tokens are included in the bad token which has very weak fundamentals and seems to be a follow-along in responding to the phenomenon of cryptocurrencies in Indonesia. In Indonesia, crypto asset trading is regulated and supervised by Bappebti, this is because in Indonesia crypto assets are not a financial service product and cannot be used as a means of payment, therefore financial institutions can only be facilitators for payment transactions for crypto asset trading, not by being facilitators of crypto asset trading directly.

This is regulated in Article 6 of the Banking Law which states that banks by their functions cannot trade stocks and commodity assets, whereas crypto assets are categorized as commodity assets. The legal and regulatory basis for crypto asset trading has been contained in the legal system in Indonesia, this is regulated in the Regulation of the Minister of Trade Number 99 of 2018. To strengthen the regulatory system and also efforts to tighten supervision on crypto asset trading, Bappebti itself issued Bappebti Regulation No.8/2021 which contains the requirements for crypto assets that can be traded in the crypto market. In addition, there is Bappebti Regulation No.7/2020 concerning the Establishment of a List of Crypto Assets which is the basic reference for crypto assets that can be traded in Indonesia. Referring to the problem of missing tokens, can be related to Article 3 paragraph (3) which is the basis for determining the feasibility of crypto assets with the Analytical Hierarchy Process (AHP) method which considers provisions such as:

1. Market cap.
2. Included in the global market.
3. Have economic benefits, such as taxation, growing the digital economy, the informatics industry, and the competence of experts in the field of informatics (digital talent); and
4. Risk assessments have been carried out, including the risks of money laundering and terrorism financing

3 Conclusion

Based on the discussion of regulations governing the phenomenon of bad stocks and tokens in the capital market trading and crypto markets. It can be concluded that the regulations governing bad stocks and tokens already have a legal basis in the legal system in Indonesia. This shows that this problem can be overcome with regulations that regulate it, but in reality, the effectiveness of this law is still lacking, either from supervision from related institutions or legal awareness from the public as capital holders. One of the efforts in solving this problem is to conduct counseling both to parties who are concerned in the field of trading investment assets and also to the wider community to achieve effective regulations for the investment climate in Indonesia.

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