

ADP LEGAL UPDATE

FEBRUARY 2025

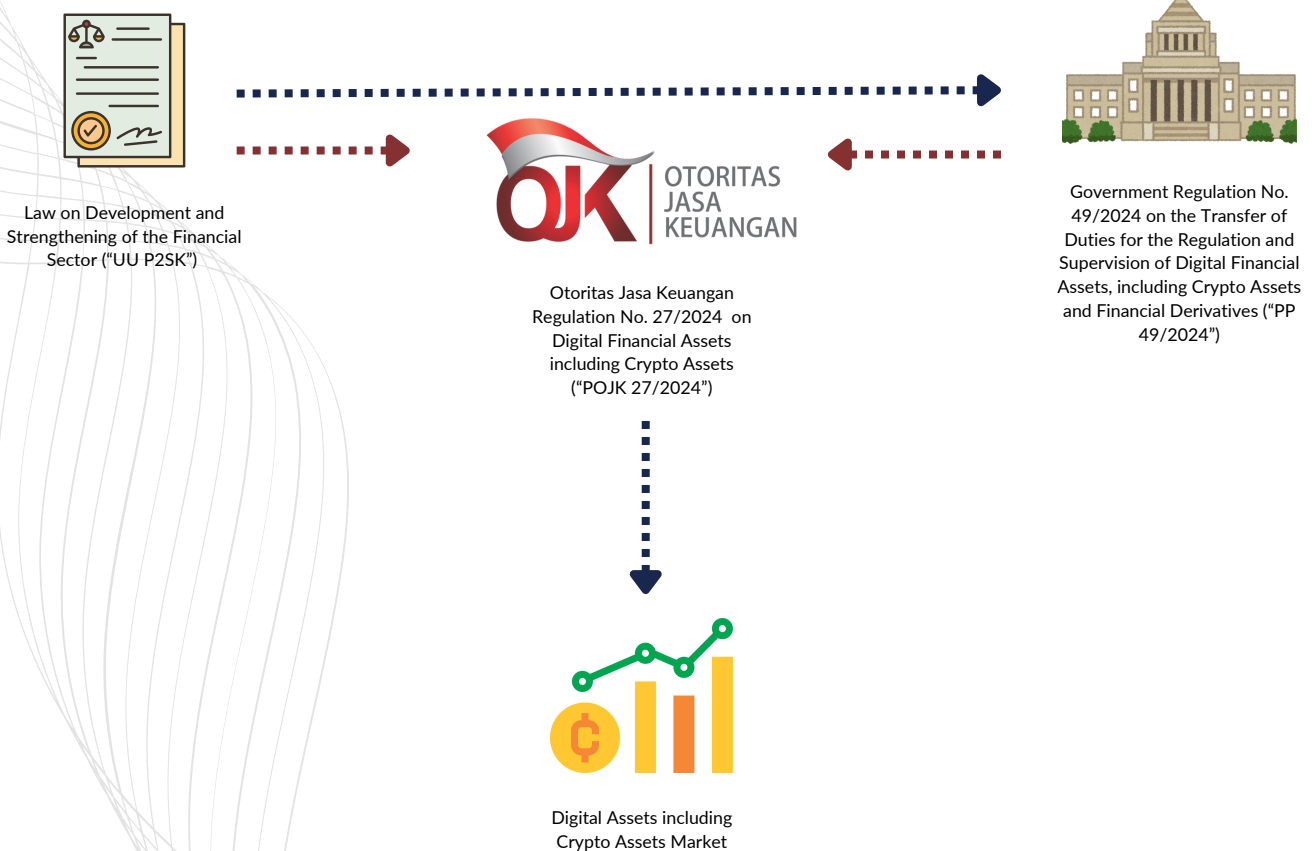
Major Overhaul on Indonesia's Digital Financial Assets Regulation through **POJK 27/2024**

Indonesia is set to undergo a transformative shift in the regulation of digital financial assets including crypto assets sector, ushering in a new era for the sector. Important changes that reshape the framework, enhancing the stability, security, and transparency of digital financial assets market. This overhaul aims to modernize Indonesia's digital ecosystem, ensuring its competitiveness and resilience amid rapid technological advancements.

BACKGROUND

Prior to the Enactment of Financial Services Authority (*Otoritas Jasa Keuangan*) Regulation (POJK) No. 27/2024, Indonesia's digital assets were regulated by Commodity Futures Trading Regulatory Agency (*BAPPEBTI*). The implementation of Law on Development and Strengthening of the Financial Sector (UU P2SK) provides the expansion OJK's role in regulating and supervising financial sector including the digital assets sector.

KEY ASPECTS



POJK 24/2024 has come into effect as of January 10th, 2025. This regulation, issued by the Financial Services Authority, aims to provide a comprehensive legal framework for the management and supervision of digital financial assets in Indonesia. It marks a significant step in Indonesia's efforts to regulate and oversee the rapidly growing sector of digital assets, including crypto assets. The implementation of POJK 24/2024 is expected to enhance market transparency, protect investors, and ensure the stability of the digital asset market, further supporting the development of Indonesia's financial ecosystem.

KEY TERMS



Digital Financial Assets including Crypto Assets

POJK No. 27/2024 referred financial assets that are represented and stored digitally including Crypto Assets as Digital Financial Assets.

Article 1 (5)



Digital Financial Assets incl. Crypto Exchange ("Exchange")

A business entity that organizes and provides systems and/or facilities to facilitate activities related to trading and/or provide trading report.

Article 1 (8)



Clearing House ("Clearing")

A business entity that provides transaction settlement services for trade of Digital Financial Assets including Crypto Assets.

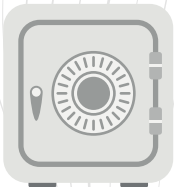
Article 1 (9)



Dealer

A business entity that conducts trading on Digital Financial Assets, either on its own behalf and/or facilitates consumers.

Article 1 (12)



Custodian

A business entity that organizes and manages the storage of Digital Financial Assets, including Crypto Assets.

Article 1 (11)



Commodity Futures Trading Regulation Agency / *Badan Pengawas Perdagangan Berjangka Komoditi* ("BAPPEBTI")

A government agency which responsible for supervising, regulating, and developing commodity futures trading activities in Indonesia to ensure its compliance with the prevailing regulations.

Article 1 (4)



Financial Services Authority / *Otoritas Jasa Keuangan* ("OJK")

An independent agency which responsible for regulating, supervising, and ensuring the stability and development of the financial services sector in Indonesia.

Article 1 (3)

KEY MARKET PLAYERS

EXCHANGE	CLEARING
CUSTODIAN	DEALER

TRANSITIONAL RULE ON LICENSED MARKET PLAYERS FROM BAPPEBTI TO OJK



Crypto assets exchanges, clearing institutions, physical crypto dealers, crypto assets custodian, and other supporting businesses that have obtained the necessary permits, approvals, registrations, decisions, or other stipulations from Bappebti are considered as **already licensed** in their respective operations.

Article 134 (1)

If a crypto assets organizer holds a business license or approval from Bappebti that covers areas beyond the scope of Digital Financial Assets including Crypto Assets trading, the business license or approval declared valid by the Financial Services Authority are only business license or approvals related to crypto asset trading.

Article 134 (2)

PRIMARY CHANGES

Transfer of regulatory and supervision authority from BAPPEBTI to OJK.

Introduction and provisions of clarity towards classification of key market players in Digital Assets Market including Crypto Assets Market such as Exchange, Clearing Service, and Traders/Dealers.

Establishment of provisions related to the establishment and operation of Exchange, Clearing House, Custodian, and Dealer related to the trade and financial aspects of Digital Financial Assets including Crypto Assets

The regulator's paradigm shift to recognizes digital assets, including crypto assets, as financial assets subject to comprehensive financial regulation, covering aspects of trading, transactions, and consumer's protection.

BACKGROUND OF TRANSITION

This transition is an effort to maintain the stability of the financial system and the deepening of an integrated financial market. Additionally, it aims to uphold public trust in consumer protection principles, which can have positive implications for the development of the industry in the financial sector.

OJK's Release Statement

COMPARISON ON THE CRITERIA OF DIGITAL FINANCIAL ASSETS AND CRYPTO ASSETS

PERBAPPEBTI NO. 8/2021

Types of Crypto Assets that can be traded if they at least fulfill the following criteria:

- Based on distributed ledger technology;
- In the form of Utility Crypto Assets or Crypto-Backed Assets; and
- Have passed an assessment using the Analytical Hierarchy Process (AHP) method as determined by Bappebti.

Article 3 (2)

POJK 27/2024 provides flexibility regarding the categorization requirements of Digital Financial Assets, including Crypto Assets, that can be traded. Notably, the regulation no longer explicitly mentions the use of the Analytical Hierarchical Process (AHP) as a mechanism for assessment. This adjustment allows more streamlined and flexible approach in determining which digital financial assets can be traded, offering greater adaptability in accordance with the evolving financial landscape.

POJK NO. 27/2024

Digital Financial Assets that can be traded in the Digital Financial Asset Market shall met the following criteria:

- Issued, stored, transferred, and/or traded using distributed ledger technology;
- Not a financial asset recorded electronically by a financial services institution;
- Not sourced from and/or used in activities that are contrary to the provisions of the applicable laws and regulations; and
- Other criteria established by the OJK.

Article 4

In addition to the criteria for Digital Financial Assets as referred to in Article 4 paragraph (1), Crypto Assets traded in the Digital Financial Asset Market shall met the following criteria:

- serve as the primary representation of value in digital form;
- utilize distributed ledger technology that can be accessed by the public;
- have utility and/or be supported by assets;
- be traceable or not have features that obscure or conceal the ownership and transaction data; and
- have undergone an assessment using methods set forth in the exchange regulations and rules.

Article 8

POJK 27/2024 continue to adhere to the strictest provisions related to Anti-Money Laundering and Countering the Financing of Terrorism (APU-PPT), Anti-Money Laundering (AML), and Counter Proliferation Financing (CPF) regulations. These regulations are designed to ensure that all transactions comply with the necessary legal frameworks to prevent illicit activities, promote transparency, and safeguard the financial system. The safeguard is explicitly required and standardized in Article 50, Article 80, Article 96, Article 105, Article 126, and Article 136.

CHANGES RELATED TO CAPITAL AND GOVERNANCE

FOR EACH KEY MARKET PLAYERS

There are new provisions regarding capital requirements and corporate governance that must be adhered to by entities operating in the digital financial asset sector including crypto assets. The stricter requirements aim to ensure that companies have a solid financial foundation to support their operations in a dynamic and high-risk market.

Limitation on Foreign Investment within Exchange and Clearing

In the case of limited liability company as shareholder, each limited liability company with foreign investment is only allowed to hold a maximum of 10% (ten percent) of the total shares in the Exchange and Clearing. The total shares held by all limited liability company with foreign investment, may not exceed 40% (forty percent) of the total shares in the Exchange and Clearing.

Article 23 (4), 23 (5), 31 (2), and 31 (3)

Limitation on the Share Ownership in the Exchange

The ownership of shares in the Exchange by each shareholder shall not exceed 20% (twenty percent) of the paid-up capital.

Article 23 (2)

Number of the Directors and Commissioners

The minimum number of directors is set at 3 for Exchange, Clearing, Dealer, and Custodian, while the maximum number is 7 set for Exchange, Clearing, and Custodian with no maximum for Dealer. For Dealer, the majority of the Directors are Indonesian citizens and domiciled in Indonesia. Additionally, the number of commissioners must be at least 2 for Exchange, Clearing, and Dealer or 1 for Custodian, while the maximum number of commissioners being equal to the number of directors.

Article 24 (1), 24 (2), 32 (1), 32 (2), 39 (1), 39 (2), 49 (1) and 49 (2)

REGULATION ON MINIMUM PAID-UP CAPITAL

ON EACH KEY MARKET PLAYERS

The regulation on minimum paid-up capital for key market players is designed to ensure financial stability and protect market integrity. By setting specific capital requirements for different entities, such as stock exchanges, clearing institutions, and traders, the regulation aims to ensure these players have the necessary resources to operate effectively and manage potential risks.

EXCHANGE

must have a paid-up capital of at least IDR 1,000,000,000,000 (one trillion Rupiah) and must maintain at least 80% equity of its paid-up capital.

Article 19

CUSTODIAN

must have a paid-up capital of at least IDR 250,000,000,000 (two hundred fifty billion Rupiah) and must maintain at least 80% equity of its paid-up capital.

Article 36

DEALER

must have a paid-up capital of at least IDR 100,000,000,000 (one hundred billion Rupiah) and must maintain at least IDR 50,000,000,000 (fifty billion Rupiah) in equity.

Article 45

CLEARING

must have a paid-up capital of at least 500,000,000,000 (five hundred billion Rupiah) and must maintain at least 80% equity of its paid-up

Article 28

Key market players are required to submit incidental report regarding any changes to the paid-up capital. This report must be made promptly to ensure that OJK is informed of any adjustments that may affect the financial standing or operational capacity of the organization. Timely reporting of such changes is essential for maintaining transparency and compliance with regulatory standards, ensuring that the financial integrity of the institution is properly monitored.

Article 110

EXPANSION ON THE SUPERVISION OF DIGITAL FINANCIAL ASSETS MARKET INCLUDING CRYPTO ASSETS MARKET

One of the key changes in this area, is related to the centralization on the evaluation of crypto assets. This regulation aims to provide a structured framework for monitoring and assessing crypto asset markets, ensuring that all participants adhere to necessary standards of transparency, security, and compliance. By centralizing the evaluation process, OJK seeks to prevent illicit activities, and maintain the integrity of the digital asset market in Indonesia.

OJK has the authority to evaluate Digital Financial Assets traded in the Digital Financial Asset Market and authorized to:

- prohibit the trading of certain Digital Financial Assets in the Digital Financial Asset Market; and/or
- instruct Dealers to cease the trading of certain Digital Financial Assets.

Article 5 (2)

OJK may instruct dealers to cease trading activity

Article 6 (1)

OJK may prohibits certain digital or crypto assets from being traded

Article 5 (2) (a)

OJK may impose sanctions on key market players for non-compliance

Article 17, 52, 78 and 101



Further, the Board of Directors and Commissioners of companies operating in the digital financial asset sector, including crypto assets, are required to obtain approval from OJK. This requirement is set forth to ensure that individuals holding these key positions meet the necessary qualifications, standards, and regulatory requirements to effectively oversee and manage operations within the sector. The OJK's approval process is designed to enhance in the rapidly evolving digital asset market, safeguarding both investors and the broader financial ecosystem.

Article 24, 32, 39, and 49

REGULATION ON THE MARKETING AND ADVERTISEMENT OF DIGITAL FINANCIAL ASSETS INCLUDING CRYPTO ASSETS

Previously, PERBAPPEBTI No. 8 of 2021 focused more on the general framework for the trading of crypto assets, including the licensing of exchanges and traders, without specifically addressing digital marketing and advertising. POJK 27/2024 now provides further regulation regarding the provisions for the marketing and promotion of digital financial assets, including crypto assets on Article 124 (2).

Transparency towards Consumer or Buyer

Include warnings on risks and volatility of the price

Not to impress as high-yield and guaranteed investment

Not to create assumption or encourage "Missing Out"

Not to encourage purchase with debts

Any violation of the rules on marketing and advertising of digital financial assets is subject to sanctions imposed by the OJK.

Dealers are further required to establish operational procedures that clearly regulate marketing activities and **consumer's due diligence**. These procedures must ensure that all marketing practices are conducted **transparently, responsibly, and in accordance with applicable laws and regulations**. Additionally, the operational procedures should include clear guidelines for evaluating and accepting consumers, while prioritizing consumer protection and the principles of fair practice. This is intended to ensure that both Dealers and consumers conduct transactions in the digital financial asset market with a full understanding and adherence to the established regulations.

Article 90 (3)

CONCLUSION

POJK 27/2024 is a regulation issued by the OJK that governs the policies, procedures, and requirements applicable to key market players within Digital Financial Assets including Crypto Assets sector. In conclusion, this regulation aims to strengthen supervision and enhance governance of activities within the Digital Financial Assets market including Crypto Assets. With the implementation of this regulation, it is expected that transactions and activities in the sector will become more transparent, fair, and efficient, ultimately increasing investor confidence and creating a more conducive investment climate.

One important aspect of POJK 27/2024 further detailed regulation concerning companies involved in the trading of digital financial assets and cryptocurrencies. This regulation requires digital assets including crypto trading platforms to meet strict governance, transparency, and risk management standards. This is expected to prevent harmful practices, maintain market integrity, and minimize the potential for market manipulation and abuse, providing a safer environment for consumers.

Furthermore, POJK 27/2024 provides a legal foundation for more effective supervision of cryptocurrency transactions. With this regulation in place, the oversight of digital asset and cryptocurrency trading will be more structured and systematic, increasing investor confidence. Additionally, the regulation requires cryptocurrency related companies to maintain transparent records and reports regarding their transactions and financial positions, offering clarity to both regulators and investors.

Overall, POJK 27/2024 plays a vital role in creating a safer and more regulated ecosystem for digital financial assets and cryptocurrency markets in Indonesia. This regulation aims to protect investors' interests while supporting the growth of this innovative industry, ensuring it develops in a healthy and sustainable manner. With clear regulations and enhanced oversight, it is expected that the cryptocurrency market in Indonesia will attract more investment and contribute to strengthening Indonesia's digital economy.

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We will continue to track developments on this topic and provide updates as new information emerges. Our team is committed to keeping you informed with the latest details as they become available. If you have any questions or need further clarification, please reach out for our assistance.



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