



ARMA Update 15 December 2022

(English Version)

Issuance of BAPPEBTI Regulation No. 13 of 2022 as a Method to Further Mitigate Future Risk in Crypto Asset Trading in Indonesia

Overview

On 9 November 2022, the Government of Indonesia officially issued the Badan Pengawas Perdagangan Berjangka Komoditi (“**BAPPEBTI**”) Regulation Number 13 of 2022 concerning the Amendments of Law No. 8 of 2021 Guidelines for the Implementation of Physical Market of Crypto Assets in Futures Exchange (“**BAPPEBTI Reg 13/2022**”) in order to further solidify the regulations concerning the trading of crypto assets.

This ARMA update will discuss concerning the major changes and additions implemented BAPPEBTI Reg 13/2022 including the new requirements for physical traders of crypto assets (“**Physical Traders**”). To fully comprehend concerning the background, kindly see our previous ARMA Update concerning BAPPEBTI Regulation No. 8 of 2021 [here](#).

Additional Requirements and Obligations

Previously, the BAPPEBTI Regulation No. 8 of 2021 concerning Guidelines for the Implementation of Physical Market of Crypto Assets in Futures Exchange (“**BAPPEBTI Reg 8/2021**”), regulated a minimum paid-up capital of Rp80,000,000,000 (eighty billion Rupiah) for Physical Traders as well as to maintain 80% equity of the said paid-up capital. This obligation acts as a general requirement for Physical Traders to obtain their Physical Trader registration.

Based on Article 13 of the BAPPEBTI Reg 13/2022, Physical Traders are required to obtain approval from the Head of BAPPEBTI to facilitate trading transactions on the physical market for crypto assets. Further Article 14 stipulates concerning the requirements to obtain such approvals as the following:

1. Possess a minimum paid-up capital of Rp100,000,000,000 (one hundred billion Rupiah);
2. Maintain equity of at least Rp 50,000,000,000.00 (fifty billion rupiah);
3. Possess an organizational structure of at least the following divisions: information technology, audit, legal, customer complaints on crypto assets, client support, and accounting and finance;
4. Possess an online trading system and/or facilities capable of facilitating trading on the physical market for crypto assets linked to futures exchanges and futures clearing institutions;
5. Possess trade procedures that contain certain aspects (eg transaction security, complaint handling, dispute resolution, data updating, etc.);
6. Possess standard operating procedures;
7. Posses at least one employee who is Certified Information Systems Security Professional (“**CISSP**”) or works with or has an agreement with an institution that has CISSP;



8. Have candidates for members of the board of directors, members of the board of commissioners, shareholders, controllers and/or beneficial owners who are required to pass the fit and proper test, which is held by BAPPEBTI; and
9. Other data listed in the attachment to the Amendment.

Aside from the requirement mentioned above, Article 16 of the BAPPEBTI Reg 13/2022 also provides additional requirements in addition to the previous 13 requirements for Physical Traders stipulated in Article 16 (1) of BAPPEBTI Reg 8/2021 which are the following:

1. Ownership of domestic capital or shares by Physical Traders or prospective Physical Traders is a maximum of 20% and must be reported to the Head of BAPPEBTI;
2. Foreign capital ownership is only allowed for one Physical Trader or prospective Physical Trader;
3. Physical Traders or prospective Physical Traders are prohibited from having affiliated receivables;
4. Delivering business plans and achieving business plans regarding transaction activities, which are submitted periodically along with periodic reports;
5. Possess at least three members of the board of directors, 2/3 of whom must be Indonesian citizens domiciled in Indonesia;
6. Possess at least two members of the board of commissioners, 2/3 of whom must be Indonesian citizens domiciled in Indonesia;
7. Possess a main director who is an Indonesian citizen;
8. Members of the board of directors or commissioners who are foreign citizens must have a Permanent/Limited Stay Permit Card (KITAP/KITAS)
9. Possess a physical head office in Indonesia (not co-working or virtual office);
10. The number of crypto assets owned by registered customers must match the amount of crypto assets held by Physical Traders or prospective Physical Traders; and
11. Delivering feedback data related to the utilization of population data.

Placement of Funds in Futures Clearing House

As mentioned in Article 30 of BAPPEBTI Reg 8/2021, crypto asset customers that conduct the trading of crypto assets through Physical Traders are previously required to place 70% their total funds to a separate account in the name of the Physical Trader for the futures clearing house purposes. With the issuance of BAPPEBTI Reg 3/2022, crypto asset customers are required to deposit 100% of the funds to the Futures Clearing House in which requires the approval from the Head of the BAPPEBTI.

In the event of absence of any business practitioner which has previously obtained an approval as a futures clearing house, the Head of BAPPEBTI may provide a temporary approval in order to facilitate the guarantee and settlement of physical market transactions for crypto assets. The requirement for such approval is stipulated in Article 31C which are the following:

1. Possess a minimum paid-up capital of Rp 250,000,000,000 (two hundred fifty billion Rupiah) of the company's total paid-up capital;



2. Possess a system for placing funds and settling transactions online and in real time that is accurate, actual, safe, trusted, reliable and integrated with the system of prospective Physical Traders;
3. Possess and implement standard operational guidelines that support activities as a Futures Clearing House that accepts customer fund placements of crypto assets; and
4. Possess a sufficient number of workers with the knowledge, skills and competencies to carry out fund placement activities for crypto asset customers.

Introduction of Supporting Activities

As regulated in Article 40 of BAPPEBTI Reg 3/2022, activities in the Physical Market for Crypto Assets can be supported by supporting business activities that directly or indirectly provide benefits to business actors in the Physical Market for Crypto Assets. Moreover, the supporting activities may be in the form of liaison services related to payment service providers, crypto asset transaction facilitation service providers, and/or other supporting activities which, based on BAPPEBTI's consideration, must obtain approval from BAPPEBTI.

Additionally, supporting business activities as mentioned above can only be carried out by parties different from business actors who have obtained licenses as Futures Exchanges, Futures Clearing Houses, Depository Managers, Physical Crypto Asset Traders and/or Prospective Physical Asset Traders Crypto.

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