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## LEGAL PROTECTION ON BITCOIN PRICE MANIPULATION

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### ABSTRACT

The latest technological advancement resulted in the creation of innovations, such as cryptocurrency, namely virtual money that functions as a tool of exchange as well as a form of investment. A popular form of cryptocurrency is bitcoin. Bitcoin prices often fluctuate, which opens the risk for price manipulation that may bring loss to others. This paper aims to analyze the legal protection of bitcoin price manipulation. This descriptive research uses the doctrinal or the normative approach. The data of this research is obtained from secondary data, i.e., literary legal materials. Results show that the price manipulation in bitcoins happened due to the 'pump and dump' activity. 'Pump and dump' is the most dangerous crime in the cryptocurrency market, as the crypto assets are bought in large amounts ('pump'), thus causing the price to steeply increase. Then, it is sold in large amounts ('dump') so the price falls drastically and it returns to the point before the pump. This is categorized as a cybercrime. All the parties that experience loss from this crime have the right to obtain legal protection and to undergo legal efforts. Then, the legal effort includes the litigation method through the court or the non-litigation method by resolving disputes outside of the court.

### KEY WORDS

Bitcoin, cryptocurrency, manipulation, pump and dump, legal protection.

The latest technological advancement resulted in the creation of innovations, such as the cryptocurrency, namely virtual money that functions as a tool of exchange and a form of investment.<sup>1</sup> The cryptocurrency transactions are validated by blockchain technology, i.e. technology that depends on interconnected data blocks like chains. With it, all cryptocurrency users are interconnected without any mediators.<sup>2</sup> There are many cryptocurrencies such as Ethereum, Lite Coin, and Ripple - with Bitcoins being the most popular one<sup>3</sup>.

Cryptocurrency is claimed to have the best security as it is centered. This is one of the reasons why people use it as a tool of investment with good prospects rather than as a mere tool of exchange. Investments in cryptocurrencies are also called crypto assets, namely a virtual-based asset that is based on cryptography and blockchain technologies.<sup>4</sup>

The Indonesian Ministry of Trade has acknowledged the use of cryptocurrencies or crypto assets as a commodity that is fitting and proper to become subjects at the futures market, as stipulated in the Decree of the Ministry of Trade No. 99 of 2018 on the General Policy on Establishing Futures Trade of Crypto Assets.<sup>5</sup> This Decree is followed by other regulations from the Republic of Indonesia's Commodity Futures Trading Regulatory Agency (*Badan Pengawas Perdagangan Berjangka/BAPPEBTI*). These legalities are the legal protection in trading crypto assets or digital gold at the futures market.<sup>6</sup>

Commodity futures are a place to undergo trade transactions. Investors use it as protection towards their digital assets against the risk of the crypto assets' price instability. Commodity futures also functions in forming effective and transparent prices. It also provides

<sup>1</sup> Syamsiah, N.O, 2017, *Kajian Atas Cryptocurrency Sebagai Alat Pembayaran Di Indonesia (The Analysis on Cryptocurrency as a Tool of Exchange in Indonesia)*, hal. 53-61.

<sup>2</sup> Wibisono, M.G, 2020, *Ketidakmampuan Indonesia Dalam Memanfaatkan Bitcoin dan Cryptocurrency (Indonesia's Incapability in Using Bitcoins and Cryptocurrencies)*, *Transformasi Global*, hal. 1

<sup>3</sup> Shabrina Puspasari, "Perindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market)", *Jurist-Diction*, (Januari2020),hal 304.

<sup>4</sup> Shabrina Puspasari, "Perindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market)", *Jurist-Diction*, (Januari2020),hal 305.

<sup>5</sup> Peraturan Menteri Perdagangan Nomor 99 tahun 2018 Tentang Kebijakan Umum Penyelenggaraan Perdagangan Berjangka Aset Kripto (Decree of the Ministry of Trade No. 99 of 2018 on the General Policy on Establishing Futures Trade of Crypto Assets)

<sup>6</sup> *Ibid*.



information that is referred to by people who undergo activities at the commodity futures. Apart from that, it diverts existing risks.<sup>7</sup>

One of the most popular crypto assets is bitcoins. It has some differences compared to the currencies issued by banks. Though it can be used for virtual transactions, it is not an official currency of any country. Bitcoins use a digital-based technology with a blockchain concept. It is designed to control the price of bitcoin. There is a great chance for bitcoins to develop in the future. Bitcoins have basically fulfilled the criteria to become a valid tool of exchange, as it is not easily broken and because there is a consent of usage among the bitcoin users.

In Indonesia however, these bitcoins or other virtual currencies cannot yet be regarded as a valid currency for undergoing transactions, as stated in the Press Conference No:16/6/DKom of 2014 that refers to Law No. 23 of 1999 on the Bank of Indonesia, which has been adapted to Law No. 6 of 2009 on the Bank of Indonesia and Law No. 7 of 2011 on Currencies. Even so, some Indonesians may still use bitcoins or other crypto assets as a form of investment, although the Bank of Indonesia provides no legal protection.<sup>8</sup>

No technology is perfect. Cryptocurrencies also have some issues. Many people question how cryptocurrencies determine their own value. Cryptocurrency prices fluctuate, thus there is speculation that such instability is caused by manipulation from parties that have the power to control the cryptocurrencies. The cryptocurrency price manipulation is carried out through the 'pump and dump' activity. This activity is the cycle of increasing crypto asset prices that is followed by the drastic decrease in its value. This happens because traders with great capital buy the bitcoins on a great scale, causing a 'pump'.<sup>9</sup> This drastically increases the bitcoins' price. This situation encourages other traders with middle to low capital to also buy that asset while the price is high. However, this condition drastically changes when the traders who 'pumped' sell all of their assets, i.e., 'dump'. This makes the bitcoin price return to before there was the 'pump'. This occurs very quickly, but many people experienced losses as the price dropped drastically compared to when they bought the bitcoins.<sup>10</sup>

The 'pump and dump' activity is carried out by people who are called 'whales', i.e. people with great capital in cryptocurrency. Because they have great capital, they also have a great number of crypto assets. This allows them to manipulate the bitcoin prices without investing. Those who have a great number of crypto assets will obtain profits from the actions of these 'whales' as most act in groups.

The 'pump and dump' may cause people to lose millions of US dollars and it negatively affects the cryptocurrency market. In the USA, a 'pump and dump' led to a further investigation by the State's Department of Justice. This investigation suspected that some people manipulate the prices of bitcoins and other crypto assets. The investigation was carried out to an investor who ordered assets to manipulate the price of an instrument and who fills the market with fictive orders.<sup>11</sup>

Because of that, the United States Commodities Futures Trading Commission (CFTC) gave a stern warning to anyone who have information on the 'pump and dump' activity. Those who report it will obtain rewards.<sup>12</sup>

Up to now, there have not been any regulations that regulate the 'pump and dump' activity at the cryptocurrency market in detail. This is due to the lack of research available. Plus, its legal status is limited to the regulation of investment via cryptocurrencies. Legal certainty is an important factor in everything that involves commercial transactions. All investors have the same right to obtain legal protection. Thus, investors need to obtain legal certainty and legal protection against bitcoin price manipulation.

<sup>7</sup> Shabrina Puspasari, "Perlindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market)", *Jurist-Diction*, (Januari2020),hal 306.

<sup>8</sup> Made Santrupti Brahm, I Nyoman Darmadna, "Legalitas Bitcoin Sebagai Alat Pembayaran Di Indonesia (The Legality of Bitcoins as a Tool of Transaction in Indonesia)", *Program Kekhususan Hukum Bisnis Fakultas Hukum Universitas Udayana*,hal 4.

<sup>9</sup> Zaenal Arifin, "Pump-Dump Manipulation Analysis: The Influence of Market Capitalization and Its Impact on Stock Price Volatility at Indonesia Stock Exchange" *Review of Integrative Business and Economics Research*,(2018),hal 130.

<sup>10</sup> Pintu Kemana Saja, 17 Mei 2021, Apa itu Pump and Dump di Cryptocurrency dan Cara Kerjanya (What is Pump and Dump in Cryptocurrency and How Does it Work?), dalam <https://pintu.co.id/blog/apa-itu-pump-and-dump> accessed 17 November 2021 on 15.45

<sup>11</sup> Tao Li, Donghwa Shin, Baolian Wang, "Cryptocurrency Pump-and-Dump Schemes",(9 February 2021), hal. 1.

<sup>12</sup> Pintu Kemana Saja, 17 Mei 2021, Apa itu Pump and Dump di Cryptocurrency dan Cara Kerjanya (What is Pump and Dump in Cryptocurrency and How Does it Work?),in <https://pintu.co.id/blog/apa-itu-pump-and-dump> accessed 17 November 2021 on 15.55.



Investing though cryptocurrency assets have a good prospect in the future due to the increasing rate of new users. But, the 'pump and dump' activity may become a boomerang for investors with small capital, as they risk experiencing great losses.

Departing from the issue above, namely the bitcoin price fluctuation and the risk for price manipulation through 'pump and dump' that may bring great losses and the lack of legal protection, this paper aims to discuss the legal protection to investors against the price manipulation of bitcoins.

## METHODS OF RESEARCH

The research method is a scientific activity that focuses on the development of knowledge and art. It aims to discover the truth through structured, methodological, systematic, and consistent methods.<sup>13</sup> This research uses the doctrinal or the normative approach. The doctrinal approach utilizes literary materials or secondary data. In other words, it is literary legal research.<sup>14</sup>

This is procedural-type descriptive research that resolves existing issues by explaining the research subjects or objects based on the present facts. This type of research aims to describe an individual, a symptom, a condition, or a group. In this case, this research studies the legal protection of investors against the price manipulation of bitcoins.

This research uses primary, secondary, and tertiary legal materials.

Primary Legal Materials:

- The Republic of Indonesia's Law No. 11 of 2008 on Electronic Information and Transaction and Law No. 8 of 1999;
- The Decree of the Ministry of Trade No. 99 of 2018 on the General Policy on Establishing Futures Trade of Crypto Assets;
- The Decree of the Commodity Futures Trading Regulatory Agency No. 2 of 2019 on the Establishment of a Physical Commodity Market at the Futures Market and the Decree of the Commodity Futures Trading Regulatory Agency No. 5 of 2019 on The Technical Guidelines for Establishing the Crypto Asset Physical Market at the Futures Market;
- Article 30 clause 1 that was amended into Article 46 of Law No. 11 of 2008 on Electronic Information and Transaction;
- Article 23 clause 1 that was amended into Article 45A of Law No. 11 of 2008 on Electronic Information and Transaction.

Secondary Legal Materials - materials are sourced from books, articles, mass media, or journals that are relevant to this research.<sup>15</sup>

Tertiary Legal Materials - materials are the legal materials that give further explanation on the primary and the secondary legal materials. They are sourced from dictionaries and encyclopedias on law or even reports on research results.<sup>16</sup>

In collecting the data, the researcher uses a literature review. This method may be used to collect secondary data. The basic materials of this literary research are primary and secondary legal materials, where the characteristics of these two legal materials contradict each other. In analyzing the data, the researcher uses the normative qualitative method of analysis. The data are organized and regrouped into manageable units to find the important points.

## RESULTS AND DISCUSSION

The demand for investment as a long-term asset or as a means of obtaining passive income increases from time to time. Many people choose to invest in bitcoins in the cryptocurrency market, with the hope that the price may increase compared to when they

<sup>13</sup> Zainuddin Ali, 2019, *Metode Penelitian Hukum (Legal Research Method)*, Jakarta: Sinar Grafika, hal. 17.

<sup>14</sup> Bambang Sunggono, 2003, *Metodologi Penelitian Hukum (Legal Research Methodology)*, Jakarta: Raja Grafindo Persada, hal. 32.

<sup>15</sup> Zainuddin Ali, 2019, *Metode Penelitian Hukum (Legal Research Method)*, Jakarta: Sinar Grafika, hal. 54.

<sup>16</sup> *Ibid*, hal 57.



first bought them. They depend on speculation to find the price differences. They aim to obtain profit by buying the assets when the price is low and selling them when the price increases. As a supervisor, the Ministry of Trade through the Commodity Futures Trading Regulatory Agency has permitted the use of crypto assets as commodity futures.<sup>17</sup>

Then, the meaning of commodity futures trading is an agreement that regulates all things concerning commercial transactions of assets or commodities, where both are subjects of a contract that is adapted to the quality, quantity, or type that is determined in the future, according to the price that is agreed upon submission and completion.

In line with the existing regulation, namely the Decree of the Ministry of Trade No. 99 of 2018 on the General Policy on Establishing Futures Trade of Crypto Assets<sup>18</sup>, bitcoins may be used as a subject of the contract and it may be traded as its status is acknowledged as a commodity. Then, there are new regulations, namely the Decree of the Commodity Futures Trading Regulatory Agency No. 2 of 2019 on the Establishment of a Physical Commodity Market at the Futures Market and the Decree of the Commodity Futures Trading Regulatory Agency No. 5 of 2019 on The Technical Guidelines for Establishing the Crypto Asset Physical Market at the Futures Market that is issued by the Commodity Futures Trading Regulatory Agency as a response to the issuing of the Decree of the Ministry of Trade.<sup>19</sup>

The main issue, namely the existence of price manipulations of bitcoin crypto assets, is mainly caused by its unstable price. The Ministry of Trade and the Commodity Futures Trading Regulatory Agency has used this as a basis to manifest the crypto asset trade in the futures market. This is carried out to decrease the risk of the consumers and to minimize the instability of the price. This is because crypto-assets do not have an underlying asset to determine the price<sup>20</sup>.

An underlying asset is a financial asset that becomes the basis of a contract or an agreement that has values or the chance of profit that is interrelated with the performance of other assets, known with the term *derivative*. A derivative contract is a financial instrument whose price is based on a different asset. For example, concerning the underlying asset of rupiah, in a commercial transaction, the rupiah's underlying asset is a purchase order or an invoice. Then, the underlying asset of crude oil refers to the barrel unit. Cryptocurrencies, however, do not have assets that are referred to in determining the price. It is only based on the belief that the crypto assets have or will have value or price at a certain time. The technological power of the crypto assets (like a base code) and the support network also become some of the reasons why crypto-assets do not have an underlying asset to be referred to in determining the price.<sup>21</sup>

Similar to common commercial transactions, the crypto asset trade involves many parties. These parties are also regulated in Decree of the Commodity Futures Trading Regulatory Agency No. 5 of 2019 on The Technical Guidelines for Establishing the Crypto Asset Physical Market that involves the futures market. The futures market members consist of crypto-asset physical traders, crypto customers, the futures clearing house, and also the institution that keeps the crypto assets.<sup>22</sup>

In a commercial transaction of crypto assets, there are crypto-asset physical traders and crypto-asset customers. The crypto asset physical trader has the role to facilitate the crypto asset trade activity between customers. Then, the crypto asset customers utilize the facilities provided by the crypto asset physical trader to undergo commercial transactions or to trade the crypto assets. These two parties share their roles in the crypto asset sales process, resulting in a legal relationship.<sup>23</sup>

<sup>17</sup> Firman Novianto, "Perlindungan Hukum Bagi Pengguna Mata Uang Virtual Bitcoin Dan Ketentuan Standar Keamanan Penyedia Bitcoin Berdasarkan Hukum Positif Indonesia (The Legal Protection for Bitcoin Virtual Currency Users and the Stipulations of the Bitcoin Provider Security Standard Based on the Indonesian Positive Law)", *Jurnal Hukum Positum*, (Juni 2020), hal 4.

<sup>18</sup> Decree of the Ministry of Trade No. 99 of 2018 on the General Policy on Establishing Futures Trade of Crypto Assets

<sup>19</sup> Decree of the Commodity Futures Trading Regulatory Agency No. 2 of 2019 on the Establishment of a Physical Commodity Market at the Futures Market and Decree of the Commodity Futures Trading Regulatory Agency No. 5 of 2019 on The Technical Guidelines for Establishing the Crypto Asset Physical Market at the Futures Market

<sup>20</sup> Shabrina Puspasari, "Perlindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market)", *Jurist-Diction*, (Januari 2020), hal 310.

<sup>21</sup> *Ibid*, hal 311.

<sup>22</sup> Dewa Ayu Fera Nitha, I Ketut Westra, "Investasi Cryptocurrency Berdasarkan Peraturan Bappebti No. 5 Tahun 2019 (Cryptocurrency Investment Based on the Regulation of BAPPEBTI No. 5 of 2019)", *Jurnal Magister Hukum Udayana*, (31 Desember 2020), hal 718.

<sup>23</sup> Shabrina Puspasari, "Perlindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market)", *Jurist-Diction*, (Januari 2020), hal 312.



Referring to the opinion of some experts on the definition of a legal relationship, Muhammad Abdul Kadir suggests that legal relationship means that every citizen or individual in social life has legal rights and responsibilities and they may be imposed with sanctions based on the applicable law if they fail to fulfill these legal rights and responsibilities.<sup>24</sup> Then, Soeroso suggests that a legal relationship is a relationship that involves two or more legal subjects. In this relationship, the legal rights and responsibilities of the parties face each other.<sup>25</sup> In civil law, the legal relationship is regulated in Article 113 BW, which states that a legal relationship happens between parties based on an agreement.

The legal relationship that occurs in the practice of the bitcoin trade can create legal protection. Legal protection is protection obtained by legal subjects in the form of preventive or repressive instruments, either written or oral. In this case, legal protection has the role to protect the rights of all instruments in undergoing bitcoin asset trade transactions. Then, according to Satjipto Raharjo legal protection is giving protection to the rights of each person against the action of others that may cause harm with the aim so that every person may enjoy the rights granted by the state.<sup>26</sup> Kansil states that legal protection is the legal effort that must be given to all people by all law-enforcing apparatus, intending to provide a sense of security in all aspects – including the physical and the mental aspects – from various disturbances or threats from any party. Setiono suggests that legal protection is an effort carried out to protect society from the actions of those in power that exceed the authority, thus violating the applicable laws to achieve order and harmony.<sup>27</sup> Then, Hadjon states that legal protection is an association of principles or regulations that have the power to protect one from certain things. Concerning consumer protection, it means that the law protects the consumer rights from the things that may prevent the fulfillment of those rights.<sup>28</sup>

Consumers become the main attention in the application of legal protection, as it aims to protect all consumers from criminal actions that may happen to the trade activity of bitcoin assets. There are some criminal actions on the bitcoin trade that have been recorded.<sup>29</sup> But this paper focuses on the ‘pump and dump’ criminal action, that is carried out by a group of people by manipulating the market situation by increasing the price of their securities and reselling them at a higher price to other consumers. The ‘pump and dump’ is determined as an illegal criminal action in the stock market by the United States Securities and Exchange Commission (SEC). But there are yet no regulations on that crime.<sup>30</sup>

‘Pump and dump’ endanger the trade activity of crypto assets. This happens because traders with great capital buy the bitcoins on a great scale, causing a ‘pump’. This drastically increases the bitcoins’ price. After the price has reached a certain target, the traders who ‘pumped’ sell all of their assets, i.e., ‘dump’. This makes the bitcoin price decrease drastically and it returns to before there was the ‘pump’.

The market panics as the price tends to increase. Thus, people rush to buy the assets due to Fear of Missing Out (*FOMO*). Then, the contrary happened. The asset price no longer increases but actually drops low. This brings losses to those with small assets as they cannot sell the assets at the high price that they got them for as the price dropped. Great-scale traders do not experience loss as they make transactions in great amounts. They have power over the time of sales. This happens very quickly, even between minutes.<sup>31</sup>

The group of people who carry out this criminal action do so by making use of encrypted short messages such as the Telegram application. They make a chat room and invite other investors. The chat is managed by an operator that uploads messages to all investors in the chat room. They have a countdown before undergoing the ‘pump and dump’

<sup>24</sup> Abdulkadir Muhammad, 2010, *Hukum Perdata Indonesia (The Indonesian Civil Law)*, PT Citra Aditya Bakti, hal. 2.

<sup>25</sup> R. Soeroso, 2011, *Pengantar Ilmu Hukum (The Introduction to Legal Studies)*, Sinar Grafika, hal. 269.

<sup>26</sup> Satjipto. R., 2012, *Ilmu Hukum (Legal Studies)*, Bandung: Citra Aditya Bakti, hal. 53.

<sup>27</sup> Setiono, “Rule of Law (Supremasi Hukum)”, *Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret*, (2004), hal. 3.

<sup>28</sup> Philipus M. Hadjon, 1987, *Perlindungan Hukum Bagi Rakyat Indonesia (Legal Protection for Indonesians)*, Surabaya: Bina Ilmu, hal. 25.

<sup>29</sup> Shabrina Puspasari, “Perlindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (*The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market*)”, *Jurist-Diction*, (Januari 2020), hal. 308.

<sup>30</sup> Blockchainmedia.id, 10 Desember 2018, *Ini Hasil Penelitian Pakar Soal Pump and Dump (These are research results of experts on Pump and Dump)*, dalam <https://blockchainmedia.id/ini-hasil-penelitian-pakar-soal-pump-and-dump/> diunduh Rabu 17 November 2021 Pukul 21.02

<sup>31</sup> Kementerian Keuangan Republik Indonesia, 2021, *Fear Of Missing Out (FOMO), Ketakutan Kehilangan Momen*, (21 Juni 2021) dalam <https://www.djkn.kemenkeu.go.id/artikel/baca/13931/Fear-Of-Missing-Out-FOMO-Ketakutan-Kehilangan-Momen.html> diunduh Rabu 17 November pukul 21.15



activity. But the targeted asset is informed when it is nearly the determined time. Apart from that, the operator promotes the 'pump and dump' activity via social media advertisements.

Shortly before the 'pump', all parties involved in the criminal action upload a broadcast message on the issue of the increasing prices of their targeted crypto assets via social media such as Twitter. The parties retweet the post in the official bitcoin account, while other people upload broadcast messages on the steep increase of bitcoin prices. This is called the shilling strategy, where no one knows and no one states that this is part of the 'pump and dump' activity<sup>32</sup> Thus, other investors will be interested in buying those assets. Then, the 'pump and dump' perpetrators will sell their bitcoins. The bitcoin prices will drastically fall and the new investors will lose their money.

One of the 'pump and dump' cases happened in the US and was investigated by the Department of Justice. This investigation suspected that some people manipulate the prices of bitcoins and other crypto assets. The investigation was carried out to an investor who ordered assets to manipulate the price of an instrument and who fills the market with fictive orders.<sup>33</sup>

This action violates both civil and criminal laws. Law No. 11 of 2008 on Electronic Information and Transaction regulates the type of crimes that may bring loss to the crypto exchange and the physical market of crypto assets. This refers to cybercrime, including online scams or hacking. Online scam means that the perpetrators intentionally and without right spread fake news or hoaxes that deceive society and cause consumer losses in electronic transactions. Then, in hacking, perpetrators misuse the system to obtain the data or the crypto assets of victims illegally. The two can be imposed with criminal laws, namely Article 30 clause 1 that was amended into Article 46 and Article 23 clause 1 that was amended into Article 45A of Law No. 11 of 2008 on Electronic Information and Transaction.

Then, Article 378 of the Criminal Code stipulates scam as follows:

*"Whoever intentionally wants to obtain profit or others illegally, using fake money or fake identity, with tricks, a set of lies, making people yield their wealth to them or to give loans or to ease loans are threatened with the stipulation on the scam and the maximum imprisonment of four years".*<sup>34</sup>

Then, the losses that may occur due to illegal actions indicate scam or *bedrog* as stipulated in Article 1321 of BW in detail. It states, "There is no valid consent if it is given through oversight, coercion, or scam."<sup>35</sup>

A scam is when a person intentionally deceives others with his/her willingness and knowledge. Thus, if there are crypto exchanges that contain scams, those who feel harmed may make efforts to cancel the agreement, as the agreement cannot be automatically cancelled. A legal effect occurs from the defect of will in undergoing the crypto asset transaction, namely the cancellation of the agreement. The crypto asset buyers have the right to obtain legal protection or to undergo legal efforts. The legal efforts may be carried out via litigation or non-litigation legal methods.

The litigation legal method is a legal effort via courtly procedures. In the case of a scam in the crypto-asset sales transaction, the disputed case may be processed according to criminal law or civil law. The cybercrime perpetrators, in this case, may be imposed criminal sanctions if their actions cause loss to the crypto asset or bitcoin customers. The cybercrimes may be in the form of stealing the crypto asset from one's digital wallet or tricking someone to transfer it to the perpetrator's digital wallet. Such actions violate stipulations of Article 45 of Law No. 11 of 2008 on Electronic Information and Transaction which stipulates that the sanctions may be imprisonment or fine.

A crypto scam case happened to Isnu Gangga Adhyaksa from Indonesia. He wanted to invest in bitcoins through an Indoexchanger broker as he sees that the price increases and it seems promising. The victim underwent a transaction with the amount of 6 million rupiahs. After waiting for two years, the investment asset cannot be liquidated and the Indoco

<sup>32</sup> Tao Li, Donghua Shin, Baolian Wang, "Cryptocurrency Pump-and-Dump Schemes", (9 Februari 2021), hal. 1.

<sup>33</sup> CNBC Indonesia, 24 Mei 2018, AS Dikabarkan Mulai Selidiki Kasus Manipulasi Harga Bitcoin (The US Starts to Investigate the Bitcoin Price Manipulation Case), dalam <https://www.cnbcindonesia.com/tech/20180524183756-37-16451/as-dikabarkan-mulai-selidiki-kasus-manipulasi-harga-bitcoin> diunduh Rabu 17 November 2021 Pukul 15.50.

<sup>34</sup> Kitab Undang-undang Hukum Pidana Pasal 378 (The Criminal Code Article 378)

<sup>35</sup> Kitab Undang-undang Hukum Perdata Pasal 1321 (The Civil Code Article 378)



provided no information.<sup>36</sup>

Then, the non-litigation legal effort is a process of dispute resolution without going through a courtly process. It is also called an alternative dispute resolution. This method is known for the existence of an arbitration, where the dispute resolution is carried out by a judge who is appointed based on the agreement of the parties. The disputing parties must comply with all decisions of the judge they agreed upon. Thus, the legal effort is stipulated in Law No. 30 of 1999 on Arbitration and the Alternative Dispute Resolution Article 1 number 1. Arbitration is a method of civil dispute resolution outside of the general court based on a written arbitration agreement between the disputing parties. The dispute resolution via arbitration may use Commodity Futures Trading Arbitration Body (*Badan Arbitrase Perdagangan Berjangka Komoditi*/BAKTI). This institution has the special role to resolve civil cases on the commodity futures trading, warehouse receipt system and/or other transactions that are regulated by Commodity Futures Trading Regulatory Agency. It means that BAKTI is a private court on commodities.<sup>37</sup>

## CONCLUSION

The usage of bitcoins as a method of investment has obtained been permitted by the Ministry of Trade that is directly monitored by the Commodity Futures Trading Regulatory Agency, as bitcoins are a crypto asset that is categorized as a futures commodity. Bitcoin prices fluctuate, thus it is prone to price manipulation, for example by carrying out the 'pump and dump' activity. It is an illegal activity that brings negative effects to the cryptocurrency market condition as it brings loss to small investors. This is a cybercrime that is categorized as an online scam, as the 'pump and dump' activity is preceded by the spread of hoaxes that may deceive others. This causes other consumers to experience losses in undergoing an electronic transaction.

In this case, the investors who are victims of the 'pump and dump' activity have the right to obtain legal protection. They have the right to undergo legal efforts according to the regulations that apply. If they have evidence of the 'pump and dump' activity and if they are victims of it, they may go through litigation or non-litigation legal efforts. This has been regulated in the Decree of the Commodity Futures Trading Regulatory Agency No. 5 of 2019.

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<sup>36</sup> Shabrina Puspasari, "Perlindungan Hukum bagi Investor pada Transaksi Aset Kripto dalam Bursa Berjangka Komoditi (The Legal Protection for Investors in the Transaction of Crypto Assets in the Commodity Futures Market)", *Jurist-Diction*, (Januari 2020), hal. 321.

<sup>37</sup> *Ibid.* hal. 323.



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