



Original paper

The Urgency of Money Laundering Policy Reform for Digital Rupiah Implementation

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Abstract

This paper aims to examine the urgency of reformulating ML policies before the massive use of the Digital Rupiah. By combining doctrinal research methods and reform-oriented research, this paper finds that the current APUPPT policy is not sufficiently qualified in the stages towards massive use of Digital Rupiah. Based on these brief findings, this paper also offers novelty regarding the discussion between Digital Rupiah and money laundering, the source of which is taken from Bank Indonesia's white paper, so that it is different from other papers which only discuss the CBDC/Digital Rupiah concept in general and does not directly take from other sources. Bank Indonesia's white paper.

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Introduction

The development of financial technology has reached a point where its services and operations have no territorial restrictions and have transcended various jurisdictions commonly referred to as economic globalization.¹ For example, financial technology services offer services such as using credit and debit cards that can be used in almost all countries, investing in virtual assets, making payments via electronic money, and making mobile payments.²

Iwan Kurniawan wrote that advances in financial technology and economic globalization positively impact developments in the financial, economic, and business sectors.³ Moreover, of the many types of unconventional organized crime, money laundering (TPPU) is the most dominant and common type compared to other types of unconventional crime.⁴ Therefore,

¹ Egmont Group, *FinTech Cooperation and Associated Cybercrime Typologies and Risks*, Prepared by the Information Exchange Working Group (Canada: Egmont Group, 2022), 16.

² Ibid.

³ Iwan Kurniawan, "Perkembangan Tindak Pidana Pencucian Uang (Money Laundering) dan Dampaknya Terhadap Sektor Ekonomi dan Bisnis," *Jurnal Ilmu Hukum* 4, no. 1 (2012): 2.

⁴ United States Department of State Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report: Money Laundering Vol. II* (Washington, D.C: USDSB, 2022), 2.

during the development of financial technology and economic globalization, which results in inevitable transnational crime, this paper will discuss TPPU in general.⁵

The nature of transnational money laundering crimes is also in the aftermath of the position of TPPU as an underlying/follow-up crime from the existence of a predicate crime.⁶ The relationship between TPPU and the original crime (TPA) can form an economic condition called the shadow economy. The shadow economy estimates national balance sheet growth caused by shadow or criminal activities such as drug trafficking, tax evasion, and various other forms of landfill.⁷

Antoine Mach argues that a shadow economy will indirectly make economic stability in a country unstable because it will cause corruption, inequality, and poverty.⁸ Furthermore, the implications of money laundering due to economic instability will impact development, financial systems, economic liberalization, and governance.⁹ In addition, the most important element behind the linkage between the shadow economy and economic stability is the banking industry, which is the most important corporation in conducting TPPU, as done by several banking companies.¹⁰ The use of financial institutions such as banks in money laundering is the primary key in hiding the proceeds of criminal acts either in the form of investment or money transfer.¹¹ However, financial institutions have now developed and are not as simple as they used to be; nowadays, currencies are physical, electronic, and digital.

The development of this currency is relatively fast because digital currency first appeared in 2008 in the form of crypto coins until, in 2015, Indonesia adopted the idea of Central Bank Digital Currency (CBDC) with the name Digital Rupiah currency.¹² The existence of the Digital Rupiah does provide benefits as the example of cryptocurrencies alone can provide benefits in the form of alternatives in investing other than in the capital market and its blockchain ecosystem and smart contracts that can provide efficiency and effectiveness in economic

⁵ The imperative to thoroughly discuss ML arises from the somber historical context of global business in the United States during the 1830s. It was a time when numerous individuals utilized illicitly obtained funds (hot money) to purchase companies or invest in company shares. These investments possess significant potential as a means to attract funds from various countries for the purpose of money laundering. Hence, the fluidity of capital flow across borders is the very factor that renders money laundering a global phenomenon, transcending national legal jurisdictions. Consequently, money laundering concerns extend beyond national boundaries and assume an international character. Lihat Munir Fuady, *Hukum Perbankan Modern* (Bandung: Citra Aditya Bakti, 1999), 154; Yunus Husein dan Robert K., *Tipologi Dan Perkembangan Tindak Pidana Pencucian Uang* (Depok: RajaGrafindo Persada, 2019), 3; Nella Hendriyetty dan Bhajan S. Grewal, "Macroeconomics Of Money Laundering: Effects And Measurements," *Journal of Financial Crime* 24, No. 1 (2017): 76.

⁶ Irman S., *Praktik Pencucian Uang Dalam Teori Dan Fakta*, [Cet. 1.] (Gegerkalong, Bandung: MQS Pub. & AYYCCS Group, 2007), 5.

⁷ Matthew H. Fleming, John Roman, dan Graham Farrell, "The Shadow Economy," *Journal of International Affairs* 53, no. 2 (2000): 408.

⁸ Antoine Mach, *Undue Diligence: How Banks Do Business With Corrupt Regimes* (London: Global Witness, 11 Maret 2009), 8.

⁹ World Bank Group, *Effects on Economic Development and International Standards: Combating Money Laundering and the Financing of Terrorism - A Comprehensive Training Guide* (Washington, DC: World Bank, 2009), 23–28.

¹⁰ *Ibid.*, 8–9.

¹¹ Kurniawan, "Perkembangan Tindak Pidana Pencucian Uang (Money Laundering) dan Dampaknya Terhadap Sektor Ekonomi dan Bisnis," 2.

¹² The first article that discusses CBDC in Indonesia can be seen in article Bastian Muzbar Zams dkk., "Designing Central Bank Digital Currency for Indonesia: The Delphi–Analytic Network Process," *Bulletin of Monetary Economics and Banking* 23, No. 3 (2015): 411. Meanwhile, a discussion of digital currencies in the form of crypto coins in 2008 can be found in Julie Frizzo-Barker dkk., "Blockchain As A Disruptive Technology For Business: A Systematic Review," *International Journal of Information Management* 51 (2020): 2.

development.¹³ The utilization of the blockchain ecosystem in cryptocurrencies also ultimately impacts Bank Indonesia's initiation to utilize blockchain technology by forming a Digital Rupiah, which has greater benefits and impacts on economic development than cryptocurrencies.¹⁴ Both digital currencies in the form of crypto coins and Digital Rupiah also have services that make it easy to transact across national borders.¹⁵

Behind the benefits provided by the Digital Rupiah, several problems and assumptions arise if adopted massively and widely. The problems that arise are the potential for misuse of data and information, misuse as a means of corruption, tax evasion, money laundering, and other cyber crimes.¹⁶ Moreover, the ease of transacting across national borders is the most important factor in money laundering because of the placement of money that easily enters and leaves a country.¹⁷

The lack of literature discussing the Digital Rupiah is still felt in Indonesia's research literature due to BI's new Digital Rupiah white paper in November 2022 and January 2023.¹⁸ This causes the discussion of potential money laundering in the Digital Rupiah to be found only in Lisanawati and Aristo.¹⁹ Lisanawati and Aristo's writing is only limited to discussing CBDC in general and the assumption of the CBDC concept that will be applied in Indonesia, so this research does not refer to the original concept initiated by BI.

The implementation of CBDC in several countries is also still in the development and research stage. For example, in Australia, CBDCs are still in the stage of alignment and development of additional compliance standard requirements in Australia's anti-money laundering and counter-terrorism financing laws.²⁰ Malaysia, as a neighboring country of

¹³ World Economic Forum dan Boston Consulting Group, *Digital Assets, Distributed Ledger Technology and the Future of Capital Markets, Insight Report* (Geneva: WEF, Mei 2021), 7; Ravi Menon, *Making Sense of Crypto* dalam Gita Bhatt, *The Money Revolution: Crypto, CBDCs, and the Future of Finance* (IMF: Washington DC, September 2022), 14.

¹⁴ The economic development impact of implementing a Central Bank Digital Currency (CBDC) varies among different sources. However, it generally offers benefits such as facilitating cross-border transactions, preventing the circulation of counterfeit currency, leveraging technological innovation in the financial sector, and promoting financial inclusion within a country. Eswar Prasad, *A New Era for Money* dalam Gita Bhatt, *The Money Revolution: Crypto, CBDCs, and the Future of Finance* (IMF: Washington DC, September 2022), 8; Menon, *Making Sense of Crypto* dalam Gita Bhatt, *The Money Revolution: Crypto, CBDCs, and the Future of Finance*, 14; Peterson K. Ozili, "Can Central Bank Digital Currency Increase Financial Inclusion? Arguments For And Against," Munich Personal RePEc Archive (2021): 5.

¹⁵ Bank for International Settlements et.al, *Central Bank Digital Currencies for Cross-Border Payments: Report to the G20* (Basel: Bank for International Settlements (BIS), 2021), 2.

¹⁶ Nikolay Gueorguiev dkk., "Crypto, Corruption, and Capital Controls: Cross-Country Correlations," *IMF Working Papers* 2022, No. 060 (Maret 2022): 10; Dewanti Arya Maha Rani, I. Nyoman Gede Sugiartha, dan Ni Made Sukaryati Karma, "Uang Virtual (Cryptocurrency) sebagai Sarana Tindak Pidana Pencucian Uang dalam Perdagangan Saham," *Jurnal Konstruksi Hukum* 2, No. 1 (2021): 19; Hari Sutra Disemadi dan Delvin Delvin, "Kajian Praktik Money Laundering dan Tax Avoidance dalam Transaksi Cryptocurrency di Indonesia," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, No. 3 (2021): 326; World Economic Forum, *Privacy and Confidentiality Options for Central Bank Digital Currency, White Paper, Digital Currency Governance Consortium White Paper Series* (Geneva: WEF, November 2021), 3; Maarten R. C. van Oordt, "Discussion of 'Central Bank Digital Currency: Stability and Information,'" *Journal of Economic Dynamics and Control* Vol. The Economics of Digital Currencies, No. 142 (1 September 2022): 4.

¹⁷ PPATK, *Pengenalan Anti Pencucian Uang dan Pendanaan Terorisme Bagian 2: Tipologi Pencucian Uang* (Jakarta: Pusat Pelaporan dan Analisis Transaksi Keuangan, 2016), 3.

¹⁸ Filianingsih Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," White Paper, Proyek Garuda (Jakarta: Bank Indonesia, 30 November 2022), https://www.bi.go.id/id/rupiah/digital-rupiah/Documents/White_Paper_CBDC-2022.pdf; Rozidyanti dkk., "Proyek Garuda: Wholesale Rupiah Digital Cash Ledger," Consultative Paper (Jakarta: BI, Januari 2023).

¹⁹ Go Lisanawati dan Erly Aristo, "Urgensi Pengaturan Hukum Central Bank Digital Currency Dalam Dimensi Anti Pencucian Uang," *Veritas et Justitia* 8, no. 1 (27 Juni 2022): 49.

²⁰ Reserve Bank of Australia dan Digital Finance CRC, *Australian CBDC Pilot for Digital Finance Innovation, White Paper* (Sydney: Digital Finance Cooperative Research Centre, 26 September 2021), 13.

Indonesia, is also still in the research stage on the potential of CBDC as a medium for money laundering and the stage of developing anti-money laundering policies that are aligned with CBDC.²¹ Therefore, this paper seeks to fill the existing research gap.

Thus, the comparative approach of law with Malaysia and Australia is one approach to fill the existing research gap. The basis for the similarity of FIU types is why Malaysia and Australia were chosen as comparison material.²² The occurrence of actual cases of money laundering through virtual or digital assets that have occurred in Indonesia and the description of the potential for money laundering in CBDC/Digital Rupiah according to other countries are the focus of this paper in outlining the urgency of money laundering policy reform for the implementation of Digital Rupiah in the future. Thus, the legal issues raised are as follows: (1) How is the concept of digital currency developing in Malaysia, Australia, and Indonesia? (2) What is the urgency of money laundering policy reform for implementing the Digital Rupiah?

Methods

This research combines doctrinal and reform-oriented research to elaborate on existing legal issues. Doctrinal legal research examines policies regarding applying the concept of digital currencies and money laundering regimes at national and international levels.²³ The update-oriented research method is used to evaluate the feasibility of existing rules and recommend changes to the regulations that are deemed necessary.²⁴ This model is based on legal reform research methodology to provide advice on changes to existing laws.²⁵ At its peak, this model led researchers to propose changes to the law.

Before, this paper conducts legal interpretation through the form of comparative interpretation and anticipatory/futuristic interpretation to examine the urgency of the need for reform of the PPTPPU Law in the plan to use the Digital Rupiah in Indonesia; it will explain first the concepts developed in Malaysia, Australia, and Indonesia.²⁶ After that, a comparative interpretation was carried out on which the basis of the regulations used was because the PPTPPU Law, which is a regulation prepared based on the FATF 40th Recommendation, which is an international agreement that must be complied with by countries in the preparation of anti-money laundering policies.²⁷ Meanwhile, the anticipatory/futuristic interpretation is used because the Digital Rupiah is only regulated in Article 10 of the PPSK Law, but concrete and clear use has not been carried out because it is still in the development and research stage.²⁸

²¹ Central Bank Of Malaysia, *Annual Report 2021* (Kuala Lumpur: Bank Negara Malaysia, 2021), 69.

²² The commonality among FIU types is that Indonesia, Malaysia, and Australia all fall under the category of administrative FIUs. There exist four distinct categories of FIUs: administrative FIUs, law enforcement FIUs, judicial/prosecutorial FIUs, and hybrid FIUs. Administrative-type FIUs refer to FIUs that operate within an institution that is separate from, and not affiliated with, a law enforcement agency. In general, administrative Financial Intelligence Units (FIUs) are typically placed under the authority of a Ministry of Finance or a Central Bank. Lihat Louis Forget dan Vida Šeme Hočevár, *Financial Intelligence Units: An Overview* (Washington, D.C: International Monetary Fund : World Bank Group, 2004), 22.

²³ Wing Hong Chui dan Mike McConville, *Research Methods for Law* (Edinburgh: University Press Edinburgh, 2007), 20–21.

²⁴ A'an Efendi dan Dyah Ochtorina Susanti, *Penelitian Hukum Doktrinal* (Yogyakarta: LaksBang Justisia, 2019), 34.

²⁵ Ibid.

²⁶ Comparative interpretation is a technique used to analyze different rules or temporary legal systems. Anticipatory or futuristic interpretation involves examining laws and regulations that have not yet become permanently legally binding or legal conceptions that have not been explicitly applied. Lihat Abintoro Prakoso, *Penemuan Hukum* (Yogyakarta: LaksBang Pressindo, 2016), h. 131-132.

²⁷ FATF, *International Standards On Combating Money Laundering And The Financing Of Terrorism & Proliferation: The FATF Recommendations* (Paris: FATF, 2022), h. 7, www.fatf-gafi.org/recommendations.html.

²⁸ Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," h. 2-3.

In conducting a comparative interpretation review, this paper will compare APUPPT policies in Indonesia with those in Malaysia and Australia. This comparative study will use the FATF 40th Recommendation as the primary reference in determining whether or not these three countries comply with APUPPT commitments.²⁹ In addition to the APUPPT policies of the three countries, the concept of APUPPT commitment in each CBDC plan will also be further examined, considering that the initiation of CBDC formation in each country is encouraged by the World Bank Group.³⁰ Based on the description above, the results of the comparative interpretation will be used as further analysis in anticipatory/futuristic interpretation of the features/functions/uses in the Digital Rupiah. Finally, the anticipatory/futuristic performance will examine the APUPPT policy and the existing concepts in the Digital Rupiah.

Results and Discussion

Digital Currency Concept in Malaysia, Australia, and Indonesia

There are several levels before digital currencies are used massively. Each group provides an overview of the extent to which a country is developing and adopting the concept of digital currency in its country. Although there are several levels whose scope is still very limited and used within a narrow scope, the following levels can provide a comparison of the extent to which a country developed the concept of digital currency:³¹

1. *Cancelled*: Countries that cancel or disable CBDCs;
2. *Research*: Countries that have conducted CBDC research first explanation;
3. *Proof of Concept*: Countries that are in the advanced research stage and have published proofs of concept for CBDC;
4. *Pilot*: Countries that have developed CBDCs that are tested in real environments either with a limited number of parties or on a broad scale;
5. *Launched Publications*: officially launched CBDC massively.

Indonesia itself is still in the Research stage in contrast to Australia, which has reached the Pilot stage.³² Meanwhile, Malaysia has reached the Proof of Concept stage, one level above Indonesia.³³ Australia's pilot digital currency concept will implement a CBDC trial platform, with the Reserve Bank of Australia responsible for the issuance and redemption of trial CBDCs and other supervisory and regulatory functions.³⁴

The CBDC trial platform will be an independent platform solely intended for issuing and operating CBDC trial transactions with companies or business entities providing user services. Industry participants will be responsible for designing and operating its technical platform to implement approved use applications in CBDC development projects.³⁵ However, the limitation stipulated that companies or business entities providing such services cannot implement code or smart contracts on CBDC trial platforms.³⁶ In addition to this, PMPJ service providers will prove that trial CBDC holders have been verified interfaces before using the

²⁹ The FATF 40th Recommendation is utilized as the primary point of reference because of its significant influence on the legal culture, principles, and normative evaluation of APUPPT regulations. Lihat David Nelken, "Comparative Legal Research and Legal Culture: Facts, Approaches, and Values," *Annual Review of Law and Social Science* 12 (27 Oktober 2016): 45.

³⁰ Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 2.

³¹ Vu Minh Ngo dkk., "Governance And Monetary Policy Impacts On Public Acceptance Of CBDC Adoption," *Research in International Business and Finance* 64 (2023): 2–3.

³² Reserve Bank of Australia dan Digital Finance CRC, "Australian CBDC Pilot for Digital Finance Innovation," 2.

³³ Central Bank Of Malaysia, "Annual Report 2021," 70.

³⁴ Reserve Bank of Australia dan Digital Finance CRC, "Australian CBDC Pilot for Digital Finance Innovation," 7.

³⁵ Ibid.

³⁶ Ibid.

CBDC trial platform.³⁷ Companies or business entities that provide services can also act as parties that conduct PMPJ for their customers.³⁸

Australia's digital currency has also measured compliance with APUPPT policies domestically and globally in this limited operating phase. For example, as a prerequisite before participating in a digital currency trial, users of the e-AUD must comply with all relevant laws, and the relevant parties must hold all necessary licenses and permits. Therefore, service providers selected to participate in the trial must assess the use of e-AUD against Australia's current APUPPT regulatory requirements.³⁹

Unlike Australia, at the proof of concept stage in Malaysia, Bank Malaysia started the proof of concept stage by obtaining ISO 20022 certification, an internationally recognized standard for the financial industry in the use of data, and flexibility to adapt to new technologies.⁴⁰ Implementing the ISO 20022 standard by financial institutions in Malaysia will improve payment efficiency, facilitate excellent risk management, and offer value-added services to customers. The migration of digital currency use in Malaysia will be carried out in two stages, including⁴¹ during Phase 1 from June 2022 to June 2024, RENTAS⁴² will support the existing ISO 15022 standard and the new ISO 20022 standard. RENTAS will have a centralized translator to facilitate message conversion between the two standards. Phase 2 will begin in July 2024, when all financial institutions will adopt ISO 20022, and ISO 15022 support will be discontinued. In 2021, the Central Bank of Malaysia worked closely with industry to finalize the ISO 20022 message specification. With the final specifications, most RENTAS participants have started the migration exercise to meet the deadline for Phase on 1st of June 2024.⁴³

At this migration stage, it also found potential risks to the economy. Digital currencies also have risks that must be managed, one of which is related to money laundering and terrorism financing. Digital assets can be a channel for money laundering and terrorism financing due to the lack or absence of customer identification (PMPJ).⁴⁴ Therefore, just like Australia, Malaysia also faces the same risk of money laundering due to the lack of policy regulations that regulate in general and the policy vacuum regarding PMPJ in particular.

Meanwhile, in Indonesia's concept of digital currency, there are three important paradigms in discussing currency, namely philosophical, sociological, and juridical.⁴⁵ From the

³⁷ Ibid.

³⁸ Ibid.

³⁹ For instance, a service provider should assess if its users' conduct will entail the offering of additional financial services. In many instances, the use case provider will need to seek independent legal counsel for this assessment. Chosen participants will need to contact the appropriate regulatory body, such as ASIC (the Australian stock exchange agency), at some point to verify their capacity to carry out the planned use case in accordance with the law. At this juncture, it is also feasible to engage a service provider to explore potential exceptions to, or alterations in, certain regulatory obligations. The specific circumstances of the given use case will determine the requirements for these exemptions or adjustments. The scope of any exemptions or modifications will be restricted only to the objectives of this pilot. The Reserve Bank of Australia is collaborating with AUSTRAC, the Financial Intelligence Unit (FIU) in Australia, to investigate ways to simplify the regulatory obligations imposed by anti-money laundering and counter-terrorism funding legislation. Lihat Ibid., 13.

⁴⁰ Tarnia Major dan Joseph Mangano, "Modernising Payments Messaging: The ISO 20022 Standard," dalam *Bulletin September 2020* (Sydney: Reserve Bank Australia, 2020), 66.

⁴¹ Central Bank Of Malaysia, "Annual Report 2021," 63.

⁴² RENTAS is a system for the real-time electronic transfer of funds and securities, similar to the BI-RTGS system in Indonesia. Bank Negara Malaysia, "Operational Procedures For Malaysian Ringgit (MYR) Settlement In The Real Time Electronic Transfer Of Funds And Securities System (RENTAS)," Procedures Report (Kuala Lumpur: Bank Negara Malaysia, Juni 2021), 4.

⁴³ Central Bank Of Malaysia, "Annual Report 2021," 63.

⁴⁴ Ibid., 70.

⁴⁵ Bank Indonesia, "Sosialisasi Undang-Undang Nomor 7 Tahun 2011 tentang Mata Uang" (Sosialisasi, Kewajiban Penggunaan Uang Rupiah Dalam Setiap Transaksi Bisnis Yang Dilaksanakan Di Dalam Negeri, Bali, 5 Maret 2015), 8–11.

point of view of philosophical foundations, the essence of the use of currency is as legal tender and as a benchmark for prices in advancing the economy and a symbol of statehood, a national emblem.⁴⁶ From a sociological point of view, currency must be accepted and used at least by the country where the currency is issued and circulated.⁴⁷

The currency from a juridical point of view comes from the Constitution of the Republic of Indonesia in 1945 (UUD NRI 1945). There are two aspects to consider when discussing the relevance of the 1945 NRI Constitution with currency: the formal and material juridical aspects. From a legal, juridical point of view, the currency is specifically regulated whose formation comes from the proposal of a draft law formed by the House of Representatives (DPR) as explained in Article 20 jo. Article 21 of the 1945 NRI Constitution. Meanwhile, from the material juridical aspect, the currency must be determined in type and price based on the provisions of laws and regulations to achieve a national economy based on economic democracy consisting of the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining federal economic balance as explained in Article 23 jo. Article 33 Paragraph (4) of the 1945 NRI Constitution.

In Indonesia, the current currency consists of three types: Paper Rupiah, Metal Rupiah, and Digital Rupiah.⁴⁸ The draft for creating a Digital Rupiah in Indonesia was initiated by the program and its White Paper by Bank Indonesia (BI) in November 2022.⁴⁹ Then, it was strengthened again by the publication of a consultative paper in January 2023 as a design for the immediate state development of the Digital Rupiah, namely the wholesale Rupiah Digital Cash Ledger, including the introduction of technology and basic functions such as issuance, destruction, fund transfer, the impact of Digital Rupiah issuance on the payment system, as well as its stability to the financial and monetary systems.⁵⁰ In addition, the Digital Rupiah has at least some functions and characteristics, as described in Table 4.⁵¹

Table 1. Digital Rupiah Characteristics and Functions

Characteristics and functions	since 2017
<i>Centralized Issuance</i>	BI issues the digital rupiah. The advantage is, that BI as the Central Bank, has strong controls in order to maintain the integrity and sovereignty of CBDC.
<i>Transferability</i>	Financial circulation will run effectively and efficiently, where payments in this CBDC can use zero cost or zero-sum, which gives a comfortable impression.
<i>Storability</i>	Reviewing the securitization problems of each user, the Central Bank will store transaction history in the form of data.
<i>Offline Transaction</i>	Transactions do not require third parties or intermediaries, which takes a long process and time, because, with CBDC, users do not need to

⁴⁶ Ibid., 9.

⁴⁷ Ibid., 10.

⁴⁸ UU PPSK Pasal 10.

⁴⁹ Bank Indonesia, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," November 2022, <https://www.bi.go.id/id/rupiah/digital-rupiah/default.aspx>.

⁵⁰ Ibid.

⁵¹ Dyah Tiara Putri Anggraeni dan Enjat Munajat, "The Potential Of Digital Rupiah As A New Solution To Combat Corruption In Indonesian Government," *Fair Value: Jurnal Ilmiah Akuntansi Dan Keuangan* 4, no. Spesial Issue 3 (28 Januari 2022): 1320, doi:10.32670/fairvalue.v4iSpesial.

Characteristics and functions	since 2017
	communicate directly with the main server; transactions can be carried out without exchanging information.
<i>Exchangeability</i>	Digital rupiah can also be exchanged for other countries' currencies, either CBDC or traditional currencies.
<i>Controllable Regulations</i>	Because the digital rupiah is a product of the Central Bank, strong regulations will be directly controlled to prevent illegal economic activities. Regulations will also control existing policies and technologies.
<i>Flexibility</i>	The digital rupiah will have three models, namely indirect (transactions with intermediaries), direct (direct transactions to the Central Bank), and Hybrid (Transactions are made to the Central Bank, but Commercial Banks process payments).

Source: Dyah Tiara Putri Anggraeni and Enjat Munajat, 2022.

In addition to the unique functions and characteristics possessed by the Digital Rupiah, according to BI, the Digital Rupiah also has its urgency as to why it is needed in Indonesia. At least, according to BI, the Digital Rupiah is necessary because of four things, including:⁵²

1. Digital Rupiah is expected to become digital-based trusted money as a means of payment that the public can access;
2. Digital Rupiah is expected to emerge as a sustainable solution;
3. Digital Rupiah is expected to have a safer and more efficient quality than the quality of physical currency and current accounts at Bank Indonesia;
4. Bank Indonesia also places Digital Rupiah issuance in the context of strengthening the payment resilience of the Indonesian people.

Based on the description of the unique functions and characteristics of the Digital Rupiah, the Digital Rupiah as a digital-based payment system certainly has differences with currency currency. Moreover, the payment system is the economy's lifeblood that determines the money circulation process between economic agents.⁵³ Economic agents can only use physical currency in limited form because its nature can only be used when meeting in person. This is in contrast to the Digital Rupiah, which can open the door to opportunities for financial inclusion.⁵⁴

The Urgency of Money Laundering Policy Reform Before the Digital Rupiah is Implemented

Digital Rupiah is a virtual asset or digital asset. Referring to the definition of virtual assets according to the FATF, virtual assets are digital representations of value that can be traded or transferred digitally and used for payment or investment purposes.⁵⁵ Based on this definition, the Digital Rupiah meets two criteria, so it can be classified as a virtual asset, namely, a digital

⁵² Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 14.

⁵³ Ibid., 17.

⁵⁴ Ibid., 18.

⁵⁵ FATF, "Updated Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers" (Paris: FATF, Oktober 2021), 21.

representation of the value of the rupiah currency, and second, it can be transferred digitally as a means of payment.⁵⁶

As a virtual asset, Digital Rupiah has the opportunity and challenge of creating new media for money launderers, terrorist financing, and other criminals to launder the proceeds of crime or finance illicit activities.⁵⁷ This is based on the ability and ease of the Digital Rupiah as a virtual asset to transact cross-border quickly, not only allowing bad actors to acquire, move, and store assets digitally, often outside the regulated financial system, but also obscure the origin or destination of funds and make it difficult for reporting entities to identify suspicious activity promptly.⁵⁸ Therefore, it is fitting that before the Digital Rupiah is used massively, there is a need to reform money laundering policies in Indonesia.

Based on the general description above, in addition to technological novelty and the ability to transact across countries quickly, this section will use a problem-oriented legal discovery approach to finding the urgency of money laundering policy reform. In addition, this section will also use legal interpretation to explain the importance of money laundering policy reform in Indonesia before the Digital Rupiah is used massively. The legal interpretations used include anticipatory/futuristic interpretations and comparative interpretations.

Anticipatory/Futuristic Study of the Urgency of Money Laundering Policy Reform for Digital Rupiah Implementation

Anticipatory/futuristic interpretation studies laws and regulations that have not been enforced by permanent law or legal concepts that have not been implemented.⁵⁹ Thus, the reason for anticipatory/futuristic interpretation is used because the Digital Rupiah is only regulated in Article 10 of the PPSK Law, but concrete and clear use has not been carried out because it is still in the development and research stage. The research stage is the stage that Indonesia is going through by researching CBDC.⁶⁰

As a country still in the research stage, several things must be considered before the Digital Rupiah is used. This is based on the inherent features of the Digital Rupiah, and there is a legal vacuum. Thus, in an anticipatory/futuristic analysis, it will combine the study of the features of the Digital Rupiah and money laundering policies in Indonesia, including:

1. The regulatory climate condition in Indonesia at least experiences problems such as 1) Hyper-regulation, 2) Conflicting, 3) Overlapping, 4) Multi Interpretation, 5) Inconsistency, 6) Ineffective, 7) Unnecessary burden, 8) a High-Cost Economy, which results in economic development in Indonesia cannot develop in aggregate and effectively.⁶¹ The tangles of this regulation can also be found in AML policies that are spread in various sectors.⁶² An

⁵⁶ Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 3; Zahrashafa Mahardika, Rizky Banyualam Permana, dan Nadia Maulisa, "Going Digital Rupiah: Some Considerations From Sovereignty And Cybersecurity Perspectives," *Journal of Central Banking Law and Institutions* 2, no. 1 (31 Januari 2023): 39, doi:10.21098/jcli.v2i1.42.

⁵⁷ FATF, "Virtual Assets Red Flag Indicators of Money Laundering and Terrorist Financing" (Paris: FATF, September 2020), 3, www.fatf-gafi.org/publications/fatfrecommendations/documents/Virtual-Assets-Red-Flag-Indicators.html.

⁵⁸ Ibid.

⁵⁹ Prakoso, *Penemuan Hukum*, 132.

⁶⁰ Ngo dkk., "Governance And Monetary Policy Impacts On Public Acceptance Of CBDC Adoption," 2.

⁶¹ Ida Bagus Rahmadi Supancana, *Sebuah Gagasan Tentang Grand Design Reformasi Regulasi Indonesia* (Jakarta: Penerbit Universitas Katolik Indonesia Atma Jaya, 2017), 2–4.

⁶² The tangled regulations in question include: 1) Regulation of the Commodity Futures Trading Supervisory Agency Number 10 of 2019 concerning Amendments to the Regulation of the Commodity Futures Trading Supervisory Agency Number 2 of 2019 concerning the Implementation of the Physical Market of Commodities on the Futures Exchange; 2) Regulation of the Commodity Futures Trading Supervisory Agency Number 13 of 2022 concerning Amendments to BAPPEBTI Regulation Number 8 of 2021

example of this can be seen in the regulation of KYC guidelines and the prevention of money laundering in cryptocurrencies in other ministerial laws not regulated in AML policies.

Thus, there is a need to align new supporting policies with the quality of regulations in Indonesia to achieve aggregate development.⁶³ Thus, the development of the Digital Rupiah as a concept will pass through the establishment of law so that it must be in line with Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations, must provide benefits to the community, and improve people's living standards. In the context of the relationship between regulation and development in the aggregate, it has been previously regulated in Article 33 of the 1945 NRI Constitution, which states that:

- 1) The economy is structured as a joint enterprise based on the principle of kinship;
- 2) Those branches of production which are important to the state and which control the livelihoods of the people are controlled by the state;
- 3) Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people;
- 4) The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, and independence, and by maintaining a balance of progress and national economic unity;
- 5) Further provisions regarding the implementation of this article are provided for in law.

Based on Article 33 of the 1945 NRI Constitution indicates that political determinations and economic policies must be subject to the Constitution and must be regulated in laws and regulations. Indonesia is a state of law (*rechtsstaat*); without an effective legal process, making economic, political, life, social, and justice improvements are impossible.⁶⁴ Therefore, law is an important means of maintaining order and, at the same time, reforming society, so it must be developed in such a way as to provide space for change, and not vice versa, hinder reform efforts because it merely wants to maintain dizzying values.⁶⁵

2. Cross-border transaction feature on Digital Rupiah. One of the typologies of money laundering is financial transactions of fund transfers from and to foreign countries as described in Article 23 of the PPTPPU Law.⁶⁶ Therefore, in addition to facilitating the Digital Rupiah feature, it can provide money laundering potential. Currently, the provisions regarding cross-border transactions, whether in the form of cash financial transactions or transfers, are regulated in the Central Regulation for Financial Transaction Reporting and Analysis Number 1 of 2021 concerning Procedures for Submitting Suspicious Financial

concerning Guidelines for the Implementation of trading the physical crypto asset market on futures exchanges; 3) Regulation of the Commodity Futures Trading Supervisory Agency Number 6 of 2019 concerning the Implementation of Anti-Money Laundering and Countering Terrorism Financing Programs related to the Implementation of the Physical Market of Commodities on the Futures Exchange; 4) Regulation of the Commodity Futures Trading Supervisory Agency Number 7 of 2020 concerning the Determination of the List of Crypto Assets that Can Be Traded in the Physical Market of Crypto Assets

⁶³ Mansour Fakih, "Tinjauan Kritis Terhadap Revolusi Hijau," dalam *Menggeser Pembangunan Memperkuat Rakyat, Emansipasi dan Demokrasi Mulai dari Desa* (Yogyakarta: Lapera Pustaka Umum, 2000), 4.

⁶⁴ Arfan Faiz Muhlizi, "Penataan Regulasi Dalam Mendukung Pembangunan Ekonomi Nasional," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 3 (2017): 354.

⁶⁵ Mochtar Kusumaatmadja, *Konsep-Konsep Hukum Dalam Pemabangunan* (Bandung: Alumni, 2002), 74.

⁶⁶ APG, "Asia/Pacific Group on Money Laundering Yearly Typologies Report 2022: Methods and Trends of Money Laundering and Terrorism Financing," Typologies Report (Wales: Asia/Pacific Group on Money Laundering, Juli 2022), 3.

Transaction Reports, Cash Financial Transactions, and Financial Transactions of Fund Transfer from and to Abroad through the GoAML Application for Financial Service Providers (PPATK Regulation 1/2021). Some of the requirements that must be reported to PPATK regarding suspicious cross-border transactions are:

- a. Transactions amounting to Rp.500,000,000 or with foreign currencies of the same value in one transaction;
- b. Transactions amounting to Rp.500,000,000 or with foreign currencies of the same value in several transactions in one working day;
- c. Recipients or senders who deviate from the profile, characteristics, or habits of transaction patterns.

Based on the provisions above, it is necessary to supervise compliance and socialization to the Virtual Assets Service Provider (VASP) that provides Digital Rupiah services in supervising its service users. Thus, there is a need for alignment, socialization, or reform of provisions regarding cross-border transactions carried out before the Digital Rupiah is used.

3. VASP parties. The intermediary between Digital Rupiah users is a VASP, which is divided into Retailers, wholesalers, and non-wholesalers.⁶⁷ Thus, there needs to be firmness or notification later that Retailers, wholesalers, and non-wholesalers are financial service providers as described in Article 17 Paragraph (1) letter a of the PPTPPU Law. This is because a new type of entity carries out money transfer business activities. If retailers, wholesalers, and non-wholesalers are not expressly classified as financial service providers, then retailers, wholesalers, and non-wholesalers have no obligation of customer transaction activities to PPATK. Thus, the existence of a new type of entity that carries out money transfer business activities is obliged to report all transaction activities to PPATK.

Before using the Digital Currency/Digital Rupiah massively, BI also plans to design regulatory tools and supporting policies whose design basis will be through assessment based on monetary and macroprudential perspectives,⁶⁸ Simultaneous and interactive deepening of financial markets and law.⁶⁹ More specifically, BI targets such supporting policy through consideration of the use of the Digital Rupiah as a settlement asset for monetary operations and transactions in the money market and foreign exchange market, participation arrangements, intermediation issues, mitigation of procyclicality effects, operational risk management, consumer protection, personal data protection, and fulfillment of Anti-Money Laundering and Countering the Financing of Terrorism (APUPPT) commitments.⁷⁰

The use of crypto coins as a means of money laundering alone can be seen in the cases of Indra Kenz and Doni Salmanan.⁷¹ These two examples have become the basis for the reason that virtual assets or digital assets are very vulnerable to being used for money laundering and closing up the proceeds of crime. Just like in Indonesia, virtual assets are often used as a medium for money laundering; for example, in Australia, in 2020, the New South Wales Police Force (NSWPF) began an investigation into organized money laundering. The investigation confirmed the existence of established, organized, and ongoing criminal groups that knowingly deal with the proceeds of crime, further facilitating other illegal activities.⁷²

⁶⁷ Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 26.

⁶⁸ Macroprudential policy is a policy designed to ensure the overall stability of the financial system. Lihat Bank of England, "The Role Of Macroprudential Policy: A Discussion Paper" (London: Bank of England, November 2009), 9.

⁶⁹ Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 4.

⁷⁰ Ibid.

⁷¹ Putusan Nomor 1240/Pid.Sus/2022/PN. Tng jo. Putusan Nomor 117/Pid.Sus/2022/PT. Btn and Putusan Nomor 576/Pid.Sus/2022/PN. Blb.

⁷² APG, "Asia/Pacific Group on Money Laundering Yearly Typologies Report 2022: Methods and Trends of Money Laundering and Terrorism Financing," 30.

The NSWPF alleged that the criminal group received large amounts of Australian currency from various people and methodically converted this cash into Bitcoin cryptocurrency before returning the cryptocurrency to the people who had given the cash. The group launders currency through two main methods. The first method is to take the cash to a digital currency exchange, where it is used to purchase an equivalent amount of Bitcoin on a VASP, handing over the bulk of cash to staff. Upon completing the appropriate documentation, the staff electronically delivers the cryptocurrency into a digital "wallet" provided by the group members. The second method involves a large amount of cash being handed over to people who later deposit the cash into a bank account in the group's name before being converted into cryptocurrency. In early 2021, several people were arrested and charged. The NSWPF identified more than AUD 5.7 million (approximately USD 3.892,763) being laundered by this criminal group. Of all the cash seized during the investigation, 11 banknotes matched the serial numbers of cash used in drug supply investigations to purchase illegal drugs.⁷³

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According to the definition drawn up by the FATF, virtual assets and other similar services have the potential to spur innovation and financial efficiency, but different virtual asset features also create new opportunities for money launderers, terrorist financing, and other criminals to launder the proceeds of crime or finance illicit activities. The ability to transact quickly allows bad actors to digitally acquire, move, and store assets often outside of regulated financial systems. It also obscures the origin or destination of funds and makes it difficult for reporting entities to identify suspicious activity on time. These factors add hurdles to detecting and investigating criminal activity by national authorities.⁷⁵ Therefore, the Digital Rupiah can be qualified as a virtual asset that has different features, thus potentially creating new opportunities for money launderers, terrorist financing, and other criminals to launder the proceeds of crime or finance illicit activities.

On the one hand, it is undeniable that virtual assets are generally used for legitimate purposes but have also been misused for criminal purposes. Several cases of large-scale fraud, theft, money laundering, and other crimes using virtual assets have involved illegal proceeds worth millions of United States dollars.⁷⁶ Although the exact number of misuses of virtual assets worldwide is unclear, it seems that the volume and frequency are smaller than abuses in

⁷³ Ibid.

⁷⁴ The key distinction between cryptocurrencies and CDBC's rests in their respective classifications. In Indonesia, cryptocurrency is currently categorized as a digital asset or commodity, rather than being recognized as a currency. Concurrently, the status of CBDC / Digital Rupiah will be categorized as a currency rather than an asset or commodity. Refer to Article 1 of Regulation No. 99/2018 issued by the Minister of Trade, which outlines the overall guidelines for the implementation of trading in crypto asset futures (Permendag 99/2018); Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 3.

⁷⁵ According to the FATF, "virtual assets" are digital representations of value that can be digitally traded or transferred and can be used for payment or investing reasons. Virtual assets exclude digital representations of fiat currencies, securities, and other financial assets that are already addressed in other sections of the FATF Recommendations. See FATF, "Virtual Assets Red Flag Indicators of Money Laundering and Terrorist Financing," 3.

⁷⁶ Instances such as the Silk Road, AlphaBay, and the Wannacry ransomware campaign. While these cases ultimately led to effective law enforcement outcomes, the rate of successful case resolution remained very low. See Francisca Fernando dkk., *Virtual Assets and Anti-Money Laundering and Combating the Financing of Terrorism (1): Some Legal and Practical Considerations*, Fintech Note, NOTE/2021/002 (Washington, D.C: International Monetary Fund, 2021), 3.

traditional financial services.⁷⁷ According to a report from the IMF, there are several factors why virtual assets are very attractive to be used as a medium for money laundering, including:⁷⁸

1. Potential for greater anonymity and availability of features that allow one to move and transact anonymously

In many cases (e.g., Bitcoin), transactions look online and can be traced from one wallet to another, but linking a specific address or wallet to a specific individual is quite difficult. This problem is exacerbated by the availability of mechanisms specifically designed to hinder the traceability of transaction flows. Anonymity-enhancing features (such as mixer and layered encryption, stealth addresses, and signatures) that limit available information, including regarding value and counterparties. Some also obscure identification through secondary details (for example, by preventing IP address identification, geolocation data, device identifiers, and transaction hashes).

2. Transaction activities that can be carried out without dealing directly

Virtual asset-related activities are carried out online and are generally not in the exact physical location. This complicates service user identification during the onboarding process or at the time of transaction and increases the risk of false or inaccurate identification information being provided. Although some conventional financial services also allow onboarding and non-face-to-face transactions. However, some PJPs require transactions to be carried out at a bank or must be met in person regarding large transaction values. Therefore, the anonymity feature of virtual asset activity can exacerbate this problem.

3. Potential for near-instant decentralization and fragmentation of global services. The easy and fast nature of virtual assets provides an opportunity to quickly exchange between different virtual assets to perform more sophisticated concealment and disguise activities about the origin of wealth in a cross-country context.⁷⁹ VASPs can be physically present in one jurisdiction, registered in another, place their servers on another server (or several others), and provide services globally without needing a central office. This complicates preventing illegal transactions and analyzing financial intelligence obtained from suspicious transaction reports, as case information can be fragmented across different countries. It also complicates enforcement action because there is generally no single entity to investigate and target.

4. Uneven implementation of domestic APUPPT measures

Most countries are still in the early stages of implementing relevant FATF standards, which creates significant potential for regulatory arbitrage, thus providing opportunities for criminals to exploit virtual asset service providers domiciled or operating in countries with minimal or non-existent virtual asset APUPPT and VASP regulations.

Ultimately, these factors pose significant challenges for FIU as well as VASP. Perpetrators with malicious intent may hinder the effective implementation of the APUPPT prevention framework and enforcement actions. Using virtual assets with increased anonymity features and other factors listed above creates a perfect problem with significant potential TPPU risks.

The most common offenses involving virtual assets appear to be narcotics-related crimes and fraud.⁸⁰ After changing its standards to deal with virtual assets and VASPs more explicitly, the FATF also agreed to conduct a 12-month review to gauge the applicability of the revised

⁷⁷ FATF, "Virtual Assets Red Flag Indicators of Money Laundering and Terrorist Financing," 19.

⁷⁸ Fernando dkk., *Virtual Assets and Anti-Money Laundering and Combating the Financing of Terrorism (1): Some Legal and Practical Considerations*, 3.

⁷⁹ FATF, *FATF Report to the G20: Finance Ministers and Central Bank Governors on So-called Stablecoins* (Paris: FATF, 2020), 10, www.fatf-gafi.org/publications/virtualassets/documents/report-g20-so-called-stablecoins-june-2020.html.

⁸⁰ Indonesia alone has reported incidences of fraud involving Indra Kenz and Doni Salmanan, as mentioned before in this section. Evidence of drug-related crime cases in Australia further supports this.

standards by jurisdictions and the private sector, as well as monitor any changes in the typology, risk, and market structure of the virtual asset sector.⁸¹

In the context of money laundering through virtual assets, it was found that types of offenses involving virtual assets include trafficking, sale of illegal substances and other illegal goods (including firearms), fraud, tax evasion, sanctions evasion, computer crime (e.g., cyber attacks resulting in theft), child exploitation, human trafficking, and terrorism financing. Of all the types of such crimes, narcotics-related offenses and fraud (e.g., fraud and investment fraud, extortion, and extortion) are the most prevalent. The value of virtual assets involved in most of the cases detected is relatively small compared to those using traditional financial products and services, but professional launderer money laundering networks also seem to be beginning to exploit this vulnerability and use virtual assets as one of their ways to launder the proceeds of criminal acts. This trend has been noted in using VASPs registered or operating in jurisdictions without effective APUPPT controls, using multiple VASPs, and using tools and methods that enhance anonymity.

Based on the description above, the Digital Rupiah is expected to be the focus of regulators in developing effective APUPPT policies. On the other hand, the national law has only focused on eradicating counterfeit banknotes and coins, i.e., not explicitly on counterfeiting the Digital CBDC/Rupiah. Due to the many potential crimes that can occur in the Digital Rupiah as a virtual asset, in the future, the Digital Rupiah currency can also be the focus of regulators in forming or reforming effective APUPPT and currency policies.⁸²

Comparative Study of the Urgency of Money Laundering Policy Reform for Digital Rupiah Implementation

Comparative interpretation is a method of comparing various regulations or legal systems.⁸³ The comparative interpretation is used because the PPTPPU Law is a regulation prepared based on the FATF 40th Recommendation and Effectiveness Assessment, an international agreement that countries must comply with in the preparation of anti-money laundering policies.⁸⁴

The countries chosen to compare anti-money laundering policies with Indonesia are Australia and Malaysia. Australia and Malaysia were selected as comparison countries based on the similarity of the types of Financial intelligence units (hereinafter referred to as FIUs). Australia, Malaysia, and Indonesia are both administrative FIUs.⁸⁵ Thus, the similarity of FIU types is the basis for why Malaysia and Australia were chosen as comparison material because the similarity of FIUs is key in looking at each country's policies and supervisory functions.

In addition to the similarity of FIU types, considering the success of CBDC development is also the basis for choosing a comparison country. As previously outlined, Australia is in the pilot stage, and Malaysia is in the proof-of-concept stage.⁸⁶ Thus, Australia and Malaysia precede Indonesia, which is still in the Research stage. So, in addition to the APUPPT policy on the virtual assets of the three countries that are used as a comparison, the concept of APUPPT

⁸¹ The Asia-Pacific region's peak authority released a research stating that virtual assets and the use of novel payment mechanisms have emerged as a form of money laundering typology. Lihat APG, *Loc.Cit.*, 3.

⁸² Wouter Bossu dkk., "Legal Aspects of Central Bank Digital Currency: Central Bank and Monetary Law Considerations," *IMF Working Papers* 20, no. 254 (20 November 2020): 46, doi:10.5089/9781513561622.001.

⁸³ Prakoso, *Penemuan Hukum*, 131.

⁸⁴ FATF, *International Standards On Combating Money Laundering And The Financing Of Terrorism & Proliferation: The FATF Recommendations*, 7.

⁸⁵ Forget dan Hočevár, *Financial Intelligence Units*, 11.

⁸⁶ Central Bank Of Malaysia, "Annual Report 2021," 70; Reserve Bank of Australia dan Digital Finance CRC, "Australian CBDC Pilot for Digital Finance Innovation," 2–3.

in CBDC will also be further examined, considering that the initiation of CBDC formation in each country is encouraged by the World Bank Group.⁸⁷ Thus, the interpretation section will be divided into three discussions: first, the discussion of compliance with the Effectiveness Assessment in each country, compliance with the FATF 40th Recommendation in each country, and comparison of APUPPT concepts on each country's CBDC.

First, compliance with the Effectiveness Assessment. Effectiveness Assessment is divided into the highest, Substantial, Moderate, and Low levels. Although Indonesia has obtained full membership status of the FATF, this does not indicate that the APUPPT policy in Indonesia has been perfect. There are several parts of the APUPPT Law that, according to the FATF, are still lacking, as explained as follows:

1. Immediate Outcome (hereinafter referred to as IO) 3 about supervision that gets a moderate score.
2. IO.4 on precautions that received moderate marks.
3. IO.5 about body and policy formers who received moderate marks.
4. IO.7 on moderately rated money laundering investigations and prosecutions.
5. IO.8 about moderately rated foreclosures.
6. IO.10 on countermeasures against terrorism financing and financial sanctions that received moderate ratings.
7. IO.11 on financial sanctions for the financing of weapons of mass destruction that received moderate marks.

Compared to the quality of APUPPT policies and regulations in Malaysia and Australia, Indonesia is not far behind, so with a little reformulation or regulatory reform, Indonesia can become a full member of the FATF like Malaysia and Australia.⁸⁸ Australia itself can be used as a comparison in the IO.2 section on international cooperation, which gets a High rating compared to Indonesia, which only gets a Substantial score.⁸⁹ Meanwhile, in Malaysia, Indonesia can see and compare in the IO.3 section on supervision in Malaysia which gets a substantial rating.⁹⁰

Second, adherence to the FATF 40th Recommendation. Indonesia is still considered to be less compliant by the FATF on targeting policies against terrorism finance sanctions and terrorism financing (Recommendation 6); target of financial sanctions/penalties against proliferation financing (Recommendation 7); non-profit organizations (8th recommendation); transparency and policy management towards beneficiaries (Recommendation 25); and regulation of supervision of Goods and Services Providers (PBJ) (Recommendation 28).⁹¹ In terms of targeting terrorism finance sanctions and terrorism financing, as well as the target of financial sanctions/fines against proliferation financing, Indonesia can follow the example of Malaysia, which is considered perfectly compliant according to the FATF.⁹² Meanwhile, in Australia's APUPPT policy, almost nothing can be used as a reference by Indonesia because many procedures are considered non-compliant by the FATF.⁹³

⁸⁷ Hendarta, "Proyek Garuda: Menavigasi Arsitektur Digital Rupiah," 2.

⁸⁸ FATF, "FATF Membership," 24 Februari 2023, <https://www.fatf-gafi.org/en/countries/fatf.html>.

⁸⁹ FATF dan APG, "Australia's Measures To Combat Money Laundering And Terrorist Financing," Mutual Evaluation Report (Sydney: FATF, April 2015), 12–17.

⁹⁰ FATF dan APG, "Anti-Money Laundering And Counter-Terrorist Financing Measures: Malaysia," Mutual Evaluation Report (Sydney: FATF, September 2015), 14–18.

⁹¹ FATF, "Anti-Money Laundering And Counter-Terrorist Financing Measures: Indonesia," Mutual Evaluation Report (Paris: FATF, 2023), 14.

⁹² FATF, "Anti-Money Laundering And Counter-Terrorist Financing Measures: Malaysia," Malaysia: 3rd Enhanced Follow-up Report (Paris: FATF, Oktober 2018), 6.

⁹³ FATF, "Anti-Money Laundering And Counter-Terrorist Financing Measures: Australia," Australia: 3rd Enhanced Follow-up Report (Paris: FATF, 2018), 9.

Third, AML policy and AML concept on each country's CBDC. The CBDC trial platform in Australia will be an independently standing platform solely intended for the issuance and operation of CBDC trial transactions with companies or business entities providing services to users will be industry participants responsible for the design and operation of its technical platform to implement approved use applications in CBDC development projects.⁹⁴ However, the limitation stipulated that companies or business entities providing such services cannot implement any code or smart contracts on CBDC trial platforms.⁹⁵ In addition to this, PMPJ service providers will prove that trial CBDC holders have been verified interfaces before using the CBDC trial platform.⁹⁶ Companies or business entities that provide services can also act as parties conducting PMPJ for their customers.⁹⁷

Australia's digital currency has also measured compliance with APUPPT policies domestically and globally at this limited operating stage. For example, as a prerequisite before participating in a digital currency trial, users of the e-AUD must comply with all relevant laws, and the appropriate parties must hold all necessary licenses and permits. Therefore, service providers selected to participate in the trial must assess the use of e-AUD against Australia's current APUPPT regulatory requirements.⁹⁸

Potential economic risks are also found at this stage of limited operation. Digital currencies also have risks that must be managed, one of which is related to money laundering and terrorism financing. Digital assets can be a channel for money laundering and terrorism financing due to the lack or absence of customer identification (PMPJ).⁹⁹ Therefore, just like Australia, Malaysia also faces the same risk of money laundering due to the lack of policy regulations that regulate in general and the policy vacuum regarding PMPJ in particular.

Referring to Bernama's opinion, Bank Negara Malaysia (BNM) does not intend to issue a CBDC in Malaysia immediately. BNM will actively assess the potential value proposition of CBDCs, given the development of the digital asset and payments space.¹⁰⁰ The main policy choices of CBDC, according to BNM, will be guided by clear advantages for Malaysia as a whole while ensuring that the risks associated with CBDC issuance, especially financial stability issues and money laundering, are appropriately addressed. As stated by BNM, CBDC issuance should be used in conjunction with other payment instruments, such as physical currency, to guarantee that everyone present in Malaysia, especially those in underprivileged areas, continues to have access to secure and efficient payment options.¹⁰¹

⁹⁴ Reserve Bank of Australia dkk., *Project Dunbar: International Settlements Using Multi-CBDCs*, Project Dunbar (Basel: BIS, 2022), 23.

⁹⁵ *Ibid.*, 7.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ For instance, a service provider should assess if its consumers' conduct will entail the offering of additional financial services. In many instances, the use case provider will need to seek independent legal counsel for this assessment. Chosen participants will need to contact the appropriate regulatory body, such as ASIC (the Australian stock exchange agency), at some point to verify their capacity to execute the intended use case in accordance with the law. At present, it is also feasible to engage a service provider to explore potential exceptions or alterations to certain regulatory obligations. The conditions for these exemptions or adjustments will vary based on the specific circumstances of the given use case. Any exclusions or modifications will be restricted solely for the purposes of this pilot. The Reserve Bank of Australia is collaborating with AUSTRAC, the Financial Intelligence Unit (FIU) in Australia, to investigate methods of simplifying the regulatory obligations imposed by anti-money laundering and counter-terrorism financing legislation. Lihat *Ibid.*, h. 13.

⁹⁹ *Ibid.*, h. 70.

¹⁰⁰ Bernama, "BNM: No Immediate Plans To Issue Central Bank Digital Currency," *The Edge Malaysia*, diakses 19 Mei 2023, <https://www.theedgemalaysia.com/article/bnm-no-immediate-plans-issue-central-bank-digital-currency>.

¹⁰¹ Normi Sham Awang Abu Bakar dkk., "The Central Bank Digital Currency in Malaysia: A Literature Review," dalam *Innovation of Businesses, and Digitalization during Covid-19 Pandemic*, ed. oleh

In general, the hesitancy to use digital assets as payment among central banks is because the authority of central banks does not have universal characteristics of money. According to BNM, the risks of using it as a store of value and a suitable medium of exchange are vulnerability to price volatility, cyber threats, especially the potential for money laundering, and lack of scalability.¹⁰² Analysis by Price Waterhouse Cooper (PWC) shows among Asian countries, Malaysia is behind its neighbors in the CBDC arena, especially compared to other such countries in Southeast Asia.¹⁰³ Another separate report by BIS released in January 2021 found that about 60% of central banks are conducting Proof of Concept experiments or projects, up from 42% in 2019, while another 14% are moving forward with Pilot and Launched Publications.¹⁰⁴

Unlike Malaysia, the Reserve Bank of Australia (RBA), which is responsible for managing the financial system in Australia, is trying to introduce payment methods that are secure, accessible, and widely accepted. Therefore, using cash as a means of transaction has declined over the past few decades in Australia as more people turn to electronic payments such as cards.¹⁰⁵ This trend has accelerated recently after the start of the COVID-19 pandemic, as some consumers and businesses try to avoid using cash due to virus concerns. However, although cash is increasingly used less frequently for transactions, the amount of cash in question continues to grow, reflecting the demand to hold cash for preventive purposes and as a store of value. Cash use and ownership trends in Australia have been documented in the World Bank's triennial consumer payments survey, last conducted at the end of 2019.¹⁰⁶

With the continued decline in the use of cash for transactions, several technological developments, such as the emergence of distributed ledger technology (DLT), blockchain, cryptocurrencies, and the wider digitization of the economy, have driven interest in the possibility. The RBA issues a new form of digital cash, a central bank digital currency (CBDC). Many central banks are exploring the case for CBDCs and the various policy and technical issues they will raise.

A key question in CBDC design is the role of individual central banks and the private sector in facilitating CBDC access and use. A single-tier CBDC system would be one where the central bank is responsible for all aspects of the system, including issuance, account depository, transaction verification, and so on. Alternatively, in a two-tier system or 'platform,' the central bank would develop the technology to issue CBDCs to private sector entities, with those entities then responsible for all customer-related activities.¹⁰⁷

There is a strong assumption that any CBDC issuance in a market economy like Australia will be done through a two-tier system.¹⁰⁸ There is a wide range of customer-facing activities where central banks are unlikely to have a comparative advantage, especially in an environment where technology is changing rapidly. This includes distribution to households, account depository services, customer verification of the PMPJ system in Indonesia and APUPPT checks, transaction verification, provision of any mobile device, and prompt. Instead, it is likely

Bahaaeddin Alareeni dan Allam Hamdan, vol. 488, *Lecture Notes in Networks and Systems* (Cham: Springer International Publishing, 2023), 6, doi:10.1007/978-3-031-08090-6_18.

¹⁰² Ibid.

¹⁰³ Ibid., 7.

¹⁰⁴ Ibid.

¹⁰⁵ Tony Richards, Chris Thompson, dan Cameron Dark, "Retail Central Bank Digital Currency: Design Considerations, Rationales and Implications | Bulletin – September 2020," *Bulletin RBA*, 17 September 2020, 31, Australia, <http://www.rba.gov.au/publications/bulletin/2020/sep/retail-central-bank-digital-currency-design-considerations-rationales-and-implications.html>.

¹⁰⁶ James Caddy, Luc Delaney, dan Chay Fisher, "Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey," *Research Discussion Papers*, 2020, 9, Australia, <http://www.rba.gov.au/publications/rdp/2020/2020-06/full.html>.

¹⁰⁷ Ibid., 34.

¹⁰⁸ Ibid.

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Unlike Australia, which has reached the pilot stage and has been indirectly used, it is still limited in scope. The quality of APUPPT Australia's policy on new technology based on assessments from the FATF has also received a compliant score.¹¹² Thus, between Malaysia and Indonesia, Australia is a country that can make policy comparisons regarding money laundering and digital currencies. Therefore, Australia, as a country rated as compliant with the 15th FATF Recommendation and a country that has launched its digital currency on a pilot basis, can be used to compare APUPPT policy.

Australia's digital currency money laundering policy is regulated under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 No. 196 (AML/CFT Act 2006/196). In Australia's AML/CFT Act 2006/196, all regulations regarding TPPU are regulated in one policy, and the use of the omnibus method is allowed in Indonesia. Regulations regarding digital currencies are set out in Chapter 6A. Unlike Indonesia, Australia makes the use of digital currency or the use of Virtual Asset Service Provider (VASP) a separate form of TPA as described in Chapter 6A Article 76A Paragraphs (1) and (5) and also regulates the limits of criminal liability in Article 76A Paragraphs (4) and (6) of Australia's AML/CFT Act 2006/196. Although the nature of the regulation is also very limited because this arrangement is only to the extent that legal entities or individuals register themselves for others (a disguised form of beneficiaries), at least Australia is more qualified in digital currency regulatory policies.

Malaysia is not much different from Indonesia because there is no provision regarding digital currencies specifically in its PPTPPU Law. Based on this, Malaysia also still does not have an APUPPT policy framework for digital currencies because, at the stage of developing digital currencies, it is still in the proof of concept stage. However, Malaysia has its policies, classifications, and definitions regarding tools used as money laundering media. Therefore, although its APUPPT policy does not mention digital currencies as a medium of money laundering, concrete definitions of money laundering tools, in general, have provided a legal umbrella regarding digital currencies as tools or media of money laundering.¹¹³ The following explains the differences between Malaysia and Australia in regulating digital currencies as a means of money laundering.

¹⁰⁹ Ibid.

¹¹⁰ Ibid., h. 34.

¹¹¹ Ibid., h. 34.

¹¹² FATF, *Loc.Cit.*, h. 6.

¹¹³ The description and significance of this instrument for money laundering may be found in the "peralatan kesalahan" part of the Malaysian State Law Act 613, the Prevention of Money Laundering Act, Prevention of Financing Terrorism and Proceeds from Unlawful Activities Act 2001. In this Act, the term "equipment of misconduct" refers to an item that is utilized in or connected to a criminal act, or property that is wholly or partially employed in, or associated with, a criminal action.

Table 2. Differences in Digital Currency Policy as a Money Laundering Tool in Australia and Malaysia

Malaysia	Australia
It is not directly mentioned in its APUPPT policy	Mentioned directly from its APUPPT
The definition of money laundering tools is so general and broad that, without directly mentioning digital currencies as a medium, it already covers	The definition of using digital currencies as a means of money laundering is still very narrow and limited, even though it has been regulated concretely. APUPPT policy in Australia is less able to accommodate digital currencies

Table 2 explains that APUPPT policy in Malaysia is general and broad and has accommodated digital currency policy as a money laundering tool. However, its APUPPT policy does not mention digital currencies. Meanwhile, in Australia, the definition and explanation of money laundering tools and media are classified individually so that digital currencies are noted and explained directly in its APUPPT policy. Even so, Australia's APUPPT policy is still very narrow and can potentially create gaps and legal misunderstandings compared to those in Malaysia, which are already general and accommodate everything that can be said to be a tool or medium of money laundering.

Based on the comparison with Australia and Malaysia, there are at least several arrangements that the Indonesian government should consider. This consideration includes regulation regarding criminal acts and how they differ from digital currency regulations in Indonesia. Here are the differences from Malaysia, Australia, and Indonesia:

Table 3. Differences in Digital Currency Regulatory Policies in Australia, Malaysia, and Indonesia

	Malaysia	Australia	Indonesia
Criminal prevention arrangements on central bank digital currencies	Its regulation is limited to counterfeiting central bank digital currencies ¹¹⁴	The settings are already quite specific	Nothing at all
Regulation of money laundering in central bank digital currencies	There is; however, the setting is still general	The settings are already quite specific	Nothing at all (still referring to the old PMPJ policy)

Based on Table 3 above, Australia has a fairly capable policy, and its digital currency regulation can be used as a comparison to Indonesia's. Regulations in Australia that can be used as a foothold include the AML/CFT Act 2006/196 and the Crimes (Currency) Act 1981. Meanwhile, Malaysia can make the Malaysian State Law Act 613 of the Prevention of Illegal Money Laundering Act, Prevention of Terrorism Financing and Proceeds of Illegal Activities 2001, as well as Laws of Malaysia Act 827: Currency Act 2020 into a comparative policy for regulating digital currencies in Indonesia. Meanwhile, Indonesia is still limited to the PPSK Law, which only provides the legality of the Digital Rupiah as a legal form of currency. Therefore, there is a need for digital currency regulation in the context of preventing money

¹¹⁴ Lihat Pasal 18 Laws of Malaysia Act 827: Currency Act 2020.

laundering, terrorism financing, and further proliferation of weapons of mass destruction in Indonesia by comparing existing arrangements in Australia and Malaysia.

The lack of comprehensive money laundering regulations in Indonesia compared to Australia and Malaysia is the basis for why it is so important to reform the PPTPPU Law. Digital Rupiah, which will later become one of the legal tender used by the public at large, is essential in answering whether its implementation will have a positive or negative impact. Thus, to avoid the potential risks as previously described, the PPTPPU Law and related regulations need to be reformed to harmonize using the Digital Rupiah.

Conclusion

Based on the description that has been explained in the discussion section, from the first problem formulation regarding the difference in the concept of digital currencies between Indonesia, Australia, and Malaysia, it can be briefly explained that Indonesia is still in the Research stage, Australia is in the Pilot stage, and Malaysia is in the Proof of Concept stage. Of these three countries, Indonesia is ranked at the bottom in the stage of CBDC development. The comparison results also show that Australia and Malaysia are still developing and formulating appropriate APUPPT policies in implementing digital currencies in each country.

In the section on comparative analysis of APUPPT policies of each country. Australia has the most qualified APUPPT policy regarding digital assets or digital currencies because the FATF's assessment of policies on money laundering in digital assets is considered compliant. Therefore, before the Digital Rupiah is implemented, policy comparison and learning from Australia need to be done.

Finally, in the section on anticipatory/futuristic studies. The urgency of policy reform is an important point because there have been cases of money laundering in cryptocurrencies, so before digital currencies are implemented in the future, it is necessary to explore further laws or policies to prevent TPPU in the Digital Rupiah. This is followed by reasons such as the potential for greater anonymity and the availability of features that allow one to move and transact anonymously on CBDCs, transactions that can be made without meeting face-to-face, features instant global decentralization and fragmentation, and uneven enforcement of APUPPT policy has become increasingly urgent for TPPU policy reform in Indonesia before the Digital Rupiah is used massively.

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