INTI SARI

ARMIRA MADIANA SINAGA : Kedudukan Aset Kripto Sebagai Objek
220510047 Jaminan Fidusia Dalam Persepektif Undang – Undang Nomor 42 Tahun 1999 Tentang Jaminan Fidusia
(Tri Widya Kurniasari, S.H., M.Hum dan Hasan Basri, S.H., M.H)

Perkembangan aset kripto di Indonesia mencapai 22,11 juta investor pada November 2024, namun ketiadaan kepastian hukum sebagai objek jaminan fidusia menimbulkan risiko signifikan karena Undang-Undang Nomor 42 Tahun 1999 tidak mengantisipasi aset digital berbasis *blockchain.* Penelitian ini bertujuan menganalisis kedudukan hukum aset kripto sebagai benda bergerak tidak berwujud yang dapat dijadikan objek jaminan fidusia serta kelayakan penerapan pengalihan hak kepemilikan secara kepercayaan (*fiducia cum creditore*) terhadap aset kripto yang tidak berwujud dan tidak terdaftar secara formal. Menggunakan metode yuridis normatif dengan pendekatan konseptual melalui studi kepustakaan, penelitian menemukan bahwa aset kripto secara normatif memenuhi unsur sebagai benda bergerak tidak berwujud berdasarkan Pasal 1 angka 2 dan Pasal 1 angka 4 Undang-Undang Nomor 42 Tahun 1999 tentang Jaminan Fidusia serta Pasal 499, 503, dan 509 Kitab Undang-Undang Hukum Perdata, sehingga teoretis sah dijadikan objek jaminan fidusia. Namun, penerapan *fiducia cum creditore* menghadapi tantangan hukum berupa benturan dengan asas spesialitas, asas publisitas, dan mekanisme eksekusi yang diatur dalam Undang-Undang Jaminan Fidusia, sehingga belum dapat dinyatakan efektif tanpa adanya peraturan teknis yang adaptif. Teknologi seperti dompet multimilik, kontrak pintar, dan layanan kustodian dapat menjadi solusi, tetapi tetap memerlukan pengakuan hukum yang eksplisit. Oleh karena itu, Pemerintah dan Dewan Perwakilan Rakyat disarankan merevisi Undang-Undang Jaminan Fidusia atau menerbitkan peraturan khusus (*lex specialis*) yang mengatur spesifikasi objek, pengakuan dompet multi-tanda tangan dan kustodian, modernisasi sistem pendaftaran, prosedur penilaian berdasarkan harga pasar, serta perlindungan konsumen, sementara praktisi hukum dan lembaga keuangan disarankan bersikap hati-hati dan mencantumkan klausula yang lengkap dalam akta.

Kata Kunci : Aset Kripto, Objek Jaminan, Fidusia, Benda Tidak Berwujud, Fiducia Cum Creditore

ABSTRACT

ARMIRA MADIANA SINAGA **:** **The Position of Crypto Assets as Fiduciary Guarantee Objects from the Perspective of Law Number 42 of 1999 Concerning Fiduciary Guarantees**
220510047 **(Tri Widya Kurniasari, S.H., M.Hum dan Hasan Basri, S.H., M.H)**

The number of crypto asset investors in Indonesia reached 22.11 million by November 2024; however, the lack of legal certainty regarding their status as objects of fiduciary security creates significant risk, as Law Number 42 of 1999 did not anticipate blockchain-based digital assets. This study aims to analyze the legal status of crypto assets as intangible movable property eligible for fiduciary security and the feasibility of applying the transfer of ownership based on trust (fiducia cum creditore) to these intangible, informally registered assets. Employing a normative-juridical method with a conceptual approach based on literature review, the study finds that crypto assets normatively meet the criteria for intangible movable property under Article 1 points 2 and 4 of Law Number 42 of 1999 concerning Fiduciary Security and Articles 499, 503, and 509 of the Civil Code, making them theoretically valid objects for fiduciary security. However, the application of fiducia cum creditore faces legal challenges specifically conflicts with the principles of specialty and publicity, as well as execution mechanisms stipulated in the Fiduciary Security Law rendering it currently ineffective without adaptive technical regulations. Technologies such as multi-signature wallets, smart contracts, and custodial services offer potential solutions but still require explicit legal recognition. Therefore, it is recommended that the Government and the House of Representatives revise the Fiduciary Security Law or enact specific regulations (lex specialis) addressing object specifications, the recognition of multi-signature wallets and custodians, registration system modernization, market-based valuation procedures, and consumer protection; meanwhile, legal practitioners and financial institutions are advised to exercise caution and include comprehensive clauses in the relevant deeds.

Keywords: Crypto Assets, Collateral Object, Fiducia, Intangible Assets, Fiducia Cum Creditore