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Legal Certainty of Supervision of Digital Gold Business for Electronic Money Providers in The System Risk-Based Business Licensing

Ananda Putra Herdinansyah, Nunik Nurhayati
Law Science, Faculty of Law and Politic Science, Universitas Muhammadiyah Surakarta
c100230196@student.ums.ac.id

Abstract

Indonesia is a developing country, particularly in the payment systems and digital gold commodity futures trading sectors, where digital platforms combine these two types of businesses.. This raises the potential for overlapping supervisory authority between Bank Indonesia and Bappebti and creates legal uncertainty. This study aims (1) to determine and analyze how the supervision of digital gold businesses for electronic money providers is regulated in a risk-based business licensing system; (2) to examine and analyze whether this supervision has fulfilled the principles of legal certainty and clarity of authority from a state administrative law perspective. This research is normative research with a statutory approach method. This study brings innovation by examining providers of electronic money and digital gold in one platform. The main focus is to ensure legal certainty to overcome overlapping authority between Bank Indonesia and Bappebti, by harmonizing the OSS-RBA system. Supervision of electronic money payment systems in Indonesia has been clearly regulated by Bank Indonesia. The regulations are contained in Law No. 23/1999*because*Law No. 6/2009. Supervision of digital gold commodity trading is carried out by Bappebti. This is based on Law No. 10/2011. The government currently uses a risk-based business licensing system (OSS-RBA), regulated by Government Regulation No. 28/2025. The merger of electronic money and digital gold trading businesses into one*platform*This creates legal uncertainty and the potential for overlapping supervisory authority. The government needs to formulate regulations that clearly define the boundaries of responsibility and how to resolve disputes across these sectors. The OSS-RBA system must be utilized comprehensively, not only as a platform for processing permits but also as an integrated supervision database.

Keywords: Legal Certainty; Licensing; Digital Gold; MoneyElectronic

INTRODUCTION

The development of financial technology in the modern era has progressed rapidly, driving significant transformation in Indonesia's financial sector. Digitalization provides service innovations in faster, more efficient, and easier payment systems. Starting from finances that have gone digital, such as in digital wallets or electronic money (1). Digitalization not only changes how people make transactions or payments, but the development of the financial system has also given rise to new forms of investment, especially in the gold sector. In gold commodities, people are accustomed to investing by purchasing gold in the form of jewelry such as bracelets, necklaces, earrings, or rings. Some people who invest in gold tend to buy gold in the form of precious metals. The development of the era has given rise to a way to invest in gold, namely by purchasing gold in digital form (2).

Rapid developments in the financial and futures trading sectors pose a legal challenge for Indonesia. Indonesia is a country based on the rule of law, as stipulated in Article 1, paragraph (3) of the 1945 Constitution (hereinafter referred to as the 1945 Constitution).(3). In Indonesia, in Law Number 23 of 20031999 about Bank Indonesia (hereinafter referred to as Law No. 23/1999) Article 8 point (b) gives authority to Bank Indonesia to regulate and supervise the payment system in Indonesia(4). Meanwhile, in the commodity futures trading sector, the authority of the Commodity Futures Trading Supervisory Agency (hereinafter referred to as Bappebti) has been regulated to carry out development, supervision, and regulation in commodity futures trading as stated in Law No. 10 of 2011 article 1 paragraph (3) (hereinafter referred to as Law No. 10/2011). (5)

The transformation from conventional systems to digital-based systems has become increasingly crucial to Indonesia's economic development. The emergence of electronic money and digital wallet platforms that also facilitate digital gold trading services reflects this transformation. One example of such a platform is DANA (6). This is a serious concern for Indonesia. Given that this business activity creates cross-sectoral businesses involving two different government agencies, this has created a legal gray area between Bank Indonesia, the payment system authority, and the Commodity Futures Trading Regulatory Agency (Bappebti), the regulatory body for the commodity futures sector. (7)

The government is also working to accommodate and supervise digital business activities which are implemented in the Risk-Based Electronically Integrated Business Licensing policy (Online Single Submission Risk – Based Approach or OSS-RBA) which is contained in

Government Regulation No. 28 of 2025 (hereinafter referred to as PP No. 28/2025). The implementation of the obligation to have a permit for business actors in Indonesia, the public as consumers are given legal certainty regarding the business activities carried out (8). However, the emergence of cross-sector business models that combine electronic money services and digital gold trading within a single digital platform has not yet been clearly accommodated within the Indonesian Standard Classification of Business Fields (KBLI). This inconsistency in business risk classification regulations creates legal uncertainty, both for business operators regarding the scope of their operational legality and for consumers with respect to legal protection. (9)

This study develops from previous research which resulted that the implementation of digital gold investment trading in Indonesia is generally regulated in the Commodity Futures Trading Law, explained in more detail in the Regulation of the Minister of Trade No. 119 of 2018 (hereinafter referred to as Permendag No. 119/2018), and its technical provisions are regulated in the BAPPEBTI Regulation (7), while other research that resulted in the implementation of Bank Indonesia Regulation (PBI) concerning Electronic Money, Payment Transaction Processing, and Financial Technology has been able to create a smooth, safe, efficient, and reliable electronic wallet payment system. The aspects of accuracy and legal protection for users have also been addressed by requiring unlicensed electronic wallet providers to cooperate with and transfer user balances to electronic wallet operators that have obtained official authorization from Bank Indonesia (10). The novelty of this research lies in its examination of the interaction between two business activities operating within a single digital platform, namely electronic money services and digital gold trading. This study focuses on legal certainty in preventing overlapping supervisory authority between Bank Indonesia and Bappebti, as well as on the harmonization of the risk-based licensing system (OSS-RBA).

Based on the background of the issues described above, this study addresses the following research questions: (1) How is the supervision of digital gold businesses operated by electronic money providers regulated within the risk-based business licensing system? (2) How are the authority and supervision of digital gold businesses operated by electronic money providers viewed from the perspectives of legal certainty and administrative law? Therefore, from the formulation of the problem, this study aims to determine and analyze the regulation of digital gold business supervision on electronic money providers in a risk-based business licensing system and to review and analyze whether the supervision has fulfilled the principles of legal certainty and clarity of authority from the perspective of state administrative law.

This research also uses a theoretical basis, which will be explained as follows. One of the goals of positive law is legal certainty, by ensuring clear, measurable regulations that are consistently implemented by state administrators. According to Gustav Radburch, law has three basic values: justice (*justice*), benefits (*suitability*), and legal certainty (*legal certainty*) which must run simultaneously to achieve the objectives of the law. According to Radbruch, legal certainty is very important because justice and benefits cannot be achieved if the law itself is uncertain (11).

According to Philipus M., effective administrative supervision must include two main aspects, namely preventive and repressive supervision. Preventive supervision is carried out before administrative decisions are made, through a process of clarification, legal consultation, or risk analysis. The goal is to avoid errors in decision-making. Meanwhile, repressive supervision is carried out after decisions have been made, namely by evaluating, correcting, or imposing sanctions on administrative actions that violate the law or harm citizens' rights (12).

Digital gold has a specific legal standing in Indonesian commodity trading regulations. According to Commodity Futures Trading Regulatory Agency Regulation No. 13 of 2019 (hereinafter referred to as Bappebti Regulation No. 13/2011), digital gold is categorized as an immovable object whose type and quality can be determined, and its ownership is recorded electronically, but it must still be supported by the availability of physical gold stored at the storage manager's location. This mechanism was created to provide legal certainty and protection for people who wish to invest in gold digitally, so that transactions carried out can still be calculated in terms of risk and monitored by Bappebti and the clearing institution during the clearing process (2).

On the other hand, the implementation of electronic money is regulated in Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money (hereinafter referred to as BI Regulation No. 20/6/PBI/2018). Meanwhile, electronic money is a payment instrument, a transaction instrument that is issued after the user makes an initial deposit of a certain amount of funds to the issuing agency, where later the money is stored electronically in a medium such as a server or chip. Electronic money is used as a means of payment to merchants that are not the issuers of the electronic money. With the development of electronic money, digital financial systems have emerged that provide various financial services. This development requires effective supervision to ensure the security of users' funds and maintain the stability of the payment system (13).

In its development, the licensing system has shifted from a conventional, license-based approach to a risk-based licensing approach. The Risk-Based Business Licensing system (OSS-RBA) is comprehensively regulated under Government Regulation No. 28/2025 (14). The OSS-RBA system classifies business activities into four risk levels: low, medium-low, medium-high, and high. These risk levels directly determine the type of licensing required. This transformation aims to create a more streamlined bureaucracy and enhance transparency in the licensing process. (15)

METHOD/IDEA

This research is normative research, namely research that examines a particular case or phenomenon by using legal sources in the form of statutory regulations, court decisions, contracts or agreements, and also the opinions of legal experts. This study employs a statutory approach in its legal analysis. This approach is used to examine relevant laws and regulations concerning digital gold businesses operated by electronic money providers, in order to identify potential overlaps in authority between Bank Indonesia and Bappebti, as well as to analyze their alignment with the Risk-Based Business Licensing system (OSS-RBA). (16).

The main focus of this research lies in the analysis of secondary data consisting of both primary and secondary legal materials. Primary legal materials include fundamental regulations such as the 1994 Constitution and Law No. 30 of 2014.*Because*. Law No. 6 of 2023 concerning Government Administration, Law No. 23/1999*Because*. Law No. 6/2009 Concerning Bank Indonesia, Law No. 10/2011 Concerning the Commodity Futures Trading Supervisory Agency (Bappebti), PP No. 28/2025 Concerning the Implementation of Risk-Based Business Licensing, Regulation of the Minister of Trade No. 119 of 2018 concerning General Policy for Physical Digital Gold Trading on the Futures Exchange (hereinafter referred to as Permendag No. 119/2018), BI Regulation No. 20/6/PBI/2018 Concerning Electronic Money, Bappebti Regulation No. 4 of 2019*Because.*Bappebti Regulation No. 13 of 2019 concerning Technical Provisions for the Implementation of the Physical Digital Gold Market on the Futures Exchange. Secondary legal materials are literature materials that explain primary legal materials. In this research, secondary legal materials were obtained from literature, scientific journals, and legal doctrines from legal experts. (16)

The data collection method used in this research is Literature Study (bibliography study). Literature study is a step to examine legal information originating from legal materials required by this research. WhileThe data analysis method used in this research is a qualitative analysis method, which means a data analysis method that uses steps to interpret primary legal materials and secondary legal materials. (16)

RESULTS AND DISCUSSION

A. Regulation of supervision of digital gold businesses for electronic money providers in a risk-based business licensing system

1. The Concept of Supervision in State Administrative Law.

Supervision is essential to ensure a business remains within the legal framework. Supervision itself is an element of administrative law that serves to ensure that all business activities are carried out in accordance with applicable legal norms. Basically, supervision from a legal perspective is an evaluation of the validity of state legal actions and the legality of state actions. (17)

In Indonesian administrative law, supervision is divided into two aspects, namely preventive supervision and repressive supervision. According to Philipus M. Hadjon, preventive supervision is carried out before an administrative decision is made to prevent errors, through a qualification process and risk analysis. Meanwhile, repressive supervision is carried out to provide evaluation and/or provide administrative sanctions for deviant actions (12). The correlation between supervision and the principle of legality in administrative law is an inseparable certainty. The principle of legality acts as a legal parameter that provides limits on authority, while supervision serves as a guard instrument to ensure that authority is not misused (abuse of power).

With the development of payment systems and commodity futures trading, as well as the emergence of platform. A business that combines two types of business means that the business organizer must comply with two different supervisory regimes. Therefore, the placement of supervisory control in the business platform. This requires harmony between the two institutions, Bank Indonesia and Bappebti, and must rely on the KBLI (Indonesian Standard Operating

Procedures) contained in the risk-based licensing system (OSS-RBA). Thus, with non-overlapping authority, legal consequences can be determined.*platform* to be very proportional.

2. **Normative Construction of Supervision in a Risk-Based Licensing System.**

The construction of administrative law in Indonesia in the field of licensing has experienced a fundamental paradigm shift, namely from a conventional licensing system towards a risk-based licensing system. Based on PP No. 28/2025, the current licensing system is divided into 3 levels of risk, namely low, medium-low, medium-high, and high risk (14). In the digital gold and electronic money trading business, which involves managing public funds and recording fluctuating commodity assets, this business model is considered high risk. With this level of risk, the established control instruments cannot be passive. Bank Indonesia and Bappebti must carry out strict, proactive, and measured supervision to achieve legal certainty for the public or users. To harmonize these two different regimes, the Online Single Submission Risk-Based Approach (OSS-RBA) system plays a central role in licensing and supervisory governance. In practice, the OSS-RBA should not be reduced to merely a portal for issuing business legality, but should also function as a supervisory database between government agencies or bodies. Through specific mapping based on KBLI codes, the OSS-RBA should integrate supervisory bodies, such as those for electronic money platforms that operate digital gold businesses, to prevent overlapping supervisory authority between Bank Indonesia and Bappebti. If the risk-based licensing system (OSS-RBA) can harmonize the two government agencies within a single type or qualification, the potential for overlapping supervisory authority can be prevented. Thus, every administrative action against business operators can be based on definite legality and provide legal certainty for all parties.

3. **Supervisory Authority for Electronic Money Providers**

Basically, every business in Indonesia has an authorized institution to supervise, related to electronic money businesses or electronic-based payment systems, it is clearly regulated in Law No. 23/1999, article 8 point (b) states that Bank Indonesia is authorized to regulate and supervise the smooth running of the payment system. With the development of the payment system from conventional to digital, Bank Indonesia has also regulated the electronic payment system or commonly called electronic money in BI Regulation No. 20/6/PBI/2018 Concerning Electronic Money.

Normatively, the authority to supervise the payment system by Bank Indonesia is based on Article 15 of Law No. 23/1999 which explains that this regulation gives authority (mandate) to Bank Indonesia to report and examine every payment system service provider (4). In sectoral regulations or technical regulations, the scope is also explained more specifically in BI Regulation No. 20/6/PBI/2018 concerning Electronic Money, Article 67, which divides supervision into 2, namely direct supervision and indirect supervision (14). In indirect supervision, providers are required to report to Bank Indonesia in accordance with the procedures determined by Bank Indonesia. Meanwhile, direct supervision by Bank Indonesia will conduct examinations (*on-site visit)* to the payment system business organizer (14). With this explanation of authority, it is very clear that Bank Indonesia only has the authority to supervise payment systems or electronic money. If an electronic money platform only provides payment features for purchasing digital gold, Bank Indonesia still retains supervisory authority because the platform functions solely as a means of payment for the transaction.

4. The Position of Digital Gold Businesses in the Trade and Commodity Supervision Regime

Gold is essentially a highly popular investment product among Indonesians. Gold is a commodity that can be used as the subject of a futures contract, traded on a futures exchange. In its development, gold has a new type, namely digital gold, which is gold whose ownership is recorded electronically, as stated in Minister of Trade Regulation No. 119/2018 concerning General Policy for Trading in the Physical Digital Gold Market on the Futures Exchange (18). In the Indonesian trade legal system, the position of the digital gold business is under the auspices of trade law. The Indonesian Ministry of Trade plays a primary role in formulating regulations aimed at ensuring legal certainty for the public or consumers in the national trade system. The government has the attributive authority to foster, regulate, and supervise all trade activities. In the development of trade towards digital, the Ministry of Trade must ensure that these trade activities are in line with national economic interests and are carried out based on a legal, measurable, and transparent licensing system.

Constitutionally, Bappebti has the authority to conduct technical and operational supervision on digital gold commodity futures trading. Based on Bappebti Regulation No. 4 of 2019 Jo. Bappebti Regulation No. 13 of 2019 Concerning Technical Provisions for Organizing the Physical Digital Gold Market on the Futures Exchange, Bappebti has the main function of ensuring that every digital gold purchased or transacted by the public must have collateral in the form of physical gold stored in the Storage Place Manager. With a very strict supervision mechanism, Bappebti provides legal protection for buyers or the public who transact in this digital gold trade. Therefore, Bappebti constructs a preventive supervision system, so that investment fluctuations and legal certainty for the public can be calculated for their legal consequences (19).

B. Legal certainty for digital gold businesses for electronic money providers

1. **Analysis of Legal Certainty in Gold Business SupervisionDigital**

Commodity futures trading, especially in the digital gold sector, requires regulatory oversight. According to Gustav Radburch, the law itself has three important pillars: benefit, justice, and legal certainty (11). Therefore, every business must have regulatory oversight to create legal certainty for both business operators and the public. In digital gold commodity trading, there are already regulations that govern the implementation of digital gold trading in detail. Based on Minister of Trade Regulation No./119/2018 concerning General Policy for Trading in the Physical Digital Gold Market on the Futures Exchange and the technical regulations under it, Bappebti Regulation No. 4 of 2019 in conjunction with Bappebti Regulation No. 13 of 2019 concerning Technical Provisions for the Implementation of the Physical Digital Gold Market on the Futures Exchange, the government has comprehensively provided legitimacy and a firm legal construction for this digital gold sector.

The presence of these regulatory instruments is essentially a manifestation of Gustav Radburch's theory of legal certainty. Through this set of regulations on digital gold trading, Bappebti firmly establishes measurable limits regarding the qualifications of digital gold businesses, electronic system security standards, and guarantees that digital gold has the form of physical gold stored in a storage facility and Clearing House. With comprehensive regulations, rigid parameters emerge that make the rights and obligations of digital gold businesses and the public as buyers or investors very clear and legally calculable.

According to Jan Michiel Otto, legal certainty has indicators that must be met to achieve legal certainty, to see whether supervision of digital gold businesses for electronic money providers will be detailed in the following table (20):

Table 1. Legal certainty indicators

Legal Certainty Indicators	Fulfillment Status	Analysis on Digital Gold Supervision conducted by electronic money organizers
There are clear, consistent and easy to obtain rules available, published by and recognized by the state (authority).	There are rules governing electronic money (Number 20/6/PBI/2018 concerning Electronic Money) and digital gold trading (Bappebti Regulation No. 4 of 2019 Jo. Bappebti Regulation No. 13 of 2019 Concerning Technical Provisions for Organizing the Physical Digital Gold Market on the Futures Exchange)	Legally, there are regulations governing electronic money and digital gold, and they are readily available. However, there are no cross-sectoral regulations when these two types of businesses are operated under one umbrella.*platform* digital.
The government implements these legal regulations	Not optimal	There is a potential overlap in supervisory authority between Bank Indonesia and Bappebti in the supervision of the platform.

2. Potential for Fragmentation and Overlapping AuthoritySupervision

In the development of commodity trade and payment systems in Indonesia, there has been an emergence of digital platforms that combine both business activities, particularly electronic money platforms, also known as digital wallets. Currently, electronic money providers offer digital gold investment features, which can be referred to as opening a digital gold commodity futures trading business. This poses a potential overlap in authority, as there are two different regimes responsible for supervising electronic money business activities and digital gold trading.

The authority of Bank Indonesia is stipulated in Law No. 23 of 1999, which explicitly grants Bank Indonesia the authority to supervise electronic money providers, as such platforms are fundamentally electronic money operators. These companies are electronic money providers. However, in practice, electronic money providers also operate digital gold trading businesses, the supervision of which falls under Bappebti, as regulated by Law No. 10 of 2011. Electronic money platforms are typically partnered with licensed or Bappebti verified companies; however, these platforms effectively function as digital gold trading services. This condition creates regulatory ambiguity, as a single platform gives rise to a dualism of supervision between the payment system sector and the commodity futures trading sector.

This fragmentation of supervision and grey regulation carries legal implications for business actors and the public as buyers or investors, causing confusion and losses for the digital commerce ecosystem. For business actors, financial overlap (*overlapping authority*) forces businesses to comply with two different regimes, Bank Indonesia and Bappeti, and creates uncertainty in the business climate, as these businesses must comply with two regulations issued by both authorities, which have the potential to conflict with each other. Specifically, for the digital gold business, Bappebti has regulated the technical aspects of digital gold trading, as outlined in Bappebti Regulation No. 4 of 2019.*Because.*Bappebti Regulation No. 13 of 2019 states that digital gold traders or organizers must obtain approval from Bappebti to conduct digital gold trading. However, digital wallet platforms often partner with companies that are licensed or approved by Bappebti, creating uncertainty regarding the supervisory authority over digital wallet platforms that also organize digital gold businesses.

Basically, both institutions formulated these regulations from their respective perspectives, without considering the possibility that the two types of businesses could be combined into a single digital platform. For the public as users of such platforms, this overlapping authority creates legal uncertainty when disputes arise in transactions. In such cases, the public is left uncertain regarding which institution has the authority to resolve the issue.

3. The Concept of Supervision that Guarantees Legal Certainty

To prevent overlapping authority and provide legal certainty to business actors and the public as buyers or investors, harmonization between the two authorities is essential. This harmonization is not aimed at reducing the supervisory authority held by Bank Indonesia and Bappebti, but rather to synchronize the overlap between the two authorities. In accordance with Gustav Radbruch's view, one of the aims of law is to achieve legal certainty (11). Meanwhile, according to Philipus M. Hadjon, effective supervision consists of two main aspects, namely preventive and repressive supervision (12).

The government must formulate regulations that outline cross-institutional authority, particularly in the payment systems and gold futures trading sectors. These regulations are expected to create regulatory harmonization within the sector, establish clear limits of liability, define parameters for dispute resolution, and provide legal protection for the public in the event of errors during transactions. The government has already provided a legal framework to address this regulatory ambiguity through Government Regulation No. 28/2025 on Risk-Based Business Licensing (OSS-RBA).

A risk-based licensing system (OSS-RBA) can be developed comprehensively. The OSS-RBA serves not only as a system for issuing business permits but also as a monitoring center. Under this concept, the OSS-RBA portal serves as a platform for compliance reporting, system security audits, and liquidity monitoring, all of which are required for electronic money providers. The digital system is used to upload data into the OSS-RBA platform, creating a single point of access for regulatory authorities, namely Bank Indonesia and Bappebti, to facilitate regulatory oversight. This integrated system concept will simplify matters and prevent conflicting administrative regulations. It also eliminates the obligation for businesses to comply with two different regimes that hinder the business climate in Indonesia.

With the recommended licensing system concept and regulatory regulations, adjustments to developments in the payment system and commodity futures trading sectors are urgently needed. This concept is expected to serve as a consideration for the government in ensuring legal certainty within the risk-based licensing system, particularly in the payment system (e-money) sector and digital gold futures trading, which are integrated within a single digital platform.

CLOSING

Based on the discussion outlined above, it is clear that regulations regarding the payment system (electronic money) and commodity futures trading have been comprehensively governed by two institutions. Bank Indonesia is the authority responsible for supervising the payment system (electronic money), as stipulated in Law No. 23 of 1999 concerning Bank Indonesia. Meanwhile, Bappebti is authorized to supervise the digital gold sector, as regulated under Law No. 10 of 2011 concerning the Commodity Futures Trading Supervisory Agency. Currently, the government has also developed a licensing system that was previously conventional (license-based) towards a risk-based licensing system (OSS-RBA) as regulated in PP No. 28/2025 Concerning the Implementation of Risk-Based Business Licensing.

However, there is a potential risk of overlapping authority because the two types of businesses are combined within a single digital platform. The company primarily operates as an electronic money provider but also engages in digital gold trading activities. This is where the imbalance in supervisory authority and the gray area of regulation emerge. As it develops, the government must recognize that regulations and licensing systems must also evolve. Harmonizing regulations that authorize Bank Indonesia and Bappebti (Commodity Futures Trading Regulatory Agency) will create clear supervisory authority and provide legal certainty for businesses and the public as buyers and investors. The government can formulate sectoral regulations that address cross-sectoral issues on this digital platform, establishing measurable limits of responsibility and dispute resolution parameters to create effective oversight encompassing two main aspects: preventive and repressive supervision. The optimization of the OSS-RBA system is not only limited to its function as a business licensing portal but also extends to compliance reporting, system security audits, and liquidity monitoring required for electronic money providers or digital platforms. These data must be uploaded into the OSS-RBA system, creating a single access point that facilitates supervision by the two authorized institutions, namely Bank Indonesia and Bappebti.

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