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Original Article

Reconstructing the Legal Architecture of Crypto Asset Issuance Regulation in Indonesia

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Abstract

Indonesia's crypto asset ecosystem has grown substantially, ranking sixth globally in adoption, yet its regulatory architecture for crypto asset issuance remains fragmented and inadequately defined. This study examines the evolutionary trajectory of Indonesia's issuance-related regulatory framework, tracing the shift from the commodity-based positive-list regime under Surat Keputusan (SK) Bappebti Number 13 of 2022, through the transition to financial sector governance under Peraturan OJK (POJK) Number 27 of 2024, and the subsequent amendments introduced by POJK Number 23 of 2025. Employing a normative juridical method with comparative law and statutory approaches, this study benchmarks Indonesia's framework against the European Union's Markets in Crypto-Assets (MiCA) Regulation (EU) 2023/1114 currently the most comprehensive issuance-specific crypto asset law globally. The analysis reveals six critical regulatory gaps in Indonesia's issuance regime, including the absence of a formal white paper obligation, the lack of pre-issuance issuer authorization, no technical due diligence mandates, and an inadequate disclosure liability framework. In response, this article proposes a Three-Gate Regulatory Architecture Model comprising Gate I (Registration and White Paper Validation), Gate II (Technical Due Diligence), and Gate III (OJK Approval and License Issuance), complemented by transitional provisions for existing assets. This model represents a legally grounded and proportionate reconstruction of Indonesia's crypto asset issuance regulation, aligned with international best practices while respecting Indonesia's regulatory sovereignty.

Keywords: Crypto Asset Regulation, Consumer Protection, Issuance Architecture, Regulatory Reconstruction.

1. Introduction

The global proliferation of crypto assets has compelled governments worldwide to develop regulatory frameworks capable of addressing the unique characteristics of blockchain-based financial instruments. Indonesia is no exception: as the world's sixth-largest crypto asset market by adoption volume (Chainalysis Team, 2024), Indonesia has accumulated over 20 million registered crypto asset consumers, yet the legal architecture governing the issuance of those assets which is the foundational stage at which tokens are created and offered to the public remains conspicuously underdeveloped (Biro Humas Kementerian Perdagangan, 2022).

The problem is historical as well as structural. Indonesia initially regulated crypto assets as tradable commodities under the authority of Badan Pengawas Perdagangan Berjangka Komoditi (also known as Bappebti), culminating in the issuance of Decree of the Head of Bappebti Number 13 of 2022 (SK Bappebti 13/2022), which established an approved positive list of crypto assets eligible for trading on futures exchanges. This commodity-centric paradigm focused exclusively on the trading stage and provided no meaningful legal

framework for the issuance process itself (Mulyana et al., 2025). The enactment of Law Number 4 of 2023 on Financial Sector Development and Strengthening (UU PPSK) mandated the transfer of crypto asset oversight from Bappebti to Financial Services Authority or also known as Otoritas Jasa Keuangan (OJK), operationalised through Government Regulation Number 49 of 2024 and implemented via POJK Number 27 of 2024, subsequently amended by POJK Number 23 of 2025. While this transition represented a paradigm shift from reclassifying crypto assets as digital financial assets subject to financial sector law, neither POJK addresses the issuance stage with the specificity that the EU's MiCA Regulation demands.

The urgency of this regulatory gap is not merely theoretical; it is empirically demonstrable. Data from the Commodity Futures Trading Regulatory Agency (Bappebti) recorded at least 31 crypto asset-related fraud and investment scam cases between 2020 and 2023, resulting in estimated consumer losses exceeding IDR 1.2 trillion (Bappebti Annual Report, 2023). A significant proportion of these cases originated at the issuance stage, where fraudulent token offerings were launched without any mandatory disclosure, technical audit, or issuer accountability mechanism. The absence of a structured issuance framework has also enabled the proliferation of unregistered token offerings that circulate informally outside regulated exchanges, further compounding consumer exposure. These figures are likely underreported, as Indonesia lacks a centralized incident-reporting mechanism for issuance-stage misconduct, itself a symptom of the very regulatory vacuum this article seeks to address.

This regulatory lacuna constitutes a *rechtsvacuum* (legal vacuum) in the pre-trading lifecycle of crypto assets (Mulyana et al., 2025). Without a mandatory white paper regime, without issuer-specific authorization, and without technical due diligence standards, Indonesian consumers remain exposed to issuance-stage risks that existing regulations are ill-equipped to address. Against this backdrop, this article pursues three objectives: first, to analyze Indonesia's regulatory evolution from SK Bappebti 13/2022 through POJK 23/2025; second, to identify normative gaps through a structured comparison with EU MiCA; and third, to propose a Three-Gate Regulatory Architecture Model as a prescriptive framework for reconstructing Indonesia's crypto asset issuance regulation.

2. Literature Review

2.1. Regulatory Theory for Crypto Asset Governance

The governance of crypto assets presents novel challenges for legal scholars and regulators alike. De Filippi and Wright (2018) theorize that blockchain technology introduces a form of *lex cryptographia*, a normative order embedded in code that operates independently of state enforcement creating fundamental tensions with territorial legal systems. This conceptualization forms the theoretical foundation for understanding why traditional commodity and financial services law struggles to regulate decentralized token issuance effectively. The tension between code-based governance and state law necessitates hybrid regulatory approaches that bridge both normative systems (Gunawan, 2025).

Ferreira and Sandner (2021) demonstrate that the EU's search for regulatory answers to crypto assets was driven by precisely this tension which is the need to extend financial markets infrastructure principles to decentralized token issuances without stifling technological innovation. Their analysis of the evolution toward MiCA reveals that effective crypto asset regulation requires a lifecycle approach, regulating issuers at the point of token creation rather than exclusively at the trading stage.

2.2. Issuance-Specific Regulation and ICO Frameworks

The literature on Initial Coin Offerings (ICOs) and token issuance regulation consistently identifies disclosure, technical integrity, and issuer accountability as the three foundational pillars of effective consumer protection (Maume & Fromberger, 2018; Zetzsche et al., 2018). Zetzsche et al. (2019) characterize unregulated ICO markets as presenting systemic risks encompassing fraud, information asymmetries, and market manipulation. Maume and Fromberger (2018) argue that reconciling issuance regulation across the US and EU models requires acknowledging that the nature of the token in which are utility, security, or asset-referenced determines the appropriate regulatory treatment.

Burilov (2019) specifically examines the EU's pre-MiCA regulatory landscape, demonstrating that the absence of harmonized issuance rules created a fragmented environment where token issuers exploited jurisdictional arbitrage. The subsequent enactment of MiCA resolved this fragmentation by establishing uniform white paper requirements, mandatory notification to national competent authorities, and a civil liability regime for misleading disclosures, a model that represents the current international benchmark for issuance-stage regulation (Hacker & Thomale, 2018).

2.3. Consumer Protection in Pre-Issuance Regulation

Indonesian legal scholarship on consumer protection in digital asset markets emphasizes the gap between the protective ideals established in Law Number 8 of 1999 on Consumer Protection and the practical enforcement limitations in blockchain environments (Hadjon, 1987; Shidarta, 2006). The principle of preventive legal protection which requires the state to establish safeguards before harm materializes demands that issuance regulation address risks at their origin rather than after trading has commenced (Pratama et al., 2025). This preventive orientation aligns with MiCA's approach of requiring OJK-equivalent authorization before any public token offering, a standard that Indonesia's current framework has yet to achieve.

3. Methods

This study employs a normative juridical research method integrating statutory, conceptual, and comparative law approaches. This methodology is appropriate given that the study's objectives (identifying regulatory gaps and prescriptively reconstructing a legal framework) are best addressed through systematic analysis of legal texts and doctrinal categories rather than empirical behavioral data (Marzuki, 2014).

The statutory approach analyzes four primary legal instruments: SK Bappebti 13/2022, POJK 27/2024, POJK 23/2025, and EU MiCA Regulation 2023/1114. The conceptual approach interprets ambiguous legal concepts, particularly the undefined notion of "issuance" in Indonesian law, by reference to established doctrinal frameworks in financial and securities regulation. Secondary materials include academic journals, legal commentary, and regulatory impact assessments from ESMA, the FSB, and Indonesian regulatory bodies.

The comparative analysis spans fifteen regulatory dimensions derived through a two-stage process: first, a doctrinal mapping of MiCA identified the structural components of a complete issuance regime; second, each component was tested against Indonesian instruments to assess whether it was fully addressed, partially addressed, or entirely absent. The dimensions encompass legal basis, issuance authorization, disclosure requirements, technical standards, issuer liability, consumer protection, anti-market-abuse rules, and enforcement architecture, among others.

Data analysis proceeds through four sequential stages: identification of relevant provisions, categorization by regulatory function, comparative evaluation against MiCA across three criteria (scope, specificity, and enforceability) and synthesis into the Three-Gate Regulatory Architecture Model proposed in the concluding section.

4. Results and Discussion

4.1. The Commodity-Era Approach to Issuance

SK Bappebti Number 13 of 2022, formally known as the "Decree of the Head of Bappebti Number 13 of 2022" concerning the Determination of the List of Crypto Assets That Can Be Traded in the Physical Crypto Asset Market, operated as the principal instrument governing which crypto assets could legally be offered and traded in Indonesia's physical crypto asset market. Issued pursuant to Law Number 10 of 2011 on Commodity Futures Trading and Bappebti Regulation Number 5 of 2019 (as amended by Number 11 of 2022), it established a positive-list mechanism whereby only crypto assets explicitly enumerated in the decree could be traded on Bappebti-licensed futures exchanges.

The positive-list model represented a passive regulatory posture toward issuance. The SK did not establish a dedicated issuance authorization process; instead, the listing decision by the exchange operator served as the de facto gateway for token offerings. There was no requirement for issuers to submit a white paper to Bappebti, no mandate for smart contract audits, and no ex-ante assessment of the project's organizational integrity or funding plan. Risk profiling was rudimentary and focused on market liquidity and price history rather than technical infrastructure. In consequence, the issuance stage was effectively unregulated that token could be created and distributed without Bappebti's knowledge, with regulatory scrutiny materializing only at the point of exchange listing.

The SK Bappebti 13/2022 regime's limitations became critically apparent in the wake of global crypto market failures, notably the Terra-Luna collapse in May 2022 and the FTX insolvency in November 2022, both of which exposed the consequences of inadequate pre-issuance oversight. Indonesian consumers suffered proportionate exposure to these events, underscoring the urgent need for a more sophisticated regulatory architecture (Perdana & Jhee Jiow, 2024).

4.2. Financial Sector Transition

The enactment of UU PPSK in January 2023 and its implementing instrument, Government Regulation Number 49 of 2024, effectuated the transfer of crypto asset supervision from Bappebti to OJK effective 10 January 2025. POJK Number 27 of 2024 constituted OJK's foundational regulatory response, establishing a comprehensive framework for *trading* of digital financial assets, including crypto assets.

POJK 27/2024 introduced several significant advances relative to the Bappebti era: mandatory licensing for Bursa Aset Keuangan Digital (digital financial asset exchanges), minimum capital requirements, governance standards, Anti Money Laundering/Counter-Financing of Terrorism (AML/CFT) obligations at the exchange level (Article 29), consumer education mandates (Art. 55-62), and supervisory frameworks (Art. 82-89). The regulation also maintained the positive-list mechanism, granting authority to the licensed exchange to determine which assets could be admitted for trading, subject to periodic review at minimum every quarter. The first list published under OJK's authority in April 2025 expanded to 1,444 eligible crypto assets, compared to 851 under the final Bappebti list.

Nevertheless, POJK 27/2024 did not establish an issuance-specific authorization regime. Regulatory oversight remained anchored at the trading stage. No provision mandated issuers to file white papers with OJK prior to token offerings, no technical due diligence standards were imposed on token creators, and no civil liability framework was established for misleading issuance-stage disclosures. The *rechtsvacuum* at the pre-trading, pre-issuance layer identified in the Bappebti era persisted under POJK 27/2024 (Mulyana et al., 2025; Peryanto et al., 2025).

4.3. Incremental Amendments and New Asset Categories

POJK Number 23 of 2025, namely the Financial Services Authority Regulation concerning the Amendment to POJK Number 27 of 2024, was enacted on 31 October 2025 and came into force on 10 November 2025. Its principal innovation was the introduction of Article 3A and 3B, which extended the regulatory perimeter of POJK 27/2024 to cover derivatives of digital financial assets and tokenization activities. These additions represented a substantive expansion of OJK's supervisory jurisdiction, aligning Indonesia more closely with the product-category diversity recognized under MiCA's three-tier classification of utility tokens, asset-referenced tokens (ARTs), and e-money tokens (EMTs).

POJK 23/2025 also restructured transitional provisions, clarifying that Bappebti-era licenses and approvals including those relating to existing crypto asset listings would remain valid under OJK supervision pending new license applications. The regulation deleted certain annexes from POJK 27/2024 (sections L and M) and refined procedural provisions for exchange operators. However, consistent with the incremental nature of the amendments, POJK 23/2025 did not introduce issuer-level authorization requirements, white paper mandates, or smart contract audit obligations. The issuance-specific regulatory gap remained unaddressed.

4.4. Comparative Analysis

Table 1 presents a structured comparison of the four regulatory instruments across fifteen dimensions of crypto asset issuance governance.

Table 1. Comparative Analysis of Crypto Asset Issuance Regulatory Frameworks

Regulatory Aspect	SK Bappebti 13/2022	POJK 27/2024	POJK 23/2025	EU MiCA (2023/1114)
Legal Basis	UU 10/2011 (Commodity Trading)	UU 4/2023 (Financial Sector)	Amendment of POJK 27/2024	Treaty-based EU Regulation
Regulatory Authority	Bappebti	OJK	OJK	National Competent Authority
Issuance Mechanism	Positive-list approval (exchange listing)	Exchange-based listing by Bursa AKD	Exchange + derivatives / tokenization	White paper + NCA authorization
White Paper Requirement	None	None (listing prospectus only)	None (no formal requirement)	Mandatory (Art. 4-15)
Technical Due Diligence	None (exchange discretion)	None (exchange discretion)	None	Required (smart contract standards)

Regulatory Aspect	SK Bappebti 13/2022	POJK 27/2024	POJK 23/2025	EU MiCA (2023/1114)
Issuer Authorization	No issuer-specific license	No issuer-specific license	No issuer-specific license	Mandatory issuer authorization
Asset Classification	Single category: Commodity	Digital Financial Asset (AKD)	AKD + Derivatives + Tokenization	Utility token / ART / EMT
Consumer Protection (Pre-issuance)	Minimal — listing-stage only	Moderate — trading-stage only	Moderate+ — trading + derivatives	Comprehensive — pre-issuance stage
Disclosure Liability	None	Non-specific to issuers	Non-specific to issuers	Issuer liable for misleading white paper (Art. 26)
KYC/AML Requirement	Exchange-level only	Exchange level (Art. 29)	Exchange level (maintained)	Issuer-level + exchange-level
Scam/Fraud Prevention	Post-incident only	Post-incident + reporting	Post-incident + reporting	Pre-issuance screening mandatory
Transitional Provisions	12-month grace (existing assets)	12-month grace (Bappebti licensees)	Continued from POJK 27/2024	18-month phased transition (Art. 126)
Smart Contract Audit	None	None	None	Required (technical standards)
Rejection/Revision Track	Non-formal	Exchange discretion only	Exchange discretion only	Formal NCA refusal + appeal process

Source: Author compilation from primary legal sources

The comparative analysis reveals a fundamental structural divergence between Indonesia's regulatory approach and the MiCA model. Across all three Indonesian instruments, regulation is anchored at the trading stage: the exchange serves as the primary gatekeeper, and regulatory contact with issuers is indirect and mediated. MiCA, by contrast, establishes direct regulatory engagement with issuers from the pre-public offering stage, requiring white paper filing, competent authority notification, and for ARTs and EMTs a formal authorization before any public offering. This structural difference reflects a philosophical divergence that is Indonesian regulation presupposes a centralized exchange as the protective intermediary, while MiCA treats the issuer itself as the primary regulatory subject.

The absence of a white paper requirement across all three Indonesian instruments is particularly consequential. Under MiCA Articles 4-15, a crypto-asset white paper must disclose information on the issuer, the offering, the technology, the project plan, risk factors, and the rights and obligations of token holders. The liability regime in Article 26 creates a reverse burden of proof, making issuers responsible for ensuring that white papers do not contain misleading information. This issuer-accountability mechanism is entirely absent from Indonesia's current framework, creating a consumer protection asymmetry that cannot be remedied through exchange-level controls alone (Hacker & Thomale, 2018).

4.5. Gap Analysis

Table 2 identifies six critical normative gaps in Indonesia's crypto asset issuance regulation, benchmarked against MiCA provisions.

Table 2. Normative Gap Analysis : Indonesia vs EU MICA

Gap Identified	Current State (Indonesia)	MiCA Benchmark / Recommended Solution
1. Absence of pre-issuance authorization	No issuer license required prior to token offering	MiCA Art. 4-15: mandatory white paper filing + NCA approval before public offering
2. No formal white paper requirement	Only trading prospectus at exchange level	MiCA Art. 5: white paper must include project details, risks, rights, token mechanics
3. Absence of technical due diligence	No smart contract audit mandated	MiCA recital 30 + technical standards: mandatory smart contract assessment
4. No-issuer liability for disclosures	No civil remedy for misleading issuance documents	MiCA Art. 26: reverse burden of proof — issuer liable unless good faith proven
5. Single-stage authorization (exchange-only)	Authorization resides solely in exchange listing decision	MiCA: three-stage process — white paper → NCA review → admission to trading
6. Inadequate transitional provisions	Existing assets lack issuance-level retroactive compliance path	MiCA Art. 126: 18-month grandfathering with structured compliance timeline

Source: Author's analysis

The gap analysis as seen in Table 2 demonstrates that the regulatory deficit is not merely technical but structural: it reflects the absence of a dedicated issuance-phase legal framework in Indonesian crypto asset regulation. The five core functions that MiCA performs at the pre-issuance stage namely issuer authorization, white paper disclosure, technical due diligence, liability allocation, and scam prevention, are either absent or delegated to exchange operators as discretionary measures without normative force. This creates a permissive environment for fraudulent token offerings and undermines the preventive legal protection principles foundational to Indonesian consumer protection law (Hadjon, 1987; Shidarta, 2006).

4.6. The Three-Gate Regulatory Architecture Model

In response to the identified gaps, this article proposes a Three-Gate Regulatory Architecture Model for crypto asset issuance in Indonesia. The model is depicted schematically in Figure 1.

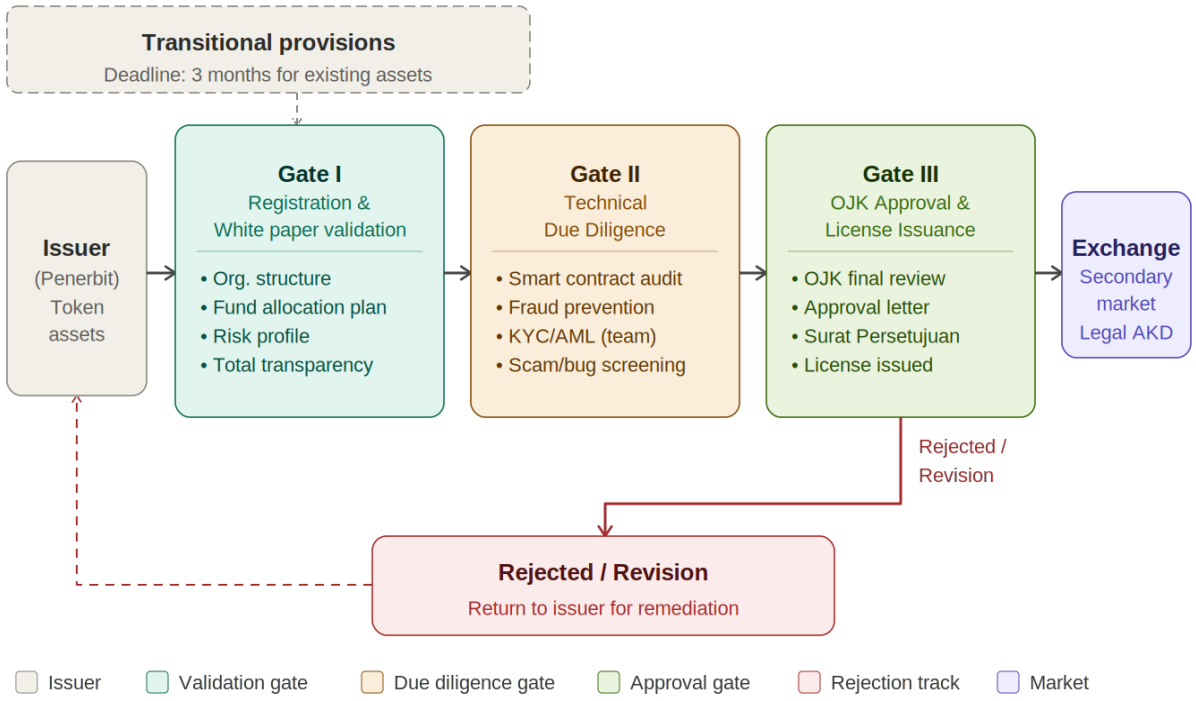

Figure 1. Three-Gate Regulatory Architecture Model for Crypto Asset Issuance in Indonesia

Gate I (Registration and White Paper Validation) constitutes the foundational layer of the proposed architecture. At this stage, issuers are required to formally register with OJK and submit a standardized white paper encompassing organizational structure, fund allocation plan, risk profile, token mechanics, and governance framework. The total transparency requirement at Gate I mirrors MiCA's Article 5 obligations while being calibrated to Indonesia's regulatory capacity.

Gate II (Technical Due Diligence) addresses the technical integrity of the token project. This gate requires mandatory smart contract audits by OJK-accredited independent auditors, verification of fraud and scam prevention mechanisms embedded in the token architecture, and KYC/AML verification of the issuer's management team. This layer directly addresses the technical gap that Indonesian regulation currently ignores that is the on-chain mechanisms that govern token behavior are presently invisible to regulators, creating a blind spot that sophisticated fraudulent projects can exploit (De Filippi & Wright, 2018). Gate II transforms this blind spot into a mandatory regulatory checkpoint.

Gate III (OJK Approval and License Issuance) represents the final authorization stage, analogous to MiCA's NCA authorization process. Upon successful completion of Gate I and II, OJK issues a Surat Persetujuan Penawaran (Offering Approval Letter) that permits the token to be admitted for trading on licensed digital financial asset exchanges. Projects that fail to meet Gate I or Gate II requirements follow a structured Rejection/Revision Track, providing formal notice of deficiencies and an opportunity for remediation, a procedural safeguard entirely absent from Indonesia's current framework.

The model incorporates Transitional Provisions for existing crypto assets already listed on exchanges prior to the model's implementation. Drawing on MiCA's 18-month grandfathering provision and Indonesia's precedent of 12-month transitional arrangements in POJK 27/2024, a structured retroactive compliance path with a three-month initial deadline

for registration and a 12-month period for full Gate II compliance would enable existing market participants to regularize their issuance status without disrupting trading continuity.

The Three-Gate Model is normatively grounded in three principles which are proportionality (requirements calibrated to asset risk), prevention (consumer protection engaged at the issuance stage, before harm can materialize), and procedural certainty (transparent processes with defined outcomes). These principles are consistent with Indonesian legal theory (Hadjon, 1987) and align with the regulatory philosophy undergirding MiCA (Ferreira & Sandner, 2021). The model's prescriptive value lies in its architectural coherence: it transforms Indonesia's currently fragmented, exchange-centric issuance environment into an integrated, issuer-centric regulatory system with clear accountability lines and enforceable consumer protection standards.

5. Conclusion

This article has traced Indonesia's crypto asset issuance regulatory evolution from SK Bappebti 13/2022 through POJK 23/2025, identifying six critical normative gaps through systematic comparison against EU MiCA: absent pre-issuance authorization, no white paper requirement, no technical due diligence mandate, inadequate disclosure liability, exchange-only authorization, and insufficient transitional provisions.

The study's principal academic contribution lies in its diagnostic framework. By operationalizing a fifteen-dimension comparative matrix calibrated specifically to the issuance lifecycle, this article introduces a replicable analytical tool for emerging-market jurisdictions confronting analogous regulatory transitions. The application of the rechtsvacuum concept to the pre-trading lifecycle extends its conventional administrative law usage into digital financial regulation, offering a doctrinal category with broader applicability to technology-driven regulatory lag. The Three-Gate Regulatory Architecture Model further demonstrates that issuer-centric regulation is institutionally achievable within a civil law system and a developing regulatory infrastructure, without requiring wholesale legislative transplantation from the EU context.

The Three-Gate Model, comprising Registration and White Paper Validation (Gate I), Technical Due Diligence (Gate II), and OJK Approval and License Issuance (Gate III), reconstructs Indonesia's issuance architecture on principles of proportionality, prevention, and procedural certainty. Implementation would require a dedicated crypto asset law supported by OJK technical regulations. Future research should examine OJK's institutional capacity for Gate II execution, ASEAN-level regulatory harmonization, and the transferability of the fifteen-dimension matrix to other Global South jurisdictions navigating comparable crypto asset regulatory transitions.

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