



In the world of finance, cryptocurrencies have emerged as disruptive currencies, using cryptography and decentralized systems for secure transactions. The increasing popularity of cryptocurrencies has led to debates on whether they should be regulated, with some arguing for the protection of users and preventing fraud, while others believe it could stifle innovation. Governments must balance these concerns and accordingly promulgate the regulation. In India, a panel recommended a licensing and registration system for exchanges, and the “Cryptocurrency and Regulation of Official Digital Currency Bill, 2021” was expected to be presented recently. However, there are currently no formal regulations in place.

- FTX and Alameda’s Implosion
- Where does India Stand?
- Possible Auguries for Regulation of Cryptocurrencies
- Way Forward: To Infinity and Beyond!

FTX and Alameda’s Implosion

Sam Bankman-Fried, the founder of FTX and Alameda, was arrested on various criminal charges in December 2022, following the biggest crisis in the cryptocurrency industry caused by FTX’s failure resulting from missing deposits and a consequent run-on-deposit. Regulators are investigating the connection between FTX and Alameda’s collapse, which has had a global impact on governments and crypto investors, leading to the expectation of legislation to prevent similar meltdowns in the future.

Where does India Stand?

Globally India, ranks 4th in cryptocurrency adoption, as per a Chainalysis report. To safeguard the market, the Government must establish a regulatory framework that balances consumer protection, anti-money laundering, counter-

terrorism financing measures, tax laws, and advertising standards alongside promoting innovation and ensuring financial stability.

Currently, banks must comply with anti-money laundering and foreign exchange regulations and perform due diligence on cryptocurrency transactions. The Finance Act, 2022, defined cryptocurrencies as “Virtual Digital Assets” and imposed a 30% tax on transfers. The Advertising Standards Council of India requires advertisements to include a disclaimer about the risk of loss and lack of regulatory protection. The imperative question which remains is - How can cryptocurrencies be regulated with utmost transparency?

Possible Auguries for Regulation of Cryptocurrencies

Investors need transparency in security and compliance to maintain trust in the cryptocurrency ecosystem. Exchanges will have to self-regulate and hold themselves to higher standards to remain credible. The 2023 Union Budget is expected to have a significant impact on the future of cryptocurrencies in India, with Honorable Finance Minister Nirmala Sitharaman advocating for international regulation. If successful, India could become a leader in cryptocurrency regulation by 2023.[1]

Secondly, in the absence of specific laws, India might look to international organizations such as the Financial Stability Board (“FSB”) for guidance on regulating cryptocurrencies assets. The FSB released a framework for regulating these assets and markets, offering recommendations for risk management, disclosures, and data collection. This could serve as a guide for India in developing appropriate regulations.[2]

Thirdly, to regulate the cryptocurrency market, the RBI may employ blockchain technology and issue cryptocurrency exchange licenses after thorough compliance inspections and record-keeping. This could enhance investor protection and improve transaction security, reducing criminal activities, by requiring prompt transmission of transaction records to the RBI.

Lastly, SEBI may establish a system to oversee the trading aspects of cryptocurrency transactions, increasing trader confidence and reducing the risk of theft. SEBI may also regulate “initial coin offerings” (akin to initial public offerings) by supervising the process and providing a mechanism for investor protection in case of poor/fraudulent delivery.

Way Forward: To Infinity and Beyond!

The RBI has initiated the idea of the “digital rupee” to replace cryptocurrencies, but cryptocurrency businesses believe both can coexist and despite a pilot launch, its full rollout is far. Blockchain technology is critical for investors and governments and has various applications to improve people’s lives. Indian investors may be safeguarded against scams but the system still requires improvements toward better security. The cryptocurrency market is poised for growth in security and transparency, and regulatory changes may follow. Cryptocurrencies are emerging as a new asset class and the Government’s decision will have far-reaching consequences, but until then, crypto enthusiasts can only read the tea leaves and await regulations.

[1]<https://economictimes.indiatimes.com/markets/cryptocurrency/cant-ban-crypto-o-without-international-collaboration-nirmala-sitharaman/articleshow/92957621.cms?from=mdr>

[2]<https://www.fsb.org/2022/10/fsb-proposes-framework-for-the-international-regulation-of-crypto-asset-activities/>

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