

Cryptocurrency regulation in India

Aryaman Singh , Senior Associate, Seth Associates

Cryptocurrency in India represents a revolution in finance – decentralised, borderless and innovating, with virtual digital assets (“VDAs”) like Bitcoin and Ethereum. A “virtual currency” can be defined as “*digital representation of value that can be traded online and can function as a medium of exchange, and/ or a unit of account, and/ or as a store of value, but lacks the status of a legal tender*”¹. Cryptocurrencies, also known as crypto assets, are a type of virtual currency distinguished by their decentralized nature and cryptographic security. Several characteristics of crypto assets make regulation important, including the pseudonymity they provide for transactions, their decentralized structure, the underlying blockchain technology that utilizes a distributed ledger, the absence of adequate regulation, and their highly volatile valuations. From a legal viewpoint, it raises serious questions about money laundering, cyber fraud and consumer protection. When Bitcoin first appeared in 2012-2013, RBI issued a press release on Dec. 24, 2013 (Press Release: 2013-2014/1261), cautioned users about the various risks associated with virtual currencies (“VCs”), which included financial, operational, legal, customer protection, and security-related concerns. It explicitly stated that the creation, trading, or usage of these currencies, including Bitcoins, as a medium of payment was not authorized by any central bank or monetary authority in India. Furthermore, it pointed out that the entities involved in such activities had not obtained the necessary regulatory approvals, registrations, or authorizations.

In 2018, the Reserve Bank of India issued a circular on Prohibition on dealing with VCs (RBI/2017-18/154 DBR.No.BP.BC.104 /08.13.102/2017-18), for entities regulated by the RBI to cease from dealing in VCs or provide services for facilitating any person or entity in dealing with or settling VCs including maintaining accounts, registrations, facilitating trading, settling transactions, clearing payments, or providing loans against virtual tokens. This was overturned in 2020 when the Supreme Court, in *Internet and Mobile Association of India v. RBI*, ruled that the measure was disproportionate and violated Article 19(1)(g).²

In *Internet and Mobile Association of India v. Reserve Bank of India (AIR 2021 SC 2720)*, the petitioner – the IAMAI (not-for-profit industry body representing internet companies, mobile service providers, fintech startups, and cryptocurrency exchanges) filed a writ petition challenging RBI’s 2018 circular prohibiting banks and regulated entities from providing or dealing in services related to VCs, as arbitrary. The petitioner argued that the RBI exceeded its powers since VCs were

¹ <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf>

² <https://www.barandbench.com/view-point/cryptocurrency-in-india-a-guide-to-taxation-and-compliance-in-2025>

tradable digital commodities and not “currency”. The following issues were placed before the Supreme Court, and its decision on each issue is as follows –

- (i) Whether RBI had the statutory power to regulate cryptocurrency dealings?
Decision: The Court recognized that RBI had wide powers under Section 35A of the Banking Regulation Act, 1949, to regulate its entities in the interest of monetary stability and banking policy (defined in S. 5(ca) of the Banking Regulation Act, 1949) (para 6.125)
- (ii) Whether its circular was a reasonable restriction on freedom of trade and business under Article 19(1)(g) of the Constitution?
Decision: The impugned circular does not prohibit the use of or trading in VCs. It merely directs the entities regulated by RBI not to provide banking services to those engaged in the trading or facilitating the trading in VCs. The prohibition is not against the trading in VCs. It is against the banking companies, with respect to a class of transactions (para 6.94)
“The actual target of the impugned Circular, as seen from various communications and committee reports that preceded the same, is the trade in VCs. The object of hitting at trading in VCs, is to ensure (i) consumer protection (ii) prevention of violation of money laundering laws (iii) curbing the menace of financing of terrorism and (iv) safeguarding of the existing monetary/payment/credit system from being polluted. But hitting the target directly, is not within the domain of RBI and hence the impugned Circular purportedly seeks to protect only the regulated entities, by ring-fencing them.” (para 6.146)

The Court acknowledged that if RBI viewed the rise of VCs as a threat like the emergence of a parallel economy driven by risks such as money laundering and terrorism financing, it might be reasonable for them to distance VCs from traditional fiat currency. However, it stressed that this position must be carefully evaluated, especially in terms of Article 19(1)(g) of the Constitution, which guarantees the right to trade and conduct business. Moreover, the Court pointed out that RBI’s circular effectively banned VC exchanges from operating by cutting them off from the banking system. RBI couldn’t provide any empirical evidence showing that its regulated entities were harmed or negatively impacted by VCs. As a result, the Court decided to overturn the RBI circular (RBI/2017-18/154 DBR.No.BP.BC.104 /08.13.102/2017-18), highlighting the importance of finding a balanced approach that protects consumers while respecting the rights of those involved in legitimate cryptocurrency activities (para 6.171-173, para 7.1).

Shortly thereafter, RBI released a notification titled “Customer Due Diligence for transactions in Virtual Currencies (VC)” (RBI/2021-22/45 DOR. AML.REC 18 /14.01.001/2021-22) on May 31, 2021 stating that regulated entities cautioning their customers on VCs by making reference to the 2018 circular, should carry due diligence in line with governing standards on KYC, Anti-Money Laundering (“AML”), Combating of Financing of Terrorism (“CFT”) and other obligations as per the Prevention of Money Laundering Act, 2002 (“PMLA”). The Central Government sought to

formalize its regulatory approach to VDAs, introducing a draft bill – The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, seeking to prohibit all private cryptocurrencies in India while allowing for certain exceptions that promote the technology of cryptocurrency. The Bill was slated to be tabled at the Lok Sabha winter session but was ultimately not introduced.

The term VDAs has now been defined under Section 2(47A) (inserted by Finance Act of 2022) of the Income Tax Act, 1961 and includes cryptocurrencies, non-fungible tokens (NFTs), and any other digital assets notified by the Central Government. Sub-clause (d) of the same provision introduced by the Finance Act of 2025 covers *“crypto-assets being a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions, whether or not such assets is included in sub-clause (a) or sub-clause (b) or sub-clause (c):”* aligning India with the OECD’s Crypto-Asset Reporting Framework. The broad definition allows the government to include new types of digital assets, like cryptocurrencies, under tax regulations. The Finance Act of 2022 brought about some significant changes to the Income Tax Act, particularly with the introduction of Section 115BBH. This section sets a flat tax rate of 30% on any income generated from transferring VDAs, whether the gains are long-term or short-term. In addition, the Act of 2022 also inserted Section 194S, which requires that 1% of any payment made for the transfer of a VDA be deducted by the payment provider when dealing with Indian residents. This means if you are buying or selling VDAs, you’ll need to factor this deduction into your transactions. Although these changes do not clarify their status under RBI or SEBI, they confirm that VDAs are subject to income tax.

However as a result of the tax reforms, as per Outlook India, Indian crypto exchanges experienced more than a 70% drop in trading volumes. In 2022, the Financial Intelligence Unit, India’s (“FIU-IND”) anti-money laundering agency, issued “compliance show cause” letters to nine offshore crypto exchanges requiring them to register with the FIU-IND and comply with mandatory obligations under the PMLA, 2002.³ By 2025, Binance and KuCoin registered with the FIU, thereby falling under the ambit of the PLMA as reporting entities.⁴

The Indian Computer Emergency Response Team (“CERT-In”) under the Ministry of Electronics and Information Technology (“MeitY”) issued Directions on 28 April, 2022 relating to information security practices, procedure and practices, prevention, response and reporting of cyber incidents. It required all virtual asset providers, virtual asset exchange providers and custodian wallet providers to maintain all information obtained as part of Know Your Customer (“KYC”) for a period of 5 years and in case of any incident, must furnish all details as required by CERT-In. Likewise, if any entity becomes aware of a cybersecurity incident, they must report it within 6 hours of noticing it to CERT-In via email (incident@cert-in.org.in), phone (1800- 11-4949) and fax (1800-11-6969).

³ <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1991372>

⁴ <https://coingeek.com/india-to-license-2-offshore-exchanges-in-2025-report/>

The Ministry of Finance issued a notification dated 7th March, 2023, bringing cryptocurrency activities under the ambit of “person carrying on designated business or profession” conferred by sub-clause (vi) of clause (sa) of sub-section (1) of Section 2 of the PMLA, 2002. The activities encompass VDA trading, transfer, storage and management, and related financial services. Following this, the FIU-IND issued AML & CFT Guidelines for Reporting Entities Providing Services Related to Virtual Digital Assets effective from 10th March, 2023. It applies to service providers dealing in virtual digital assets (VDAs) such as exchanges, custodians, and wallet providers, requiring them to register as reporting entities with FIU-IND and implement comprehensive anti-money laundering, counter-terrorism financing, and proliferation financing (AML/CFT/CPF) programs. These obligations include establishing internal policies, appointing a Designated Director and Principal Officer, conducting robust KYC, customer due diligence (CDD), and enhanced due diligence (EDD), as well as screening for sanctions, monitoring counterparties, and managing correspondent relationships. Service providers must also maintain detailed records for at least five years, monitor transactions (including P2P and unhosted wallet transfers), and promptly report suspicious transactions, large NGO receipts, and other red-flagged activity to FIU-IND. The guidelines incorporate the FATF “Travel Rule,” requiring the transmission of accurate originator and beneficiary details for VDA transfers, and emphasize a risk-based approach, obligating providers to identify high-risk clients, jurisdictions, and products while avoiding anonymous or fictitious accounts.

In summary, India’s approach to cryptocurrency has significantly evolved. Initially cautious and restrictive due to RBI regulations, the landscape began to change with the Supreme Court’s ruling in *IAMAI v. RBI*, which lifted a prohibitive ban on exchanges. Subsequent tax regulations, including Sections 115BBH and 194S of the Income Tax Act, indicate the government’s intention to integrate digital assets into the financial framework, despite not treating them as legal tender. The addition of AML/CFT obligations and mandatory reporting to FIU-IND as well as the CERT-In guidelines, shows India’s commitment to align with global standards, recognising crypto as an industry that needs regulatory oversight. The main challenge now is to balance investor support and financial protection while fostering industry growth by leveraging the country’s blockchain talent for sustainable growth in the digital economy.

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