

Cryptocurrency should have a regulatory ecosystem, say experts

Regulations are double edged sword, enterprises are often comfortable with minimal regulations with best interest of consumers in mind and commercial interest of enterprises but often too much regulation becomes a burden on the ecosystem and the viability of enterprises. Cryptocurrency is one such industry yearning for regulation from Government authorities and regulators.

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Different media reports recently suggested that India is mulling a ban on the trading of [cryptocurrency](#). However, no such move has been seen from the Government in recent times. Regulations around cryptocurrency have been a challenging aspect for Governments across the globe but various jurisdictions like the United Kingdom, Singapore, and Hong Kong have moved forward with some regulations in place.

The way the Internet democratized information and communication exchange across the globe is what could happen to currency as well, argued Navin Surya, Chairman at [FinTech](#) Convergence Council on a recent ETBFSI Webinar on the Future of Cryptocurrency.

He highlighted that it's important to understand currency has a strong legal connotation in every county and most countries. It is in the law that it is assumed that the currency is issued only by the law or regulator or sometimes both, depending on specific instruments. To recognise the latest innovations and unique initiatives by the sector, ETBFSI.com has launched the 2nd edition of ETBFSI.com Excellence Awards which will identify, acknowledge and reward the achievements of every player who has contributed to the indus This according to him is the fundamental difference as the first product launched was Bitcoin, which intended to be a currency, while the major genesis of a currency is a medium

of exchange, bitcoin tried to become an Internet currency.

While critics also believe the underlying technology '[Blockchain](#)' is good and has many potential use cases but adoption of cryptocurrency is not good in the interest of investors or people in India where the financial literacy is weak.

Navin further noted that the challenge with Indian regulators could be in understanding the subject. As they (regulators) are at the top and if they don't understand the subject, their first genesis or assumption is layman can't understand it. "Their conclusion is if we can't understand, laymen can't understand they may be defrauded."

Getting the Taxonomy right!

The challenge is also in getting the taxonomy right around these complicated terms. Mixing of currency and asset is where the confusion has been largely created, which stems forward in understanding whether the regulator shall control the subject and market or should there be a [multi-stakeholder](#) approach?

In order to regulate better, keeping in mind investor protection and allowing innovations to spur, Indian policy makers and regulators firstly need to get the Taxonomy right on the ecosystem. Cues can be taken from global regulators and jurisdictions. Navin Gupta, MD – South Asia and MENA at Ripple said, "Everything starts with taxonomy, crypto and blockchain are very loose terms. Technical and legal definitions have to be cleared and the categorization is important. Different jurisdictions like UK FCA and Singapore's MAS have already done that."

Multi-Stakeholder Approach

A former government official on condition of anonymity said, "At the end it's the Ministry of Finance who would decide and demarcate the regulator in-charge for the ecosystem. Given how the ecosystem has been evolving a multi-stakeholder approach is the way forward in clearly setting up the regulations in best interest of investors and entrepreneurs innovating."

Punit Shukla, Lead – Blockchain and AI at [World Economic Forum](#) at the Webinar said, “The WEF works on areas of policy regulation or industry standard formation which definitely encourages the adoption of emerging tech (In this case, blockchain) in a positive way and reduce the negative outcomes and the process which we follow is by creating a community of stakeholders and bring in governments, public state agencies, civic societies to figure out what’s the right way word and building upon that consensus.”

Shukla added, “In blockchain, we’ve come out with reports on CBDC ([Central Bank Digital Currency](#)) and one report was published last year in Davos on CBDC on how institutions can make CBDC part of monetary policy. After engaging with 40 central banks which Indian central bank was not a part of is slightly disappointing to see.”

Some experts also suggest, the Government when collectively comes together they could clearly demarcate the regulator incharge and propose the way forward. And the moment this is taken care of any lead regulatory organisation owning the subject can make the right recommendation, in consultation with the industry.

Case for Lead Regulator

Assigning a lead regulator to regulate and oversee the ecosystem would be an ideal case in the Indian context.

Jaideep Reddy, Technology Lawyer at Nishith Desai Associates said, “A licensing regime is important. There needs to be a regulator and ideally a regulator with multiple areas of expertise not just finance or not just technology. It needs to be a regulator with stakeholders with expertise both in finance, technology, economics, innovation etc., regulators should have full visibility over technology.”

IFSC (International Financial Services Center) GIFT City could be the lead regulator that has stakeholders from different regulators like RBI, [SEBI](#), IRDAI, etc. Reddy added, “We can have a multi-stakeholder body and that multi-stakeholder body can perhaps look at a particular token or use case and refer it to the appropriate regulator if we have the correct mechanism in place.”

Navin echoed the same thoughts. "GIFT City has got a unified regulator IFSCA and baby steps can be taken by licensing exchanges in the GIFT city itself and trading and reporting can happen instead of investors doing it overseas or abroad or in different jurisdictions."

International Financial Services Centres Authority (IFSCA) was established by the Central Government in April 2020 as a unified regulator to regulate all financial services in International Financial Services Centre (IFSC) in Gandhinagar.

Lowest hanging fruit

On how India can take baby steps in regulating the ecosystem, Jaideep put forth a suggestion: "Under the current laws, one of the easiest things that government can do tomorrow is to bring the crypto exchanges and other provider under the Money Laundering Act as reporting entities in which case they would be treated the same as banks, stock exchanges, intermediaries and other reporting procedures and it can be done by government notification which is a lowest hanging fruit which should be done. To avoid the current state of ambiguity it should be done as soon as possible."

Similarly, a licensing framework needs to be put in place. As there are licenses for pre-paid instruments and other payment systems, there can be regulatory regime to ensure that the exchanges have funds in custody doing the audit, have an insurance programme, management is fit and proper. Most of the jurisdictions around the world have taken this approach and Jaideep believes that this should be done in India as well.