

Business Standard

Cryptocurrency exchanges face the red flag

In some cases, RoC is seeking an undertaking

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The banking system is not the only one keeping a safe distance from the existing cryptocurrency business players. Opening virtual currency exchanges has become equally tough, especially when words like bit, crypto, coin, virtual are part of a company name. The Registrar of Companies (RoC), under the Ministry of Corporate Affairs, has stopped registering cryptocurrency exchanges under the Companies Act, 2013. In some cases, the RoC is asking for an undertaking from software development or information technology-related companies that it will not deal with cryptocurrencies such as bitcoins, it is learnt.



“I tried to register my company in December, but the RoC didn’t accept my request. The company’s name had the term ‘bitcoin’ and the RoC said it wouldn’t support it,” an executive with an upcoming cryptocurrency exchange said.

Cryptocurrency exchanges are a platform for buying and selling virtual currencies. Around ~100 billion worth of transaction is taking place on average per month on these exchanges in the country, industry estimates suggest.

A co-founder of a new exchange platform on the outskirts of Delhi narrated how he struggled with the registration process. Name proposals such as Cryptocoin, Bit money and Bank your coin were rejected by the RoC. “The registration was finally approved after we applied as a software company with out any of the controversial words,” he said, requesting anonymity.

However, the exchange is struggling to find a payment gateway partner as many of them such as Razorpay and PayU Money declined working with him.

Older exchanges had it easy

The scenario was quite different when existing crypto-currency exchanges such as Coinsecure, Unocoin, Zebpay had registered in 2014-15. Zebpay registered with the RoC as 'Zeb IT Service Private Ltd' in the category of 'other computer related activities' such as maintenance of websites of other firms, etc. According to the RoC website, Unocoin's principal business activity was publishing, consultancy and supply of software, computer games software, among others.

Among others, Coinsecure got itself registered with RoC as Secure Bitcoin Traders Private Ltd in July 2014 and Mumbai-based Koinex as 'Discidium Internet Labs Private Ltd' in July 2017.

Things changed after the income tax survey on crypto-currency agencies, followed by the Finance Ministry warning to investors that virtual currency were like 'ponzi scheme'.

"This is a recent trend that we have come across. In some cases, RoC is of the view that if you are doing cryptocurrency business, we will not allow you to open a company or a corporate account," Vaibhav Parikh, partner, Nishith Desai Advocates said at a panel discussion recently. "We have heard the RoC will take an undertaking that you will not be involved in cryptocurrency business before you open a company."

Parikh said there were cases where the RoC had asked a few upcoming cryptocurrency exchanges to seek the Reserve Bank of India's nod to set up shop. "However, RBI has, in turn, told these players that registration of firms is beyond its ambit," Parikh said, adding the government has to prove the business is illicit before it can deny a firm's registration. The RBI has issued three warning notes so far to investors cautioning them about investing in cryptocurrency—one in 2013 and the other two in 2017.

Legal recourse possible

The RoC legally cannot deny registration of such firms on the ground that they are in business of bitcoin/cryptocurrency, according to Parikh. They can only deny registration when the business activity is illegal or documents are not in order, he pointed out. Injeti Srinivas, Secretary, Ministry of Corporate Affairs, did not respond to a text message seeking his response on Monday.

Meanwhile, a three-month old cryptocurrency exchange in the NCR, with a user base of 10,000-12,000, is disguising itself as a software company to ensure continued support of banks. It has an average transaction volume of ~1 million a day, requiring dependency of a bank account.

Record keeping

To be on the right side of the law, Sragy.com, a young exchange platform founded by five college friends, is keeping track of all records of its users. "We are following a thorough KYC process and are keeping track of all users, their withdrawals and transactions. It is all locked in the back-end programme, in case the government asks for it," said Yateesh Bhardwaj, co founder of Sragy.com.

The industry is swarming with new players but most of them are holding their breath, awaiting the government stand on the cryptocurrency market, in the form of a regulation. “Legality is the only challenge for now. ... Cryptocurrency itself cannot be a Ponzi scheme although it may be used for illicit activities. For now, I am holding on for some time,” Jaipurbased Ashish Agarwal, founder of upcoming exchange Bitsachs, said.