

Crypto bourses may gain from new reporting rules

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Crypto assets and Web3 sector are relatively new and still evolving, finance minister Nirmala Sitharaman informed the Lok Sabha in a statement on 13 February. bloomberg

SYNOPSIS

Regulation tags crypto exchanges as reporting entities, on par with some regulated bodies

Mumbai: The government's move to bring cryptocurrencies under the ambit of anti-money laundering regulations will be exchanges dealing in these virtual digital assets and turn out to be a step towards legitimizing their operations, experts said. OPEN IN APP

On Tuesday, the finance ministry notified that exchange, transfer, safekeeping or administration of cryptocurrencies will come under the ambit of the Prevention of Money Laundering Act (PMLA).

Having seen multiple investigations by the Enforcement Directorate (ED), crypto exchanges are likely to find it easier to operate as regulation identifies them as reporting entities, bringing them at par with some regulated bodies. The Act defines reporting entity as a banking company, financial institution, intermediary or a person carrying on a designated business or profession.

"In order to identify suspicious transactions and eliminate bad actors, the latest notification will now place these exchanges at par with banking company, financial institution, or intermediary," said Alipak Banerjee, leader (international dispute resolution practice), Nishith Desai Associates.

This, Banerjee said, will require crypto exchanges to put rigorous diligence requirements under the PMLA and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, which prescribe the reporting threshold and the manner in which the reporting has to be done. According to him, while the Supreme Court in a 2020 case affirmed virtual currency exchanges' fundamental right to trade and do business, the ED has in many cases treated these exchanges as 'users' and frozen ₹936 crore until 31 January, as per government data.

A spokesperson for crypto exchange CoinSwitch said the new rules are introduced to prevent misuse of crypto, such as money laundering.

Others said this opens up exchanges to more scrutiny and they need to have records of customer transactions for reporting requirements.

transaction dealing in virtual digital assets because if they fail to explain any single transaction, then they might have to face the brunt from ED for directly or indirectly committing the offence of money laundering," said Tushar Agarwal, an advocate in the Supreme Court.

Agarwal pointed out that it cannot be said with certainty whether the government plans to legitimize cryptos or to ban them, just on the basis of this notification. The question about the legitimacy of cryptos, Agarwal said, was also being discussed when the Union budget had said such digital assets will attract 30% tax; however, the ministry clarified later that imposition of tax does not legitimize it.

"Crypto assets sector and Web3 sector are relatively new and still evolving. Currently, there are no specific regulations for these sectors," finance minister Nirmala Sitharaman informed the Lok Sabha in a statement on 13 February.

In fact, asked how the government would ensure protection of customer interests in virtual digital assets, Sitharaman said the Reserve Bank of India (RBI) has been cautioning users, holders and traders that dealing in such assets is associated with potential risks. RBI governor Shaktikanta Das has voiced his concerns on cryptocurrencies multiple times, citing macroeconomic and financial stability risks.

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Experts also said that the government's move would help develop a standardized protocol for crypto regulations and saw it as a step to legalize cryptos in India. "This step is seen as a progressive step towards a gradual legitimization of cryptocurrency in India. The question is not about the government keeping a closer watch but whether such transactions or dealings in cryptos be protected and fraud be minimized," said Anushkaa Arora, principal and founder, ABA Law Office.

ABOUT THE AUTHOR



Shayan Ghosh

Shayan Ghosh is a national writer at Mint reporting on traditional banks and shadow banks. He has over a decade of experience in financial journalism. Based in Mint's Mumbai bureau since 2018, he tracks interest rate movements and its impact on companies and the broader economy. His interests also include the distressed debt market, especially as India's bankruptcy law attempts recoveries of billions worth of toxic assets.

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