
CRYPTO CORPORATE FRAUDS AND REGULATORY ARBITRAGE: AN INDIAN LEGAL PERSPECTIVE

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ABSTRACT

Cryptocurrencies and blockchain-based enterprises have been exponentially expanding in India, far beyond the evolution of relevant legal and regulatory systems. This regulatory lag has rendered the industry a perfect incubation centre of crypto corporate frauds like Ponzi scheme, token effects and financial reporting. Meanwhile, crypto companies have exploited the regulatory arbitrage and transferred the business to other jurisdictions with reduced control in an attempt to escape the regulatory and enforcement process. The fragmented regulatory framework in India where jurisdiction boundaries are cut across the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI) and Enforcement Directorate (ED) has contributed to the further complexity of the enforcement and compliance problem. This study uses doctrinal methodology, therefore discusses the existing legal framework in India in dealing with the corporate fraud of crypto and regulatory arbitrage. Based on the recent policy documents, case laws and international models, it discusses the typology of frauds existing in the crypto ecosystem in India and the modus operandi through which the regulatory arbitrage is carried out. The paper also analyses the implications of the Draft Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019, and its implications for innovation and the protection of investors. The researcher, through a comparative lens, analyses regulatory responses from jurisdictions like United States, European Union and Singapore, bringing out best practices which can be relied upon for informing India's evolving crypto policy. The literature review brings together findings from academic articles and policy papers, and indicates an overall lack of coordinated enforcement and lack of clarity in the legislation. While there have been existing studies that have discussed the risks of crypto fraud and the need for regulation, there is little that discusses the intersection of fraud and arbitrage within the Indian context. This paper suggests that there is a requirement of multi-tiered regulatory approach encompassing harmonised legislation, inter-agency coordination, integration of RegTech and international cooperation. It contends that India needs to adopt a dynamic and technology-neutral framework that balances innovation and

accountability that ensures protection of investors and integrity of markets in the digital asset space.

Keywords: Cryptocurrency regulations, corporate fraud, regulatory arbitrage, India, RBI, SEBI, blockchain law, investor protection, AML compliance, digital assets.

INTRODUCTION

The rise of cryptocurrencies and blockchain-based companies has changed the face of the world in terms of finance. In India, the adoption of digital assets has also surged on the back of fintech innovation, speculative investments and the growing retail participation. However, this growth has been faster than the development of the legal and regulatory frameworks, thus creating fertile soil for corporate fraud and regulatory arbitrage.

The background and need for the study is the growing susceptibility of Indian investors and institutions to the frauds associated with cryptocurrencies. With the lack of a comprehensive legal framework, the enforcement agencies have a hard time prosecuting offenders and preventing systemic risks. Moreover, the lack of clarity in the classification of tokens, licensing of exchanges and cross-border compliance has allowed for the exploitation of loopholes by enterprises, allowing them to escape the reach of regulatory bodies. As digital assets are mainstreaming India stakes itself as a global fintech hub, the regulatory response of India to crypto fraud and arbitrage shall determine its credibility and competitiveness. The risks are not only financial but also legal, ethical and geopolitical. The gap in the research by the earlier authors is that the analysis of fraud and arbitrage has not been integrated into the Indian context. While there is a substantial amount of literature regarding either fraud or regulation, little research has focused on the intersection of the two and its implications for policy reform. The statement of the problem is that the rapid development of cryptocurrencies and blockchain-based businesses in India has been far ahead of the advancement of legal and regulatory frameworks. This vacuum has invited corporate fraud and regulatory arbitrage with the result of impaired enforcement and investor protection.

The objectives and aims of this study are to analyse, the nature of corporate fraud in cryptocurrency ecosystem of India, to analyse the extent of regulatory arbitrage by crypto enterprises, to examine the adequacy of current legal and regulatory measures in India and to analyse the international best practices and its suitability to India and risk of regulatory gaps to

investor protection and financial stability.

The methodology of the research is doctrinal considering statutes, regulations, policy documents, judicial determinations and academic literature to furnish a systematic comparative perspective. This research while having a global approach remains locally contextualized considering India's socio-economic and corporate governance context and its institutional readiness in that regard. This paper deals with the existing regulatory regime in India relating to the crypto-currency and digital assets. The researcher, through a comparative lens, analyses regulatory responses from jurisdictions like United States, European Union and Singapore, bringing out best practices which can be relied upon for informing India's evolving crypto policy. The literature review brings together findings from academic articles and policy papers, and indicates an overall lack of coordinated enforcement and lack of clarity in the legislation

Finally, it gives suggestions for requirement of multi-tiered regulatory approach encompassing harmonised legislation, inter-agency coordination, integration of Reg-Tech and international cooperation.

LITERATURE REVIEW

1. This article discuss about the growth of cryptocurrency and their impact on India mainly during the covid-19. The author focuses mainly on regulatory challenges and concerns. The author in this journal aims to advocate for a balanced regulatory framework that allows India to benefit from crypto currency innovation while protecting against risk and also says about the cryptocurrency and regulation of official digital currency bill 2021. The author identifies the main gap in research regarding the need for formal regulation in India to protect investors and financial stability from the crypto frauds where corporate sector are involved Considering the risk of potential crypto-market failures and general financial stability, it is critical for the Centre to formally regulate crypto-currencies and protect investors from possible abuse or frauds. India Being one of the bigger economies in the world, the need of the hour is proactive legislation regulating crypto currency to protect anti-money laundering and other common regulatory protections like deposit insurance and liquidity facility. If India adapts framework of laws regulating cryptocurrency, then it helps to equip the benefits of new innovations which emerges in the field of crypto-market. Author further argues that rather banning crypto currency author argues to ensure financial stability and benefit from market growth. The author

has used doctrinal research methodology. The author in this journal lacks to give the specific recommendation for implementing a regulatory frame work¹.

2. The paper looks at how corporate scandals and failures affect financial markets and society. It stresses the importance of understanding what leads to these issues. Author also discussed about how the banking industry are involved in scandals even after the hard lessons of the 2007–2009 global financial crisis. Several large global banks, including Deutsche Bank, Merrill Lynch, Santander, JPMorgan, and Commerzbank, were involved in one of the largest tax evasion trading schemes in history, referred to as “cum-ex,” where bank clients falsely claimed multiple tax rebates on capital gains taxes. The study aims to review recent research about the causes, effects, and impact of corporate scandals and failures. The study reveals that regulators need to rethink their rules, and corporations should pay more attention to ethics in business. The findings emphasize the value of using original datasets and strong methods to investigate corporate failures. In its conclusion, the paper reflects on recent declines, collapses, and scandals, especially within the FinTech sector. It points out a research gap that highlights the need for future studies focused on corporate scandals and failures. Overall, this paper reviews current literature on corporate scandals and failures. It examines the causes, effects, and implications, giving special attention to issues within the FinTech industry. This overview offers insights into how these scandals can reshape both financial markets and societal trust. Moving forward, more research in this area could help identify solutions and prevent future scandals².
3. The research aims to analyse crypto-trading platforms, focusing on their activities and the risks they pose to investors and the financial system. The objectives include identifying the reasons for functional concentration in these platforms and proposing regulatory solutions to reduce risks. The paper provides a conceptual and empirical study of crypto-trading platforms, focusing on their business model and the risks for investors and financial stability. -Crypto-trading platforms offer a variety of services other than trading, such as the custodial function and stable coin issuance, which is systemic risk to financial stability. - Regulation should be designed for these platforms to act as exchanges and not as broker-dealers to protect investors

¹ Prarthna Nachappa, *Crypto-Regulation In India: Necessary Evil?*, 2 LEXFORTI LEGAL J. 115 (April 2021) <https://heinonline-org-christuniversity.knimbus.com>

² Rebel A. Cole, Sofia Johan & Denis Schweizer, *Corporate Failures: Declines, Collapses, and Scandals*, 67 J. Corp. Fin. 101872 (2021) <https://www.sciencedirect.com/science/article/pii/S0929119920303163>

and mitigate systemic risk in financial markets, and stressed the importance of international cooperation in this area of regulation. The paper addresses a gap in the literature by examining conflicts of interest and systemic risks linked to the business models of crypto-trading platforms. The methodology uses both conceptual and quantitative approaches, relying on a hand-coded data set of 555 crypto-trading platforms. The paper critiques the current regulatory environment and suggests treating these platforms as exchanges instead of broker-dealers to improve investor protection and lower systemic risks. The findings underscore the need for international cooperation to avoid regulatory fragmentation and highlight the importance of limiting the activities of these platforms. The conclusion stresses the necessity for stricter regulations to ensure stability and protect investors³.

4. The use and growth of the virtual currencies carried significant legal, regulatory and financial risk for the market in India. - The tax treatment of virtual digital assets under the Goods and Services Tax (GST) regime is unclear. The Inter-Ministerial Committee for the second time recommended the banning of all private cryptocurrencies primarily citing their volatile nature and the absence of backing by a sovereign government. The research aims to examine the current legal and regulatory framework for virtual assets in India. It also seeks to identify the challenges tied to their implementation and adoption. The objectives include looking at the legal and regulatory difficulties, understanding the tax implications under GST, and discussing whether virtual currencies qualify as goods or services. A gap in the research is the uncertainty regarding the tax status of digital virtual assets under GST. The critique points out that the regulatory framework is unclear, which creates confusion about the legal standing of virtual assets. The findings reveal the Inter-Ministerial Committee's recommendation to ban private cryptocurrencies and express concerns about the absence of backing by physical assets or governments. The author calls for clear regulations and emphasizes the obstacles posed by the nature of virtual currencies. The conclusion suggests that India is moving towards regulation but still faces considerable challenges. The research methodology includes analyzing current legal frameworks, committee reports, and regulatory guidelines⁴.
5. The paper examines the blacklisting as a regulatory instrument, and contrasts it with banning. It distinguishes between two primary forms of blacklisting, one that is based on breach of law,

³ Marco Dell'Erba, *Crypto-Trading Platforms as Exchanges*, 2024 MICH. ST. L. REV. 1(2024)
<https://heinonline-org-christuniversity.knimbus.com>

⁴ Apoorva Sinha, *India Towards Regularization of Virtual Assets: A Mammoth of Challenges*, 5 INT'L J.L. MGMT. & HUMAN. 1819 (2022). <https://heinonline-org-christuniversity.knimbus.com>

and one that is motivated by moral or ethical principles. The paper also recommends that one should handle blacklisting differently when the only bad behaviour to be deterred is not illegal, but simply unethical. It calls for transparency and definition in the expectations of compliance in order to actually make the blacklists and effective regulatory tool. The aim of the research is to explore the use of blacklisting as a regulatory tool and to differentiate it from banning. The objective is to understand the implications and effectiveness of blacklisting in regulating unwanted behaviour. The limitation of the research is that it focuses on the legal and regulatory aspects without fully exploring the social and economic impacts. The gap in the research is the need for more empirical data on how effective blacklisting is in different contexts. The critique is that blacklisting can be insufficient for addressing criminal activities and may not effectively deter unethical behaviour. The findings highlight the importance of distinguishing between blacklisting for illegal activities and for ethical reasons. The argument is that a careful approach to using blacklisting is necessary to balance regulation with innovation and societal well-being. The conclusion is that a well-informed approach to blacklisting is crucial for effective regulation⁵.

6. The article focuses on the implications of cryptocurrencies on India's central banking policies, particularly those of the Reserve Bank of India. The article is relevant to the present study as the paper emphasizes the need for regulation to balance innovation with oversight, which is very much crucial in preventing crypto fraud. The aim of the author is to examine these implications and recommend policy measures for integrating or regulating cryptocurrencies effectively. The author uses a mixed method approach i.e., qualitative and quantitative analysis which is relevant for studying the complex and multifaceted topic of cryptocurrency and its implications on central banking policies. The implications of the study highlight the need for a balanced regulatory macroeconomic stability. Here the finding highlight's that cryptocurrencies pose both risks and opportunities, and the RBIs has evolved its stance from skepticism to cautions engagement. Thus, author concludes by emphasizing that there a need for a strategic counterbalance through Central Bank Digital Currencies (CBDCs) and calls for future research on their operationalization. The research gap identified in this article is there is a lack of longitudinal policy analysis and empirical studies on the relationship between crypto trading patterns and monetary variables and author fails to address crypto fraud in corporate

⁵ Nizan Geslevich Packin & Hadar Yoana Jabotinsky, *Blacklisting or Banning Technologies That Scare Us: AI, Cryptocurrencies, and More*, 73 AM. U. L. REV. 1467 (June 2024).
<https://heinonline-org-christuniversity.knimbus.com>

settings, therefore the proposed paper will focus on the crypto fraud specifically in the field of corporate settling and the impact of such fraud⁶.

7. The article focuses on bitcoin and its ability to facilitate exchange, which helps us understand the larger context of cryptocurrencies. This article is relevant to the current paper as it offers insights into the challenges and possible uses of cryptocurrencies, aiding research on fraud prevention. The author identifies the "incumbent-monies problem" as a major barrier to bitcoin's widespread use, which is crucial for its potential role in business transactions. The author's approach is both theoretical and qualitative. It discusses concepts like the "incumbent-monies problem" and "network effects," providing a theoretical analysis. The paper also looks at the obstacles bitcoin faces, such as competition from established currencies and other alt-coins, which involves qualitative assessment. The author suggests that cryptocurrencies are likely to serve as niche currencies with possible applications in specific business contexts. The findings emphasize that the incumbent-monies problem and government backing are significant barriers to widespread adoption. The author concludes that the long-term likelihood does not favour bitcoin or any other existing cryptocurrencies becoming widely accepted currencies. A gap in the research exists because the article does not directly discuss crypto fraud in corporate identity. However, it does shed light on the challenges and potential applications of cryptocurrencies. Therefore, the proposed paper will focus on cryptocurrency fraud in the corporate sector and outline measures to prevent such fraud⁷.
8. This article looks at the rise of cryptocurrency in India during COVID-19, especially among the youth. It relates to my study by exploring how regulating cryptocurrency can help tackle corporate fraud. The author discusses the origin, development, and future of cryptocurrency in India while highlighting the need for regulation. The methodology is descriptive, presenting a sociological view of cryptocurrency in India during COVID times. It focuses on how people turned to cryptocurrencies for investment due to lockdowns and dissatisfaction with traditional banking systems. This implies an analysis of trends and behaviours. The study suggests that cryptocurrency offers financial freedom and decentralization, but clear regulations are necessary to address fraud concerns. The findings show that many Indians invest heavily in

⁶ Mutyala Venkateshwara Rao, *Cryptocurrency and its implications for center policy in India*, International Journal of foreign trade and international business 4(1) 2022
<https://www.doi.org/10.33545/26633140.2022.v4.i1a.155>

⁷ William J. Luther, *Bitcoin and the Future of Digital Payment*, *The Independent Institute Review*, Winter 2016, Vol. 20, No. 3 (Winter 2016) <https://www.jstor.org/stable/245621>

cryptocurrency despite uncertainty in regulations, viewing it as a potential path to economic freedom. The author concludes that while cryptocurrency seems promising for economic freedom, regulatory clarity is essential for building trust. A research gap in this article is that it indirectly mentions regulatory issues that might affect corporate fraud without focusing specifically on it. Therefore, my proposed paper will address corporate fraud, its emergence, and its impacts on society⁸.

9. Crypto assets, which include cryptocurrencies, utility tokens, and security tokens, run on distributed-ledger technology that crosses borders. As a result, national rules can be inconsistent and weak. This paper, which looks at developments up to 2020, (1) classifies crypto assets and their technical bases, (2) outlines new legal risks like fraud, volatility, money laundering, and tax evasion, and (3) compares different national approaches: Switzerland's open sandbox, the EU's framework, China's bans, and India's strict rules at the time. Differences in terminology make global discussions difficult, while regulatory inconsistencies encourage arbitrage and a "race to the bottom." Evidence shows that national systems have had trouble providing consistent consumer protection or managing systemic risks, highlighting the need for better coordination. However, achieving full treaty-level agreement is unlikely and, in many situations, not ideal. The authors suggest a layered approach: maintain local control for specific rules but add flexible international tools—codes of conduct, standards from organizations like the FATF and IOSCO, and public-private partnerships—that can adapt as technology changes. These soft-law measures can balance the desire for innovation with necessary protections, fill definitional gaps, and address cross-border loopholes quicker than traditional laws. In conclusion, cross-border crypto markets need solutions that also cross borders. A practical mix of national laws, international standards, and adaptable soft law provides the best pathway to effective governance that supports innovation⁹.

10. The article *Understanding Digital Money as a New Modus of Money Laundering: Legal Introspection in India* by Tissy Annie Thomas (2023) examines the increasing use of cryptocurrencies for money laundering. The study investigates the weaknesses in India's legal and regulatory framework regarding digital currencies, especially how cryptocurrencies avoid

⁸ BARCELONA 32nd *International Conference on Social Sciences, Humanities and Education (ICSSHE-22)*(2022) <https://doi.org/10.17758/HEAIG11.H0922405>

⁹ Gary Marchant, Jalaj Jain, Oluwasegun Muse & Sayan Chandra, *International Governance of Crypto assets: Whether, Why, What and Who?*, 53 INT'L LAW. 417 (2020). <https://heinonline-org-christuniversity.knimbus.com>

state-controlled financial systems. The goal is to suggest legal and regulatory changes that can reduce the risks tied to the anonymity and decentralization of these technologies. The review points out that cryptocurrencies, because of their pseudo-anonymous nature and lack of central control, enable complicated laundering operations. This makes detection and enforcement very difficult. While global and Indian organizations, like the FATF and the RBI, have started to provide guidelines and concept notes, the enforcement mechanisms are still fragmented and insufficient. A significant issue highlighted in the study is the lack of a clear legal framework in India that specifically includes cryptocurrency-related businesses within anti-money laundering rules. Current laws mainly focus on fiat-currency transactions. This oversight misses a large portion of crypto-to-crypto laundering activity. This creates an urgent need for a focused, technology-responsive legislative approach to maintain financial integrity without hindering innovation¹⁰.

RESEARCH OBJECTIVES

1. To analyse the nature of corporate fraud in cryptocurrency ecosystem of India and to examine the extent of regulatory arbitrage by crypto enterprises.
2. To evaluate the adequacy of existing legal and regulatory measures relating to crypto corporate frauds within India.
3. To analyse the international best practices and its suitability to India and risk of regulatory gaps to investor protection and financial stability.

RESEARCH QUESTIONS

1. What are the common types of crypto corporate frauds in India and how can crypto enterprises use regulatory arbitrage to avoid Indian legal structures?
2. What are the existing Indian laws and regulations adequate to address crypto-related fraud and arbitrage?
3. What lessons can be drawn from the regulatory frameworks of other jurisdictions and how do

¹⁰ Tissy Annie Thomas, *Understanding Digital Money as a New Modus of Money Laundering: Legal Introspection in India*, 2 DNLUSLJ 46 (2023). <https://heinonline-org-christuniversity.knimbus.com>

regulatory gaps undermine financial stability and investor confidence?

COMMON TYPES OF CRYPTO CORPORATE FRAUD AND REGULATORY ARBITRAGE IN INDIA'S CRYPTOCURRENCY ECOSYSTEM

During the last few years, the Indian cryptocurrency market has grown at a remarkable pace¹¹ due to the interests of retail participants, technological advancements in the fintech sector, and speculative investments. However, all this has also created systemic vulnerabilities, particularly in the form of corporate fraud and arbitrage of regulations away from the law. While these two phenomena are separate, they are fundamentally fit-for-purpose, since the lack of solid legal monitoring opens up enclaves for the use of those in reservation to sweep inequities. From the literature in the disciplines of academics, internet, and policy circles, this chapter examines the typology of cyber related corporate frauds in India in detail and the modalities of practicing regulatory arbitrage.

Classification of Corporate Fraud in the Context of Crypto in India

Crypto crime is not just a financial offence but also a failure of corporate governance, compliance and investor protection. The paper identifies some common patterns of frauds that have emerged in India's digital asset space.

Some of the most common are Ponzi schemes where platforms guarantee outrageous returns on investment in cryptocurrencies but most of the time without any underpinning asset or business model. By posing as a financial prospectus, they have obtained new fresh money continually for making payments to previous investors, and only eventually end up collapsing when the money stops coming in. There are various such type of crypto crimes and have been explained in the article written by Pratana Nachappa named Crypto-Regulation in India: Necessary Evil?¹².

Another type of attack is token manipulation which incorporates pump and dump, wash

¹¹ Tissy Annie Thomas, Understanding Digital Money as a New Modus of Money Laundering: Legal Introspection in India, 2 DNLUSLJ 46 (2023) <https://heinonline.org/>

¹² Prarthna Nachappa, Crypto-Regulation in India: Necessary Evil?, 2 LexForti Legal J. 115 (Apr. 2021). <https://heinonline-org-christuniversity.knimbus.com/HOL/Page?handle=hein.journals/lxfrt2&collection=journals&id=470&startid=&enddid=478>

trading, spoofing. These techniques artificially boost impromptu token value to attract gullible financial commentators, and then corner the market to collapse when the removals fly the coop. The article *Understanding Digital Money as a New Modus of Money Laundering: Legal Introspection in India* by Tissy Annie Thomas¹³, is also used as a reference to illustrate how the decentralized nature of exchanges, weapons of obscurity and other features of cryptocurrencies draw attention to the scarcity of tools enabling the tracking of such manipulative activities. Rug pulling is a fairly new but emerging type of fraud. In such situations, developers deploy a token or a DeFi project and bring liquidity and then suddenly pull out all funds and leave their investors with non-value tokens. Then the article *Initial Coin Offerings: A Hybrid Empirical Review*¹⁴ files some such case law in India citing that victims don't have any legal recourse. Insider trading is another issue that is heard, particularly at centralized exchanges where executives are privy to non-disclosed information about the token's listing or partnerships. The Article *India Towards Regularization of Virtual Assets: A Mammoth of Challenges*¹⁵, description shows how these practices violate the market integrity and trust of the investors. Third, financial misrepresentations - which include low credibility of tokens reserved, project potential, and user base - are widespread. Regarding whitepapers and marketing materials, in the *Crypto-Regulation in India: Necessary Evil?*¹⁶, shows how little regulatory control is in place to stop ways in which these vehicles are misused to perpetuate fraudulent misrepresentations to investors.

Blockchain-based revenues are enabled by the anonymous nature of the transactions, lack of information statements, and the process lack of a centralized enforcer, thereby enabling fraud to persist. No avenue for compensation is often clear for victims, and regulators are unable to keep up with the technological sophistication of such operations.

Governance Mechanisms of Regulatory Arbitrage:

Regulatory arbitrage is the art of taking advantage of the difference in legal regimes to avoid compliance. This is played in many ways in the context of cryptocurrencies, each of

¹³ Supra note no.1

¹⁴ Muneer M. Alshater et al., *Initial Coin Offerings: A Hybrid Empirical Review*, 61 *Small Bus. Econ.* 891 (2023), <https://doi.org/10.1007/s11187-022-00726-2>

¹⁵ Apoorva Sinha, *India Towards Regularization of Virtual Assets: A Mammoth of Challenges*, 5 *Int'l J.L. Mgmt. & Human.* 1819 (2022). <https://heinonline-org-christuniversity.knimbus.com/HOL/Page?handle=hein.journals/ijlmhs17&collection=journals&id=1819&startid=&endid=1830>

¹⁶ Supra note no.2

which strikes at the core of India positions of regulatory sovereignty and investor protection.

The most direct example is jurisdiction shopping, where cryptocurrency companies incorporate in jurisdictions with relaxed regulation (like Seychelles, Malta or the Cayman Islands), and continue to solicit Indian investors. In the context of how and why these jurisdictions have become people's pressure cooker, the article *Crypto-Trading Platforms as Exchanges*¹⁷ shows that they allow creation of tax havens, low notice requirements, and little enforcement, making them atheist's paradise for the fraud-positive entities.

The speech advantage has another option as well, token classification loopholes. By adding the word "utility" instead of "security" to the tokens, the companies seek to keep themselves outside the regulation of SEBI and get away from compliance with securities laws. In discussing the field of amendment, the article *International Governance of Crypto assets: Whether, Why, What and Who?*¹⁸, takes issue with this practice, stating that since many of the so-called utility tokens functionally have a similarity to the investment contracts, they ought to be regulated as so.

Transnational laundering is also a cause for concern. Cryptocurrencies and their inherent ability to transfer money across borders undetected with no risk of losing any information, decentralized and coinionate money mixing solutions, such as Monero and Zcash, ensure privacy. *Understanding Digital Money as a New Modus of Money Laundering: Legal Introspection in India*¹⁹ detail the ways in which these tools are being used to evade India's AML setup under Prevention of Money Laundering Act (PMLA) and the Scare website both describes about the global usage of crypto asset as tool for money laundering.

Another form of arbitrage practice is exchange migration. Pressured by regulation, as a result Indian exchanges tend to move their operations offshore, rebranding themselves as global exchanges whilst continuing to cater to Indian users. As discussed in *Cryptocurrency and Its Implications for Central Bank Policy in India*, The RBI's powers in this respect to ensure

¹⁷ Marco Dell'Erba, *Crypto-Trading Platforms as Exchanges*, 2024 Mich. St. L. Rev. 1 (2024).

<https://heinonline-org-christuniversity.knimbus.com/HOL/Page?handle=hein.journals/mslr2024&collection=usjournals&id=15&startid=&endid=112>

¹⁸ Gary Marchant, Jalaj Jain, Oluwasegun Muse & Sayan Chandra, *International Governance of Cryptoassets: Whether, Why, What and Who?*, 53 Int'l Law. 417 (2020). <https://heinonline-org-christuniversity.knimbus.com/HOL/Page?handle=hein.journals/mslr2024&collection=usjournals&id=15&startid=&endid=112>

¹⁹ *Supra* note no. 1

compliance and to monitor systemic risk is compromised. Such arbitrage schemes are not just evasive, they are strategic. They take advantage of a fragmented regulatory environment in India where RBI, SEBI, ED and tax authorities are working in silos with often contradictory mandates. India Towards Regularization of Virtual Assets: A Mammoth of Challenge²⁰, suggests that what is required is a coherent framework for enforcement, otherwise this will not be reactive and effective.

However, the Draft Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019 (the Draft Bill)²¹, as far reaching as it is, could have the adverse effect of making the situation more conducive to arbitrage. Supposedly based on a blanket ban on private cryptocurrencies, it will basically drive legitimate innovation abroad, and leave bad actors, who are already acting outside the law, untouched. The bill is overly and negatively punitive. Overall, regulatory arbitrage in India's crypto industry is facing the challenge of legal fragmentation and enforcement inertias. It facilitates scams, low investor confidence, and unsafe financial position. Solving it involves not only new legislation, but institutional alignment, technological solutions, and the involvement of the entire world.

LEGAL AND REGULATORY MEASURES ADDRESSING CRYPTO CORPORATE FRAUDS IN INDIA

India has in its regulatory response be friend to cryptocurrencies - marked by caution, fragmentation and reactive enforcement. While Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI) and Enforcement Directorate (ED) have each made some initiatives, lack of overarching legal framework has left important holes in the oversight and investor protection. This section analyses the adequacy of existing legal and regulatory framework in India to combat crypto-related fraud and arbitrage practices at cross continental level, and an analysis of the risk of regulatory gaps in a contextual sense in the Indian context, relating to retirement of market integrity and financial stability.

India's regulatory environment for digital assets is fragmented and covers multiple agencies with dispersed jurisdictions and an unclear enforcement mechanism. The RBI being the central bank in place has traditionally been conservative on cryptocurrencies. In April 2018

²⁰ Supra note no. Apoorva Sinha

²¹Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019 https://prsindia.org/files/bills_acts/bills_parliament/1970/Draft%20Banning%20of%20Cryptocurrency%20&%20Regulation%20of%20Official%20Digital%20Currency%20Bill,%202019.

it had issued a circular saying that banks and financial institutions cannot deal in virtual currencies. This action effectively froze crypto-trading in India, forcing crypto-exchanges to shut down or otherwise migrate from India. However, in *Internet & Mobile Ass'n of India v. RBI*,²² the Supreme Court invalidated the circular, believing that the circular did not see proportionality and legislatively supported. The judgment highlighted the necessity of a statutory regime as opposed to an executive regime.

SEBI is India's capital markets regulator and has jurisdiction on securities, however having no clarity on whether and when crypto tokens are securities. The uncertainty over the token classification, whether any token is a utility, commodity or a security has helped several crypto enterprises to function unscrupulously without selecting regulatory authorities. The Enforcement Directorate (ED) enforces the Prevention of Money Laundering Act (PMLA), which has recently added crypto exchanges as reporting entities.²³ This is definitely a step forwards but enforcement is reactive and is limited only to high profile cases.. ED investigations often lack technical expertise and depend on cooperation from foreign jurisdictions, which is slow and uncertain. Taxation has become one of the major regulatory instruments. The Finance Act, 2022 introduced a 30% tax on income from Virtual Digital Assets (VDA) and a 1% Tax Deducted at Source (TDS) on transactions. This, however, does not clarify the Goods and Services Tax (GST) treatment of crypto in the country and the Foreign Exchange Management Act (FEMA) dated does not explicitly address the regulation of digital assets.

The Draft Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019 which proposed the blanket ban on private cryptocurrencies and for criminalizing mining, holding, and trading of such currencies has been amended²⁴. While the bill acknowledges the potential of blockchain technology and its function as a central bank digital currency (CBDC), the penal provisions have been scorched over by many. The he for research.pdf argues, contrary, that such a ban would cripple innovation and drive legitimate businesses offshore, in addition to failing to deter bad players who already operate outside the law.

²²*Internet & Mobile Ass'n of Ind. v. Reserve Bank of India*, AIR 2021 SC 2720, 2020 SCC Online SC 275 (India). <https://www.casemine.com/judgement/in/65e39c3323173e57e01a6d6a>

²³ Sudipto Bhattacharya, *Are Cryptocurrencies Securities? Post-GIFT City Regulations & SEBI's Viewpoint*, TaxGuru, Apr. 10, 2025, <https://taxguru.in/sebi/cryptocurrencies-securities-post-gift-city-regulations-sebis-viewpoint.html>

²⁴ AML & CFT Guidelines for Reporting Entities Providing Services Related To Virtual Digital Assets (FIU-IND Mar.10,2023),GOI. https://fiuindia.gov.in/pdfs/AML_legislation/AMLCFTguidelines10032023.pdf

In conclusion, India's existing legal framework is coherent, reactive and incompatible with the complex issues that are created by crypto fraud and arbitrage. The enforcement is hindered as a result of no specific statutory provision, inter-agency coordination and technological capability which negatively affects the investor confidence.

INTERNATIONAL BEST PRACTICES IN CRYPTOCURRENCY REGULATION AND REGULATORY GAPS TO INVESTOR PROTECTION AND FINANCIAL STABILITY

Regulatory Models on the International Level:

To overcome its failures in regulation of crypto assets, India can learn lessons from other jurisdictions which have implemented comprehensive and adaptive approaches to regulation of crypto assets.

United States

The US takes a multi-agency approach with the Securities and Exchange Commission (SEC), Commodity Futures Trading Commission (CFTC) and Financial Crimes Enforcement Network (FinCEN) sharing responsibility. The SEC considers a large number of tokens to be securities, and enforces norms for disclosure under the Howey Test. The CFTC oversees the possibilities for regulating crypto-based derivatives, Fin Cen also has the mandate of enforcing Anti-Money Laundering (AML) for exchanges.. The article evil about crypto frauds reports a number of enforcement actions taken against fraudulent ICOs and unregistered exchanges, showing the effectiveness of concerted regulation²⁵.

However, the model in the US is not without problems. Interpretative inconsistency and jurisdictional overlaps have been the cause of regulatory uncertainty. The article Governance of Crypto-assets: Whether, Why, What and Who?²⁶ suggests that India should move towards a more transparent classification system, putting a lead regulator in place for the avoidance of any sort of similar pitfalls.

²⁵ Rebel Cole, Sofia Johan & Denis Schweizer, *Corporate Failures: Declines, Collapses, and Scandals*, 67 J. Corp. Fin. 101872 (2021), <https://doi.org/10.1016/j.jcorpfin.2020.101872>

²⁶ Supra note no.8

European Union

The EU has proposed the Markets in Crypto Assets (MiCA) regulation, which provides a unified regulation to classify tokens, allow licensing exchanges and also ensure investor protection. MiCA has transparency requirements, reserve requirements for regulated stable coins, and comply with AML norms²⁷. The praise is on MiCA for striking a balance between innovation and regulation and bring legal certainty to the market participants. India can take elements from MiCA, specifically, its tiered licensing regime and disclosure requirements, to make it a more predictable regulatory environment. The stresses the need for harmonisation of domestic laws with internationally agreed requests to ensure cross-border cooperation.²⁸

Singapore

Singapore's Monetary Authority (MAS) has overseen crypto by the Payment Services Act that allowed these counter crypto with regulation, compliance of AML / Know Your Customer (KYC), and can be experimented in a sand box. The innovation has led Singapore to attract global crypto firms but geared their regulation. India should take a leaf out of Singapore's book in terms of focus on technological neutrality and regulatory agility. The sandbox models can provide a way for Indian regulators to test new frameworks without being restrictive of new and innovative ideas.²⁹

Risk of regulatory gaps to investor protection and financial stability

Lack of cohesive and flexible regulatory system in India is posing some risks:

1. Investor Vulnerability: Without mandatory disclosures or grievance redressal mechanism, retail investors are vulnerable to scams and losses.
2. Market Instability: Unregulated markets and tokens can cause market shocks, particularly as more people use crypto. Understanding universal finance of money And its Pimp and Internal

²⁷ Supra note no.15

²⁸ Simon Mackenzie, *Crypto Collapse: The Cult of Personality and the Normalisation of Fraud in FTX and Celsius*, 32 J. Fin. Crime 288 (2025), <https://doi.org/10.1108/JFC-01-2024-0054>

²⁹ Monetary Authority of Singapore, *A Guide to Digital Token Offerings* (Apr. 2019), <https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Regulations-Guidance-and-Licensing/Guidelines/A-Guide-to-Digital-Token-Offerings-Apr-2019.pdf>

market imbalances are possible due to unsupervised countries.³⁰

3. AML Failures: Crypto-to-crypto launderings and privacy tools are immune to traditional preventative measures; it is hard to follow illicit flows from them. [scare website.pdf](#) If any appellant has explored how decentralized mixers and anonymity tools speed up enforcers.
4. Loss of Sovereignty: The regulation and taxation base of the Indian state is reduced by its offshore operations. [No Cross Border Co-operation Means That India Cannot Police Its Digital Economy.](#)
5. Innovation Drain: Overregulation or legal uncertainty may get legitimate businesses to move elsewhere that deprives India of talent and investment. [The he for research.pdf](#) recommends the need for a balanced approach that promotes innovation but with accountability³¹.

In conclusion, India's regulatory gaps are not just based on technicality but they are structural. To address them, there needs to be a paradigm shift in focus from reactive enforcement to proactive governance. By adopting from global legal frameworks and tailoring them to India's context, India can build a resilient and inclusive crypto ecosystem.

CONCLUSION AND SUGGESTIONS

The future of the Indian crypto market is both bright and dark. On the one hand, there is the possibility of blockchain-based assets to promote financial inclusion, technological advancement, and competitiveness in the world. On the other is the harshness of the systemic risks brought about by corporate fraud and regulatory arbitrage. The discussion in this paper has shown that the lack of a harmonized and consistent legal framework has allowed the exploitative schemes like Ponzi schemes, token manipulation, rug pulls, and insider trading to take place. They are not one-off incidents but symptoms of structural weaknesses that is, the lack of proper disclosure policies, the presence of weak mechanisms to address grievances of investors, and the absence of effective forensic enforcement.

It is also of concern how the regulative environment is rather fragmented, with the RBI,

³⁰ Mutyala Venkateswara Rao, *Cryptocurrency and its Implications for Central Bank Policy in India*, 4 Int'l J. Foreign Trade & Int'l Bus. 51-57 (2022), <https://doi.org/10.33545/26633140.2022.v4.i1a.155>

³¹ Muneer M. Alshater, Mayank Joshipura, Rim El Khoury & Nohade Nasrallah, *Initial Coin Offerings: A Hybrid Empirical Review*, 50 Small Bus. Econ. 891-908 (2023), <https://doi.org/10.1007/s11187-022-00726->

SEBI, ED, and tax authorities all having at least some overlapping mandates, none of which has managed to offer full regulation. The experiences of the United States, the European Union and Singapore in the domain of comparative law help to support the argument that the attainment of clarity, proportionality and technological neutrality are key to protecting markets and letting innovation thrive. The danger of the lack of action is no longer a theoretical matter: investor exposure, AML impairments, and the loss of regulatory sovereignty is already evident in the crypto ecosystem in India. Hence, the general theme of conclusion is that India needs to immediately shift the present system of prohibitive and fragmented regulation to a coordinated, innovation-oriented, and technologically responsive system. This change is not a house keeping exercise of regulation but a strategic need to retain market integrity, trust by the people, and long term financial stability.

Suggestions

To put the foregoing conclusion into practice, the paper suggests a multi-pronged approach:

1. India will have to make a single law on digital assets that distinctly identifies the crypto asset, categorizes tokens, and provides disclosure, auditing, and enforcement rules. This law ought to also bring RBI, SEBI, and ED under one Digital Asset Authority to bring institutional clarity in this matter.
2. It needs to be a permanent joint task force that includes the representatives of financial and enforcement regulators. This body is supposed to have common databases, carry out joint investigations as well as issue common compliance guidelines in order to reduce fragmentation.
3. AI-based analytics and blockchain forensics as well as smart contract auditing should be adopted to increase regulatory capability and reduce compliance expenses among market participants. There should be an investment in RegTech infrastructure, which is to be done in partnership with private companies.
4. There should be legal and financial rewards to those insiders who report fraudulent activities. This kind of structure will promote openness, responsibility, and discouraging malpractice.
5. India ought to match the structure of the domestic level with the requirements of FATF, join international enforcement networks, and amend bilateral and multilateral treaties to cover the cyber offenses of digital assets.

6. The regulatory bodies should be relaxed to permit start-ups to develop products under controlled conditions to promote innovation without reducing regulation. This balance will allow avoiding over-regulation and encourage experimentation.
7. Policymakers and regulators should be given specialized training and investor education campaigns that will enhance their competence and awareness of the emerging technologies among the populace.

Thus, although the risk of corporate fraud and regulatory arbitrage in the crypto industry of India is extremely high, it is not overwhelming. An internationally harmonized, technologically responsive and coherent framework can convert these issues into opportunities and in turn make India a global leader in digital finance based on trust, transparency and resilience.

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