

# ROADMAP FOR POLICY INTERVENTION FOR **VIRTUAL DIGITAL ASSETS IN INDIA**

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# 01 Dynamic Global Scenario

In today's setting, we see separate treatments of crypto assets across the globe. Countries are primarily divided based on their positions, which they have taken to deal with crypto transactions. These can be classified under 4 different stances:

## a) Legal Properties, Tenders or Currencies

In nations like Australia, Japan, El Salvador and Switzerland, crypto assets and their exchanges are both considered legal, and these countries have adopted a remarkably progressive stance towards crypto assets regulations. All these nations direct that crypto assets be treated as legal property and are subject to capital gains tax, wealth tax etc. which must be declared on annual tax returns.



Australia



Japan



El Salvador



Switzerland

## b) Treatment as Assets

Economies like the United States, Canada, Singapore, South Korea, Indonesia, Brazil, the United Kingdom, Malta, Estonia, Gibraltar, Luxembourg, Germany, Thailand etc. do not consider crypto assets to be legal tender but have accepted them, by classifying them under the category of assets. The associated exchanges are acknowledged and trading in crypto assets is allowed, and thus deemed legal. Hence, transactions in these countries are subject to regulations and taxation, which means that the crypto exchange service providers and wallets must register themselves with the respective regulatory authorities, implement AML/ CFT programmes, maintain appropriate records, and submit prescribed timely reports to the authorities concerned. In these nations, the securities laws are applied comprehensively to digital wallets and exchanges, requiring all financial institutions and money service businesses to maintain records of all cross-border crypto transactions along with all electronic fund transfers.



United States



Canada



Singapore



South Korea



United Kingdom



Malta



Estonia



Gibraltar



Luxembourg



Indonesia



Brazil



Germany



Thailand

## c) Declared Illegal

While many developed and developing nations across the world are considering some type of regulations around cryptos instead of a blanket ban, there are several countries which have imposed a blanket ban on crypto assets. China, Algeria, Bolivia, Egypt, Indonesia, Russia, Turkey, Bangladesh, Ecuador, Macedonia, Saudi Arabia, Morocco, Qatar, Vietnam and a few other countries do not consider cryptos to be legal and have a global reputation for harsh regulations.



China



Algeria



Bolivia



Egypt



Indonesia



Russia



Turkey



Bangladesh



Ecuador



Macedonia



Saudi Arabia



Morocco



Qatar



Vietnam

## D) Undecided Stance

However, there are many regions like India and the European Union which maintain that crypto is neither legal nor illegal, and where broader regulations and the country's stance continue to remain uncertain.



India

Crypto has opened up new investment opportunities and is classified as an asset class by most nations because declaring it a currency could undermine the value of fiat currency of the nation, and a ban on crypto assets could lead to a lost opportunity of potential technological development. Thus, declaring crypto as asset and regulating the same under the Securities Acts of the respective countries may help in developing the desired regulatory framework to control transactions and keep track of the trail. However, absence of a clear regulatory framework for cryptos throughout the world has led to increased confusion amongst the relevant stakeholders.

Since the very nature of crypto and its underlying technology make it borderless and non-traceable beyond a limit, a different approach by each nation or adoption of diverse regulatory regimes by each nation will not bring about desired results despite their best intentions. This is why many regions including India are soliciting global cooperation and consensus in the matter and are advocating for a single stance by all nations.

Global consensus should include the introduction of certain basic principles for the sector with specific rules adopted by the countries. The world must not miss out on opportunities opened up by a plethora of innovations because of its aversion to decentralisation. This kind of decentralisation may bring various use cases for Web 3.0 and public blockchains, which are expected to foster an environment of increased privacy and greater control in the hands of users. Global cooperation is required to build consensus on the treatment of cryptos and actions which must be taken in case of crises with other important and common aspects affecting everyone, according to the country's respective economic, demographic and other crucial conditions. There is a definite need for brainstorming by global leaders to come up with common standards and parameters for identifying mutual grounds like prevention of financial terrorism, KYC & AML laws enforcement, cyber security, digital trade etc. This will help nations to support each other in times of emergency faced by any of the individual nations or a set of nations.



## 02 India's Stand on Cryptos

Like most countries, India has maintained that crypto is not legal tender but is recognised as Virtual Digital Asset (VDA) for the purpose of imposing taxes, vide announcement in the latest Union Budget of the country. The broader regulations remain uncertain, and it is considered neither legal nor illegal as of now. The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 was set to be tabled in the Parliament. This however seems to be replaced with a new framework in the form of a consultation paper which is being developed based on stakeholder consultations, including stances of foreign nations and supranational bodies on the adoption of cryptos. The consultation paper is expected to be released soon, and it is very likely that the decision on rolling out the plan for its treatment in India will be based on the global consensus. Simultaneously, the crypto report by the Financial Stability Board may be published in October 2022 which is believed to help the Indian government decide on a legal framework for crypto trade in India and whether crypto assets transactions through wallets should be banned. The FSB includes policymakers, central bankers, and regulators of G20 members, such as Hong Kong, Singapore, Spain, Switzerland etc. and international standard-setting bodies. India is an active member of the FSB and has three seats in its Plenary, held by Secretary, Economic Affairs, Deputy Governor, Reserve Bank of India, and Chairman of Securities and Exchange Board of India. As India awaits global regulation, the Managing director of the International Monetary Fund Kristalina Georgieva and Finance Minister, Nirmala Sitharaman discussed the regulation issue of cryptos ahead of the G20 Summit. The Finance Minister also urged G20 countries to examine the feasibility of bringing non-financial assets like cryptos under the ambit of automatic exchange of information among nations to check for tax evasion.

Amidst this, fearing that consumers or investors may lose their hard-earned money, or there could be a threat to the nation's financial stability and security, the government and regulatory bodies initiated, suo moto, parallel enforcement of relevant laws. The law enforcement agencies also started capacity building initiatives simultaneously. The taxation authorities introduced significant taxes on profits and transactions involving cryptos and started investigations into any potential tax evasion, by issuing show cause notices to the popular exchanges in the country. The definition of 'Virtual Digital Asset' was also introduced in the latest Union Budget accordingly. The Enforcement Directorate started looking into any unscrupulous activities which may include money laundering. Media reports suggest that the ED is probing at least ten crypto assets exchanges for laundering over Rs 1,000 crore identified as proceeds of crime. The Ministry of Corporate Affairs called for relevant disclosures in the returns to be filed by the companies which has traded or invested in crypto assets during the financial year. The ASCI introduced guidelines on advertisements, and CERT-In came up with cybersecurity and KYC laws. Some of the important regulatory developments which are part of the initial legal framework, include the following:

### a) Definition of Virtual Digital Assets (VDAs)

The definition of VDAs was proposed in the latest Union Budget and was introduced through the Income Tax Act, which is defined as under:

“(1) any information, code, number, or token (not being Indian currency or foreign currency) generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to an investment scheme, and can be transferred, stored or traded electronically; (2) non-fungible tokens (NFTs) or any other token of similar nature, by whatever name called; and (3) any other digital asset, as the central government may by notification in the official gazette specify.”

Additionally, India's central government clarified that the definition shall not include the following:

1. Gift card or vouchers, being a record that may be used to obtain goods or services or a discount on goods or services;
2. Mileage points, reward points or loyalty card, being a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services;
3. Subscription to websites or platforms or application.

Also, it does not include the non-fungible tokens whose transfer results in transfer of ownership of underlying tangible asset and the transfer of ownership of such underlying tangible asset is legally enforceable.

## **b) Taxation Laws**

Taxation at the rate of 30% on income from trading of all kinds of VDAs was introduced in February 2022, via the Union Budget. This new provision comes into effect from April 1, 2023. 1% TDS on payments was also introduced for the transfer of digital assets in order to capture the transaction details. It is effective from July 1, 2022. However, it was clarified by the government immediately after, that introducing taxes does not mean that industry has been given a legal or regulatory nod.

## **c) Advertisement Guidelines**

The Advertising Standards Council of India (ASCI), a self-regulatory organisation, released guidelines for advertisers publishing ads about VDAs, including cryptos and NFTs. In addition, in February 2022, in order to protect the interests of the consumers, the ASCI issued guidelines directing the advertising industry not to create or publish advertisements which claim that investing in VDAs is simple, so that the consumers will not be misled.

## **d) KYC & Cyber Security Norms**

Indian Computer Emergency Response Team (CERT-In), the cyber security arm of the Ministry of Electronics and Information Technology, issued a set of directives including the direction that crypto exchanges and wallets must maintain Know Your Customer (KYC) details and records of financial transactions for five years. The directives also stated that attacks or malicious/ suspicious activities on blockchain should be mandatorily reported within six hours.

## **e) Use of Unified Payment Interface (UPI)**

The National Payments Corporation of India (NPCI) stated that it is not aware of any crypto exchange using UPI, which hinted that NPCI does not explicitly give any permission to the crypto exchanges to use its platform for processing the transactions. As a result, major crypto exchanges in India either greatly limited the options to deal in cryptos or shut down altogether for the time being. These directives by the government and the regulatory organisations are adding to the confusion on the way forward for the sector.

Under such unclear circumstances, the industry players have also put a halt on their growth and development plans for crypto investment in India, and are acting as silent spectators of the Indian government's stand before investing any further in the expansion of their businesses. Currently, the Indian government is extensively engaged with national, international, and supranational bodies to determine important factors governing crypto and to develop an exhaustive consultation paper for public comments.

## 03 Is India a Suitable Destination for Crypto Adoption and its Usage?

Presently, India's crypto landscape is outshining its global counterparts, as it has the 2nd highest adoption rate in the world.<sup>1</sup> Over 7% of India's population owns some category of crypto assets which rounds off to approximately 10 crore people, making it the highest number of crypto owners from one country across the globe.<sup>2</sup> Estimates suggest that the current size of the crypto market in India is above USD 15 billion.<sup>3</sup> It has also created about 50,000 employment opportunities in the country and this figure is anticipated to reach over 8,00,000 by the year 2030.<sup>4</sup> Despite an erratic regulatory setup, there is no doubt that the crypto industry in India has flourished very well.

There are numerous other factors as well behind the industry's remarkable success. To quote a few –  
# There are about 750 million smartphone users in India and this figure is likely to reach 1 billion by the year 2026.<sup>5</sup> India has put into place a robust telecommunications infrastructure throughout the country keeping in mind the last-mile connectivity. The country also offers internet services at an average rate of USD 0.68 per GB, which is way below the global average of USD 4.21.<sup>6</sup> Thus, the internet using population of India is massive and likely to witness exponential growth which opens further options of easy investments in assets like cryptos.

# India has also built a robust technology-based banking and financial system. It is leading globally in this domain by innovating consumer-friendly fintech models. The country has left others far behind in real-time digital transactions which stood at 48 billion in the year 2021.<sup>7</sup> Additionally, India's GDP grew at a rapid rate of 8.7% in FY 2021-22 even on the backdrop of the deadly second and third waves of the COVID-19 pandemic.<sup>8</sup> As the economy is back on track after pandemic-led disturbances, increasing per-capita income in the hands of the masses encourages more savings and hence, investments. Furthermore, the country boasts of talent in terms of bright software developers and IT professionals. These tech-savvy youth have the ability to lead innovation in the sector and aid further growth in the industry. It is not wrong to say that all these factors indicate the readiness, confidence, and the acceptance of both the consumers as well as the markets in India. Not only this, crypto assets investors faced severe challenges withdrawing cash in July 2022 when some exchanges temporarily suspended crypto assets withdrawals. Such incidents highlight the need for clear regulatory measures and legislative stance on crypto assets since in the absence of clear information and warnings, unilaterally imposed moratoriums can prove to be huge risks for retail investors with high exposure to the digital asset.

The above factors show that the country is ready to adopt and use crypto assets as it has the technological infrastructure in place for it, and also because it has the right audience and market players showing confidence in the same. It is, however, not enough to draw such conclusions, and hence, a detailed study into these and other important factors is essential to evaluate if India is ready to adopt and use it, building hypotheses of different scenarios and analysing the outcomes of each.

1. <https://blog.chainalysis.com/reports/2021-global-crypto-adoption-index/>
2. <https://www.livemint.com/market/cryptocurrency/india-has-highest-number-of-crypto-owners-in-the-world-at-10-07-crore-report-11634110396397.html>
3. <https://www.crebaco.org/downloads/KCO-CREBACO-India-Crypto-Representation.pdf>
4. <https://www.financialexpress.com/market/over-8-lakh-jobs-likely-in-indias-crypto-market-by-2030-from-current-50000-report/2338187/>
5. [https://www.business-standard.com/article/current-affairs/india-to-have-1-billion-smartphone-users-by-2026-deloitte-report-122022200996\\_1.html#:~:text=India%20had%201.2%20billion%20mobile,in%20the%20next%20five%20years.](https://www.business-standard.com/article/current-affairs/india-to-have-1-billion-smartphone-users-by-2026-deloitte-report-122022200996_1.html#:~:text=India%20had%201.2%20billion%20mobile,in%20the%20next%20five%20years.)
6. <https://inc42.com/buzz/as-telcos-push-for-higher-arpu-india-no-longer-has-the-worlds-cheapest-mobile-data-plans/>
7. <https://timesofindia.indiatimes.com/business/india-business/exclusive-at-48-billion-india-accounts-for-largest-number-of-real-time-transactions-in-the-world/articleshow/91070124.cms>
8. <https://indianexpress.com/article/business/economy/india-q4-gdp-provisional-estimates-2021-22-fy22-gross-domestic-product-data-7945742/>

## 04 Why India Must Choose Regulations over Any Kind of Strict Restrictions?

The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 developed after a very limited engagement with stakeholders, was not sufficient to understand the sector well and build suitable policies around it. Also, with rapid developments taking place and increasing involvement of the masses, it is the need of the hour to adopt a stable and robust framework to harness the potential of this growing industry and tackle the issues arising out of it. In this manner, interests of all the stakeholders at play can be protected, including those of the government, investors, consumers, industry players etc. However, it is understandable that owing to the unique nature of crypto assets and their underlying technology, regulating the same might become a complex task. However considering the rising popularity and growing adoption of crypto, it is high time that India initiated action to gather global support for developing the feasible infrastructure in order to support each other in times of crisis and need.

In India, where the crypto industry has shown a marked surge, suitable regulations seem the better way to deal with crypto transactions, as it is extremely difficult to ban them altogether, given their nature. Moreover, imposition of a ban does not necessarily mean that non-compliant players will stop engaging in cryptos via grey markets. **Thus, in the absence of a regulatory framework on the same, people are exposed to higher risks (such as falling for scams, frauds, etc.) and the purpose of risk mitigation remains unserved. Such risks can result in an irrecoverable outflow of money from the economy. However, with the introduction of the right regulatory regime, the government would be in a better position to curb illegal activities which are facilitated by this industry, including money laundering, terrorism, smuggling or other criminal activities.**

By introducing favourable regulations, the government will be in a better position to understand the backend tech, its functioning, and the transactions. This will allow it to introduce proper taxes, license requirements, and relevant rules and laws as well. Also, with the help of innovative regulatory tools, the problem with respect to anonymity of crypto transactions can be resolved, which will be a critical step in preventing illegal activities. However, if a ban is imposed, it will severely harm the existing crypto industry and cause a major economic loss to the country, considering that the crypto market in India is currently worth USD 15 billion. This loss will occur due to closure of businesses as well as due to non-realizable investments of existing consumers. In the larger scheme, the ban may have a major trickle-down effect on the economy as it will result into the outflow of money from the economy, job losses, and much more. On the other hand, with the help of regulations, the Indian economy will be able to attract more overseas investments, foster new market players, enhance competition, and innovation. The associated technological innovations may become the gamechanger for India's economy, which is rapidly researching and developing new platforms and use-cases for Web 3.0 and public blockchain, the next paradigm shift in the internet world.



## 05 Benefits of Regulating Crypto Industry

The regulation of this industry will have significant positive impact on the economy, society, environment, as well as on technological advancements in the country. With supportive regulations in place, the flow of foreign investment into the country's crypto industry will increase, thus increasing inflow of foreign currency.

This will further aid in capital formation and help India in its long-term goal of attaining a 5-trillion-dollar economy by the year 2025. Consequently, considering the worth of this industry, the government will be able to have new sources of income in terms of license fees, registration fees, applicable taxes, both from the crypto exchange owners and the market players. This will benefit the government exchequer immensely.

The prime agenda of the regulatory framework is building a robust and risk limiting ecosystem where the regulations will set up the required duties and liabilities of various stakeholders in the crypto ecosystem. This will aid in limiting its highly volatile nature, thereby making it more stable.

Moreover, the country has a talented pool of technology professionals who will have ample career opportunities, thus preventing a brain drain from the nation. It can also provide an ample opportunity to promote and project India as a global leader through rapid innovation in this domain. The crypto industry can generate millions of employment opportunities for the country's youth, as it no longer serves only as an industry with traders or investors as stakeholders, but has also attracted celebrities and artists, who have joined the bandwagon due to NFTs that have various use cases in protecting real artistic works and copyrights.

Thus, with regulations in place, the interests of all stakeholders can be protected and balanced. At the same time, steps such as consumer awareness and education, risk communication to consumers, etc. can be undertaken simultaneously.



## 06 Need for Policy Intervention for Virtual Digital Assets in India

India has been a leading example in setting up an **invigorating fintech industry** where the right set of regulatory decisions by the government has supported the ecosystem very well. The nation has always been the frontrunner, and many developing nations are now following the Indian model of digital financial ecosystem. Be it **Aadhaar or Unified Payments Interface**, India has set new records globally. India has also set itself apart by being one of the early adopters of mechanisms like **digital KYC and video-based customer identification process**. Initiatives like **digital lending and peer-to-peer lending, new umbrella entity, account aggregator, digital banking, digital rupee/ central bank digital currency and India Stack** are considered to be some of the smartest decisions, portraying the nation as one of the aggressive adopters of the technology in the financial world. It is also believed that experiments with various **regulatory sandboxes, Reserve Bank Innovation Hub and self-regulatory organisations** will help move the country towards an advanced economy. Thus, carrying a huge potential in the domain of technology, especially in the fintech space, India must initiate a comprehensive, well-thought, well-discussed, and well-developed global deliberation framework to harness the potential of the growing crypto industry, and set a benchmark in this arena as well.

This is only possible if India engages extensively in gathering international support, calling on other nations for their help in this matter. The Honourable Prime Minister of India recently hinted to the world that there is a need for a global response to deal with issues concerning cryptos as these operate in the virtual world. The Indian government is not just proactively consulting the domestic institutional stakeholders but also organisations like the World Bank and the International Monetary Fund. The government believes that unless there is a global consensus on the framework to tackle the crypto industry, no single regulatory framework will be successful enough to bring about the desired change. It was therefore suggested that nations need to develop a broad framework together, within which individual nations can carve their own regulations. Hence, participation by economies around the world is necessary to build such a consensus. Envisioning the same, speaking at the World Economic Forum's Davos Agenda 2022, the Prime Minister of India Mr. Narendra Modi stated that a global collective effort will be required to tackle the challenge of cryptos, calling out for combined and collective decisions in order to make it easy to tackle in times of need.

Such an all-encompassing outreach to various national and international players in order to form a regulatory framework should provide a comprehensive and overarching supportive legal and regulatory structure to the ecosystem in India and the world. Today, it is imperative for India to engage in such a process in order to set a global standard and establish itself as a leader. With this, India should start harnessing its global networks and foster discussions which facilitate coordinated moves towards regulating the crypto industry.

India is a potential superpower and has a growing international influence all around the world. It has a proven track record in the past where it has shown its strong leadership capabilities in setting benchmarks in various domains. These must now be leveraged to gain global support in tackling the crypto situation across the world. The country has been emerging as a prominent ally in global affairs. It has acted as a prominent member of several international organisations and has also been a founding member of some. India has played a pivotal and influential role in organisations like the World Trade Organisation, the International Monetary Fund, and the Shanghai Cooperation. India's ambitious foray into the global economy, with its human capital and entrepreneurship, has underlined its leadership among the emerging and developing economies as well.

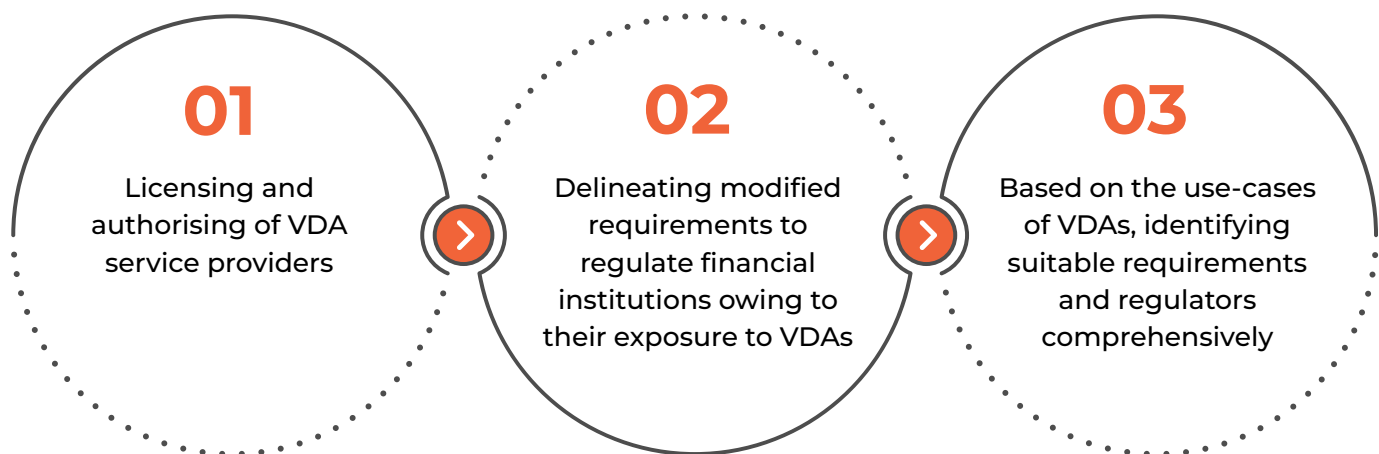
In addition, India's vital role in global economic governance has **fostered its active participation in the G20 processes** and the country is also one of the **founding members of the B20 coalition**. Its support for global cooperation, inclusive development, economic stability, and sustainable growth is in line with its national goals and the values espoused by other leaders of the G20. In the two international summits of G20 and COP26, India came up with innovative initiatives such as **"One Earth, One Health" and "One Sun, One World, One Grid"**. It has also taken the lead in fostering international action for renewable energy by establishing the **International Solar Alliance, a 106-country alliance to endorse clean energy**. These factors make India a destination to look up to, for the development of such an exhaustive framework which may harness the potential of the crypto industry while curbing any potential misuse. India should take the lead in endorsing uniform and coordinated crypto regulations across the globe.

It is important to note that in the year 2023, **India will assume the G20 presidency for the first time and shall have the opportunity to set the G20 agenda**, organise the Leaders' Summit, and host meetings with ministers, government officials, and civil societies. This can be turned into a golden opportunity to position India as a young economic leader, and to bring the world together in developing the legal and regulatory framework for the crypto ecosystem.

## 07 The Global Efforts in the Domain Which Provide Suitable Platforms for India to Initiate

### a) International Monetary Fund (IMF)

The IMF has laid out suggestions for a global regulatory framework on cryptos.<sup>9</sup> It highlights 3 key elements



### b) World Economic Forum (WEF)

WEF convenes Digital Currency Governance Consortium (DCCG), an assembly of multi-national and multi-organisational representation.<sup>10</sup> It has come out with a series of white papers which, amongst other things, discuss the regulatory and policy inconsistencies for VDAs.<sup>11</sup>

9. <https://blogs.imf.org/2021/12/09/global-crypto-regulation-should-be-comprehensive-consistent-and-coordinated/>

10. <https://www.weforum.org/communities/digital-currency-governance-consortium>

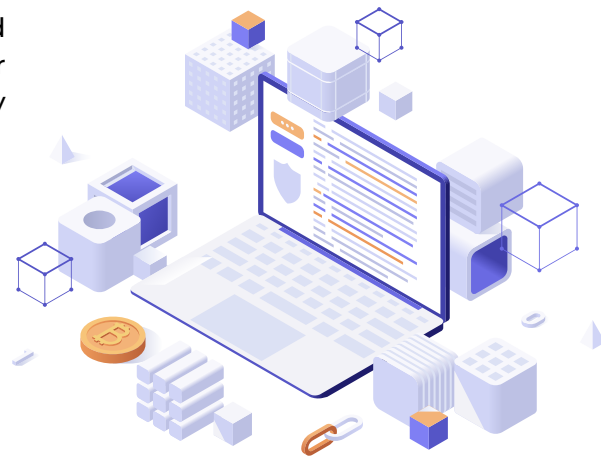
11. [https://www3.weforum.org/docs/WEF\\_Digital\\_Currency\\_Governance\\_Consortium\\_White\\_Paper\\_Series\\_2021.pdf](https://www3.weforum.org/docs/WEF_Digital_Currency_Governance_Consortium_White_Paper_Series_2021.pdf)

## c) Global Blockchain Business Council (GBBC)

The leading global industry body for blockchain, has started the Global Standards Mapping Initiative<sup>12</sup> programme under which it seeks to map and analyse the VDA landscape on 5 key aspects -

1. Legislation and regulatory guidance;
2. Technical standards;
3. Industry standards and recommendations;
4. University courses and degree programmes; and
5. Industry consortia.

The initiative is run by GBBC in partnership with WEF.<sup>13</sup>



## d) International Telecommunication Union (ITU) and Stanford University

The two institutions have collaborated to start the Digital Currency Global Initiative to provide an open and neutral platform for dialogue, knowledge sharing and research on the applications of Central Bank Digital Currency and other digital currency implementations.<sup>14</sup> The initiative has set up two working groups which look at

1. policy and governance;
2. architecture interoperability requirements and use-cases; and
3. security and assurance.

## e) Global Digital Finance (GDF)

GDF, in its effort to facilitate greater co-regulation and cross border coordination between policymakers and industry, is inviting policymakers and agencies to discuss the same with the industry, using the GDF co-regulation model.<sup>15</sup>

All these international platforms fetch India the opportunity to lead the global community by bringing them together and setting up at least a common minimum programme for all, after setting up an expert committee, and laying down the suggestive terms of references for them to conduct rigorous stakeholder consultations. This can be followed by development of the policy roadmap, and then conducting technical workshops for various sets of stakeholders to develop required skills in the domain. There are many such programmes and initiatives which are being conducted by various global bodies. However, to bring the actual visible impact, a nation must involve itself in initiating global support to come up with a comprehensive plan and framework for one and all.

## f) International Standard-Setting Bodies

The Committee on Payments and Market Infrastructures, and the International Organisation of Securities Commissions call for the application of set 'Principles for Financial Market Infrastructures'. These principles define the international standards for critical infrastructure such as payment systems, and securities depositories, and settlement systems. These bodies may be leveraged to define and set principles for the crypto eco-system as well.

12. <https://gbbccouncil.org/gsmi/>

13. <https://gbbccouncil.org/wp-content/uploads/2021/11/GSMI-2.0-Executive-Summary-Final.pdf>

14. <https://www.itu.int/en/ITU-T/extcoop/dcgi/Pages/default.aspx>

15. <https://www.gdf.io/blog/gdf-calls-on-agencies-for-greater-co-regulation-and-cross-border-coordination-with-the-global-crypto-and-digital-assets-sector/>

## 08 The Way Forward

### a) Recommendation 1 - Roadmap for Policy Intervention for Virtual Digital Assets in India

As per the latest mention by the Economic Affairs Secretary the government's consultation paper on crypto assets is "fairly ready". However, it seems the government is awaiting global regulations first, as the Finance Minister recently urged the IMF to play the leading role in regulating the crypto sector. She also told the Lower House of the Parliament that crypto assets require international collaboration to "prevent regulatory arbitrage". Meanwhile, the Financial Stability Board released its consultation for the crypto sector couple of days back. It essentially said that regulatory and supervisory frameworks should be based on the principles of 'same activity, same risk, same regulation'

However we suggest that for policy intervention for a complex industry like VDAs the government should form an advisory group with participation from government, industry, academia, financial experts, technology experts, legal experts, international partners, etc. to build the policy roadmap for the sector, after the studies are conducted. This committee should be established for an initial period of three years, which may be extended from time to time, to review the progress of the sectoral policies and further interventions required. To start off, this committee should focus on an exhaustive study on the global regulatory regimes and then develop the way forward. The terms of reference may be issued as under.

Government constitutes a committee under the Department of Economic Affairs to conduct detailed study on the global governance structure and regulatory framework for the Virtual Digital Assets and to develop a template of global legal framework

There has been growing importance of understanding the functioning and treatment of VDAs throughout the globe, because of the increasing attention to the expanding industry, and the need to find out ways and means to harness its potential while curbing the misuse. Accordingly, the Government of India has constituted a committee with following composition to conduct detailed study in the matter.

- Former SEBI Official – Chairman of the Committee
- Existing or Former Governor of RBI – Member
- Existing or Former Finance Secretary of Government of India – Member
- Academic experts from IDBRT-, IITs, IIMs
- Industry Expert – from exchanges
- Representative from industry forums and associations
- Existing or Former Head of Enforcement Directorate – Member
- Existing or Former Senior Officer of Central Board of Direct Taxes/ GST Council – Member(s)
- Representative from consumer groups
- Representative from NITI Aayog
- Representative from DEA – Member Convenor

The committee may also invite domain experts, government officials, officers from the regulatory bodies and others, as may be required, for consultations and/ or to participate in its deliberations. The terms of reference of the committee will be as under:

1. Market size, value, impact on industry and GDP, treatment of VDAs in various nations of the world and other important aspects and stances related to VDAs throughout the globe.
2. A detailed study on various laws, rules, regulations, guidelines currently being pursued by various nations to tackle the transactions in VDAs throughout the world.
3. Impact of such respective laws, rules, regulations, guidelines on the industry, economy, and GDP of those nations.
4. Parameters on which common grounds for international collaboration can be built which may include treatment of VDAs in a particular format, AML, CFT laws, cybersecurity aspects, measures of controlling volatility and liquidity, amongst many other aspects.

5. Basis the study conducted after detailed dialogue, brainstorming and deliberations, development of a comprehensive robust framework to suggest how the global governance structure should look like, which parameters should be covered and how the required cooperation amongst nations shall be built and led.

The committee will submit its report within six months from the date of its formation.

## **b) Recommendation 2 - Capacity Building**

The government should focus on capacity building of the government officials and other important stakeholders who will be involved in making the laws, coordinating internationally with other countries on this front, and in implementation and enforcement of the same. It may be done by conducting technical workshops, trainings, and tours for active engagement and strong relationship development across the globe. One of the leading examples is the recommendations and representation in the domain by the Committee on Data Protection, headed by Former Justice Shri BN Srikrishna. Similarly, various government bodies and institutions of India collaborate from time to time with other countries for the purpose of capacity building in their particular domains as well.

## **c) Recommendation 3 - Leveraging Leading International Forums**

India must pro-actively leverage forums where international organisations participate and should use the global platforms to which it is a party as well, such as AALCO, ASEAN, BIS, BRICS, CoN, G8, G15, G20, ICC, IDA, IFC, IMF, Interpol, ISO, ITU, SAARC, UN, UNIDO, WTO, WB, World Economic Forum's Digital Currency Governance Consortium, FATF etc. for conversations and deliberations involving the regulation of crypto assets. India must highlight the importance and requirement of an immediate international intervention on the issue related to cryptos and start putting forth its suggestions, the draft framework of the global regulations developed on its own, for the purpose of further acceptance and endorsement by other nations. India must also use these aforementioned forums to initiate dialogues and discussions on the subject matter, in order to capture the attention of other nations on this issue.

The chair of the committee may represent or nominate from the committee for the above engagements.

## **d) Recommendation 4 - Ideating Global SRO**

A global Self-Regulatory Organisation (SRO) by the industry players may also be set up, with participation from the respective government authorities, to enforce the adoption of best industry practices and code of conduct, which may further be adopted downwards by the domestic ecosystem of each nation. The idea of Global SRO may be proposed, and may form the part of the agenda of G20 meetings and discussions.



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