

Draft Bill 'Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019

September 4, 2019

Source: PRS India

[Our previous snippet on the same topic](#)

Inter-Ministerial Committee on Virtual Currencies submits its Report along with Draft Bill 'Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019'. The draft Bill which bans cryptocurrencies, criminalises activities associated with cryptocurrencies in India, and provides for the regulation of official digital currency.

Key Features of the bill

- **Definition of Crypto currency and its Mining:** The Bill defines cryptocurrency as any information, code, number or token which has a digital representation of value and has utility in a business activity, or acts as a store of value or a unit of account. The Bill defines mining as an activity aimed at creating a cryptocurrency and/or validating a cryptocurrency transaction between a buyer and seller.
- **Prohibited activities related to cryptocurrencies:** The draft provides that **cryptocurrency should not be used as legal tender or currency in India**. It prohibits mining, buying, holding, selling, dealing in, issuance, disposal or use of cryptocurrency in the country. In particular, the Bill prohibits the use of cryptocurrency for:
 - Use as a medium of exchange, store of value or unit of account

- Use as a payment system
- Providing services such as registering, trading, selling or clearing of cryptocurrency to individuals
- Trading it with other currencies,
- Issuing financial products related to it
- Using it as a basis of credit
- Issuing it as a means of raising funds and
- Issuing it as a means for investment.
- But the Bill **allows for use of technology or processes underlying cryptocurrency** for the purpose of **experiment, research or teaching.**
- **Offences and Penalties:** The Bill provides for the following offences and penalties:

Offences	Punishments
Mining, holding, selling, issuing or using cryptocurrency	Fine or imprisonment up to 10 years, or both
Issuing any advertisements, soliciting, assisting or inducing participation in use	Fine or imprisonment up to seven years, or both
Acquiring, storing or disposing of cryptocurrency with intent to use	Fine

- The Bill provides that the maximum amount of fine levied will be the higher of three times the loss caused and three times the gain made by the person. If the loss caused or the gain made by the person cannot be determined, the maximum amount of fine for acquiring, storing or disposing of cryptocurrency will be up to one lakh rupees.
- For all other offences, the maximum fine will be up to Rs 25 lakh. The Bill **amends the Prevention of Money Laundering Act, 2002 to give effect to the offences.**
- **Regulation of digital rupee and foreign digital currency:**

- The Bill provides that the central government may, in consultation with the central board of RBI, approve a digital form of currency to be legal tender.
- Further, it provides that the RBI may notify a foreign digital currency as a foreign currency in India to be governed by the **Foreign Exchange Management Act, 1999**.
- Foreign digital currency means a digital currency recognised as legal tender in a foreign jurisdiction.
- **Investigating Authority and punishment:** Only officers of the rank of Deputy Superintendent of Police or above may investigate offences under the Bill. The court will consider few factors while determining the quantum of punishment for the offences. These include the gains made by the individual and the harm caused to the financial system, among others.
- The **Immunity and exemptions:** It empowers the **central government** to grant immunity to any person from prosecution under the Act, if such a person makes full disclosure of the violation. Further, the central government may exempt certain activities from the list of prohibited activities under the Act, if it considers it necessary in the public interest.
- The Bill provides for a **transition period of 90 days** from the commencement of the Act, during which a person may dispose of any cryptocurrency in their possession, as per the rules notified by the central government