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Indian Government Invites Law Firm to Present Suggestions for Crypto Regulation

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The Indian government has invited lawyers from Nishith Desai Associates to present their suggestions for the country's crypto regulation. This is in response to the firm's submission of a proposed regulatory framework for cryptocurrencies. The suggestions include avoiding prohibition, taking a balanced approach, options for licensing, and self-regulation for the industry.

Also read: Indian Supreme Court Moves Crypto Hearing, Community Calls for Positive Regulations (https://news.bitcoin.com/indian-court-crypto-hearing-positive-regulations/)

Suggestions for Crypto Regulation

The Indian government invited lawyers from Nishith Desai Associates to present their suggestions for the country's crypto regulation early this month. The invitation came after the firm submitted a paper with a proposed regulatory framework for cryptocurrencies.

Lawyer Jaideep Reddy, one of the three authors of the paper, told news.Bitcoin.com on Monday that "The government is not legally bound to respond to or accept suggestions from the public." However, he added:

The paper was "prepared in an independent capacity and purely in public interest," it reads. The document was submitted to the Government committee chaired by the Secretary of Economic Affairs, Subhash Chandra Garg. This committee is currently developing

a regulatory framework for cryptocurrencies, the Indian Ministry of Finance previously confirmed (https://news.bitcoin.com/indian-government-updates-cryptocurrency-regulation/) to Parliament.

Nishith Desai Associates represents (https://news.bitcoin.com/petitions-rbi-crypto-banking-ban/) the Internet and Mobile Association of India (IAMAI) in its writ petition in the supreme court against the Reserve Bank of India (RBI) circular which banned banks from providing services to crypto businesses.

Balanced Approach and Licensing

The paper emphasizes "Regulation not prohibition." It asserts that "An outright ban on crypto-asset activity should not be considered for several reasons," noting:

> ***History has taught us that such technologies [blockchain] should be regulated and not banned, since banning is likely to be counter-productive and may also suffer from legal infirmities.***

The authors proceeded to describe that "a balanced regulatory approach should be taken to promote the various benefits of the technology and mitigate the risks," in line with international consensus.

The report also outlines a number of ways to license crypto businesses. "This may be done either by introducing new legislation or framing administrative regulations under existing legislations," Reddy explained to news.Bitcoin.com. He noted that one example "is to introduce a simple government notification bringing crypto-asset business activity under the Prevention of Money Laundering Act. With one fell swoop, that would bring crypto asset activity within a well-established AML regime, operating on par with the financial sector and the jewellery industry, for instance."

Types of Crypto Assets

The authors propose classifying crypto assets into three types. They wrote:

> ***For the purpose of legal analysis, all crypto-assets are not alike, and the implications of each should be assessed on a case-by-case basis. Broadly, crypto-assets can be considered to be of three types: payment tokens, security tokens, and utility tokens.***

Security tokens "will be regulated by the Securities and Exchange Board of India (SEBI) and under the Companies Act," the paper states.

Moreover, the lawyer explained that "Trading activity with regard to all other crypto-assets falls in something of a regulatory vacuum, although existing laws like the Consumer Protection Act continue to apply to a significant extent." This vacuum should be addressed by introducing a know-your-customer (KYC) and anti-money laundering (AML) regime as well as "a licensing regime, for crypto-asset business activity," they suggested.

Self-Regulation

One of the proposed measures is the self-regulatory approach which the authors originally submitted in July 2017 to the previous government committee on crypto assets, chaired by Shri Dinesh Sharma. "However, the previous committee's report was not made public ... Therefore, we don't know how that committee responded to the suggestion for self-regulation," Reddy told news.Bitcoin.com.

The code of conduct for self-regulation was originally prepared for the Digital Asset and Blockchain Foundation of India (DABFI), an industry body formed by Zebpay, Unocoin, Coinsecure and Searchtrade. "DABFI has since then been subsumed into the Internet and Mobile Association of India (IAMAI) as of November 2017," the report explains.

The suggestions are based on multiple sources as well as "the ULC Model Law, with suitable changes for the Indian context," the report details. The authors have offered to update the draft for the Indian government. "The Committee may consider self-regulation backed by a statutory mandate in order to provide statutory backing to the norms, and in turn, facilitate a system of government oversight of the industry," the authors wrote, concluding:

> ***These include mandating compliance with KYC/AML norms ... and net worth requirements based on those prescribed by the RBI for regulated entities. The draft creates a certification regime and mandates various consumer protection features including capital adequacy, audits, and disclosures.***

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