

Crypto markets under PMLA

Why in news?

The Finance Ministry's move to bring in virtual digital assets under the money laundering law is aimed at widening the taxation and regulatory net and giving teeth to agencies.

What is Prevention of Money Laundering Act (PMLA)?

- The Act enacted in 2022 enables government authorities to confiscate property earned from illegal sources and through money laundering.
- Under the Act, the *burden of proof lies with the accused*.

The burden of proof is a legal standard in which the accused has to prove that the property has not been obtained through proceeds of crime.

Objectives

- Preventing money laundering.
- Combating the channelizing of money into illegal activities and economic crimes.
- Providing for the confiscation of property derived from or involved in money laundering.
- Providing for any other matters connected with or incidental to the act of money laundering.

Offences

- **Part A** - It includes offences under various acts.
- Indian Penal Code, Prevention of Corruption Act, Narcotics Drugs and Psychotropic Substances Act, Antiquities and Art Treasures Act, Trademark Act, Wildlife Protection Act, Copyright Act and Information Technology Act.
- **Part B** - It includes offences that are mentioned in Part A, but are of a *value of Rs. 1 crore* or more.
- **Part C** - It includes *trans-border crimes*.

Penalties

- **Freezing assets** - Freezing or seizing of property and records, and/or attachment of property obtained through crime proceeds.
- **Punishment** - Imprisonment for a minimum of 3 years and a maximum of 7 years.
- **Drugs** - If the crime of money laundering is involved with the *Narcotic Drugs and Psychotropic Substances Act, 1985*, the punishment can go up to 10 years, along with fine.

Authorities

- **Enforcement Directorate (ED)** - It is responsible for investigating offences under the PMLA.
- **Financial Intelligence Unit-India (FIU-IND)** - It is the national agency that receives, processes, analyses and disseminates information related to suspect financial transactions.

What is a cryptocurrency?

Satoshi Nakamoto conceptualised an accounting system in 2008 financial crisis which has mooted the idea of blockchain.

- A cryptocurrency is a medium of exchange in digital format and uses encryption techniques to both control the creation of monetary units and to verify the exchange of money.

Bitcoin is the largest in the world according to market capitalisation, followed by Ethereum.

- With cryptocurrencies, a chain of private computers is constantly working towards authenticating the transactions by solving complex cryptographic puzzles.

[How cryptocurrency works?](#)



What exactly did the ministry do?

- **PMLA** - The government issued a notification bringing transactions involving crypto assets under the PMLA.
- It laid out the nature of transactions to be covered under PMLA.
- These are as follows:
 1. Exchange between virtual digital assets and fiat currencies.
 2. Exchange between one or more forms of virtual digital assets.
 3. Transfer of virtual digital assets.
 4. Safekeeping of virtual digital assets.
 5. Provision of financial services related to an issuer's offer.
 6. Sale of a virtual digital asset.
- The measure is expected to aid investigative agencies in carrying out action against crypto firms.

What is the legal status of crypto in India?

- Even though the government brought in a tax for cryptocurrencies, it did not proceed with framing regulations.

- **Ban** - The Reserve Bank of India had proposed a ban on cryptocurrencies, this was set aside by a court order.
- **Taxation** - In 2022, India introduced a 30% income tax on gains made from cryptocurrencies and the rules regarding 1% tax deducted at source on cryptocurrency came into effect.

How is the notification being viewed by the industry?

- **Time crunch** - There are concerns that the notification does not offer entities time to adhere to the fresh norms.
- **No central regulator** - The industry is also concerned that in the absence of a central regulator, crypto entities could end up dealing directly with enforcement agencies like the ED.
- **Due diligence** - Entities such as CoinDCX are now required by law to conduct due diligence and enhanced due diligence under the PMLA.

What is the way forward?

- **VDAs** - With this move Virtual Digital Asset (VDA) entities are covered as a reporting entity.
- **PMLA laws** - This means exchanges, custodians, administrators of VDAs handling customer funds will have to take care of PMLA laws as much as banks do and report suspicious transactions.
- However, in the absence of regulators, enforcement agencies could directly take recourse of this amendment.

Reference

1. [The Indian Express | Finance Ministry brings crypto assets under Prevention of Money Laundering Act](#)