Page: 2946-2970 *URL: www.lijdlr.com*

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

ISSN: 2583-7753

LawFoyer International Journal of Doctrinal Legal Research

[ISSN: 2583-7753]

Volume 4 | Issue 3

2026

DOI: https://doi.org/10.70183/lijdlr.2026.v04.373

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TAXED AND SURVEILLED BUT NOT REGULATED: MAPPING INDIA'S EMERGENT SUPERVISORY ARCHITECTURE FOR VIRTUAL DIGITAL ASSETS

Ayush Kumar[1]

I. ABSTRACT

India has regulated virtual digital assets for five years without ever legislating a framework for them. This paper maps that architecture and asks whether the developments of 2026, a private member's tokenisation bill, a parliamentary committee report favouring an interim self-regulatory model, and open conflict between the Reserve Bank of India and the Securities and Exchange Board of India, amount to the beginning of a real supervisory regime or another layer of ad hoc improvisation. The paper begins with the Supreme Court's decision in Internet and Mobile Association of India v. Reserve Bank of India, which struck down the Reserve Bank's 2018 banking ban on proportionality grounds while leaving its underlying regulatory authority intact, a ruling this paper argues created the permissive vacuum everything since has worked around. It examines how the Finance Act, 2022 filled that vacuum through taxation rather than regulation, defining virtual digital assets for the first time in Indian law solely to impose a flat thirty per cent tax and a one per cent deduction at source, a regime the Income-tax Act, 2025 has carried forward unchanged, and how the March 2023 notification under the Prevention of Money Laundering Act added a second, overlapping layer of control. It examines the WazirX hack of 2024, where the Supreme Court dismissed the victims', petition as raising a question of policy and recourse came eventually through a scheme of arrangement sanctioned in Singapore rather than through Indian law, as a concrete illustration of what this approach fails to deliver. Turning to 2026, the paper studies the Asset Tokenisation Regulation Bill, SEBI's proposed multi-regulator model, and the Standing Committee's thirty sixth report, against the Reserve Bank's preference for the Digital Rupee over legalisation. The paper argues that taxing and surveilling an asset class without defining it in regulatory terms has produced revenue and compliance data but little investor protection, and that the proposed multi-

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regulator model's coordination costs deserve scrutiny before Parliament settles on it. It closes with recommendations drawing on comparative regimes in the United States, the United Kingdom, the European Union, and Singapore.

II. KEYWORDS

Virtual digital assets, crypto regulation, RBI, SEBI, PMLA, tokenisation, WazirX, India.

III. INTRODUCTION

A person trading Bitcoin or Ethereum in India today operates inside a genuinely strange legal position. Nothing in Indian law expressly permits the trade, and nothing expressly prohibits it either. What does exist is a flat thirty per cent tax on any gain the trade produces, a one per cent deduction at source on the transaction itself, and, if the trade runs through an exchange or wallet provider, an entire anti-money-laundering compliance apparatus sitting behind that exchange, reporting to the Financial Intelligence Unit of India.

No statute defines what a virtual digital asset actually is for regulatory purposes, no regulator has been given clear statutory authority to license exchanges or protect investors trading on them, and no Parliament has ever voted on a comprehensive crypto law, despite one having been drafted and listed for introduction as far back as 2021.[2]

India has, in effect, built a functioning regulatory system for virtual digital assets entirely out of tax law and anti-money-laundering law, treating the presence of the asset class as a revenue and surveillance opportunity while declining, year after year, to say what the asset class actually is in regulatory terms or who is meant to supervise it.

This paper argues that this pattern is not accidental. It is the direct and fairly predictable consequence of the one significant judicial intervention in this space, the Supreme Court's 2020 decision in Internet and Mobile Association of India v. Reserve

[2]Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, Lok Sabha Bull. Pt. II (Winter Sess. 2021) (India).

Bank of India, which struck down the only serious regulatory action any Indian authority had attempted, the Reserve Bank's 2018 banking ban, while at the same time affirming that the Reserve Bank did have the underlying power to regulate virtual currencies had it gone about it more carefully.[3]

That combination, a ban struck down but the underlying authority preserved, left every subsequent government department free to build its own partial answer without any single regulator being forced to build a complete one. The Finance Ministry answered through taxation in 2022, and again through anti-money-laundering compliance under the Prevention of Money Laundering Act in 2023. The Reserve Bank continued to answer, most recently before the Parliamentary Standing Committee on Finance in July 2026, by promoting its own Digital Rupee as the preferable alternative rather than by regulating the private market at all.[4]

Only in 2026 did parliamentary activity begin to resemble a legislative response, in the form of a private member's tokenisation bill and a committee report recommending an interim supervisory model, neither of them a government measure. The research problem follows from that history. India governs virtual digital assets through instruments designed for revenue collection and financial surveillance, yet no Indian statute defines the asset class for regulatory purposes, confers supervisory authority over it, or allocates responsibility for protecting those who hold it. This paper asks what that mismatch has produced, and whether the proposals of 2026 correct it or merely formalise it.

The paper proceeds in ten further parts. Part II sets out the research objectives, research questions, and methodology. Part III examines the 2018 to 2022 regulatory vacuum and the Internet and Mobile Association judgment that defines its boundaries. Part IV examines how the Finance Act, 2022 used taxation to backfill the definitional gap that judgment left open, and how the Income-tax Act, 2025 has since

[3]Internet & Mobile Ass'n of India v. Reserve Bank of India, (2020) 10 SCC 274 (India).
[4]Reserve Bank of India, Oral Evidence Before the Standing Comm. on Fin., A Study on Virtual Digital Assets (VDAs) and Way Forward (July 2, 2026) (India).

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carried that regime forward. Part V examines the anti-money-laundering layer added in 2023 and its enforcement record.

Part VI turns to the developments of 2026, the tokenisation bill, the SEBI multi-regulator proposal, the Standing Committee's report, the institutional conflict running beneath them, and the IFSCA precedent in GIFT City. Part VII examines the WazirX episode and its eventual resolution through foreign insolvency proceedings. Part VIII places India's approach alongside comparative activity-based regimes abroad. Part IX offers a critical assessment of whether the proposed multi-regulator model can actually work. Part X sets out recommendations, and Part XI concludes.

A. Research Objectives, Research Questions, And Methodology

1. Objectives

This paper has three objectives.

The first is to trace, doctrinally, how India arrived at a regime that regulates virtual digital assets exclusively through taxation and anti-money-laundering law, using the Internet and Mobile Association judgment as the hinge point that made this outcome possible.

The second is to document, as precisely as the very recent record allows, what changed in 2026 and whether those changes represent a genuine shift toward dedicated regulation or simply an extension of the existing pattern under a new label.

The third is to assess, critically rather than descriptively, whether the multi-regulator coordination model now being proposed is likely to function better than the single-regulator alternatives it replaces.

2. Research Questions

The paper is organised around three questions.

First, why did the Supreme Court's 2020 intervention produce a regulatory vacuum rather than a regulatory framework, and what does that tell us about the limits of judicial review as a tool for building financial regulation.

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Second, what has taxation and anti-money-laundering compliance actually achieved for India in the absence of a dedicated statute, and what has it failed to achieve.

Third, does the 2026 legislative and committee activity represent a credible path toward a coherent supervisory architecture, and what coordination risks does the proposed multi-regulator model carry that a single dedicated regulator would not.

3. Methodology

The method is doctrinal and policy analytical.

The paper relies on the text of the Income-tax Act, 2025, which replaced the Income Tax Act, 1961 with effect from 1 April 2026 and now carries forward the virtual digital asset tax regime first enacted by the Finance Act, 2022, the Prevention of Money Laundering Act, 2002 and the March 2023 notification issued under it, the Asset Tokenisation (Regulation) Bill, 2026, and the Standing Committee on Finance's thirty sixth report on the Securities Markets Code, 2025, together with the Supreme Court's judgment in Internet and Mobile Association of India v. Reserve Bank of India.

Because much of Part VI concerns a legislative process that remains unfinished, including the Standing Committee's concluding oral evidence session of 16 September 2026 and the written government response still awaited after it, the paper relies more heavily on contemporaneous reporting and committee documents for that Part than on the case law based analysis used elsewhere, a limitation that should be read as a feature of writing about a live regulatory process rather than a defect in the underlying research.[5] The law and the parliamentary record are stated as they stood on 24 October 2026.

IV. THE REGULATORY VACUUM: 2018 TO 2022

A. The Reserve Bank's 2018 Ban and Its Reversal

On 6 April 2018, the Reserve Bank of India issued a circular directing every entity it regulates, meaning every bank and every other regulated financial institution in the country, to stop dealing in virtual currencies and to stop providing banking services

[5]Standing Comm. on Fin., Notice of Sittings, Lok Sabha Sec'y File No. LAFEAS-SCF015(11)/13/2026-SCF (Sept. 3, 2026) (India).

to any person or business dealing in them.[6] The effect was immediate and total. Cryptocurrency exchanges in India could not open bank accounts, could not accept payments from customers through the banking system, and could not pay their own employees or vendors through ordinary banking channels, which amounted, in practical terms, to being cut off from the financial system altogether even though nothing in Indian law made trading virtual currencies itself illegal.

The Internet and Mobile Association of India, an industry body representing several domestic exchanges, challenged the circular before the Supreme Court, arguing that virtual currencies were not currency or a payment system within the Reserve Bank's statutory jurisdiction at all, and that even if they were, the circular was a disproportionate response given that the Reserve Bank had never demonstrated any actual harm the exchanges had caused.

The Supreme Court, in its judgment of 4 March 2020, took a middle path that has shaped everything since. It held that the Reserve Bank did have the statutory authority to regulate activities connected to virtual currencies, since such currencies could plausibly affect the banking and payment systems the Reserve Bank is charged with protecting, but it struck down the specific circular on the ground that a total prohibition on banking services was disproportionate to whatever risk the Reserve Bank had identified.[7]

The Court was explicit that the Reserve Bank had never produced empirical evidence of harm caused by the exchanges, and that less restrictive alternatives, such as enhanced due diligence or monitoring requirements short of a total banking ban, had never been seriously considered before the ban was imposed. Applying the four-part proportionality standard of legitimate aim, rational connection, necessity, and balancing of competing interests, the Court found the circular to fail on the necessity and balancing limbs in particular.[8]

[6]Reserve Bank of India, Statement on Developmental and Regulatory Policies ¶ 13 (Apr. 5, 2018) (India).
[7]Internet & Mobile Ass'n of India, (2020) 10 SCC 274, ¶ [pinpoint].
[8]Id. ¶ [pinpoint].

The judgment is genuinely significant as a piece of administrative and constitutional law, reinforcing proportionality as the operative standard for testing financial regulatory action under Article 19(1)(g) of the Constitution. Its significance for this paper lies elsewhere. By striking down the ban but preserving the underlying regulatory power, the Court left virtual digital assets in a state where they were neither prohibited nor affirmatively regulated, a state that has persisted, largely unchanged in its basic structure, for the six years since.

B. The Shelved 2021 Bill

The Government of India signalled, within months of the Internet and Mobile Association judgment, that it intended to legislate. The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 was listed for introduction in the Lok Sabha's winter session of 2021, and early reporting suggested it would prohibit private cryptocurrencies while granting the Reserve Bank authority to issue an official central bank digital currency.

The bill was never introduced, its full text has never been made public, and as of 2026 its status remains formally unresolved, neither withdrawn nor revived.[9] The practical result of the bill's quiet abandonment is that the Internet and Mobile Association judgment has never been followed by the comprehensive legislative response it seemed to invite. Instead, as the following two Parts show, the Government chose to work through existing tax and anti-money-laundering statutes rather than build a dedicated regulatory framework from scratch.

V. TAXATION AS DE FACTO REGULATION: THE FINANCE ACT, 2022

A. Defining a Virtual Digital Asset for the First Time

The Finance Act, 2022 gave Indian law its first statutory definition of a virtual digital asset, inserted as clause (47A) of Section 2 of the Income Tax Act, 1961 and now carried, in substantially the same terms, into Section 2(111) of the Income-tax Act, 2025. The definition is deliberately broad. It covers any information, code, number, or

[9]Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, supra note 1.

token, not being Indian or foreign currency, generated through cryptographic means or otherwise, that provides a digital representation of value exchanged with or without consideration, and that carries the promise or representation of having an inherent value or functions as a store of value or a unit of account; it separately covers non-fungible tokens, any crypto-asset relying on cryptographic security and distributed ledger technology, which the Finance Act, 2025 added with effect from 1 April 2026, and any other digital asset the Central Government chooses to notify.[10]

The definition is worth pausing on because of what it is not. It is not a definition drafted for the purpose of deciding who may operate an exchange, what disclosures an issuer must make, or what protections an investor is entitled to. It is a definition drafted for the sole purpose of identifying what falls inside a tax base, and its breadth reflects a revenue authority's natural preference for a wide net over a regulator's usual preference for precise, activity specific categories.

B. Section 115BBH and the Flat Thirty Per Cent Tax

Section 115BBH, also inserted by the Finance Act, 2022, taxed any income from the transfer of a virtual digital asset at a flat rate of thirty per cent from assessment year 2023-24 onward, and Section 194 of the Income-tax Act, 2025 carries that rate forward unchanged from 1 April 2026.[11] The provision permits no deduction for any expenditure other than the cost of acquisition, meaning that trading costs, platform fees, and similar expenses cannot reduce the taxable gain, and it prohibits any loss on one virtual digital asset from being set off against a gain on another or against any other head of income at all.

The Finance Minister's Budget Speech of 1 February 2022 justified the regime as a response to the phenomenal increase in virtual digital asset transactions, which had in her words made a specific tax regime imperative.[12] The structure closely mirrors the tax treatment of lottery winnings, a design choice that is itself revealing. Treating gains from virtual digital assets in the same statutory bracket as gambling winnings

[10]Income-tax Act, 2025, § 2(111) (India) (formerly Income Tax Act, 1961, § 2(47A), inserted by the Finance Act, 2022, and expanded by the Finance Act, 2025 w.e.f. Apr. 1, 2026).
[11]Income-tax Act, 2025, § 194(1) (India) (formerly Income Tax Act, 1961, § 115BBH).
[12]Nirmala Sitharaman, Union Minister of Fin., Budget Speech 2022-2023 (Feb. 1, 2022) (India).

signals a policy stance that is punitive and deterrent in character, aimed at discouraging participation in the asset class through the tax code, rather than the neutral, market building posture more commonly associated with a genuine regulatory framework.

C. Section 194S and the One Per Cent Deduction at Source

Section 194S required any person paying consideration for the transfer of a virtual digital asset to deduct one per cent of that consideration at source and remit it to the tax authorities, a requirement that took effect from 1 July 2022 and that Section 393(1) of the Income-tax Act, 2025, read with Table Serial Number 8(vi), now carries forward at the same rate.[13] The stated purpose of the deduction was to create a transaction level paper trail that would allow the tax authorities to track virtual digital asset activity even where the underlying investor might otherwise go unreported.[14]

It succeeded in that narrow purpose. It also had a documented side effect: a meaningful share of Indian trading volume migrated to offshore exchanges that did not deduct the tax, a migration the Government would later have to address through the anti-money-laundering measures examined in Part V, since foreign platforms sat entirely outside the reach of an Indian withholding tax provision.

VI. THE ANTI-MONEY-LAUNDERING LAYER

A. The March 2023 Notification

The Ministry of Finance, by a notification dated 7 March 2023, brought entities offering virtual digital asset services within the scope of the Prevention of Money Laundering Act, 2002, designating them as reporting entities.[15] The notification covers exchange between virtual digital assets and fiat currency, exchange between different virtual digital assets, transfer services, custody and wallet administration, and participation in an issuer's offer and sale of a virtual digital asset.[16] Reporting entities under this

[13]Income-tax Act, 2025, § 393(1), tbl. Sl. No. 8(vi) (India) (formerly Income Tax Act, 1961, § 194S, effective July 1, 2022).
[14]Rupin Chopra & Apalka Bareja, TDS on Virtual Digital Assets, SS Rana & Co. (2022).
[15]Ministry of Fin., Notification No. S.O. 1072(E) (Mar. 7, 2023) (India).
[16]Id.

notification must appoint a designated director and a principal officer, maintain prescribed records, and register with the Financial Intelligence Unit of India.

The Unit followed the notification with detailed anti-money-laundering and counter financing of terrorism guidelines on 10 March 2023, and further registration circulars later that year.[17] Notably, the Ministry clarified that even offshore virtual digital asset service providers serving Indian customers must register with the Financial Intelligence Unit, directly targeting the very migration to foreign platforms that Section 194S had inadvertently encouraged.

B. Enforcement in Practice

The Financial Intelligence Unit has used its powers under this framework with real effect. It has blocked the websites of non-compliant offshore exchanges under the Information Technology Act, 2000 through the Ministry of Electronics and Information Technology, and it has imposed monetary penalties on platforms found to have operated in India without registering as reporting entities.

The largest was a penalty of Rs 18.82 crore imposed on Binance by order of 19 June 2024 under Section 13 of the Prevention of Money Laundering Act, for contraventions of Section 12(1) committed while the exchange operated unregistered. Binance had already registered with the Unit in May 2024, after the blocking of its URLs, so the order adjudicated past non-compliance rather than itself compelling registration.[18]

The Delhi High Court has separately read the reporting entity definition broadly. In litigation brought by PayPal, it held that PayPal is a payment system operator under the Act and is therefore bound by reporting entity obligations, since any system enabling the transfer of money between two ends falls within the expression payment system; it quashed the penalty of Rs 96 lakh the Unit had imposed, finding PayPal's conduct neither deliberate nor contumacious.[19]

[17]Fin. Intelligence Unit-India, AML & CFT Guidelines for Reporting Entities Providing Services Related to Virtual Digital Assets (Mar. 10, 2023) (India).
[18]Fin. Intelligence Unit-India, Order in Original No. 10/DIR/FIU-IND/2024, In re Binance (June 19, 2024) (India).
[19]PayPal Payments Pvt. Ltd. v. Fin. Intelligence Unit-India, 2023 SCC OnLine Del 4336 (India) (decided July 24, 2023).

That case turned on the statutory definition of a payment system rather than on the March 2023 notification, so it supports a broad reading of reporting entity status rather than supplying an instance of enforcement against a virtual digital asset platform. This record demonstrates that the anti-money-laundering layer is not merely a paper requirement. What it has not generated, because it was never designed to, is any regime of investor protection, market conduct standards, custody safeguards, or disclosure obligations of the kind found in a conventional securities or commodities statute.

VII. 2026: THE YEAR THE ARCHITECTURE MOVED

A. The Asset Tokenisation Regulation Bill, 2026

The Asset Tokenisation (Regulation) Bill, 2026 was introduced in the Rajya Sabha on 14 March 2026 as a private member's bill moved by Raghav Chadha, and not as a government measure.[20] It is nonetheless India's first dedicated legislative proposal for regulating and licensing tokenised assets, including stablecoins. Its prospects of enactment are slight, since only a handful of private member's bills have become law since Independence and none since 1970, but its text supplies the first worked out legislative design for the sector.

The Bill's most significant structural feature is that it creates no new regulator. It designates the existing sector authorities instead, the Securities and Exchange Board of India for securities, the Reserve Bank of India for payment linked tokens, and the insurance and pension regulators for sector specific assets, and constitutes an Inter-Regulatory Coordination Committee under Section 8 to manage jurisdictional overlaps.[21]

Before this Bill, the only Indian policy document specifically addressing real-world asset tokenisation had been a consultation paper issued by the International Financial Services Centres Authority, confined to the GIFT City special jurisdiction rather than

[20]Asset Tokenisation (Regulation) Bill, 2026 (India) (Private Member's Bill, Rajya Sabha, introduced Mar. 14, 2026).
[21]Id. § 8; see also FIG Paper No. 55 (VDA Series 10): India's First Asset Tokenisation Bill, Cyril Amarchand Mangaldas India Corp. L. Blog (Mar. 26, 2026).

the country as a whole. The 2026 Bill is accordingly the first proposal, from any quarter, to build a tokenisation framework of general national application.

B. SEBI's Proposed Multi-Regulator Coordination Framework

Independently of the tokenisation bill, the Securities and Exchange Board of India has proposed its own multi-regulatory framework for virtual digital asset activity generally, recognising the complex and cross-jurisdictional character of the asset class and advocating a coordinated approach involving the Reserve Bank of India and the Insurance Regulatory and Development Authority of India alongside itself.[22]

Under a version of this model reported in mid-2026, the Securities and Exchange Board of India would supervise exchanges and security-like tokens, the Reserve Bank of India would handle cross-border flows and foreign investment linkages, and the Finance Ministry would retain overall policy and taxation control, with the Finance Ministry reportedly in active discussions with both regulators ahead of the Union Budget for 2026-27.

C. The Standing Committee's Thirty Sixth Report

The Parliamentary Standing Committee on Finance, in its thirty sixth report on the Securities Markets Code, 2025, tabled on 23 July 2026, went a step further than either the tokenisation bill or the Securities and Exchange Board of India's own proposal. Examining collective investment schemes under the Code, the Committee observed that some virtual digital assets are increasingly traded as financial assets and may exhibit characteristics similar to securities or derivatives.

It recommended that the Government comprehensively examine the need for a statutory and regulatory framework for the asset class, covering governance, oversight, disclosures, and investor protection, and that, pending such a framework, it consider an interim arrangement through recognised Self-Regulatory Organisations operating under the oversight of a designated regulator such as the Securities and

[22]Virtual Currency Regulation Review, AZB & Partners (Sept. 3, 2025).

Exchange Board of India or the Reserve Bank of India, according to the activity concerned.[23]

The Committee stopped short of pulling virtual digital assets into the proposed Code, recording instead the Ministry of Finance's position that the asset class remains unregulated in India except for the limited purposes of taxation, prevention of money laundering, and reporting.[24] The Department of Economic Affairs then gave oral evidence on 16 September 2026, in what proved to be the concluding sitting of a study begun in September 2025.[25]

The Committee's chairman stated afterwards that the Government is neither accepting virtual digital assets nor regulating them, and that a written government response remained awaited.[26] The Committee was reconstituted in October 2026 under the same chairman and has again listed virtual digital assets for examination, so the study carries into the new term rather than closing with a report.[27]

D. The Institutional Conflict Beneath the Surface

Running beneath these three parallel initiatives is a genuine and largely unresolved conflict between India's financial regulators. The Reserve Bank of India shelved its own long promised regulatory discussion paper on virtual digital assets again in April 2026, reportedly because of the Bank's own internal opposition to any framework that would have the effect of legitimising private virtual currencies.[28]

It told the Standing Committee on Finance on 2 July 2026 that virtual digital assets should not be legalised at all, pressing the Digital Rupee as the preferable alternative and warning that fiat pegged stablecoins undermine monetary sovereignty.[29] The Securities and Exchange Board of India, together with the Institute of Chartered

[23]Standing Comm. on Fin., Thirty Sixth Report on the Securities Markets Code, 2025, Lok Sabha (July 23, 2026) (India).
[24]Id.
[25]Standing Comm. on Fin., supra note 4.
[26]Finance Panel Seeks Government Response on Virtual Digital Asset Grey Areas, Report Likely Soon, ANI (Sept. 16, 2026).
[27]Parliamentary Committee on Finance to Examine 46 Economic Issues, Including Crypto, AI, in FY'27, ETV Bharat (Oct. 24, 2026).
[28]Cryptocurrency in India: Laws, Taxes, and AML Rules, Sumsub (Aug. 2026).
[29]Reserve Bank of India, supra note 3.

Accountants of India, which appeared before the same Committee on the same day, and the wider tax apparatus, has by contrast consistently favoured a regulated framework over continued prohibition or continued ambiguity.[30]

This is not a minor bureaucratic disagreement. It goes to the heart of what any multi-regulator model proposed in 2026 will actually have to resolve, since a model that splits authority between two regulators who disagree about the basic legitimacy of the asset class they are jointly supervising is at genuine risk of producing contradictory guidance rather than coordinated oversight, a concern examined further in Part IX.

E. The IFSCA Precedent in GIFT City

One part of India has approached tokenised assets through a dedicated regulatory process rather than through tax and anti-money-laundering law. The International Financial Services Centres Authority, the unified regulator for India's International Financial Services Centre at GIFT City in Gujarat, constituted an Expert Committee on Asset Tokenization in 2023 and issued a consultation paper on the regulatory approach towards tokenisation of real-world assets on 26 February 2025, inviting comments by 20 March 2025.[31] That paper, as noted in Part VI, Section A, was the only Indian policy document on the subject before the 2026 Bill. It is a consultation paper and not a licensing regime.

The Authority has notified no dedicated tokenisation licence, and entities operating in this space presently enter through the TechFin and Ancillary Services Regulations, 2025 or through limited use authorisations under the Authority's FinTech sandbox, pending a final framework.[32] The GIFT City experience is nonetheless instructive for two reasons.

First, it shows that an Indian regulator given a bounded jurisdiction will consult on and design a tokenisation framework in a way no national authority has yet

[30]Inst. of Chartered Accountants of India, Oral Evidence Before the Standing Comm. on Fin., A Study on Virtual Digital Assets (VDAs) and Way Forward (July 2, 2026) (India).
[31]Int'l Fin. Servs. Ctrs. Auth., Consultation Paper on Regulatory Approach Towards Tokenization of Real-World Assets (Feb. 26, 2025) (India).
[32]Int'l Fin. Servs. Ctrs. Auth. (TechFin and Ancillary Services) Regulations, 2025 (India).

attempted, which suggests that the delay in national legislation reflects an absence of political consensus rather than an absence of regulatory capacity.

Second, the sandbox offers a natural pilot site for provisions of the 2026 Bill before they are rolled out nationally, an option the Bill's drafters and the Standing Committee examined in Part VI, Section C would do well to consider explicitly rather than treating the national and IFSC frameworks as entirely separate tracks.

VIII. THE INVESTOR PROTECTION GAP: THE WAZIRX EPISODE

The clearest illustration of what India's tax-and-surveillance approach fails to deliver is the hack suffered by WazirX, at the time one of India's largest cryptocurrency exchanges, on 18 July 2024. Attackers, later linked by international investigators to North Korea's Lazarus Group, exploited a flaw in the permissions governing a multi-signature Ethereum wallet held with the exchange's custody provider, Liminal, and drained approximately two hundred and thirty-five million dollars in user funds within hours.[33]

The restructuring that followed identified some 4.3 million scheme creditors, and a large share of them learned that their holdings had been frozen not from any regulator or from the exchange itself in the first instance, but from social media. WazirX's own statement described the breach as a force majeure event beyond its control, even though the exchange had marketed itself, up to that point, on the strength of its security protocols.

What followed exposed the practical cost of regulating an asset class purely through tax and anti-money-laundering law rather than through a dedicated statute. WazirX's holding company, Zettai Pte Ltd, incorporated in Singapore, invoked a four-month moratorium from the Singapore High Court that blocked lawsuits against it, meaning that a crisis affecting millions of Indian users had to be litigated, if at all, through a foreign court applying foreign insolvency procedure.[34]

[33]CoinDCX, Trust, and the Turning Point for India's Cryptocurrency Future, IndraStra Global (Oct. 2025).
[34]Id.

A group of Indian victims petitioned the Supreme Court of India directly, seeking a criminal investigation into the exchange, its founders, its Singapore parent, and its custody provider. The Supreme Court dismissed the petition on 16 April 2025, holding that cryptocurrency regulation is a policy matter for the government rather than one for the judiciary to resolve on a writ petition, and leaving the petitioners to approach the regulators.[35] The National Consumer Disputes Redressal Commission had reached a similar conclusion months earlier, dismissing a related consumer complaint for want of any clear statutory framework governing the exchange's obligations to its users.

Relief, when it came, came from Singapore. After the High Court there declined to sanction an initial scheme in June 2025, creditors re-voted in August 2025 on an amended scheme of arrangement, which 95.7 per cent of voting creditors, representing 94.6 per cent by value, approved. That Court sanctioned the amended scheme, with modifications, on 13 October 2025.[36] The scheme took effect on 15 October 2025, the platform resumed operations later that month, and distributions and recovery tokens followed to scheme creditors.[37]

The WazirX episode is worth dwelling on precisely because it shows what the tax and anti-money-laundering architecture examined in Parts IV and V was never built to do. The Financial Intelligence Unit's reporting entity framework is designed to track where money moves and to whom, not to prescribe how an exchange must secure its wallets, how it must segregate customer assets from its own operating funds, or what compensation a user is entitled to when a custody provider's security fails.

The one per cent deduction at source generated a transaction level paper trail for the very funds that were later stolen, without that paper trail translating into any recovery mechanism. A second Indian exchange, CoinDCX, lost approximately forty-four million dollars, or about Rs 378 crore, in July 2025 when attackers compromised an

[35]India's Supreme Court Rejects WazirX Hack Victims' Petition, Citing Lack of Regulatory Clarity, Crowdfund Insider (Apr. 2025).
[36]Re Zettai Pte Ltd, HC/SUM 940/2025 (Sing. High Ct. Oct. 13, 2025).
[37]Zettai Pte Ltd, Scheme of Arrangement Filed with the Accounting and Corporate Regulatory Authority (Oct. 15, 2025) (Sing.).

internal operational account used for liquidity provisioning on a partner exchange. That incident differed from the WazirX breach in scale and in outcome: the compromised account was segregated from customer wallets, customer holdings were unaffected, and the exchange absorbed the loss from its own treasury.[38]

The contrast is instructive rather than confirmatory. Whether users bear the loss when an Indian exchange is breached turns on how that exchange has chosen to segregate its accounts and on whether its balance sheet can absorb the shortfall, because no Indian statute requires either. This is the concrete cost of the pattern traced in Parts III through VI. A jurisdiction can extract substantial tax revenue and surveillance data from an asset class while leaving those who hold it dependent, when the custodian fails, on the exchange's own solvency or on the insolvency law of a foreign state.

IX. A COMPARATIVE GLANCE

India's proposed multi-regulator model is explicitly said to draw on global standards, and it is worth locating it against the activity-based regimes that have emerged in the European Union, the United States, and the United Kingdom, each of which assigns oversight according to what a given token actually does rather than what it is called.

The European Union's Markets in Crypto-Assets Regulation, generally known as MiCA, establishes a single harmonised licensing regime across member states, with stablecoin issuers subject to particularly stringent reserve and governance requirements. Its transitional period expired on 1 July 2026, since when any entity serving clients in the Union without a MiCA licence has been in breach of Union law, so the Union now presents a fully operative single gateway of exactly the kind a Reserve Bank versus Securities and Exchange Board of India divide risks foreclosing.[39]

The United States has moved from enforcement alone toward partial legislation without resolving the jurisdictional question. The GENIUS Act, signed on 18 July 2025, created the first federal regime for payment stablecoins.[40] The broader market

[38]CoinDCX Hit by USD 44.2 Million Security Breach, Founders Say Customer Funds Safe, The Tribune (July 20, 2025).
[39]Regulation (EU) 2023/1114, 2023 O.J. (L 150) 40; European Sec. & Mkts. Auth., Statement on the End of the MiCA Transitional Periods (Apr. 17, 2026).
[40]Guiding and Establishing National Innovation for U.S. Stablecoins Act, Pub. L. No. 119-27 (2025).

structure bill, the CLARITY Act, passed the House of Representatives in July 2025 but failed a Senate cloture vote on 15 September 2026 by forty nine votes to fifty, leaving the allocation of authority between the Securities and Exchange Commission and the Commodity Futures Trading Commission to agency rulemaking rather than to statute.[41]

The Commission proposed Regulation Crypto Assets in August 2026 and its commodities counterpart issued an advance notice of proposed rulemaking on 5 October 2026.[42] The United Kingdom has gone furthest toward a settled timetable: the Financial Conduct Authority published final rules on 30 June 2026, opened its authorisation gateway on 30 September 2026, and will bring the full statutory regime into force on 25 October 2027.[43] The lesson for India is not that any one model should be transplanted.

It is that the coordination problem India is now trying to solve through committee recommendations and inter-ministerial discussion has elsewhere been answered either by a single harmonised gateway, as in the European Union and the United Kingdom, or by a protracted and unfinished legislative contest, as in the United States, where a failed procedural vote has left the central allocation question to regulators rather than to Congress. India's Standing Committee would do well to study the second example as a cautionary tale rather than only the first as a model to emulate.

A fourth comparator, closer to home, is worth noting briefly. Singapore regulates digital payment token services through its Payment Services Act 2019, administered by a single regulator, the Monetary Authority of Singapore, which licenses exchanges and imposes technology risk management and customer asset segregation requirements on them.[44]

[41]Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong. (2025).
[42]Regulation Crypto Assets, 91 Fed. Reg. 54,510 (proposed Aug. 21, 2026); Commodity Futures Trading Comm'n, Advance Notice of Proposed Rulemaking on Regulation CTX and Regulation CAM, Release No. 9307-26 (Oct. 5, 2026).
[43]Fin. Conduct Auth., PS26/9, Cryptoasset Regime: Final Rules (June 30, 2026) (UK); Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026 (UK).
[44]Payment Services Act 2019 (Sing.).

The Singapore model demonstrates a point directly relevant to the WazirX episode examined in Part VII: a single, adequately resourced regulator with clear custody and security standards can meaningfully reduce, even if it cannot eliminate, the kind of catastrophic custodial failure that Indian users experienced with no statutory recourse at all. India's proposed multi-regulator model gains little from Singapore's single-regulator example on the question of institutional design, but it gains a great deal from Singapore's substantive licensing standards, particularly around custody and technology risk, standards that any Indian framework, whichever regulator or regulators end up administering it, should adopt directly rather than reinvent.

X. CAN THE MULTI-REGULATOR MODEL ACTUALLY WORK?

This paper takes the view that the multi-regulator model currently being discussed carries three specific risks that have not yet been adequately addressed in the public record.

The first is definitional inconsistency. If the Securities and Exchange Board of India defines a security-like token differently from how the tokenisation bill defines a tokenised asset, and differently again from how Section 2(111) of the Income-tax Act, 2025 defines a virtual digital asset for tax purposes, a single instrument could fall into three different regulatory categories simultaneously, each triggering a different compliance regime administered by a different authority.

The second is the institutional conflict documented in Part VI, Section D. A model that assumes the Reserve Bank of India and the Securities and Exchange Board of India will coordinate smoothly presupposes a level of agreement about the basic legitimacy of the asset class that the public record, as it stood on 24 October 2026, simply does not show.

The third is timing. An interim self-regulatory model, of the kind the Standing Committee has recommended, is by definition a bridge to somewhere else, and bridges built without a clear date for the destination on the other side have a tendency, in Indian financial regulation as elsewhere, to become permanent.

None of this means that a multi-regulator model is wrong in principle. Financial regulators around the world routinely share jurisdiction over complex instruments, and virtual digital assets, which can simultaneously resemble a currency, a commodity, and a security depending on how they are structured and used, may genuinely resist assignment to any single regulator.

What this paper argues instead is that the coordination mechanism itself, meaning the specific rules that decide which regulator has final say when two of them disagree, has received far less attention than the question of which regulators should be involved in the first place.

The Asset Tokenisation (Regulation) Bill, 2026 is the only proposal to address the mechanism at all, and it does so incompletely. Section 8 of the Bill constitutes an Inter-Regulatory Coordination Committee to manage jurisdictional overlaps, but supplies neither a default tiebreaker nor a decision timeline for the case in which the Securities and Exchange Board of India and the Reserve Bank of India take opposing positions.[45] A coordinating committee without a casting rule reproduces in statutory form precisely the deadlock documented in Part VI, Section D. That omission should be corrected before, rather than after, any interim self-regulatory model is allowed to take root.

XI. RECOMMENDATIONS

This paper offers five recommendations.

First, Parliament should enact a single statutory definition of a virtual digital asset for regulatory purposes, distinct from and reconciled with the tax definition in Section 2(111) of the Income-tax Act, 2025, so that a given instrument's regulatory classification does not depend on which authority happens to be looking at it.

Second, any multi-regulatory framework, whether built through the tokenisation bill, the Securities and Exchange Board of India's own proposal, or some combination of the two, should include an explicit and binding dispute resolution mechanism for

[45]Asset Tokenisation (Regulation) Bill, 2026, § 8 (India).

jurisdictional conflicts between regulators, rather than leaving such conflicts to be resolved informally or through litigation after the fact.

Third, the interim self-regulatory model recommended by the Standing Committee should carry a statutory sunset date, forcing Parliament either to enact comprehensive legislation within a fixed period or to extend the interim arrangement explicitly, rather than allowing the interim model to persist indefinitely by default.

Fourth, the substantial compliance and transaction data already being collected through the one per cent deduction at source under Section 393(1) of the Income-tax Act, 2025 and through the Prevention of Money Laundering Act reporting framework should be formally made available, in appropriately anonymised form, to whichever regulator or regulators are eventually given supervisory authority, so that five years of tax and anti-money-laundering data are not wasted when a genuine regulatory framework finally arrives.

Fifth, and drawing directly on the WazirX episode examined in Part VII, any national framework should include a minimum custody and security standard for exchanges holding customer assets, backed by a statutory compensation or insurance mechanism for retail users, modelled on the kind of investor protection fund already familiar from Indian securities law, and Parliament should consider piloting such a standard within the International Financial Services Centres Authority's GIFT City jurisdiction before extending it nationally, given that authority's existing sandbox machinery and its published consultation work on tokenisation.

XII. CONCLUSION

India's experience with virtual digital assets over the past six years illustrates a particular way that financial regulation can fail to happen even while government activity around the subject steadily increases. Every individual piece of the current architecture, the tax provisions inserted by the Finance Act, 2022 and now carried into the Income-tax Act, 2025, the anti-money-laundering notification of March 2023, and the enforcement actions the Financial Intelligence Unit has since brought, is defensible and, within its own narrow purpose, reasonably effective.

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None of them, individually or together, amounts to a regulatory framework in the sense that a securities law, a banking law, or an insurance law is a regulatory framework, because none was designed to answer the questions a regulator is meant to answer: who may operate an exchange, what must be disclosed to an investor, how customer assets must be held, and what happens when something goes wrong.

The WazirX episode examined in Part VII supplied a stark answer to that last question. When something did go wrong, at a scale affecting millions of Indian users, neither the tax authorities nor the anti-money-laundering regulator nor the Indian courts had any statutory basis on which to offer recourse, and the Supreme Court, dismissing the victims' petition, treated the matter as one of policy for the government and left the petitioners to the regulators. Recourse did eventually arrive, but through a scheme of arrangement sanctioned by the High Court of Singapore under Singaporean insolvency law, which makes the point more precisely than any shortfall in recovery could: a remedy existed, and Indian law supplied no part of it.

The developments of 2026 represent the first genuine attempt to answer those questions rather than to work around them, but the interim, multi-regulator, self-regulatory-organisation model now on the table carries real coordination risks that the public record has not yet resolved, chief among them the open disagreement between the Reserve Bank of India and the Securities and Exchange Board of India about whether this asset class should be legitimised at all. Until Parliament settles that disagreement through a single, statutorily binding definition and a clear jurisdictional dispute resolution mechanism, India's approach to virtual digital assets will likely remain what it has been since 2018: an asset class that is taxed with real precision, surveilled with real effect, and regulated, in the ordinary sense of that word, hardly at all.

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