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GLOBAL REGULATORY DIVERGENCE ON CRYPTO: - "A STUDY OF MICA (EU), PSA (SINGAPORE), AND THE CLARITY ACT (USA) VS. INDIA'S CONTAINMENT MODEL"

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Abstract

Rising numbers of virtual currencies have thrown old laws and money systems into disarray across nations. Even though many people in India trade digital coins, clear rules are still missing taxes apply but full approval does not exist. Looking closely at court decisions reveals how interpretations shape what is allowed. Some parts of the Constitution matter more when deciding if controls fit with citizen rights. Tax policies shift often, reacting to new trends rather than guiding them. Foreign models give hints about possible directions local policy might take. Comparing global approaches shows which methods hold up under scrutiny. How judges rule today could define boundaries tomorrow. Rules grow slowly, shaped by both public use and government caution.

From 2013 to 2017, Indian regulators approached virtual digital assets with hesitation. Then came a shift between 2018 and 2020 marked by outright ban attempts followed by courtled pushback. During that time, banks were told to cut ties with crypto firms because of risks feared by authorities[1]. Yet such a move did not last long once legal challenges reached higher courts. A turning point arrived through a key decision delivered by the country's top judges in 2020[2]. That ruling struck down the central bank's directive on grounds it went too far. Still, the bench made clear that oversight powers still belong to governing bodies when stability is at stake. Years after, new rules began forming not just reactive but built around taxes and reporting duties. This phase, spanning 2021 to 2023, focused more on tracking than banning. Now, future changes loom again under proposed amendments set forth in the 2025 finance legislation[3]. These aim to reshape how such assets are officially described within law. So what started as wariness turned into structured control, shaped heavily by one pivotal verdict.

A fresh look at the Finance Act, 2022 digs into how new tax rules hit digital asset trades hard Section 115BBH[5] slaps a blunt 30% charge, while section 194S carves out a 1% cut right at source, blocking any chance to balance losses. These moves, applied before clarity exists, stir confusion, pushing users away, makes following rules tougher, also triggered questions about fairness tied to Article 19(1)(g). On another front, the examination checks whether India lines up with global norms by folding virtual assets into money laundering controls via the 2002 law[7], along with guidance shaped by FATF. Comparing MiCA, Singapore, and U.S. frameworks highlights gaps in India's strict digital asset approach. A dedicated regulator and tailored legislation could provide clarity, ensure user safety, and support innovation through smarter structure.

Introduction:-

Right now, countries find themselves tangled in sorting out what exactly counts as virtual money rules differ wildly from place to place. More than just confusion over laws, this clash cuts deep into who controls tech change and keeps money systems steady. While Europe pushes ahead with clear cut rules under its MiCA plan, aiming to pull new finance tools into regulated spaces, India leans another way slowing things down through taxes and limits. What fuels these choices? Past warnings sound loud here: voices like India's central bank and the Garg team point firmly at dangers tied to how such assets behave when left unchecked.

BTC fell hard one year it was twenty grand, next it crashed near four thousand. That kind of swing puts regular people at serious risk. Big drops like that can shake the whole system. Hidden identities in digital assets open doors for dirty money. Because transactions lack clear ownership, criminals move funds without detection. This gap lets illegal groups support operations through untraceable transfers. Pseudonymous systems often shield bad actors behind layers of code instead of names. Financial safeguards struggle when real users stay invisible. Apart from weak design, missing central checks opens doors to scams like fake websites, online theft, plus market tricks that fool users. Though protection exists, gaps stay wide enough for hackers to slip through using clever traps aimed at unwary people. Once money moves on chain, it cannot come back. Mistakes or scams lock funds away forever. No safety net exists when things go wrong.

Out of nowhere, private digital currencies are shaking up how central banks manage cash flow and currency value. These systems run wild without government backing, messing with traditional monetary levers. Not tied to any nation, they grow fast outside official oversight. Money moves differently now, slipping beyond familiar controls. Power shifts quietly into unknown hands. Stability wobbles when too much value flows through unregulated networks.

Though everyone sees these dangers, major nations shape rules differently some choose clear guidelines to help growth, others use heavy costs to keep things under control.

1. The EU's MiCA: Compliance Strategy for Cryptocurrency Rules

One major change in digital money rules comes through the Markets in Crypto-Assets Regulation ((EU) 2023/1114), known as MiCA. Across the 27 EU countries and also places like Norway, Iceland, Liechtenstein they all one clear system instead of many different local ones. Rather than just adding paperwork, this move reshapes how oversight works. Because of it, certain digital assets that once slipped past financial laws now face real supervision. Clarity replaces confusion, aiming to strengthen trust and order in markets where gaps used to exist.

Now comes clarity where confusion once ruled MiCA's main goals rest on clear rules, required information sharing, not just safety but strong safeguards for users. Because initial offerings face oversight, along with tough standards for firms running services, people who invest gain better insight into what could go wrong. Such change signals a shift: no longer unregulated chaos, instead routine checks become normal practice across digital asset markets.

1. Stability-driven digital assets often tie their worth to traditional money units. Sometimes they follow gold or oil prices instead.

2. Starting off differently e-money tokens resemble digital cash tied directly to one national currency. They function mainly for buying things online instead of serving as investments. Unlike broader cryptocurrencies, these assets mirror traditional money in electronic form. Think of them as virtual equivalents with a fixed link to fiat. Their design focuses on stability by avoiding wild price swings. Usually backed one-to-one, they hold steady through regular monetary units. Not meant for speculation, their role centers on payments across platforms.

Firms now face a reality where basic definitions

lay the groundwork - transitioning into formats machines can parse, embedded within legal obligations. Starting here reshapes how compliance takes form across industries.

1.1. Stakeholder Types and Key Responsibilities

Starting off wrong means everything after falls apart. Getting the stakeholders types right shapes how rules applies under MiCA.. Classification sets license route, funding needs, follow-up checks. Mistakes here aren't paperwork slips they open doors to shutdowns before launch begins. Stakeholders appear here alongside approved crypto-assets, shaped by regulation.

Crypto Assets and Who Oversees Them

Individuals applying for access to markets might include those offering services, seeking entry into exchange systems, or managing platforms where transactions occur. Banks along with officially approved entities handle ART assets. These organizations must meet strict regulatory standards before participation

Credit institutions might includes electronic money entities. EMT assets sometimes appear under such financial bodies. These organizations operate within regulated frameworks. One finds them handling digital currency operations. Their role often involves managing asset flows electronically.

Creating or adjusting a crypto-asset white paper stands at the core of what each stakeholder must do. Because of how things unfold, putting that document together becomes the moment when one picks an entry path. As outlined in ESMA Guidance 1.9, four paths exist for submitting reports: ART, EMT, OTHR, along with another meant fully for tech trials by software suppliers. Even though everyone has to deliver such a paper, carrying it out technically follows tight rules today.

1.2. The Mica's White Paper :

Now central to safeguarding investors, the white paper no longer serves merely as a marketing aid. Instead, it forms the foundational requirement for any asset operating inside the Union. Under Article 1 of ITS (EU) 2024/2984, its contents have to avoid bias, ensure transparency, remain straightforward, and prevent deception. Presented succinctly yet fully, nothing essential be left out while keeping clarity intact.

One key point often overlooked? Is Legal responsibility. The person or group behind a token offering holds complete accountability for what appears in its white paper. Even though ESMA includes these documents in a public registry, national regulators do not vet them before release. Because there is no green light required upfront, any errors or omissions fall squarely on the issuer. Accuracy isn't just helpful it becomes even more essential. Mistakes might lead to lawsuits. They could also trigger rejection during oversight processes. Getting the details right acts as protection. It shields from disputes. It prevents administrative setbacks. Validity matters not just because it sounds good but because consequences makes the entire system fall apart.

1.3. How iXBRL and XHTML Work Together in Financial Reports

Moving toward machine readable reports through Inline XBRL marks a shift in how markets are watched. Because of this format, oversight bodies can examine data across borders while tracking threats as they unfold. Under Article 2 of the ITS, documents like white papers need combining into one XHTML file built on Inline XBRL 1.1 rules.

Beginning with the right components matters the most. Reporting bodies should strictly follow the sequence laid out in ITS (EU) 2024/2984 precisely. Matching taxonomy items correctly forms a core part of compliance. Errors do arise if the required order isn't maintained. Submission to national competent authorities may fail when structures differ even slightly.

1.4. Title Six Preventing and Banning Market Misconduct

At its core, Title VI upholds fair markets. Because

early detection matters, it requires CASPs to run continuous monitoring tools. These systems spot suspicious activity as it happens meanwhile curbing abuse before damage spreads. Only proactive oversight makes such control possible.

Not limited to CASPs solely, rather Title VI reaches further under Strategic Intelligence on Affected Entities. Though CASPs fall within its boundaries, the definition pulls in anyone arranging trades as part of their work. Execution roles are also counted, professionals handling transactions enter the frame. Trading platform operators fit this description naturally. Even some decentralized finance setups might qualify, given that MiCA leaves no clear exemption for DeFi. When it comes to market misconduct rules, silence speaks volumes - the lack of exclusion opens the door.

2. The Singapore's PSA: Moves from Planning to Action

Now entering the 2025–2026 phase, Singapore has moved beyond initial planning, stepping into a period defined by hands-on oversight and real-world execution. Because the worldwide digital asset scene has matured, traditional players like banks, fund managers, and national governments have shifted from testing to integrating these tools directly into key systems. Since trust depends on structure, Monetary Authority of Singapore (MAS) now treats rules not as barriers, but as foundational elements shaping how markets operate

To strategic investors or institutions, the rules act like a precision tool - quietly weeding out weak, risky players over time. Because standards are strict, trust grows among large financial actors drawn to stability. What emerges is alignment: blockchain habits meet traditional durability, without forced compromise. At its core lies three-part legislation flexible by design that quietly anchors an entire system meant to last.

2.1. The Legislative Triad SFA PSA and the FSMA 2025 Update

What makes Singapore stand out is how it breaks regulation into pieces, adjusting rules based on specific risks instead of applying broad standards. Because different laws cover securities, payment systems, and actions beyond national borders, oversight becomes more precise. This separation allows institutions to navigate structure with clearer direction. The Monetary Authority shapes these distinctions carefully, matching each rule to its context.

Under the Securities and Futures Act, capital markets products join conventional investments under shared oversight. When security tokens emerge alongside debentures or CIS structures, rules apply just as they do for older financial forms. Digital assets carrying traits of ownership or obligation must meet disclosure demands similar to those in standard finance. Licensing expectations remain aligned, whether dealing with tokenized shares or long-established instruments. Parity in regulation supports consistency across both new formats and familiar market tools.

A fresh take on money flows begins here the Payment Services Act shapes how everyday payments work, covering both consumer and large-scale financial channels alongside electronic currency. Moving beyond coins and notes, it includes firms dealing in digital tokens, supporting trades between currencies and safeguarding stored balances through regulated wallets. Security forms the backbone, allowing digital value to shift smoothly inside approved boundaries where trust is built into each transaction layer.

Beginning with clearer rules across borders, the Financial Services and Markets Act sets shared anti-money laundering and counter-terrorism financing benchmarks. Operating beyond national limits, it brings digital token service providers under supervision. Instead of fragmented approaches, consistent oversight reduces loopholes for firms based in Singapore but active worldwide. Risks tied to activities outside local jurisdiction face tighter controls. Uneven regulation gaps fade when rules apply equally regardless of where business happens.

Thirty days into July's predecessor month in

2025, a firm shift takes place - the close of temporary allowances for DTSPs governed by the FSMA. With this change comes closure on loophole exploitation: firms in Singapore catering only to foreign clients now face a strict choice - obtain full authorization or shut down. Tolerance for unauthorized international activity? None. That stance reinforces confidence in the nation's financial identity. Clear rules pave the way - not through force, but function - for advanced instruments, especially those digital currencies backed and supervised.

2.2. Stablecoin Design Meets Shared Competition

Now shaping the backbone of digital transactions, stablecoins evolved past mere trading tools toward core payment systems. Rather than go fully public or fully private, Singapore opted for a mix - licensed issuers operating under oversight. Out of that blend comes competition laced with cooperation, an odd balance where rivals rely on common rails. Common frameworks handle stability and risk, leaving room for companies to innovate beyond basics. What grows is neither pure market nor top-down control, but something in between.

The recently completed MAS single-currency stablecoin structure rests firmly on three core conditions - established only after thorough review. Not optional, these foundations shape how each digital token operates within regulated boundaries. Each requirement emerges directly from extended dialogue with financial experts and oversight bodies. One follows another, yet all stand equal in importance under the new guidelines

A reserve backing begins with solid, easily accessible assets. These materials must hold steady worth when markets shift. Liquidity matters most under pressure. Value stays firm because safeguards exist ahead of need. Stability follows only if standards remain strict.A promise of immediate repayment at face value - issuers must honor it without delay. This shapes how institutions handle cash flow day by day. Timing here isn't optional; it defines reliability. Without instant access, financial operations stumble. The rule locks in trust through speed.

Transparency rules require clear reporting, while outside reviewers check if stability systems work as intended. Verification happens regularly, ensuring methods stay consistent over time. Oversight bodies examine records, confirming that safeguards operate effectively. Independent assessors step in periodically, making sure controls remain reliable under pressure.

Through joint efforts, banks such as DBS and OCBC operate common settlement systems alongside digital deposit networks. Because these frameworks rely on coordination, their real- world usefulness becomes clear only when multiple players participate. Liquidity grows more stable once participation reaches a critical level. Shared infrastructure lowers overall exposure by aligning processes across institutions.

Firms build distinct services atop common infrastructure, focusing on customer relationships, niche markets - such as business banking or everyday transactions - and how smoothly people interact with their platforms. Safety emerges through rules that enforce consistent backing assets and verification checks. What stands out is not the foundation but what grows above it.

2.3. Institutional Vanguard Project Guardian Ubin Plus Orchid

Funded trials in Singapore go beyond testing - they serve as safeguards, pulling digital asset operations within oversight boundaries. Every initiative tackles a particular hurdle found in conventional financial systems

1. Project Guardian asset tokenization and DeFi in regulated finance.

That matters because it shows how decentralized finance is being woven into traditional systems. Major banks can now tap into automated trading mechanisms while staying within regulatory boundaries. Access to shared funding reserves becomes possible

without breaking rules. Compliance stays intact even as new financial tools are adopted.

2. **A different approach emerges with Ubin+**, where digital money aids currency exchanges handled by national monetary authorities. Cross-border transactions gain a new pathway through shared electronic systems among these institutions. Instead of traditional methods, central banks explore faster reconciliation using decentralized tools. One step shifts toward modern infrastructure when settlement processes adopt such innovations. Clearing functions evolve slightly under this model, driven by collaboration across borders.

Why does this matter? By focusing on removing settlement risk in foreign exchange, it shifts international payments toward almost immediate, indivisible transfers. The change redefines timing and certainty across borders.

3. Project Orchid explores purpose bound money.

PBMs function like physical tokens - value moves when code-defined rules trigger. Their built- in logic means money releases strictly under preset terms. These conditions cannot change once set. Programmability shapes how payments execute, tied directly to outcomes. Control shifts from intermediaries to coded agreements.

Though ambitious in design, each initiative must comply with the updated regulatory framework shaping development through 2025 and into 2026.

2.4. Money Rules Follow The Money

What holds Singapore's digital economy together isn't just technology - it's trust. While the FATF sees mixed results worldwide, here oversight goes beyond ticking boxes. Effectiveness shapes regulation more than checklist compliance ever could. Quality matters more than ever by 2025 - cross-border data under the Travel Rule must support live monitoring. While basic exchange was once enough, systems now need seamless flow into active compliance checks. Instead of just passing details, firms face pressure to ensure accuracy and timing. Because outdated formats lag behind threats, integration shapes how well detection works. As global flows grow, so does reliance on timely, structured inputs across borders.

A group called COSMIC links banks and lenders through a joint monitoring setup, so they can pass along alerts about questionable activity. Because data moves across this connected system, criminals find it harder to slip through cracks between separate organizations. Ownership of digital assets functions inside frameworks where legal credibility matters just as much as technical efficiency. Yet trust in location-based rules shapes behavior alongside rapid innovation. Still, compliance isn't secondary - it runs parallel to performance. Even so, geography influences outcomes nearly as much as code does. Ultimately, systems balance place and pace in equal measure.

3. The United States Model: Property Classification and Tax Gradation

Heavy on taxes, light on rules that's how America handles digital assets. Instead of passing broad laws, it leans on fees to shape choices over time. Labeling virtual currencies as capital property pushes people to hold them longer. Watchdog roles spread across several groups: the SEC steps in here, the CFTC there, FinCEN elsewhere.

Tax Category	Classification	Rate (Applicable Range)
ShortTerm Capital Gains	Capital Asset (Held < 1 year)	10% – 37%
LongTerm Capital Gains	Capital Asset (Held > 1 year)	0% – 20%

Not sticking to one central rule, oversight

spreads through current laws that shape how virtual digital assets are handled here, taxes quietly steer choices. Yet without a single clear law to settle things, areas bump against each other, nothing like India's blunt method using fixed rates to keep control.

3.1. From Blue Sky Laws[16] to Howey[17] The Investment Contract Evolves

What holds up American financial rules? A smart design choice long ago. Congress chose vague words like investment contract on purpose, so the net stays wide. New deals keep popping up, shaped in endless ways, yet still fall under watch because of that openness. Had lawmakers locked it down tight with strict labels, loopholes would bloom overnight. Instead, form means less than function how money moves matters more than what it's called. This way, even when something looks nothing like stocks or bonds, regulators can step in if the effect feels familiar. Flexibility became the backbone, not an accident but a shield against clever rewrapping of old risks.

Out of old state rules came the first push against schemes built on empty promises those socalled "feet of blue sky." Function shaped those initial efforts, centered around how money flowed into hands promising returns. Later, federal courts sharpened the idea when they looked past form, probing what actually drove investors in SEC versus C.M. Joiner Leasing Corp., 1943. That thinking reached a peak six years later with Howey's case a moment that still echoes today. Now, split opinions across courts demand clear direction, one rooted in past adaptability yet firm enough for present complexity. **Legal Basis**	State "Blue Sky" statutes.	Securities Act of 1933 and Exchange Act of 1934.

Still, that basic adaptability mattered greatly for shielding investors. Yet it quietly sparked a kind of legal tugofwar. Because the label "investment contract" stretched so far, judges began pulling back drawing tighter lines around where federal power could reach. Their aim? To keep agencies from spilling too deeply into areas such as workplace rules.

3.2. Jurisdictional Restraint: Teamsters v. Daniel[18]

One way to look at it his ruling quietly stepped back instead of pushing forward. Not every case needs a broad reach, the justices seemed to say. What happened in 1979, through International Brotherhood of Teamsters v. Daniel, shaped how courts handle certain disputes even now. Federal power here got narrowed on purpose, making space for ERISA to take the lead. Picture a boundary drawn with care: some financial moves just do not fit the usual idea of investing. So the Court held its ground, refusing to stretch old laws too far. That choice still echoes when judges decide who handles what.

One key part of the Daniel ruling involved breaking down the idea that pay comes as one single bundle. Workers trade their time not for a particular stake in retirement savings, but for overall rewards like wages and extras together. The judges dismissed the view that effort counts as financial commitment, seeing it more as exchange than deposit. Since pensions made up only a small piece of what people earned and could not be split out easily they did not meet the requirement of putting money aside on purpose.

That bundled concept ran into trouble when measured against earlier standards set in SEC v., where separate parts mattered. A split approach was preferred by United Benefit Life Insurance Co. back in 1967 treating the investment part of a policy like a security while setting it apart from coverage terms. Daniel saw things differently;

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because one piece relied on the other, he argued they couldn't be judged separately. The way each side viewed structure shaped how they thought regulation should apply.

The court overturned the seventh circuit based on three main reasons Looking back at how rules were written, it becomes clear that shares and debt instruments appear by name in both the '33 and '34 Acts. Yet pension setups do not show up there at all. What lawmakers focused on then points away from covering required, employerfunded retirement systems. Their choices in wording leave little room for stretching those categories later. The Howey test did not fit here. Money was not truly invested because work done did not count as clear payment. Profit hopes were also missing since gains depended on rank, not skill in managing. What mattered was order of arrival, not business insight.

A web of rules already covers how plans share information, so layering on extra financial regulations feels like repeating steps. When ERISA stepped in, it filled gaps that older laws left open, making further legal reach feel excessive. Instead of adding more oversight, the system now relies on what's already built into pension safeguards.

3.3. Functional Versus Literal Classification (Forman[19] And Landreth[20])

Getting clear on definitions matters most when shielding everyday workers who join employee stock plans. Come 1989, around ten million workers one out of every four company staff in the U.S. were involved in more than ten thousand such programs. Since many of these people know little about how markets really work, they're at real risk. Research reveals bosses often paint an inflated picture of share worth while leaning on appraisals done by parties tied too closely to management.

One court sticks close to the words on paper, while another looks at what actually happens in practice. What matters isn't always how it's written, but how people use it. In one case, workers traded wages for company shares, making it feel like an investment. That setup felt different from a plan where benefits just appear without employee cost. Judges pointed out that giving money now for something later changes the nature of the deal. Sometimes the reason behind handing over cash decides everything. If someone wants ownership that grows, it acts like a security. Another ruling said purpose shapes outcome more than form ever could.

Functional vs. Literal Paradigms

Paradigm	Economic Reality (Forman/Howey)	Plain Meaning (Landreth)
Primary Focus	Substance and economic function.	Textual statutory categories.
Motive Row	Distinguishes between "Consumption" and "Profit."	Focuses on the instrument's "Common Name."
Flexibility	High; adapts to "countless and variable schemes."	Low; relies on established legal definitions of "stock."

Example	Coop shares are not securities if the motive is housing.	If an instrument is called "stock" and has stock traits, it is a security.

When housing is the goal, coop shares fall outside security definitions. Ownership purpose shapes how these arrangements count. What matters most shifts everything about classification. Not every shared structure answers to market rules. A roof's role changes the legal picture entirely.

A thing counts as a security when it goes by the name of stock and acts like one. What matters is how it behaves, not just what it's labeled. Calling it stock means something only if it walks and talks like stock too. Labels alone don't decide the category it needs the features to match. Just saying "stock" isn't enough without the real signs.

A big problem hides here. When rules do not apply to everyone, many workers stay in the dark. Missing full coverage means people can get false ideas about value when they gain ownership stakes. Protection slips away if oversight only works sometimes.

3.4. SEC's 2019 Guidelines[21] and the Active Involvement Criteria

Now shifting from orange orchards to blockchain systems, the part about work done by others in the Howey Test changed quietly but deeply. Instead of old terms like promoter, today's view centers on who acts as an Active Participant. That shift came clearly after a Ninth Circuit decision involving Glenn W. Turner's company. Effort now counts if it is undeniably significant, not just the only factor. This updated lens helps fit intricate digital networks into longstanding legal checks.

A fresh look at how investors lean on an AP begins with the SEC's method. One sign might be frequent queries directed their way. When decisions consistently follow guidance given, that matters too. Another clue pops up if others cite them regularly. Trust shows when actions align without second guessing. Patterns like repeated referrals stand out. Over time, consistent consultation builds weight. Each signal adds context. Not every case looks identical. The full picture forms slowly.

Right now, does the system work or is it still being built?

Who handles core duties does an assistant principal take charge instead of spreading work across a group?

What if someone in accounting shapes who gets what power or say? Could their position quietly steer big choices about control or rules?

Is there a way for an AP to help build trading activity around the asset?

Could it open doors for resale value later on? What role does it play once the initial deal is done?

Does follow up trading get easier because of its involvement? Can others step in later thanks to how it's set up?

Now here comes a question about what the AP actually does when money is gathered. Could it be handling those resources to help construct the infrastructure? Sometimes that funding goes toward propping up how strong the asset appears in trading spaces. Might depend on the setup. Who controls that flow often shapes where things go next. Is oversight part of their job or something else entirely?

Here's how it works. The idea of an Active Participant links oldstyle farming deals with today's digital tokens. Because trust shifts depending on context, not everyone leans the same way every time. In systems without central control, counting on others changes like weather, not like stone.

3.5. Project Crypto[22] Moves Between Security and Commodity Status

By the end of 2025, Chair Paul S. Atkins launched Project Crypto, aiming to bring clarity using

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straightforward uses of existing federal rules. Instead of rigid categories, the approach adapts as assets evolve starting out tied to central control, later shifting toward open networks. Once decentralized enough, such assets could move beyond traditional security labels, treated differently under oversight. Jurisdiction adjusts not at a fixed point, yet follows how much influence remains with founders or early players.

Clarity comes from function over form, looking less at launch conditions and more at realworld operation over time. Rules apply heavier when coordination dominates; lighter once systems run on their own. This path allows regulators to respond without assuming all crypto fits one mold from day one. The shift depends on evidence, not timelines watching governance, data access, and network resilience instead. Legal treatment changes only after clear signs of distributed control take hold across participants. No automatic exemptions exist, just evolving status based on structural change within each project.

A key part of this effort comes from Henderson and Raskin's idea the so called "Bahamas Test"[23] that grows out of Hinman's 2018 take on when something becomes "decentralized enough." Survival hinges not on leaders but on networks; picture the system rolling forward, untouched, should creators vanish into island retirement"A crypto asset is not a security if it is intrinsically linked to, and derives value from, a programmatic operation on a functional and decentralized crypto system, rather than from the managerial efforts of others."

Project Crypto Core Tenet: This idea works because it treats security rules like something that changes over time, not stuck forever. As things grow and shift, what counts as a commodity can evolve naturally. Instead of freezing labels from the Daniel and Howey days, it sees regulation as part of a journey. The stage an asset is in shapes how it gets treated. Rules adapt, just like markets do. What starts under strict oversight might later move into open trading. Time and use redefine status. Not everything stays locked in its earliest form.

4. The Indian Containment Model: Volatility, Tax, and "Shadow" Restrictions

Starting off differently now, India shifted away from banning crypto altogether. Instead, it chose a path where taxes help keep things under control. Distrust stays strong when it comes to digital money created by private players. These are currencies the government does not issue. At the very same time, support grows for a homegrown version the Digital Rupee. Official circles push this one hard.

How the Indian Model Changed Over Time. At first, things were strict. From 2018 to 2020, the central bank told lenders they couldn't support crypto dealings. Then came a shift in 2020, the top court stepped in. It struck down the order, not because rules weren't needed, but because the response didn't match the risk. Judges pointed out there wasn't clear proof of damage to financial institutions. A full stop like that? Too harsh, they said. Lighter options existed.

Later on, during 2019 to 2022, things tightened around crypto. That year, the Garg Committee dropped recommendations far stricter than before. Their suggested law wanted to make any virtual digital asset activity punishable by a decade behind bars. Though lawmakers never passed it, pressure didn't fade. By 2022, unseen barriers began appearing banks quietly blocked transactions to exchange sites. This happened even after courts had ruled such actions shouldn't stand.

Since 2022, things shifted when new tax rules landed hard Section 115BBH slapped a flat 30% charge on crypto gains. Around the same time, another rule, Section 194S, began pulling out 1% at source. Fast forward to today, the Finance Bill of 2025 pushes tighter control into motion. Starting April 1, 2026, what counts as virtual digital asset grows wider. Now it pulls in more types of crypto stuff built using secure chainlike systems.

A fresh twist hit India's financial rules in 2023 virtual asset handlers got labeled "reporting entities." Since then, lining up with FIUIND hasn't

been optional. That shift plugged AML efforts straight into digital trading spaces. Compliance now kicks in from day one of operation. No waiting, no exceptions. Registration acts like a checkpoint before doing business.

4.1. Comparative Jurisdictional Matrix: Convergence vs. Divergence

Jurisdictional Comparison: India vs. The World

Here sits a grid showing push and pull of legal enablement against limits. A balance tips where authority both opens doors and draws lines. One side helps movement, while the other holds ground. Where power assists, it also restrains. This layout maps that quiet conflict help on one edge, control on the next.

Jurisdiction	Legal Classification	Primary Tax Rate	AML/KYC Authority	Regulatory Stance
India	Virtual Digital Asset (VDA)	30% Flat (+1% TDS)	FIUIND (PMLA)	Containment
USA	Property / Capital Asset	0% – 37% (Gradated)	FinCEN	MarketDriven
Singapore	Property / Digital Token	0% (on Capital Gains)	MAS	Facilitative / Sandbox
EU	Crypto Asset	Member Specific	MiCA Standards	Structured

Critical Divergences

Most countries let investors balance losses across digital assets. India blocks this move outright. Specialists call it a shaky use of authority. The real aim? Push people away from crypto altogether.

One country's update might sweep in new digital systems by accident. Where others draw clear lines, India's latest proposal leaves room to grab what wasn't meant to be caught. Rules shaped today may latch onto tomorrow's tools without warning. The EU and Singapore stick to fixed meanings, but this change drifts. What fits now could shift later with little notice.

Without a clear regulator, India sees mixed signals on crypto rules unlike places such as Singapore, where MAS handles it all under one roof, confusion lingers when tasks overlap across agencies.

4.2. Institutional Overburdening and the Case for a Dedicated Regulator

What happens when too much pressure hits one system? India's enforcement setup starts to crack. Responsibility splits between different groups the RBI watches money flow, SEBI handles stock markets, while the ED chases financial violations. When these parts do not align, holes appear. Loopholes grow where rules should stand firm

A wakeup call came when WazirX lost USD 235 million, followed by BitBNS falling victim to hacking. Because of these breaches, change now seems unavoidable. What we see here is a gap existing bodies simply cannot handle virtual digital asset supervision well. Instead of waiting for more damage, building the Digital Asset Regulatory Authority makes sense right away.

To track every move within transactions as

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required under PMLA tools powered by RegTech must be part of DARA from day one. While enforcement today relies on outdated methods, tomorrow needs precision built into oversight. Right now, responses happen after chaos strikes; having a dedicated agency could shift timing forward. Proactivity stays out of reach unless authority stands ready before threats hit.

Conclusion:-

Nowhere is the pressure clearer than in India's financial corridors, where money quietly moves abroad. Instead of clamping down harder, leaders might ease up and offer steady rules that welcome new ideas. Not chasing control but building trust could link tech progress with tax responsibility. Outcomes may depend less on force, more on smart openness. Suddenly, Section 115BBH shifts away from one size fits all taxes. Instead of a fixed 30%, rates now climb based on income levels. Losses once wasted can now offset future earnings. This lines up with how most countries handle investment profits. Flexibility arrives where rigidity once ruled.

Start by clearing up confusion. Get the Cryptocurrency Bill 2021 across the line or something like it to set clear lines between private digital money, tokens that unlock services, alongside state backed electronic cash. That kind of law puts labels where they belong. Without it, everything blurs. Lawmakers hold the pen here. What gets written matters just as much as the writing itself. Facing today's connected markets, digital money will naturally become part of mainstream finance. Instead of scattered bans, clear worldwide rules built on shared ideas makes much of sense. What matters is consistency, not control. Trust grows when systems align quietly behind common goals.

ENDNOTES

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17 SEC V. W.J.Howey Co. 328 U.S. 293 (1946)- The Howey Test Originated from this case in 1946 by U.S. Supreme Court used to determine if a transaction qualifies as an "investment contract" and thus a security.

18 439 U.S. 551 (1979)

19 United Housing Foundation, Inc. v. Forman 421 U.S. 837 (1975)

20 Landreth Timber Co. v. Landreth 471 U.S. 681 (1985)

21 SEC MEMORANDUM CIRCULA NO.25 series of 2019 ' 2019 GUIDELINES FOR THE PROTECTION OF SEC REGISTERED NON-PROFIT ORGANIZATIONS FROM MONEY LAUDERING AND TERRORIST FINANCING ABUSE ("2019 NPO Guidelines")

22 Paul s. Atkin, Chairman- speech- 'The SEC's Approach to Digital Assets: Inside "Project Crypto"< https://www.sec.gov/newsroom/speeches-statements/atkins-111225-secs-approach-digital-assets-inside-project- crypto>(12 November 2025)

23 Posted by M. Todd Henderson (University of Chicago) and Max Raskin (NYU), 'A Regulatory Classification of Digital Assets'-< https://corpgov.law.harvard.edu/2019/01/09/a-regulatory-classification-of-digital-assets/> (9, January 2019)