

THE EU'S NEW CRYPTO-LEGISLATION

What kind of crypto assets does MiCA seek to regulate? What are the regulatory requirements imposed on the crypto industry in the EU? How has the law been received? What are the aspects left out by the regulation? How does it compare to cryptocurrency regulation in India?

The story so far:

The European Parliament, the legislative body of the 27-country block European Union, has approved the world's first set of comprehensive rules to bring largely unregulated cryptocurrency markets under the ambit of regulation by government authorities. The regulation, called the Markets in Crypto Assets (MiCA), will come into force after formal approval by member states.

Why regulation?

Having a comprehensive framework like MiCA for 27 countries in Europe not only harmonises the crypto industry but also gives the EU a competitive edge in its growth compared to the U.S. or the U.K. which lack regulatory clarity. More importantly, 2022 saw some of the biggest failures and wipeouts in the crypto industry involving bankruptcies and fraud scandals, be it the collapse of the crypto exchange FTX and its spat with Binance or the failure of Terra LUNA cryptocurrency and its associated stablecoin. The liquidity shortage caused by these shocks led other crypto lending platforms to halt customer transfers and withdrawals before filing for bankruptcy.

What kind of assets will MiCA cover?

The MiCA legislation will apply to 'cryptoassets', which are broadly defined in the text as "a digital representation of a value or a right that uses cryptography for security and is in the form of a coin or a token or any other digital medium which may be transferred and stored electronically, using distributed ledger technology or similar technology". This definition implies that it will apply not only to traditional cryptocurrencies like Bitcoin and Ethereum but also to newer ones like stablecoins.

As for the assets that will be out of MiCA's scope, it will not regulate digital assets that would qualify as transferable securities and function like shares or their equivalent and other cryptoassets that already qualify as financial instruments under existing regulation. It will also for the most part, exclude nonfungible tokens (NFTs). MiCA will also not regulate central bank digital currencies issued by the European Central Bank and digital assets issued by national central banks of EU member countries when acting in their capacity as monetary authorities, along with cryptoassets-related services offered by them.

What are the new rules?

MiCA will impose compliance on the issuers of cryptoassets, who are defined as the "legal person who offers to the public any type of cryptoassets". It will apply to cryptoasset service providers (CASPs) providing one or more of these services — the operation of a trading platform like Coinbase, custody and administration of crypto-assets on behalf of third parties (customers), the exchange of crypto-assets for funds/other crypto-assets, the execution of orders for crypto-assets, the placing of crypto-assets, providing transfer services for

crypto -assets to third parties, providing advice on cryptoassets and crypto-portfolio management.

The regulation prescribes different sets of requirements for CASPs depending on the type of cryptoassets. The base regime will require every CASP to get incorporated as a legal entity in the EU. They can get authorised in any one member country and will be allowed to conduct their services across the 27 countries. They will then be supervised by regulators like the European Banking Authority and the European Securities and Markets Authority, who will ensure that the companies have the required risk management and corporate governance practices in place. Besides authorisation, service providers of stablecoins also have to furnish key information in the form of a white paper mentioning the details of the crypto product and the main participants in the company, the terms of the offer to the public, the type of blockchain verification mechanism they use, the rights attached to the cryptoassets in question, the key risks involved for the investors and a summary to help potential purchasers make an informed decision regarding their investment.

Another legislation passed with MiCA requires crypto companies to send information of senders and recipients of cryptoassets to their local anti-money laundering authority, to prevent laundering and terror financing activities.

What has been the reaction?

Leaders at some of the biggest cryptocurrency firms have taken exception to some aspects of MiCA but the broad view is that it is better to have a regulatory framework than having no rules at all and attracting regulatory action on a case-by-case basis without clarity. Meanwhile, since it's been three years since MiCA has been in development, some experts feel that the regulation is already laggard in covering newer vulnerabilities in the crypto industry. For instance, it does not cover practices like crypto staking and lending, which led to some of the industry's biggest failures last year.

How is crypto regulated in India?

India is yet to have a comprehensive regulatory framework for cryptoassets. A draft legislation on the same is reportedly in the works. A full-fledged regulation aside, the Indian government has taken certain steps to bring cryptocurrencies under the ambit of specific authorities and taxation. In the Union Budget for 2022, the Finance Ministry said that cryptocurrency trading in India has seen a "phenomenal increase" and imposed a 30% tax on income from the "transfer of any virtual digital asset." In March this year, the government placed all transactions involving virtual digital assets under the purview of the Prevention of Money Laundering Act (PMLA).

HOW CAN A JUVENILE BE TRIED AS AN ADULT IN COURT?

What are the recently issued guidelines by the National Commission for Protection of Children for trying a juvenile in case of heinous crimes? What is the role of the Juvenile Justice Board?

The story so far:

The National Commission for Protection of Children (NCPCR) has recently issued guidelines for conducting a preliminary assessment by the Juvenile Justice Board (JJB) under Section 15 of the Juvenile Justice Act, 2015 (JJ Act, 2015). This preliminary assessment is to ascertain whether a juvenile can be tried as an adult. Replacing the Juvenile Justice Act, 2000, the 2015 Act, for the first time, provided for trying juveniles in the age group of 16-18 as adults in cases of heinous offences.

How does a child get tried as adult?

The Act has categorised the offences committed by children into three categories — petty offences, serious offences, and heinous offences. Section 15 of the JJ Act provides that in case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years,

the Board shall conduct a preliminary assessment regarding his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence. Section 18 (3) of the Act further suggests that, if the Board, after preliminary assessment under section 15 passes an order that there is a need for trial of the said child as an adult, then the Board may order the transfer of the case to the Children's Court having jurisdiction to try such offences. Thus, the sole objective of having such a preliminary assessment is to determine whether a child within the age group of 16-18 years should be tried as an adult in case of heinous offences.

What are the responsibilities of the Board?

The guidelines further make it clear that the JJB shall be responsible for the preliminary assessment and provide the child, the child's family, and their

counsel a copy of the order. It further states that in case the JJB does not have at least one member who is a practising professional with a degree in child psychology or child psychiatry, the Board shall take the assistance of psychologists or experts who have the experience of working with children in difficult times. The child should also be provided with a legal aid counsel through the District Legal Services Authority who shall be present during the preliminary assessment. One of the important aspects of the guidelines is that it mandates experts, who have the required qualification to assist the JJB, to undergo training concerning Section 15 of the JJ Act, 2015

During the preliminary assessment, the Board and experts shall also analyse and take into consideration the Social Investigation Report (SIR), to be prepared by the Probation officer or Child Welfare Officer or any social worker,

or a Social Background Report (SBR) to be prepared after interaction with the child or child's family.

What next?

The NCPCR is under a statutory obligation under Section 109 of the JJ Act, 2015 to monitor the proper implementation of the provisions of the Act. The guidelines have been made to remove any ambiguity and to clarify the steps that need to be followed while conducting the preliminary assessment. However, the major issue remains the implementation and absorption of these principles in the system, particularly to be followed by the JJB and the Children's Court. A lot of principles which have been made a part of the Act have not been given due prominence by the Board as well as by the Children's Court.

NATIONS SCRAMBLE TO EVACUATE CITIZENS AS SUDAN BATTLES RAGE



Long road: A convoy leaving Khartoum advances on a road to Port Sudan on Sunday as people flee the war-torn capital of Sudan.AFP

The U.S. and the U.K rescue embassy staff and their family members while France and Germany confirm the initiation of evacuation process of European citizens and other nationals as well

U.S. and British forces on Sunday evacuated embassy staff and their families from battle-torn Sudan where deadly fighting raged into a second week between forces loyal to two rival Generals.

As gunfire again echoed through Khartoum and fighter jets roared above, foreigners also fled the capital in a long UN car convoy, as millions of frightened residents hunkered down inside their homes, many running low on water and food.

Across the city of five million, Army and militia troops have fought ferocious street battles since April 15, leaving behind charred tanks, gutted buildings and shops that have been looted and torched.

More than 420 people have been killed and thousands wounded, according to UN figures.

U.S. Special Forces launched a rescue mission early on Sunday for around 100 embassy staff and their relatives, swooping in with helicopters to fly them to a military base in Djibouti.

British Prime Minister Rishi Sunak later said U.K. forces had also "completed a complex and rapid evacuation of British diplomats and their families from Sudan".

UN convoy

Long convoys of UN vehicles and buses were seen leaving Khartoum heading east to Port Sudan on the Red Sea, 850 kilometres by road.

Both France and Germany said on Sunday they had begun evacuation operations that would assist European citizens and other nationals as well.

IS THE SUPREMACY OF THE U.S. DOLLAR UNDER THREAT?

AGE OF THE DOLLAR

The topic of dedollarisation enters the fora of discourse every few years, but this time the arguments appear to be the most compelling.

Dedollarisation refers to the deposing of the U.S. dollar from the reserve currency status it enjoys globally. Some of the factors supposedly indicating a shift towards dedollarisation are: the U.S. dollar has depreciated against most major currencies and has declined by more than 10% in the past six months against the euro (due to growth expectations favouring the EU). Also, the price of gold has rallied in the past six months even though the Federal Reserve raised interest rates relentlessly.

Russia and China buying large amounts of gold has been cited as the reason for the rally (a move seen to be a retaliation against the U.S. dollar). Those forecasting a global trend towards dedollarisation also cite the sanctions the U.S. and its allies have levied against Russia due to the latter's invasion of Ukraine. The reasoning being countries would prefer to distance themselves from a currency weaponised by the government to serve a geopolitical agenda.

These trends, along with others, have been observed to be leading indicators of the presumptive dethronement of the U.S. dollar as the world's reserve currency. However, a close examination of all these trends tells a different story.

Firstly, the dollar losing ground against the euro and other currencies was preceded by a significant rally in the dollar during recent interest rate increases. The Federal Reserve admitted to considering a pause after the collapse of the Silicon Valley Bank, which raised concerns about a banking collapse. The depreciation in the dollar can be linked to the temporary financial instability and the slowing down of interest rate hikes.

China lending uptick

Secondly, the argument of the dollar being dumped in favour of the Chinese yuan is cited due to an uptick in Chinese lending and China's dominant export sector. Countries borrowing from China are, to some capacity, beholden to them. For instance, Sri Lanka is a country stuck in a debt trap due to excessive lending from China.

Sri Lanka is forced to take on further liabilities to tide over current dues. China controls about 20% of Sri Lanka's public debt and, therefore, exercises immense influence on debt restructuring plans. Furthermore, China does not allow the yuan to float freely against other currencies. It is said to engage in exchange-rate manipulation by routinely



A real contender for the spot of the world reserve currency would have to be from an open society comprising democratic values

devaluing its currency.

Additionally, China has controlled capital flows and does not allow its citizens and firms to leave the country freely. Chinese authorities went as far as to ban Bitcoin because citizens dumped the yuan in favour of the cryptocurrency. China's export dominance stems from its significant labour capital resulting from a boom in population growth in the late 20th century.

However, recent demographic data suggests China's population growth is out of steam and declining (with the fertility rate below the replacement rate). Thus, China does not currently pose a strong challenge to the U.S. dollar's dominance.

Investor confidence

The United States enjoys unparalleled investor confidence because it is seen as a proponent of open society and democracy.

The open markets, which the U.S. offers, is an attractive haven for investors across the world who prefer liquidity, minimal capital control and minimal political influence on markets. Moreover, the sanctions levied by the U.S. against Russia are not unprecedented. The U.S. has a history of suspending

trade and imposing sanctions on countries including China on multiple accounts. Therefore, it is a stretch to assume that the current sanctions against Russia would cause the U.S. dollar to be ousted as a haven for investors.

A real contender for the spot of the world reserve currency would have to be an open society comprising democratic values.

An autocratic government with strict capital controls, opaque foreign exchange policies and restrictions on conducting business cannot overthrow the U.S. dollar. Regardless of geopolitical tensions investors tend to always prefer large, open, and liquid markets. The recent depreciation in the U.S. dollar provides investors with an excellent opportunity to pick up an unduly battered asset, also called out-of-favour investments.

Investing in undervalued U.S. stocks which happen to be at discounted prices, primarily due to the depreciation in the dollar, provides Indian investors with a great advantage. They stand to gain both future windfall gains from the expected appreciation of the dollar against the rupee, as well as gains from purchasing stocks at discounted prices.

DEFAMATION PERILS

A dodgy case is being used to keep Rahul Gandhi disqualified

A striking feature of the Surat district court's order declining to stay the conviction of Congress leader Rahul Gandhi is its unusual emphasis on his status as a Member of Parliament to justify his conviction and quantum of punishment. It is quite evident from a reading of 8th Additional Sessions Judge Robin P. Mogera's order that the court deems an offence to be worse if done by a legislator, that its impact on society is more deleterious than when it is committed by any other citizen, and that a harsher sentence than normally imposed is justified against a lawmaker. Yet, Mr. Gandhi's status as a parliamentarian matters little when it comes to the question whether his conviction ought to be stayed. His two-year prison term, awarded by a magistrate court in Surat for allegedly defaming the collective of people who have 'Modi' as their surname, has led to his disqualification from his membership of the Lok Sabha. While his sentence has been suspended till disposal of his appeal against his conviction, only a stay on the operation of his conviction could have restored his membership of the House. Judge Mogera has ruled that Mr. Gandhi failed to demonstrate that he will suffer irreversible and irrevocable damage if his conviction, which has also deprived him of the opportunity to contest elections, is not stayed. Selectively quoting from Supreme Court judgments, the judge has held

that disqualification for being a legislator cannot be described as irreversible damage.

The order suffers from infirmities in reasoning and does not always adhere to precedents that do not prohibit treating disqualification from electoral contest as an exceptional circumstance warranting stay of conviction. The order holds that the complainant, being a former Minister, would have suffered harm to his reputation by Mr. Gandhi's remark. However, it fails to see that a conviction for defamation is itself quite rare, and a two-year punishment rarer. The judge justifies the maximum sentence by claiming that the words of a sitting Member of Parliament will have a larger impact on the public and that the sentence is "permissible in law". Criminal defamation is itself a questionable concept, as it can be invoked to silence criticism and harass opponents. It is inconceivable that political remarks made in an election campaign are used to secure a conviction for defamation and a jail term that precisely matches with the legal requirement to disqualify a person. Mr. Gandhi has further legal remedies, such as an appeal in the High Court, but it is lamentable that in a democracy, a dodgy defamation case can be stretched to such absurd levels as to deprive the parliamentary opposition of a key figure.

NO SMALL CHANGE

A market-linked stance seems to have been abandoned for small savings rates

Indian households' financial surpluses parked in small savings schemes operated by banks and post offices got a significant fillip this quarter, with the government raising the returns on most such schemes by 0.1 to 0.7 percentage points. This constituted the third successive hike in the rates that are reset each quarter. However, the breadth of the schemes covered was wider than on the last two occasions. For October 2022 to December 2022, a mere 0.1 to 0.3 percentage hike was announced on just five of the dozen small savings schemes. The first quarter of 2023 saw another 0.2 to 1.1 percentage point hikes on eight schemes. These increases came after a long pause in rates since April 2020. As the central bank started rate hikes last year and government bond yields (to which small savings rates are linked) hardened, there was a widening gap between the extant rates and the rates prescribed by the formula recommended by the Shyamala Gopinath panel that was officially adopted in 2016. This gap stood at 44 to 77 basis points (bps) after the meagre hikes of October (one basis point equals 0.01%).

Now, that gap is zero or marginal on six schemes, but for five schemes, it is still at 5 bps to 82 bps. These include the Public Provident Fund (PPF), whose rates have been frozen at 7.1% for three years now and should have

fetches 7.72% last October and 7.76% for this quarter as per the formula. Government mandarins indicate they are not inclined to hike the PPF rate as its returns are tax-free, unlike in the case of other schemes. If that is so, it must publicly restate its policy position. Yet, the returns on the Sukanya Samriddhi Account Scheme, which are also tax-free, were hiked to 8% this quarter. Its only ostensible difference with the 1960s-origin PPF is it was launched by the current government to encourage savings for the girl child. The General Provident Fund rate for government employees has also been retained at 7.1%, but their dearness allowance has been hiked and a review of their benefits under the New Pension Scheme is underway. While PPF savings are capped at ₹1.5 lakh a year, this Budget raised the limits on a couple of small savings schemes to multiple times of that. It is perhaps no coincidence that the last time small savings rates were hiked across the board was in January 2019, ahead of the Lok Sabha battle. That several States vote this year and the general election looms in 2024 may have influenced the latest hikes as a feel-good device. An even-handed and transparent policy approach rather than quinquennial bouts of relief for small savers, would inspire more confidence.

INDIA AS MOST POPULOUS CAN BE MORE BOON THAN BANE

China is projected to hand over the baton of the most populous country to India by mid-2023. But for India, there are greater prospects for demographic advantage than serious concerns. The country must focus on reaping the available demographic dividend.

Considering the limited information for both China and India, especially in the absence of the Census 2021, it is difficult to predict the exact date on which this demographic order will change. United Nation reports suggest that India will have a population of 142.86 crore by mid-2023, which is 2.9 million

higher than China's population of 142.57 crore. So, what are the opportunities and costs from being the most populous country? While the debate on population growth in India is not new, there are general and pessimistic views over this change in demographic rank order. Population control, therefore, is widely being seen as a panacea to avoid a grim future. There is a need to look deeper into the issue from an empirical and scientific perspective. Is it a dividend or a disaster? To answer this, we need to understand: the nature of population growth, size and its composition, as well as mechanisms through which a country translates

demographic bonus into economic dividend.

Population growth, size, composition

Population in itself is not a burden. Instead, it is the nature of population growth, size and its composition that decides when a population becomes a “resource” or a “burden”. Population is a resource as long as the country’s carrying capacity is intact. Carrying capacity is not just per capita availability of natural resources; it is a dynamic concept which changes according to changing technology, the efficiency of production and consumption systems of a country.

A deeper look into the trends of population growth, size and composition gives one an idea of whether India has an over-population that can disrupt carrying capacity. With total fertility rate of 2.0 in 2023, India is already at replacement level fertility, meaning two children replacing their parents. This indicates that the population is on a path toward stabilisation. However, it continues to experience positive growth, but in a decelerated mode until 2064, from which point it will become negative growth. The peak of India’s population size will be around 169.6 crore in 2063.

However, if we look at only the total population size, which is often assumed as the number of mouths to feed, it is grossly misleading. We need to look at the age composition of the population which tells us about available support ratios in the form of the number of the working age population (15-64 years) against the dependent population (0-14 years and 65 years and above). Looking at the population composition of India, there are greater prospects for demographic dividend than a disaster. With 68% of the working age population in 2023, the country continues to have a demographic window of opportunity for the next 35 years to reap an economic dividend.

However, the availability of a demographic window of opportunity in itself will not automatically turn into economic dividend. The country needs to work on the key mechanisms which translate a demographic bonus into economic dividend.

Relevant mechanisms

There are four key mechanisms that translate a demographic bonus to economic dividend: employment, education and skills, health conditions and governance.

Employment or job creation is an important mechanism to translate demographic bonus to economic dividend. If India is able to generate sufficient and quality jobs for its bulging working age population, realisation of demographic dividend will become a reality.

A NEW TROIKA FOR INDIA’S NORTHEAST REGION

The region comprising India’s eight northeastern States (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim) is undergoing dramatic change. It has overcome several (but not all) security challenges and is now heading toward economic development. Political changes have been helpful. So is the extensive web of linkages with neighbouring Bangladesh. Besides, Japan has emerged as a significant development partner for both India and Bangladesh.

The third India-Japan Intellectual Dialogue (April 11–12, 2023), hosted by the Asian Confluence (ASCON), in Agartala, Tripura, was an ideal opportunity to assess the evolving thinking of experts and policymakers. It showed that the current decade may produce path-breaking changes in the northeast, bringing the troika of Bangladesh, India and Japan closer.

Vision and opportunities

One of the most important projects is the development of Matarbari Deep Sea Port (DSP) on the southeastern coast of Bangladesh. It is being constructed with Japanese assistance and is scheduled to be operational in 2027. A recent ASCON study envisages this port to be “a game changer”. To be optimally viable, the port will have to cater to the needs of Bangladesh and India’s northeast. The long-term vision is for Bangladesh and the northeast to become a hub and key industrial corridor of this region, serving a population of 220 million.

Hiroshi Suzuki, Japan’s Ambassador to India, emphasised at the conference that while increased connectivity of roads and railways is important, it is not enough without the creation of regional industrial value chains. Hence, rapid industrialisation in the sectors where the northeast enjoys competitive advantage assumes significance. This plan is sound because it ensures that the new connectivity links will be fully utilised and productive. Roads and ports must be accompanied by job opportunities that can come only from new industrial enterprises set up with national and foreign investment. A joint focus on comprehensive connectivity and accelerating industrialisation in Bangladesh and the northeast is likely to be a priority.

The northeast is blessed with vast natural resources. Its strategic

Education, skills generation and ensuring a healthy lifespan by preventing diseases and disabilities are also important channels that translate demographic opportunity into economic gains. A skilled and healthy workforce is critical not only for better productivity of an economic activity but it also reduces excessive public spending and helps in greater capital creation. Good governance, reflected through conscientious policies, is another important aspect for reaping demographic dividend as it helps in creating a healthy environment for increasing efficiency and productivity of the population.

In perspective

Opportunities and costs are the two sides of the coin when it comes to being the world’s largest populous country. However, a relatively younger population of India provides higher support ratios — there is lesser disease, disability and caring burden. India’s opportunity must be looked at in comparison to the consequences of population decline and ageing across some countries that include Japan, China, the United States and other major economies. A majority of them have been implementing pronatalist policies to improve birth rates. However, these actions have shown to be largely ineffective. Once fertility tends to decline, it is hard to reverse it.

In this context, India has the potential to become a worldwide market for both production and consumption, with lower manufacturing costs due to a relatively cheaper workforce. This is very much evident in India’s IT sector.

Available demographic opportunity in the form of a greater share of the working age population has the potential to boost per capita GDP by an additional 43% by 2061, provided the socio-economic and political enabling environment is conducive.

At the same time, a total fertility rate of less than 1.8 may not be economically beneficial for India. Therefore, drastic population control methods run the risk of inducing forced population ageing, which would result in the nation “getting old before getting rich”.

What is causing more damage than climate change and economic harm is invisible and unsustainable production, consumption and unequal distribution more than visible population size.

What the country needs are policies that support an enabling environment that can provide high-quality education, good health care, respectable employment opportunities, good infrastructure, and gender empowerment. If India falls short in this, its “demographic dividend” can become a “demographic disaster”.

location, sharing borders with Nepal, Bhutan, China, Bangladesh and Myanmar, is an asset. Creating value chains and manufacturing products should encompass diverse sectors such as agro-processing, man-made fibres, handicrafts, assembly of two-wheelers and perhaps mobile phones, and pharmaceuticals. The population, with its good education, already excels in the services sector drawing potential investor attention.

The challenges

Of course, there are challenges that can be addressed by expanding policy convergence and taking people along. Also, Japan as a single investor in the northeast is unworkable. Indian companies too must invest. India must ease restrictions on the flow of investments from Bangladesh. The three governments should also forge closer linkages of economic cooperation.

An important argument was advanced by Bangladesh’s Shahriar Alam, Minister of State for Foreign Affairs. He stressed that Dhaka and New Delhi have succeeded in “almost restoring” the pre-1965 infrastructure connectivity between India and Bangladesh and are now going beyond it. But, Mr. Alam added, Bangladesh which has facilitated so much connectivity, now needs “reciprocity” from other countries (read: India) so that it is better connected with other neighbours (read: Nepal, Bhutan and Myanmar). By facilitating it, India can assist Bangladesh in becoming an integral part of the Act East Policy.

Two additional points require consideration. First, when issues of regional cooperation and integration are discussed, scant attention seems to be paid to the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), which is self-defeating. This must change so that the grouping progresses towards its vision of establishing the Bay of Bengal Community (BOBC).

Second, the goal of connecting a large part of South Asia with Southeast Asia requires an astute pilot. This leadership can come from the triad of Bangladesh, India and Japan (BIJ). A BIJ Forum should be launched first at the level of Foreign Ministers, a move that will be welcome in the northeast.



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