



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **THE CASE FOR SEBI'S RECOGNITION OF CRYPTO-INVESTMENTS AS SECURITIES: A COMPREHENSIVE RESEARCH STUDY**

AUTHORED BY - KESHAV SINGH RATHORE

## **Abstract**

The advent of blockchain technology has revolutionized the investment landscape, introducing various novel instruments of investment in recent years. These include Initial Coin Offerings (ICOs), Non-Fungible Tokens (NFTs), Security tokens, and Cryptocurrencies, among others.

However, it is important to recognize that these investment forms have also become fertile grounds for fraudulent actors who exploit investors' greed and financial vulnerabilities through pyramid schemes and false promises.

India, with its historical experiences with pyramid schemes, has a vested interest in safeguarding the interests of its citizens. Notably, the decentralized and unregulated nature of Crypto-Assets poses significant challenges in combating such scams.

This paper critically examines the necessity for the Securities and Exchange Board of India (SEBI) to regulate and supervise Crypto-Investments, with a specific focus on protecting the interests of Indian crypto-investors.

Through comprehensive analysis, this study aims to shed light on the compelling reasons for SEBI's involvement in ensuring a secure and transparent environment for crypto-investments in India.

## Introduction

Crypto-assets are getting more and more sophisticated day by day, ranging from Cryptocurrencies to ICOs, Security Tokens, and very recently NFTs.

Blockchain Technology has allowed for constant Fintech evolution, which means it is expected in the future for this technology to create even more of these investment types, which are too unimaginable for us to predict.

It is also a fact that all investments are done out of expectation of Profit, and this expectation of profit which in modern slang is termed “FOMO” is often exploited by issuers of Ponzi schemers. Ponzi schemes in the past have happened in various forms in India like Chit- Funds, Real Estate Schemes, Malicious companies, etc. Although Stock Markets are rarely prone to ponzinomous activities, it is because Stock Markets are highly Regulated by SEBI(Securities Exchange Board of India). SEBI mandates that all market intermediaries such as stock brokers and advisors be registered<sup>1</sup>. It also sets disclosure requirements for companies, which mandates companies to provide accurate information about their financials, business operations, etc<sup>2</sup>.

However, if the Securities and Exchange Board of India is genuinely committed to safeguarding the interests of crypto-investors, it raises a relevant question as to why it has not yet recognized crypto-assets as securities and implemented equivalent regulatory measures for organizations issuing Crypto-Assets.

## Blockchain Technology

To understand the nature of crypto-assets, we must first understand blockchain technology. Blockchain in the most simple terms can be defined as a decentralized distributed ledger, where all information before being stored in the ledger is verified by a huge number of validators.

This mechanism allows for five revolutionary features:

1. Transparency- Since every transaction is validated by thousands of validators, it makes every piece of information recorded transparently. Not only that, all transactions that have

---

<sup>1</sup> Section 12(1) of the The Securities and Exchange Board of India Act, 1992

<sup>2</sup> SEBI(Listing Obligations & Disclosure Requirements) Regulation, 2015)

ever been recorded in the Bitcoin network are public for anyone to see. An exception to this might be a Private Blockchain.

2. Security- Except for human errors, blockchain uses encryption and a consensus mechanism to ensure security. This makes it extremely hard for hackers to steal sensitive data unless because of human error.
3. Speed- Blockchain has allowed sending of digital assets to be sent to someone living thousands of kilometres away in seconds. This mode of sending value is extremely fast compared to traditional forms of payment, where it might take hours if not days to send money to someone located internationally.
4. Cost- It is extremely cheap since it doesn't require a lot of human intervention, unlike traditional forms of payment.
5. Trust- It is quite trustable owing to the fact that it is secure and transparent and decentralized. Especially for people living in some countries that have lost faith in corrupt centralized institutions.

Blockchain technology was first manifested by Stuart Haber & W. Scott Stornetta in a paper called "How to time-stamp a digital document"<sup>3</sup>

Although they were the ones who invented the concept, it was not implemented until a person/group of persons with the assumed name of 'Satoshi Nakamoto' published a whitepaper with the name "Bitcoin: A Peer-to-Peer Electronic Cash System"<sup>4</sup> and invented the first blockchain-based digital asset called 'Bitcoin'.

The intelligent peer-to-peer design of Bitcoin allowed it to grow extremely popular, which in turn popularised Blockchain Technology and its thousands of use cases.

Today, it is being used as a distributed ledger to contain information that was traditionally hard to store, like the data on ownership of real estate, medicinal/health data, and logistics since the data is secure and can't be altered.

Similarly, blockchain has been very much useful in creating different forms of investments such as Cryptocurrencies, Decentralised digital platforms, NFTs, ICOs, and Security coins.

---

<sup>3</sup> Stuart Haber, W. Scott Stornetta, How to Time-Stamp a Digital Document, published in Journal of Cryptology, 1991. See [http://www.staroceans.org/e-book/Haber\\_Stornetta.pdf](http://www.staroceans.org/e-book/Haber_Stornetta.pdf) (last accessed on 28/06/2023)

<sup>4</sup> Satoshi Nakamoto, Bitcoin: A Peer-to-Peer Electronic Cash System, 2019, See <https://bitcoin.org/bitcoin.pdf> (last accessed on 28/06/2023)

Here's a list of some of the crypto-based assets:

1. **Cryptocurrencies-** Cryptocurrencies are digital assets that are backed up by blockchain technology, which makes these assets distributed and decentralized, making them uncontrolled by any governmental institution. Instead of relying on a government or law enforcement, they work because people have faith in the technology itself. In order for cryptocurrencies to be used, a digital wallet is usually needed. Most cryptocurrencies like Bitcoin and Ethereum use a concept called mining where "miners" validate every transaction before it is stored in the ledger.
2. **ICOs(Initial Coin Offerings)-** ICOs are a method for organizations to raise funds by issuing digital tokens in the market in exchange for funds. The ICOs are bought by people in expectation of profit in the future upon when the organization becomes profitable. They are similar to IPOs in structure.
3. **NFTs(Non-Fungible Token)-** It is a non-replaceable, unique token existing in a blockchain Ledger which usually has an image attached to it, which has monetary value and can be traded. Its value depends on a number of factors including the image attached to it, the issuing organization, the total number of issued tokens, the utility of the tokens, and of course nature of the investment market. Ownership of the tokens, with the use of digital wallets, gives a sense of ownership of the image attached to the token, contributing to the overall value of the NFTs.
4. **Security Tokens-** A Security is it token that exists in a blockchain ledger, which is issued by a listed company, and replaces the need for issuance of traditional shares while providing the same rights to the owner, such as fractionalized ownership of the company, voting rights, traceability, etc. Unlike other forms of crypto-assets, it represents rights of ownership in a listed company.

The thing about these investments is that they are highly unregulated since no authority in India recognizes these investments as securities.

## Rationale for the Recognition of Crypto-Investments as Securities

Securities are tradeable financial assets that have a monetary value, which may represent fractionalized ownership of a Public Listed Company. Often in a layman's terms, securities are traded in the stock market in hope for a profit and they are issued by companies to raise capital for their business operations. Section 2(h) of The Securities Contracts (Regulation) Act, 1956 mentions that securities include "Shares, Scripts, Stocks, Bonds, Debentures, Debenture stocks and other marketable securities"<sup>5</sup>.

However, a really imperative question here is, should crypto-assets be included in the definition of security?

1. From Layman's perspective, most crypto assets are:

- a. Tradeable
- b. Have a monetary value
- c. Includes expectation of profit
- d. Issued to raise capital for business operations

One can argue the only disqualifying factor here is that ownership of a crypto-asset does not represent ownership rights in the issuing organization. But it is clear that Debentures, Bonds, and Mutual Funds which are included in the ambit of Securities as per The Securities Contracts (Regulation) Act, 1956, don't give ownership rights in a company either, yet they still qualify as securities.

2. From a Legal Perspective:

Although Section 2(h) of The Securities Contracts (Regulation) includes "Other Marketable Securities" the meaning of "Other Marketable Securities" isn't made clear. One may be free to speculate that the term includes the ambit of Crypto-assets.

Nonetheless, it is clear from Section 2(ib) of The Securities Contracts (Regulation) Act, 1956 that any unit or instrument issued by any collective investment scheme for investors is a security.

---

<sup>5</sup> Section 2(h)(i) of The Securities Contracts (Regulation) Act, 1956 "“securities” include—shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate”

This begs the question, are all collective investment schemes securities?

For this, we must understand what a collective investment scheme is.

A collective investment scheme under Section 11AA of the Securities and Exchange Board of India (SEBI) Act, 1992 includes

- a. When payments are pooled together by investors for a scheme.
- b. Done with a view to receive profits.
- c. The investment is managed on behalf of investors.
- d. The investors don't control the operations of the Scheme.

If the above-mentioned criteria are satisfied, it may actually bring a lot of Crypto-assets under the authority of SEBI. The Allahabad High Court has already made it clear that to understand a collective investment scheme, the Howey test may be used<sup>6</sup>. Howey test is defined in the next page.

## **U.S. Regulations**

Previously we discussed the Howey Test. To understand it, we must first understand what is the U.S. Securities and Exchange Commission.

The Securities and Exchange Commission is an independent governmental organization in the United States of America. that protects the interest of the Investors of the country. It was established after the wall street crash of 1929 as there was a lack of law enforcement. It was established through the Securities Act of 1933, followed by the Securities Exchange Act of 1934. An Investment Contrat has been undefined by the Securities Act, however, the United States Supreme Court has in the case of SEC v. W.J. Howey Co., 328 U.S. 293 (1946) defined it as “An investment contract means a contract, transaction, or a scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interests in the physical assets employed in the enterprise”<sup>7</sup>

The test proposes the following requirements for an instrument to be an investment contract.

---

<sup>6</sup> M/S Paramount Bio-Tech Industries Ltd vs UOI on 25 November, 2003 (Civil Misc Writ Petition No 51911 of 1999)

<sup>7</sup> SEC v. W.J. Howey Co., 328 U.S. 293 (1946). See <https://supreme.justia.com/cases/federal/us/328/293/> (last accessed on 28/06/2023)

According to it, the investment contract should involve-

- a. An investment of money.
- b. Is a common enterprise.
- c. Reasonable expectation of profit.
- d. To be derived from the efforts of others.<sup>8</sup>

## Comparative Analysis

If someone was to comparatively analyze the aforementioned Howey Test and the requirements set by the SEBI Act, 1992 for Collective Investment Schemes, one would find a lot of similarities, for instance-

- a) There must be a collection of money for the purpose of investment.
- b) Collection of Money should be done with anticipation of profit.
- c) Investors should not be the same as the owners of the scheme.

Further, it was made clear by a Bench of Allahabad High Court in the Judgement “Paramount Bio-Tech Industries Ltd. v. Union of India” that in order to understand whether a financial instrument is a Collective Investment Scheme or not, Howey Test may be used. This is another reason to understand the Howey Test while exploring the legality of Crypto-investments in India.

However, the minimum amount of pooling of funds for a Collective Investment Scheme should be 100 Crore rupees<sup>9</sup>. As per the amendment done to SEBI (Collective Investment Schemes) Regulations, 1999,<sup>10</sup> on March 14, 2022, several new additions have been made, such as

- a. A Collective Investment Scheme should have a minimum subscription amount of at least Rs 20 crore and a minimum of 20 investors, none of which should hold more than 25 percent of assets of the management of the scheme.
- b. A Collective Investment Scheme should not be open for more than 15 days.
- c. The Collective Investment Management Companies should have a minimum net worth of 50 crore rupees.

---

<sup>8</sup> Jay B. Sykes, Securities Regulation and Initial Coin Offerings: A Legal Primer, published in Congressional Research Service, 2018. See at <https://sgp.fas.org/crs/misc/R45301.pdf> (last accessed on 28/06/2023)

<sup>9</sup> Section 11AA of the Securities and Exchange Board of India (SEBI) Act, 1992

<sup>10</sup> See [https://www.sebi.gov.in/sebi\\_data/meetingfiles/mar-2022/1648551129812\\_1.pdf](https://www.sebi.gov.in/sebi_data/meetingfiles/mar-2022/1648551129812_1.pdf) last accessed on 28/06/2023

While for the U.S, there are so far no such requirements in the Howey test, one may argue that it adds to the advantage of the SEC in order to bring crypto-based investments inside its ambit, while the eligibility requirements of Collective Investment Schemes add too many conditions, which narrow down the scope of controlling Crypto-Investments by the SEBI.

## Misuse

A Ponzi/Pyramid scheme is a Type of scheme that causes profits to a minority of early investors, at the expense of the money of later investors.

A Ponzinomous scheme works in a way that it appears to be successful and trustable in the beginning stage of the scheme. It does so by paying extremely high profits to initial investors, so as to appear a trustable, repeatable form of investment, which in turn, gathers even more investors out of popularity.

Once it gathers more investors, it takes their money and pays it to early investors. Unlike the stock market, it does not rely on building any genuine value whatsoever. Its only concern is the advertisement of the scheme and its only business product/service is the scheme itself.

Unlike publicly listed companies which rely on share market funds to expand their business operations, a ponzi/pyramid in simple language transfers money from B to A and makes it look like profit.

In Crypto-Investments, Ponzi/pyramid Scheme stake advantage of economic 'Bubbles', which are phases of extreme popularity and positive attitude of investors. These phases are very common in Crypto-Markets. In these phases, investors often out of greed overlook the nature of the schemes, which results in an unstable market condition, often followed by a crash.

Although one might argue that the stock market works in a ponzinomous way as well I strictly disagree with that because of the following reasons:

- a. In a thriving business, the later investors do not suffer loss. While a Ponzi scheme is always bound to be doomed no matter what. There will always be a number of later investors that will most certainly suffer a loss.

- b. Due to the loss suffered by a majority of the investors, it may create a sentiment of mistrust and a “Bearish” market, which may prevent organizations that are genuinely creating value, collect necessary funds, hindering their business activities.

## Cases of Misuse

According to a report by ‘INC 42’, Indian Crypto Ponzi schemes alone have accounted for a loss of more than 72000 Crore Rupees<sup>11</sup>. That is indeed a huge amount considering that it is roughly the same number as the GDP of Tripura.

Following this I have discussed a few Ponzi schemes, presented both nationally as well as internationally.

### 1. Morris Coin scheme-

Estimated to have defrauded investors of 1200 crore rupees, it was a scheme that, under the pretext of claiming to be an ICO (Initial Coin Offering), collected deposits from investors for ponzi activities.<sup>12</sup>

The company invested its time and money, heavily in marketing, often using celebrities, and influences to advertise their ICO, in order to gain the trust of investors. They also used WhatsApp messages to lure people in the scheme. The scheme showed typical hallmarks of a pyramid scheme, offering 270 rupees for 300 days if there was an investment of 15,000 rupees.

As is usual in a pyramid scheme, the initial investors were provided a lot of gains as promised, which made the scheme look trustable, However, this did not last for long since the money was then transferred to the bank accounts of the promoters of the scheme. The promoters of the scheme kept on claiming that once the ICO tokens are listed on an exchange called “Franc Exchange” their value would increase for which they required the investors to hold the tokens for 300 days<sup>13</sup>.

---

<sup>11</sup>Suprita Anupam, 12 Crypto Scams & INR 72,000 Cr+ Lost: Why India’s Probes Into Biggest Crypto Scams Have Failed, 15 Apr 2022. See <https://inc42.com/features/12-crypto-scams-inr-72000-cr-lost-why-indias-probes-into-biggest-crypto-scams-have-failed/> (last accessed on 28/06/2023)

<sup>12</sup> ‘Morris coin scam: How were investors cheated of ₹1200 crore?’, 20 Jul 2022, See <https://www.livemint.com/market/cryptocurrency/morris-coin-scam-how-were-investors-cheated-of-rs-1200-crore-11658325798710.html>(last accessed on 28/06/2023)

<sup>13</sup> Aakanksha Chaturvedi, ED seizes assets worth Rs 14 crore in Morris Coin crypto scam, 12 Jul 2022, See <https://www.businesstoday.in/crypto/story/ed-seizes-assets-worth-rs-14-crore-in-morris-coin-crypto-scam-341169->

The Franc Exchange was a fraudulent exchange and their tokens were never listed in any exchange.

## 2. Bitconnect-

One of the biggest crypto-scams in India, which raised roughly 18,000 Crore rupees from investors in India and all over the world.<sup>14</sup>Its influence was so massive that even a jury in San Diego, USA, indicted the owner of Bitconnect with an ‘orchestration of a Ponzi Scheme’<sup>15</sup>. Proceeding which the founder, Satish Khumbani fled India to an unknown place.

It operated the same way most Ponzi schemes operate, i.e. by returning profits to early investors using the money of later investors. It claimed the returns were made through profits made by investing the collected funds in crypto-markets through advanced trading software, which in reality did not exist.

Although at the beginning of the scheme, it did give extremely high returns and turned some into even millionaires, it was at the cost of thousands of other innocent investors.

## 3. StepN-

Posing as a move-to-earn game, StepN emerged as an incredibly sophisticated Ponzi scheme, giving people high returns for owning an NFT and doing activities like Walking, Running, Jogging, etc. This made it seem to be a good health-promoting game with good intentions, which gives incentive to people to do exercises by paying them returns. The returns were of course paid by the money of later investors, as there is no other source of income for the business<sup>16</sup>.

---

[2022-07-12](#) (last accessed on 28/06/2023)

<sup>14</sup>Viraj Gaur, BitConnect: Revisiting the \$2.4 Billion Crypto Scam as Founder Flees India, 03 Mar 2022, See <https://www.thequint.com/tech-and-auto/tech-news/bitconnect-revisiting-the-24-billion-crypto-scam-as-founder-flees-india> (last accessed on 28/06/2023)

<sup>15</sup> BitConnect Founder Indicted in Global \$2.4 Billion Cryptocurrency Scheme, 25 Feb, 2022, See <https://www.justice.gov/opa/pr/bitconnect-founder-indicted-global-24-billion-cryptocurrency-scheme> (last accessed on 28/06/2023)

<sup>16</sup> Kevin T. Dugan, ‘The Last Fad of the Crypto Bubble Making money by walking seemed too easy. I fell for it anyway’, ‘Intelligencer’ newspaper by New York Magazine, 6 July 2022 see <https://nymag.com/intelligencer/2022/07/move-to-earn-the-last-fad-of-the-crypto-bubble.html> (last accessed on 28/06/2023)

Its official website still claims an approximate number of 12,000,000,000 calories have been burned by its investors<sup>17</sup>. But what it does not reveal its website is that their token called “Green Satoshi Token” has crashed from its peak of 7.8337 dollars to 0.012 dollars<sup>18</sup>. What made it so convincing was its incredible partnerships which made it near-impossible to recognize it as untrustworthy. It had a partnership with a major shoe company *Asics*<sup>19</sup> and with a football club *Atlitico de Madrid*<sup>20</sup>, and was invested in by *Binance*, a major venture-capitalist organisation<sup>21</sup>.

In the year 2022, StepN admitted recording the growing of their user base from 1000s to Millions<sup>22</sup>.

Although StepN is a global-based company, out of the Millions lured by the Ponzi scheme, the number of Indian users is unimaginable and uncounted for. However one cannot rule out the possibility that at least some crores of rupees of Indian wealth must have been lost to a scheme as such. Crypto-based ponzi schemes are becoming more and more clever and sophisticated day by day, disguising themselves as Health Apps, Games, Trading Softwares, etc. Their collaborations with celebrities and big companies make it near impossible for a common citizen to detect their ponzinomous activities. In times like these, SEBI must emerge as a guiding and protecting authority before such schemes cause irreparable financial, mental, and emotional health damage to thousands of Indians.

---

<sup>17</sup> See <https://stepn.com/> (last accessed on 28/06/2023)

<sup>18</sup> See <https://coinmarketcap.com/currencies/green-satoshi-token/> (last accessed on 28/06/2023)

<sup>19</sup> Vincenzo Cacioppoli, New StepN partnership with Asics, 20 Aug 2022, See <https://en.cryptonist.ch/2022/08/20/new-stepn-partnership-asics/> (last accessed on 28/06/2023)

<sup>20</sup> Cam Thompson, Run-To-Earn Game StepN Teams With Atlético de Madrid and Crypto Exchange WhaleFin for NFT Sneaker Collection, 18 Aug 2022. See <https://www.coindesk.com/business/2022/08/18/run-to-earn-game-stepn-teams-up-with-atletico-de-madrid-and-crypto-exchange-whalefin-for-nft-sneaker-collection/> (last accessed on 28/06/2023)

<sup>21</sup> Binance Labs Makes Strategic Investment in STEPN, 6 April 2022. See <https://www.binance.com/en/blog/ecosystem/binance-labs-makes-strategic-investment-in-stepn-421499824684903657> (last accessed on 28/06/2023)

<sup>22</sup> Posted by STEPN, Public Beta Phase VI (stepnofficial).”Growing our user base from a few 1000s to Millions!” 31 Dec 2022, 5:48 p.m. Tweet. See <https://twitter.com/stepnofficial/status/1609162114349862913> last accessed on 28/06/2023

## Way Forward

I have speculated a few actions that can be possibly executed to have control over such issues-

**a.** Amendments to be made to the Securities and Exchange Board of India(SEBI) Act, 1992-

Whereby in Section 11AA, sub-section(1) a proviso added by the Securities Laws(Amendment) Act, 2014, which requires for a Collective Investment Scheme to involve an amount of 100 crore rupees, should be removed and replaced with a reasonable amount with lower limits. This should be done so as to include crypto-investments with lower amounts involved to be included in the act's ambit. This is necessary since blockchain has allowed the pooling of money for even the smallest of businesses.

**b.** Mandate Registration of Crypto-Investment Schemes-

This should be done regardless of whether or not the scheme is based outside of Indian boundaries, as long as it involves Indian Investors, registration with SEBI should be mandatory. Although this might create enforcement issues, which I have talked about in the next point.

**c.** Collaborate with the U.S. Securities and Exchange Commission and Governmental securities authorities of other countries-

This may help with sharing of information and investigation of fraud. This is a crucial step because most of the crypto-schemes have global investors. Which also raises the issue of enforcement of authority, therefore collaboration with governmental departments of other countries makes the most logical sense.

**d.** Set up a Crypto-Investigations Department in the SEBI, or, Include Crypto-Based Investments in the Investigations Department(IVD) of SEBI-

Such a department should especially target Crypto-Based Pyramid Schemes. Further, the investigations department shall collaborate internationally to early-detect fraudulent crypto-schemes and protect the interest of Indian Investors.

## Conclusion

It is impossible for blockchain technology to not integrate into our lives in the near future because of its revolutionary features.

But as long as blockchain technology is here to stay, so are crypto-based investments, and therefore crypto-based frauds.

These shall only grow in frequency if not stay stagnant. This is apparent from the trends that have been seen in the current and the last decade, which has witnessed an increasing frequency of crypto-based frauds and Ponzi schemes.

Therefore the sooner the Securities and Exchange Board of India takes action against it, the lesser shall be the number of people suffering from repercussions like debt, financial instability, mental and emotional instability, and most importantly loss of wealth from India's economy.

