

AMENDMENTS TO THE NATIONAL PENAL CODE, 2074 (2017 A.D.) CONCERNING CRYPTOCURRENCY AND VIRTUAL ASSETS

Introduction

On April 12, 2024, the Government of Nepal ("GON") published the Act to Amend the Prevention of Money Laundering and some other Acts, 2080 (2024 A.D.) in the Nepal Gazette. This Act has amended various laws including the National, Penal Code, 2074 (2017 A.D.) ("Penal Code"). Original version of the notice can be accessed [here](#).

This Alert aims to highlight the newly added provision in the Penal Code prohibiting the usage of the virtual currency in the background of earlier notices from Nepal Rastra Bank ("NRB") with respect to different virtual currencies.

Prior Position on the usage of Virtual Currency

Previously, NRB using its regulatory powers had published the following notices in this subject matter:

- Notice dated August 13, 2017 notifying prohibition upon Bitcoin Transactions, which can be accessed [here](#).
- Notice dated September 9, 2021 notifying prohibition on Cryptocurrency transactions, which can be accessed [here](#).
- Notice dated January 23, 2022 notifying prohibition on Virtual Currency/Cryptocurrency transactions and Network Marketing, which can be accessed [here](#).
- Notice dated August 15, 2022 notifying prohibition on Virtual Currency/Cryptocurrency transactions, Network Marketing and Hyper funds, which can be accessed [here](#).

Newly Added Provision in the Penal Code

Section 262 A has been incorporated in Chapter 22 (Offences Relating to Currency) stipulating the provisions relating to the prohibition on the usage of virtual currency. "Virtual Currency" has been defined as any data, code or signal number, token or crypto-currency or similar types of virtual assets that are created through cryptography, or any other ways, which denote value through electronic means or represent value and have importance or utility in practical activities or which can accrued or stored in the units of price or accounts.

Prohibited Activities: with respect to virtual currency

Section 262A(1) prohibits the creation, sales, transaction, exchange or transfer, holding, issuance or giving of any virtual currency except the currency issued by NRB for the purpose of usage, facilitate usage of, to obtain payment for transactions inside or outside of Nepal or for settlement of accounts or for any other purpose whether the name of the currency is used or not.

Further, no one shall obtain or given payment in any manner contrary to the provision in subsection (1) which does not show actual accounts of the business transaction.

Penalties

Commission of an offense in violation of the above mentioned prohibitions, shall result in imprisonment of up to five years along with seizure of the concerned amount as well as the appreciation in such amounts or assets arising therefrom and fine according to the amount in question.

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