

## International Regulatory Strategy Group (IRSG)

### RESPONSE TO THE FINANCIAL CONDUCT AUTHORITY DISCUSSION PAPER 'REGULATING CRYPTOASSETS: ADMISSIONS & DISCLOSURES AND MARKET ABUSE REGIME FOR CRYPTOASSETS'

#### Introduction

The International Regulatory Strategy Group (IRSG) is a joint venture between TheCityUK and the City of London Corporation. Its remit is to provide a cross-sectoral voice to shape the development of a globally coherent regulatory framework that will facilitate open and competitive cross-border financial services. It is comprised of practitioners from the UK-based financial and related professional services industry who provide policy expertise and thought leadership across a broad range of regulatory issues. The IRSG welcomes the opportunity to respond to the Financial Conduct Authority's (FCA) discussion paper [DP24/4](#) 'Regulating cryptoassets: Admissions & Disclosures and Market Abuse Regime for Cryptoassets' dated 16 December 2024 ("**the Paper**").

This response sets out some key considerations in response to the Paper. Overall, we support the FCA's steps to bring cryptoassets into the UK regulatory regime. A sound regulatory framework for cryptoassets is key to enable their potential to be realised sustainably, while proportionately managing the associated risks. However, the FCA should consider the points raised in this response to ensure a proportionate and effective regime.

#### Key Messages

The IRSG supports the FCA's approach in this discussion paper and highlights the following key considerations for the future regime, with references to the detailed points provided in the annex:

- **Global harmonisation and competitiveness (page 4):** The FCA must create a regulatory environment that acknowledges the decentralised nature of the cryptoasset market, where activities often span multiple jurisdictions. It is vital that the UK remains competitive on a global scale, avoiding the creation of idiosyncratic rules that could put UK-based market actors at a disadvantage compared to those operating under the European Union's (EU) Markets in Crypto-Assets Regulation (MiCA) or other international frameworks. Harmonisation with such initiatives will prevent market fragmentation and reduce the potential for regulatory arbitrage, helping ensure a unified and streamlined regulatory environment that enables the UK to maintain its competitive edge in the international crypto market.
- **Respect for existing industry and managing consumer duties (pages 4-5):** With the UK hosting a burgeoning crypto industry, it is imperative that any new regulatory regime considers the existing landscape, ensuring that current operations continue with minimal disruption. We support a balanced approach to consumer protection that allows investors to assume responsibility for their decisions, provided they receive appropriate risk warnings. An overly restrictive framework risks stifling market growth, potentially seeing the UK fall behind other jurisdictions. Thus, the proposed admission and disclosure (A&D) requirements should aim to support consumers effectively while simultaneously nurturing a fertile environment for innovation and competition.

- **Challenges with admission documents and the importance of grandfathering (pages 5-6):** Significant challenges exist concerning the consistency of admission documents across Crypto Asset Trading Platforms (CATPs), primarily due to potential liability issues and the overarching demand for uniformity. We suggest that the FCA take a more direct role in approving admission documents, or consider creating an independent entity responsible for standardising and authorising these documents. By doing so, the regulatory framework would maintain transparency and consistency, and alleviate the burden on individual CATPs. Additionally, the concept of "grandfathering" existing cryptoassets – i.e. allowing existing CASPs to continue operating for a limited period while transitioning to full compliance with the new regulatory framework - is strongly advocated to ensure smooth and uninterrupted trading. This would allow investors and issuers the necessary space to transition under the new regulatory directives without incurring undue disruption or instability.
- **Market abuse and the increasing threat of rug pulls (pages 11-12):** The FCA must address particular market abuses distinctive to the cryptoasset landscape, notably "rug pulls." These schemes involve project developers enticing investment into a newly created project, only to vanish, leaving investors with worthless assets. The annex stresses the importance of implementing robust measures focused on transparency and accountability to safeguard investors. This includes ensuring that controls are in place to prevent situations where an issuer could manipulate liquidity for personal gain, drawing parallels with traditional securities market abuses such as spoofing or wash trading. By tightening regulations and enhancing guidance concerning inside information, the FCA can help foster an environment that deters such harmful practices, thereby protecting consumers while supporting legitimate market activities.
- **Principles for developing safe harbours and collaborative regulatory efforts (pages 14-15):** We broadly support the FCA's proposed principles for crafting safe harbours and exceptions, especially concerning the delayed disclosure of inside information and parallels with share buyback programmes. These principles emphasise supporting market functionality and financial stability, reducing consumer harm, and clearly defining activities eligible for safe harbour protections. However, the FCA must engage closely with existing cryptoasset exchanges to better identify legitimate behaviours that might qualify for exemptions. Collaborative efforts between the regulator and industry stakeholders are crucial for designing a framework that accurately reflects operational realities while fostering trust and stability in the market.

Overall, the IRSG supports the FCA's efforts to create a thoughtful regulatory framework for cryptoassets, but cautions against measures that could inadvertently stifle innovation or competitive positioning. By focusing on global alignment, recognising the nuances of the cryptoasset landscape, and maintaining an open dialogue with the industry, the FCA can institute a proportionate regime that supports both robust market functionality and effective consumer protection. This balanced approach will help position the UK as a leader in the evolving global cryptoasset market, reinforcing its international competitiveness as a hub for innovation and financial excellence.

**We wish to thank Clifford Chance LLP for their support in drafting this response.**

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**Annex: Responses to questions posed**

**CHAPTER 1: OVERVIEW**

#	Question / Response
1	Do you agree with the outcomes we are seeking for the overall regime? Are there any important outcomes we may not have included, or any that you believe are not appropriate?

We generally agree with the strategic outcomes outlined, recognising their potential to promote a secure and transparent crypto market. However, we believe there are additional important considerations that should be included to ensure a comprehensive regulatory framework:

- **Recognition of market decentralisation:** It is vital to acknowledge that the cryptoassets market is highly decentralised, with participants operating across multiple jurisdictions. This global perspective necessitates that the FCA develops regulations that allow UK market participants to remain competitive. Specifically, the FCA should avoid implementing idiosyncratic rules that could impede the development of crypto markets, especially in comparison to frameworks being developed internationally.
- **Consideration for the existing nascent industry:** The UK hosts a burgeoning crypto industry that has been trading cryptoassets for some time. It is essential for any new regulatory regime to be applicable to existing cryptoassets currently traded in the UK, without causing significant disruption to current service providers. This approach will help maintain industry stability and encourage continued innovation and investment within the UK's crypto sector.
- **Comprehensive examination of benefits and use cases:** A detailed examination of the benefits and positive use cases of cryptocurrency and distributed ledger technology (DLT) is crucial, particularly from a legal liability perspective. Cryptoassets can offer increased transparency and improved efficiency in financial transactions, with greater security provided by decentralised ledgers. Smart contracts play a key role in reducing counterparty risk and enabling automated compliance, while DLT enhances auditability and fraud prevention. The tokenisation of assets further improves liquidity and access in financial markets. Recognising these advantages within the regulatory framework is essential to fully unlock the potential of these technologies while ensuring responsible utilisation.

#	Question / Response
2	Do you agree with our assessment of the type of costs (both direct and indirect) which may materialise as a result of our proposed regulatory framework for A&D and MARC? Are there other types of costs we should consider?

Beyond the direct and indirect costs of implementing the proposed framework for A&D and Market Abuse Regulation for Cryptoassets (MARC), firms will likely face additional financial burdens. These include internal and external audit expenses, ongoing compliance obligations, and further control mechanism management costs. A cost-benefit analysis should be conducted to ensure the

proportionality of these measures. In addition, it needs to be clarified whether the existing market abuse framework (MAF) will merge with MARC or how MARC will fit into MAF.

#	Question / Response
3	How do you anticipate our proposed approach to regulating market abuse and admissions and disclosures (see Chapters 2 and 3 for details) will impact competition in the UK cryptoasset market? What competitive implications do you foresee as a result of our regulatory proposals?

The proposed regulatory approach to market abuse, admissions, and disclosures will have a significant impact on competition within the UK's cryptoasset market, and it's and its international attractiveness. As highlighted in our response to question 1, it is vital that the FCA develops a regulatory framework that is competitive in relation to cryptoasset regimes in other jurisdictions.

There should be harmonisation regarding liability for whitepapers, content requirements, level of detail, and market abuse obligations. This will ensure that UK firms do not face disproportionate compliance costs and operational burdens, maintain a competitive edge and are not disadvantaged on the global stage. By aligning with international regulatory initiatives with key jurisdictions, especially those with a growing crypto-asset environment such as the EU and Singapore, the UK can prevent market fragmentation and minimise regulatory arbitrage, fostering a cohesive and integrated global crypto market. However, the UK should avoid the overly prescriptive approach of the EU's MiCA and its unnecessary gold-plating of standards. Striking the right balance will ensure that UK firms maintain a competitive edge and are not disadvantaged on the global stage, fostering a cohesive and integrated global cryptoasset market.

Globally, divergent approaches are emerging, and there is a strategic opportunity for the UK to position itself as a central hub that holds liquidity in a diverse range of robust cryptoassets issued worldwide. By establishing a balanced and internationally aligned regulatory environment, the UK can attract significant cryptoasset activity and investment, reinforcing its role as a leading financial centre in the evolving digital economy. This positioning could not only bolster domestic market activity but also enhance the UK's influence and leadership within the global cryptoasset sector.

#	Question / Response
4	Do you agree with our view that while the Consumer Duty sets a clear baseline for expectations on firms, it is necessary to introduce specific A&D requirements (see Chapter 2 for details) to help support consumers?

We generally agree that the Consumer Duty should apply when cryptoasset intermediaries provide advice or portfolio management services to retail customers, setting a clear baseline for firm expectations. However, the FCA must balance consumer protection (and the application of the Consumer Duty) with allowing investors to take responsibility for their investment decisions, provided they receive adequate risk warnings and disclosures. An overly restrictive UK regulatory framework could stifle the UK's cryptoasset markets, leading them to fall behind other jurisdictions. Therefore, while specific A&D requirements are important to support consumers, they should not impede the

growth and innovation within the market. This approach will help ensure that the UK remains a competitive and attractive destination for cryptoasset activities.

## CHAPTER 2: ADMISSIONS AND DISCLOSURES

#	Question / Response
5	Do you agree with the risks, potential harms and target outcomes we have identified for the A&D regime? Are there any additional risks or outcomes you believe we should consider?

We acknowledge the risks, potential harms, and target outcomes identified for the A&D regime. However, we advocate for a tiered approach, recognising that not every offering should automatically trigger the full A&D regime. Adopting a more nuanced strategy, similar to the position under MiCA, could be beneficial. For instance, offers to qualified investors or those that do not necessitate a comprehensive admission document could be exempt from the full regime. Only when there are significant changes or differences across cryptoassets should a full admission document be deemed necessary.

For general use cases, a streamlined, lighter-touch alternative should be considered. This would help to minimise unnecessary burdens on issuers and avoid stifling innovation, while still achieving the essential aims of consumer protection and market integrity. The regulatory framework must be adaptable and proportional to the level of risk involved in each offering. Additional risks or outcomes to consider could include ensuring that the regulatory environment remains flexible enough to accommodate emerging technologies and business models in the cryptoasset space.

#	Question / Response
6	Should an admission document always be required at the point of initial admission? If not, what would be the scenarios where it should not be required? Please provide your rationale

The Paper's approach of placing the responsibility for the quality of the admission document on CATPs presents several practical challenges. This is especially pertinent given the significant liabilities CATPs may face. Taking the example of Bitcoin admission to trading, there is a scarcity of standardised information available for such assets. To protect themselves from potential liability, CATPs might be inclined to include a comprehensive list of risk factors and disclosures. This could lead to a situation where, to better safeguard themselves, CATPs engage in a 'race to the top', resulting in overly complex admission processes that could hinder efficient market operations and limit asset accessibility.

To address these challenges, CATPs should not be overburdened with undue responsibilities that could stifle the efficient functioning of cryptoasset markets. It is crucial to strike the right balance to ensure transparency and investor protection, without encumbering CATPs with excessive responsibilities.

To the extent that certain cryptoassets have already been traded in the UK at the time the new regime is implemented, these should be 'grandfathered.' This means they should be allowed to continue being traded for a limited period while transitioning to full compliance with the new regulatory

framework. This would ensure continuity and avoid unnecessary disruption within the market. Grandfathering existing assets would facilitate a smoother transition under the new regulatory framework, helping to maintain market stability and investor confidence.

#	Question / Response
7	Should an admission document be required at the point of further issuance of cryptoassets that are fungible with those already admitted to trading on the same CATP? If not, what would be the scenario where it should not be required? Please provide your rationale.

As the FCA is aware, certain cryptoassets issued on a specific DLT can be "wrapped" using smart contracts and other technologies to enable trading on alternative ledgers. In developing the regulatory regime, the FCA must clearly define how these "wrapped" cryptoassets will be treated.

We propose that, where there is an existing whitepaper filed at the National Storage Mechanism (NSM), this document could be supplemented with additional information specifically stating that wrapped assets are covered. This approach would ensure clarity and consistency in the treatment of wrapped cryptoassets, while maintaining the integrity and comprehensiveness of the existing documentation process. Such a measure would help streamline compliance and foster greater confidence in the regulatory framework governing cryptoasset trading.

#	Question / Response
8	Do you agree with our proposed approach to disclosures, particularly the balance between our rules and the flexibility given to CATPs in establishing more detailed requirements?

We support the FCA's approach to disclosures, provided there is a sufficient baseline of information. This baseline is crucial for ensuring that investors have access to clear and appropriate details necessary for informed decision-making. To further enhance the efficacy of these disclosures, we suggest including additional information such as the cryptoasset's regulatory track record, its trading history, and any relevant adverse media coverage. Such detailed information will offer investors greater insight into the asset's history and associated risks, thereby promoting more informed and secure investment practices.

In addition to enhancing disclosures, the FCA may also wish to consider allowing the use of whitepapers previously issued under the MiCA regulation within the UK. By accepting these documents, the FCA would facilitate greater alignment with existing European standards, aiding issuers who operate across multiple jurisdictions. This approach could streamline compliance processes and reduce administrative burdens, making it easier for issuers to meet their regulatory obligations without duplicating efforts.

By integrating these recommendations, the FCA can enhance its regulatory framework in a manner that supports transparency, promotes investor protection, and fosters a conducive environment for the growth of cryptoasset markets within the UK. This strategy would maintain investor trust and position the UK as an attractive market for international cryptoasset activities.

#	Question / Response
9	Are there further disclosures that should be required under our rules, or barriers to providing the disclosures we have proposed to require? Please explain your reasons.

N/A

#	Question / Response
10	Are there any disclosures in the proposed list that you believe should not be required? If so, please explain your reasons.

There is uncertainty regarding the feasibility of tracking and disclosing the impact of cryptoassets on sustainability-related factors. Establishing a standardised approach by aligning with the Regulatory Technical Standards (RTS) under MiCA could be a constructive solution.

In addition, the requirement to disclose the legal status of the cryptoasset, including its classification under relevant regulatory regimes for cryptoassets or financial services, appears unclear. Based on the FCA's policy proposal, it seems cryptoassets would not qualify as specified investments. If the FCA envisions a disclosure involving a detailed legal analysis or memorandum, this could pose challenges. Such a requirement may elevate liability concerns for law firms, which might be hesitant to release a memorandum or opinion for public disclosure. It is imperative that the regulatory framework considers these practical implications, balancing the need for transparency with the realities of legal practice.

#	Question / Response
11	Do you think that CATPs should be required to ensure admission documents used for their CATPs are consistent with those already filed on the NSM for the relevant cryptoasset? If not, please explain why and suggest any alternative approaches that could help maintain admission documents' accuracy and consistency across CATPs.

The challenges associated with requiring CATPs to produce consistent admission documents are significant, as detailed in response to question 6. Expecting CATPs to uniformly create these documents raises issues of liability and consistency, which could hinder the overall effectiveness of the regulatory framework. To address these concerns, the FCA should consider taking a more central role in the approval process of admission documents. By directly overseeing this process, the FCA can ensure that all documents adhere to a consistent standard, thus enhancing transparency and clarity across the market.

Alternatively, the creation of an independent, commercially led organisation could be explored. This body would be tasked with establishing the standards for whitepapers and approving them, which would not only standardise admission documents but also remove the liability burden from CATPs. Such an entity could operate with the flexibility and expertise necessary to adapt to the evolving

landscape of cryptoassets, ensuring disclosures are both consistent and reflective of current market conditions.

These approaches are crucial to avoid confusion among market participants and secure the necessary regulatory clarity for a robust and fair cryptoasset market in the UK. By implementing a streamlined process for creating and approving admission documents, the industry can achieve greater reliability and trust, benefiting issuers, investors, and regulators alike.

#	Question / Response
12	What do you estimate will be the costs and types of costs involved in producing admission documents under the proposed A&D regime? Are any of these costs already incurred as part of compliance with existing regulatory regimes in other jurisdictions?

N/A

#	Question / Response
13	Do you agree with our suggestions for the types of information that should be protected forward-looking statements?

The FCA's proposal to create a framework parallel to the Prospectus and Other Advertising Technical Requirements (POATRs) for cryptoasset admissions and offerings raises important considerations specific to the nature of cryptoassets. Unlike traditional securities, investors in cryptoassets generally do not gain proprietary rights in a business entity or, barring stablecoins, have enforceable debt claims. Instead, these investments often confer only a limited range of utility rights, if any at all.

Given these distinctions, it is critical that the primary disclosures focus on the significant risks involved and provide clear, detailed information about what rights investors hold. Such disclosures ensure that investors have a solid understanding of the nature and potential risks associated with their investments. In this context, forward-looking statements should be afforded protection, ensuring they can be presented without creating undue liability for issuers. This protection should be contingent upon the issuers having made comprehensive and transparent disclosures about the specific rights and entitlements of investors.

By adopting this approach, the FCA can support a regulatory environment that recognises the unique attributes of cryptoassets, while also safeguarding investors through informed decision-making. This balance is essential for fostering trust and encouraging innovation within the cryptoasset market, aligning with the broader goals of financial market integrity and investor protection.



# Question / Response

- 14 Do you agree with the proposed approach to our rules on due diligence and disclosure of due diligence conducted? If not, please explain what changes you would suggest and why.

While we generally agree that the proposed approach effectively captures the description of risks pertinent to the relevant cryptoassets, we emphasise that any due diligence requirements must be balanced. The FCA's stringent approach to financial promotions should not unduly restrict investors' ability to engage with assets that inherently carry a different risk profile compared to, for example, listed securities. Therefore, while ensuring comprehensive due diligence is crucial for transparency and investor protection, it is equally important to foster an environment where investors can make informed decisions in line with their risk appetite, recognising the unique characteristics of cryptoassets.

# Question / Response

- 15 Are there further areas where due diligence or disclosure of findings should be required, or where there would be barriers to implementing our proposed requirements?

N/A

# Question / Response

- 16 Where third-party assessments of the cryptoasset's code have not already been conducted, should CATPs be required to conduct or commission a code audit or similar assessment as part of their due diligence process?

Yes. A full and thorough due diligence process is essential to mitigate risks related to weaknesses in the crypto asset's code or smart contracts. To avoid inadvertently enabling larger CATPs who can afford to undergo comprehensive due diligence to, therefore, dominate the market, we support a tiered approach to due diligence, with tiers aligned to the size of the CATPs.

# Question / Response

- 17 Do you agree there is a need to impose requirements regarding rejection of admission to trading? If so, should the rules be more prescriptive rather than outcomes-based?

Considering the early stage of the cryptoasset industry, adopting a hybrid approach that combines prescriptive requirements with outcomes-based rules would be beneficial. This approach would offer the necessary clarity to market participants, while maintaining the flexibility needed to adapt to the rapid evolution and unique challenges inherent in this sector. By striking this balance, the regulatory framework can guide industry development effectively without stifling innovation or growth.

# Question / Response

- 18 Do you agree that we should require CATPs to publicly disclose their standards for admitting and rejecting a cryptoasset to trading? If so, what details should be disclosed?

Please refer to our responses to other questions above. It remains unclear how consumer protection objectives can be fully achieved if multiple CATPs are permitted to maintain parallel admission documents. Such fragmentation could lead to inconsistencies that ultimately undermine the primary goal of safeguarding consumers.

If parallel admission documents are to be utilised, we believe there should be a harmonised policy that all CATPs must follow. This would ensure a consistent standard across the industry. Furthermore, each CATP should be required to disclose how they adhere to this harmonised policy, thus providing transparency and fostering greater trust among investors. By implementing this uniform approach, it would be possible to better align the interests of CATPs with the overarching aim of comprehensive consumer protection.

# Question / Response

- 19 Do you agree with the suggested approach to our rules on filing admission documents on the NSM?

The proposed approach to data collection appears reasonable, and efforts should be made to allow this data to be utilised in other wholesale-related projects, such as Project Agora.

# Question / Response

- 20 Do you consider that the admission documents to be filed on the NSM should be in machine-readable format? If so, what format should be used to prepare the documents (for example, iXBRL or XML format)?

Yes. The data should be available in a number of different formats to accommodate various systems.

## CHAPTER 3: MARKET ABUSE

#	Question / Response
21	Do you agree with the risks, potential harms, and target outcomes we have identified for the market abuse regime? Are there any additional risks or outcomes you believe we should consider?

Yes, we agree with the risks, potential harms, and target outcomes identified. These mirror the existing regime and the FCA should clarify how the new cryptoassets market abuse regime will merge with this.

#	Question / Response
22	Are there any market behaviours that you would regard as 'abusive' at present, or any new abusive behaviours that may emerge, that may not be covered by the above prohibitions? Please provide examples where possible.

Given that many cryptoassets do not grant enforceable rights against the issuer, there are significant opportunities for market manipulation by the initial issuer or a controlling team. Practices familiar in the securities markets, such as spoofing, wash trading, and bear raiding, also occur within the cryptoasset space. However, a particularly concerning and prevalent form of abuse in these markets is the "rug pull." This deceptive scheme involves the developers or insiders of a cryptocurrency project creating a token or project, building hype, attracting substantial investment, and then abruptly withdrawing significant funds, rendering the project worthless.

The stages of a rug pull typically unfold as follows:

1. **Setup:** Scammers launch a fake cryptocurrency or Decentralised finance (DeFi) project, complete with a convincing website, white paper, and roadmap to mimic legitimate ventures.
2. **Marketing and Hype:** The fraudulent team, often with the help of complicit shillers, aggressively markets the project across platforms like Telegram, Reddit, and YouTube, leveraging influencers to maximise reach.
3. **Influx of Buyers:** As the project gains traction and credibility through this promotion, traders are lured into investing, thereby inflating the token's value or the project's financial reserves.
4. **Withdrawal:** The culprits then withdraw funds from the liquidity pool or manipulate smart contracts to siphon assets for their benefit.
5. **Disappearance:** Finally, the developers vanish, often erasing their digital footprints, leaving investors at a loss.

Given the frequency and impact of rug pulls, specific preventative measures are needed to protect investors. Unlike traditional financial markets where issuers are typically identifiable entities, in the cryptoasset market issuers may often be orphaned foundations or anonymous teams, complicating

accountability. Thus, a regulatory focus on transparency, accountability and investor protection is crucial to mitigate such illicit activities. In particular, it may be necessary to impose requirements to ensure that the team controlling the issuance has entered into arrangements with market makers and liquidity providers that would prevent liquidity from being pulled in this way.

# Question / Response

23 Do you agree with our proposals to make the issuer responsible for disclosure of inside information unless there is no issuer or the issuer is not involved in seeking admission to trading?

We believe that this proposal is unrealistic. In many instances, the issuer is a foundation or an orphaned entity which would not seek admission to trading of their cryptoassets. As such, the FCA may wish to consider exploring alternative avenues.

# Question / Response

24 In the circumstances where there is no issuer, or the issuer is not involved with the application for the admission to trading, do you agree with our proposal that the person seeking admission to trading of the cryptoasset should be responsible for the disclosure of inside information?

While this approach may be appropriate in many circumstances, the FCA must recognise that the individual seeking admission to listing may not have sufficient control over the design of the specific tokens. For instance, an initial investor with substantial liquidity in the project might pursue the listing yet may have no influence over or even awareness of changes to the underlying technology and token features, such as DLT 'forking,' i.e. when the ledger splits into two different paths, either intentionally or by accident.

Furthermore, there is a broader concern regarding the application of the regime when the individual seeking admission to listing is based outside the UK, potentially in any third country. This raises questions about jurisdictional challenges and the effectiveness of regulatory oversight in ensuring compliance with UK standards.

# Question / Response

25 With regards to the second circumstance in question 24, do you agree that the person (say, 'Person A') seeking admission to trading of the cryptoasset should only be responsible for disclosure of inside information which relates to Person A and which Person A is aware of?

Yes, in light of our response set out above, this would be a necessary safeguard.

# Question / Response

- 26 Are the risks of information asymmetry for consumers resulting from this approach significant? Are there additional measures we need to take to further mitigate this risk?

We do not have a specific view here. However, we note that a bigger risk could be information overload. Consumers will require an easy method to understand the details. For example, the FCA could implement a grading system here.

# Question / Response

- 27 What are some examples of information that should be considered inside information? Do you think we should provide a non-exhaustive list of examples in guidance?

Additional FCA guidance on what constitutes inside information would be beneficial, including a non-exhaustive list of examples to enhance regulatory clarity.

# Question / Response

- 28 Are there types of information, beyond those already proposed to be made available through the A&D regime and the MARC inside information disclosure regime, that would be useful for the cryptoasset market to have access to? Please specify the nature of the information, the frequency that such information should be disclosed (if applicable), and the importance to the consumer base.

N/A

# Question / Response

- 29 Do you favour any of the options set out above? If so, which one? What are the factors that led you to this decision?

N/A

# Question / Response

- 30 Are there alternative options we should be considering? What might be the pros and cons of those alternative options?

N/A

# Question / Response

31 Should a centralised coordinating body coordinate the effort to help with identifying, developing and testing method(s) of disseminating inside information? If not, please provide alternative suggestions.

Yes, given the expected fragmentation in the location of the persons seeking admission and the fact that there may be several CATPs, we believe a centralised organisation could facilitate in creating a harmonised framework.

# Question / Response

32 Can you provide any estimated figures for costs involved with the set-up and the ongoing operational costs of any of the options?

N/A

# Question / Response

33 Do you agree with these principles? Are there changes you would suggest? Are there others we should consider?

The existing market abuse regime allows for certain behaviours that, despite appearing prohibited, serve legitimate purposes and should be permitted. This concept is relevant in the cryptoasset sector, even as the practices in this area continue to develop and evolve. We welcome the FCA's consideration of potential safe harbours or exemptions, such as those allowing for the delayed disclosure of inside information, though this will have to reflect the specific nature of the crypto markets. By way of example, one could draw a parallel between coin-burning practices and share buyback programmes.

The development of any safe harbours and exceptions by the FCA will be based on principles. The following principles have been proposed by the FCA to guide the creation of specific safe harbours and exceptions, which we expect to see in a forthcoming consultation paper:

- The safe harbour, when applied, must support market function or financial stability;
- The design of safe harbours must aim to minimise harm to consumers, reducing risks of information asymmetry or misleading consumers; and
- Safe harbours should pertain to a clearly defined activity and ideally be executed in a timely manner.

We broadly endorse these principles. However, there remains some ambiguity regarding how the FCA plans to identify legitimate behaviours. We encourage the FCA to design this framework in collaboration with existing cryptoasset exchanges, as their expertise and experiences are invaluable for crafting a regulatory environment that accurately reflects the operational realities of these markets.

# Question / Response

- 34 Should we apply the safe harbours from MAR concerning delays in disclosing inside information (MAR Article 17(4)), and possession of inside information and legitimate behaviours (MAR Article 9) to the cryptoasset market?

We support the introduction of safe harbours for stablecoins and maximal extractable value (MEV). Given the potential market instability associated with a “run” on stablecoins, exemptions should apply to legitimate processes such as coin burning. For example, where stablecoins are issued to wholesale institutional buyers with an option to return them for burning. This is a legitimate part of the stablecoin flow and should be considered part of the MARC exemption.

# Question / Response

- 35 An approach similar to the accepted market practices (AMPs) provisions in MAR Article 13 could provide flexibility to address certain crypto behaviours in the future if appropriate. AMPs, nonetheless, remain an empty set under UK MAR. Do you have any views on whether AMPs would be useful in the crypto space?

N/A

# Question / Response

- 36 What, if any, amendments to the MAR formulation of these safe harbours should we make to them to ensure they align with the principles set out above and ensure they are tailored to the cryptoasset market? Is there any additional clarity you would need us to provide over how they would apply in order to be able to rely on them?

N/A

# Question / Response

- 37 Are there other activities that we should be considering for safe harbours? Please explain your rationale including how these safe harbours would meet the principles set out.

N/A

# Question / Response

- 38 Do you agree with the approach to putting the onus on CATPs and intermediaries to both monitor and disrupt market abuse? If not, why not and what alternative do you think would better achieve the outcomes we are seeking?

We agree in principle that the primary responsibility for monitoring and disrupting market abuse should rest with CATPs and intermediaries. However, it is essential to acknowledge the global nature of cryptoasset markets. Abusive practices can easily originate from other jurisdictions or CATPs, which complicates the detection and prevention processes within any single market. Therefore, the FCA must exercise this approach with a level of proportionality.

Firms must have robust systems and controls to manage market abuse effectively. However, a proportionate approach requires recognising that even well-established entities may face limitations in addressing cross-border issues. Clear guidance on when and how firms should report these challenges would support a more coordinated response to market abuse. Additionally, enhanced collaboration with international regulatory bodies could strengthen the effectiveness of these measures, ensuring that UK markets are not unfairly burdened by issues arising from outside its regulatory reach. Consequently, while placing the onus on CATPs is a sensible starting point, an adaptable and coordinated international framework will ultimately be necessary to achieve comprehensive oversight and enforcement.

# Question / Response

- 39 Do you agree with the areas of systems and controls where we will set outcomes-based requirements for CATPs and intermediaries? If not, which do you not agree with and why? Are there any areas where we should be considering additional systems and controls either for these firms or other market participants in order to achieve the outcomes we are seeking for this regime?

We broadly agree with the FCA's approach to regulating CATPs. However, the focus on information sharing between CATPs presents certain challenges. Specifically, it may not be sufficient for UK-based CATPs to limit information sharing to their domestic counterparts. The global nature of cryptoasset markets means that significant market activities and potential abuses might occur on non-UK exchanges. Obtaining timely and comprehensive information from these foreign platforms could prove to be difficult, potentially hindering the efficacy of the regulatory framework.

Therefore, while the initiative to promote collaboration among UK firms is commendable, the FCA must consider strategies for enhancing international cooperation. Establishing stronger links with regulatory counterparts abroad and developing cross-border information-sharing protocols could be essential steps in ensuring that UK CATPs are equipped with the necessary data to uphold market integrity effectively. This broader framework could also facilitate more comprehensive oversight and lead to better protection against market abuse on a global scale.



# Question / Response

- 40 Do you agree with the outcomes-based approach which allows firms to determine the best way to deliver the outcomes based on the nature, size and scale of their business?

Yes, we agree that, in principle, the outcomes-based approach that allows firms to determine the best way to achieve regulatory outcomes based on the nature, size, and scale of their business is a sensible framework. However, the FCA should clarify how it intends to enforce this approach effectively. Given the potential criminal implications associated with breaches of the market abuse regime, firms will require clear guidance on what constitutes adequate practices and outcomes. This clarity will be essential in ensuring compliance and providing firms with the confidence to operate within the legal and regulatory frameworks. Additionally, consistent benchmarking and examples of best practices could assist firms in aligning their operations with FCA expectations, thereby fostering a transparent and compliant market environment.

# Question / Response

- 41 Do you agree that firms involved with cryptoasset trading and market sensitive information should be subject to requirements to have appropriate training regarding the handling and control of inside information and have appropriate information barriers in place within their firms?

Yes, we agree that firms involved in cryptoasset trading and handling market-sensitive information should be subject to requirements for appropriate training on managing inside information. Ensuring that employees understand the intricacies of handling sensitive data is crucial to maintaining market integrity and preventing market abuse. Such training can help to mitigate the risks associated with the misuse of inside information, by equipping staff with the knowledge necessary to uphold regulatory standards and ethical practices.

Establishing appropriate information barriers within firms is essential for preventing the unauthorised flow of confidential information and managing conflicts of interest effectively. These measures ensure that market-sensitive information is controlled and safeguarded, thereby protecting the firm's integrity and the wider market. Such regulatory expectations would enhance compliance and bolster trust in the cryptoasset market by demonstrating a commitment to ethical standards and transparency.

# Question / Response

- 42 Do you agree on the proposals regarding insider lists for issuers and persons seeking cryptoasset admissions to trading?

Yes, we agree. High-level rules on information sharing should remain proportionate to business activity while maintaining flexibility. The FCA should consider how self-hosted wallet addresses are handled within this framework. A centralised information-sharing structure would ensure consistency across jurisdictions, though challenges remain due to differing regulatory approaches. The FCA should

provide further clarity on whether this mechanism would be entirely new or integrated into existing regulatory technology solutions.

#	Question / Response
43	Do you feel that establishing a PDMR regime for issuers/ persons seeking admission of cryptoassets would significantly advance the outcomes we are seeking at a proportionate cost?

N/A

#	Question / Response
44	Do you agree with the approach set out with regards to requiring on-chain monitoring from CATPs and intermediaries?

N/A

#	Question / Response
45	Are there any aspects of systems and controls that we haven't mentioned which would help us deliver on our desired outcomes?

N/A

#	Question / Response
46	Do you agree with our thinking, approach, and assessment of the potential cross-platform information sharing mechanisms discussed? Which of the options do you think is best? If none are suitable, why and what other alternatives would you suggest?

We acknowledge that the FCA currently does not plan to create an FCA-operated cross-platform information sharing mechanism for CATPs. The FCA believes that the advantages of information sharing can be realised through private-to-private mechanisms without regulatory intermediation. This industry-led approach enables platforms to utilise their existing expertise in monitoring cryptoasset trading activity and leverage their close connection to various products and customers. It also offers flexibility and encourages the adoption of RegTech solutions.

However, in our view, information sharing within the UK may be more effective if there is a regulatory requirement to share. The challenge of sharing information with all venues trading a particular cryptoasset suggests that this matter needs further consideration. Consequently, the FCA may wish to consider taking a more active role in this initiative to ensure comprehensive and consistent information-sharing practices across the industry.

An exclusive private-to-private information-sharing mechanism faces challenges such as the lack of clear data standards, potential costs imposed by larger providers, the risk of data monetisation, and firms limiting data sharing for competitive advantage. To address these issues, the FCA should set legally binding requirements to ensure fair access to data, transparency in pricing, mechanisms to prevent free-riding, and oversight to maintain data quality. Additionally, the FCA could explore intermediating data-sharing or setting minimum quality standards to enhance transparency and efficiency while allowing industry-led innovation.

# Question / Response

- 47 Should a centralised coordinating body coordinate the effort to help with developing and driving forward an industry-led solution to cross-platform information sharing? If not, please provide alternative suggestions to facilitate the creation of industry-led solutions

Yes, a centralised approach seems preferable for driving forward an industry-led solution in this area. A centralised coordinating body would indeed provide consistency in information across the market, which is crucial for effective cross-platform information sharing. By establishing a unified framework, such a body could standardise protocols and practices, thereby enhancing transparency and reducing the risk of discrepancies between platforms. This consistency would not only facilitate smoother operations but also bolster confidence among market participants by ensuring a reliable flow of information. In the absence of a centralised structure, the industry may risk fragmentation, with varying standards that could complicate inter-platform communications.

# Question / Response

- 48 We would like to gauge what further support would be useful in helping introduce cross-platform information sharing. What kind of specific regulatory input or involvement would be beneficial for the industry?

Cryptoassets are regulated differently across jurisdictions, leading to an inconsistent and fragmented international regulatory landscape and, consequently, varying methods of sharing information. This poses a significant challenge for cross-border information sharing. A cross-platform information sharing tool would mitigate this by facilitating seamless and secure information exchange across different regulatory environments, ensuring compliance and enhancing transparency in the global crypto asset market. This tool could either be a new, dedicated system designed specifically for the unique requirements of the crypto asset market or an extension of existing regulatory technology solutions.

# Question / Response

- 49 Is there any further information or feedback you would like to provide to us?

Firms may already hold cryptoassets and, where this is the case, it is unclear how the due diligence proposed in MARC will extend to these existing cryptoassets. The FCA should clarify what firms are

permitted to do with these assets and how the market abuse regime would apply, while permitting a “grandfathering” transition for the proposed MARC.

We acknowledge that the FCA is currently developing a comprehensive regulatory framework for cryptoassets, which is expected to be in place in 2026. As part of this, we recommend that the FCA reviews and updates its principles, last revised in July 2023, to ensure they are appropriate for the new crypto regime.

In addition, we recommend that the FCA should adopt and utilise the comprehensive [Digital Currency Glossary](#) produced by UK Finance, The Payments Association, Digital Pound Foundation, TheCityUK, Innovate Finance and City of London Corporation, and supported by CryptoUK, CMS, Clifford Chance, Greengage, Cummings Pepperdine and The Realization Group. This glossary, released in January 2024, serves as a valuable resource for standardising terminology in the rapidly evolving digital currency landscape.

Finally, there are several intersections between the proposed MARC and fraud. Cryptoassets are often the chosen asset for money laundering through the use of fraudulent tokens and, as noted above, a significant number of investment scams use cryptoassets /bitcoin. Given that the Payment Systems Regulator’s (PSR) Authorised Push Payment (APP) scam compensatory mechanism applies to investment fraud, the FCA should take care to align the proposed MARC framework with the APP fraud framework to better support banks against a backdrop of increasing investment scams.

A comprehensive due diligence framework for cryptoassets could have a positive impact on investment fraud and/or reduce risk for banks, given the potential for new payment methods to be brought into PSR APP scam reimbursement scope.