

27 October 2025

CryptoUK
Formal House
60 St George's PI
Cheltenham GL50 3PN

Submitted by email: cp25-25@fca.org.uk

Dear Sir or Madam,

Response to Consultation Paper 25/25 - Application of FCA Handbook for Regulated Cryptoasset Activities (the “Consultation Paper”)

CryptoUK (“**we**”) and its members welcome the opportunity to comment on the Consultation Paper regarding the FCA’s approach to regulating cryptoassets with respect to the application of the FCA Handbook. CryptoUK is the UK’s self-regulatory trade association representing the cryptoasset sector. Our members comprise over 100 of the leading companies across the sector and across the UK. Many of our members are also international and engage with regulators and policies on a global basis.

We have provided detailed answers to each question posed in the Consultation Paper within the Appendix. We seek to offer pragmatic and relevant observations about, and suggestions in response to the content within the Consultation Paper.

Our general themes set out in our submission on 14 October 2025 also apply here. We emphasise in particular the following general / thematic comments about the Consultation Paper and the FCA’s broader approach to the future cryptoasset regulatory regime:

- **Request for sector-specific guidance:** As we noted in our response to questions 13-29, our members will benefit from further guidance on how to implement the FCA’s proposals, either codified in the FCA Handbook or in the form of separate publications. In relation to financial crime controls (question 9), we have suggested that a stand-alone piece of guidance prepared by collaboration between the FCA and the Joint Money Laundering Intelligence Taskforce (“**JMLIT**”) could be very helpful. Another area where guidance is urgently required is the role and responsibilities of cryptoasset intermediaries. Clarity is needed on matters including the impact of algorithmic trading and any imposition of RTS 6 and algorithmic trading certification function under SMCR. The consultation papers have given very limited information about this, but this is an area of immediate concern for our members, and we would welcome an update on when the FCA will release this guidance.
- **Same risk, same regulatory outcome:** We have welcomed the FCA’s stated principle of “same risk, same regulatory outcome”. However, our members consider that in certain areas the FCA’s proposals are not consistent with this principle. We highlight in particular the proposals regarding the CASS oversight certification function (question 6) and the application of SYSC 15A to cryptoasset firms (question

7). Our members observe that the cryptoasset business has features which can in effect reduce risk as compared to traditional finance - noting for example the capability in using distributed ledger technology to track and trace transactions and identify bad actors. We therefore urge that cryptoasset firms should not be put under heavier regulatory burdens than traditional finance firms based on a misapprehension of the risks involved, and that firms' regulatory obligations be genuinely proportionate to the risks.

- **International alignment:** we understand that international harmonisation is a priority for the FCA. We endorse the approach of seeking to align with international standards, with room for divergence where appropriate. Some of our members consider that the decision not to implement sustainability disclosures for cryptoasset firms (question 12) is a case of divergence without adequate reason, in light of consumer interest in this information and the availability of the relevant data to comply with other international regulatory regimes (such as MiCA).

We thank you for your consultation and for your consideration of this response, prepared in consultation with our members. We additionally thank CMS for their support and assistance. Finally, we would welcome the opportunity to engage further, should our response require any further discussion or clarification.

Yours sincerely,

Su Carpenter - Executive Director, CryptoUK

Appendix

Consultation Questions:

1. **Do you agree that new cryptoasset activities defined in the SI (and as described as ‘qualifying cryptoasset activities’ in draft FCA Handbook rules) should fall under the category of ‘designated investment business’ for the purposes of applying relevant sections of the Handbook?**

We agree that the new cryptoasset activities should fall under the category of designated investment business in line with the FCA's approach of "same risk, same regulatory outcome".

Whilst we are in agreement, we would request that the FCA consider the following points:

- Clarification of proportionality - the FCA should ensure that smaller firms are not disproportionately burdened compared to larger incumbents. There is also a need to ensure that the FCA's fee structure is aligned with risk and not applied as a 'one size fits all' approach.
- The FCA should address bespoke risks as highlighted within this Consultation Paper. Certain cryptoasset specific risks such as those relating to technology failures, novel custody models or decentralised service structures may require the introduction of specific tailored guidance beyond what is currently available.
- International alignment should also be key to ensure there is awareness of evolving international frameworks. We recommend that the FCA continues to align to international standards (IOSCO) but should also be willing to diverge from other regulatory regimes where appropriate. This approach will allow the UK to distinguish itself as a jurisdiction fostering innovation, growth and competition, whilst maintaining the highest standards of consumer protection and financial stability.
- Additionally, as raised in our response to the FCA on CP25/14 (29 July 2025), we support an outcomes-based and proportionate approach when interpreting client asset protections under CASS. In applying the spirit of CASS 6, the key requirements for cryptoasset firms' client asset models should be that firms operate on a full-reserve basis, maintain robust reconciliation, segregation, and governance controls, and ensure affiliate sub-custodians adhere to equivalent safeguarding standards. We therefore recommend that the FCA clarify that limited operational commingling and affiliate custody structures can comply with safeguarding outcomes under the DIB framework, provided they are demonstrably controlled, monitored, and transparent.

Some of our members consider that the FCA could (in the future) adopt a new "designated cryptoasset business" definition rather than including this within the existing "designated investment business" definition. The rationale is that this would make it easier to clarify when the existing FSMA regime is applicable and when it is not and could accommodate tailored cryptoasset sector guidance. This is a suggested 'next step' for the FCA to consider, and these members agree that initially the industry would support the adoption of the existing regulatory regime and work together with the FCA over time to review and enhance this regulation to fit the evolving nature of the industry as a whole.

As a final note, there is an inconsistency in the proposed rules. The definition of “designated investment business” includes in the final paragraph (za) “qualifying cryptoasset staking (article [9Z7])” but the updated definition of “regulated activity” includes “arranging qualifying cryptoasset staking (article [9Z7])”. We would like to clarify that this is an error and the two should be aligned.

2. Do you agree with our proposal for applying high level standards to cryptoasset firms in a similar way they apply to traditional finance?

Yes, we support this proposal as this is consistent with the principle of “same risk, same regulatory outcome” and will strengthen consumer protection and market integrity. We support the application of all the high level standards that are proposed in the Consultation Paper.

We also welcome the approach to maintain differentiated treatment between retail and institutional clients - noting that in cryptoasset markets, retail participation carries a higher risk of potential mis-selling and poor disclosures meaning that retail clients should be afforded more robust protections. Institutional clients, given their increased sophistication and risk-bearing capacity, should be subject to lighter regulatory protection. This distinction is both proportionate and necessary to ensure that regulatory outcomes are fair without suppressing professional market activity.

When applying the high-level standards, we ask the FCA to take into account two key features of cryptoasset markets:

- The structure of cryptoasset markets is fundamentally different from traditional finance: the market operates both on and off chain, via centralised and permissionless venues, with decentralised assets not being native to any one exchange. We ask the FCA to ensure that it sets proportionate, outcome-focused expectations that cover all relevant venues and technologies, and that it takes account of crypto-specific operational models in considering how firms meet those expectations.
- Market abuse risks are different in the cryptoasset sector. On-chain transaction data is public, and cryptoassets have divergent underlying characteristics, leading to different forms of market manipulation, as we highlighted in our response to DP24/4 in March 2025. Where the high-level standards interact with market abuse obligations, we therefore request that the FCA allows for firms’ appropriate use of on-chain transaction data, and that supervisory guidance is calibrated for crypto-specific risk patterns.

We would also note that there is an expectation of a (near) future consultation on proposed changes to COBS 3 across all relevant sectors (as noted in previous CryptoUK responses). It would be beneficial to understand the timings for this consultation and proposed implementation, and in particular whether this will be before or after the final rules for the crypto regime are published.

3. Do you agree with our proposed application of the existing SUP rules (except SUP 16) to cryptoasset firms?

We broadly agree with the proposal for applying the SUP rules (except SUP 16) to cryptoasset firms.

4. Do you agree with our proposal to require cryptoasset firms to follow the existing requirements in SYSC 1, 4 – 7, 9 – 10, and 18 in the same way as existing FCA-regulated firms (or existing DIBs)?

We support requiring cryptoasset firms to comply with SYSC 1, 4–7, 9–10, and 18, and the overall approach to classifying cryptoasset firms as “other firms” under SYSC rather than “common platform firms”.

These are fundamental governance and control standards that will enhance consumer protection and market integrity. However, implementation should remain proportionate and adapted to the unique structure of cryptoasset markets, ensuring rules are effective without creating unnecessary barriers for smaller or innovative firms.

We would urge the FCA to publish any unpublished consultation papers (such as those relating to conflicts of interest and training and competence) as soon as possible, so firms are aware of the full spectrum of rules that may apply to them.

5. Do you agree with our proposal to apply the existing SM&CR regime to cryptoasset firms, taking into account various parallel consultations on the broader SM&CR regime to ensure consistency? If not, please explain why.

In general, we agree with the principles of SM&CR and the value it will bring.

We are however concerned at the approach taken by the FCA in respect of the ongoing Treasury consultation regarding proposed legislative changes to SM&CR. This consultation includes a proposal for the complete replacement of the Certification Regime, which would impact all authorised firms. Despite the uncertainty of the future shape of SM&CR, the FCA has proposed to apply the current regime to cryptoasset firms “for now”. If the FCA proceeds with this proposal in the interim, but then subsequently seeks to apply a different set of rules, this will create a significant additional burden, operational rework and considerable confusion.

If the FCA are able to provide some indication of which aspects of SM&CR would not change with any future amendments, then we would urge them to provide clarity on this now to allow firms to plan accordingly. Based on the focus placed on individual accountability, added to the impact this would have on smaller firms’ resourcing plans, key person dependencies and the timescales for changes to contractually defined roles and responsibilities, firms need sufficient time to prepare for this in order to avoid business / operational disruption.

A proposed alternative approach would be to consider a phased approach, i.e. introducing a lighter-touch version of the regime for a specified period of time. This could be aligned with the approach taken to payment service providers and EMIs which are not in scope of SM&CR, or a version of the old Approved Persons regime. Once the SM&CR is then revised, this could then be rolled out to cryptoasset firms. Given that the FCA is planning to migrate PSPs and EMIs to the SM&CR in the future, this transition could be coordinated so that PSPs, EMIs and cryptoasset firms all migrate to the new revised SM&CR at the same time.

6. Do you agree with the proposed categorisation for enhanced cryptoasset firms, such as the threshold for allowing cryptoasset custodian firms to

qualify as enhanced? Should we consider other ways to categorise cryptoasset firms as enhanced?

In general, we agree with the policy intent that most cryptoasset firms would be considered 'core' firms and that the specified thresholds for each category are appropriate.

We would however seek clarity in relation to whether firms could allocate the CASS oversight certification function to someone not classed as an SMF manager (see paragraph 3.50). The FCA has confirmed that in the case of investment firms, PR(Z) could only be allocated to a senior manager if the firm is core, whereas if the firm is enhanced the firm may appoint an SMF18. We would therefore ask the FCA to also allow cryptoasset firms classified as core to allocate the CASS oversight certification function to a non-SMF manager, given that this is permitted for traditional finance firms. This would align with the principle of "same risk, same regulatory outcome".

7. Do you agree with our proposal to extend the application of SYSC 15A to cover all cryptoasset firms, including FSMA-authorised firms carrying out qualifying cryptoasset activities? If not, please explain why.

We disagree with the application of SYSC 15A to all cryptoasset firms. SYSC 15A currently does not apply to all investment firms. Therefore, the proposed scope holds cryptoasset firms to a higher degree of regulatory compliance than their investment firm counterparts and would result in these requirements being extended to firms that would not traditionally fall within its scope under existing requirements for FSMA-authorised firms (paragraph 3.70).

This approach seems to be inconsistent with the FCA's statement in 3.69, regarding "the need for consistent operational resilience standards for cryptoasset firms, comparable to those applied in traditional financial services". This proposal would apply the same standards to all cryptoasset firms as currently apply to RIEs, banks, dual-regulated firms etc. This will hinder the development of the cryptoasset industry in the UK and make the UK uncompetitive for cryptoasset business. The application of these rules is therefore disproportionate to the risk posed by many cryptoasset firms and inconsistent with the principle of "same risk, same regulatory outcome".

This also raises concerns over the ability of smaller firms to secure the assurances from large third party providers necessary to achieve full compliance (although we note this is no different from small firms in other sectors).

An alternative approach could be to only apply SYSC 15A to cryptoasset firms that pose the greatest risk - e.g. through the extension of the definition of "enhanced scope SMCR firm" to cover those cryptoasset firms that will meet the relevant thresholds (as per question 5 and noting that this will be subject to a separate future CP as per para 3.39 of CP25/25). As the rules currently stand, including cryptoasset-specific criteria to classify cryptoasset firms as "enhanced scope SMCR firm" would automatically mean that such firms would be in scope of SYSC 15A (see SYSC 15A.1.1R (1)(a)). Therefore, we would suggest removing the proposed inclusion in SYSC 15A.1.1R (1)(f) of the reference to "a qualifying cryptoasset firm" and relying on point (a) to capture systemically important firms that qualify as "enhanced scope SMCR firm". This seems consistent with the drafting in SYSC and would achieve some proportionality.

8. Do you agree with our proposal that the use of permissionless DLTs by cryptoasset firms should not be treated as an outsourcing arrangement? If not, please explain why.

We agree that the use of permissionless DLTs should not be treated as an outsourcing arrangement under SYSC. By definition, permissionless DLTs are decentralised systems without a central counterparty or contractual relationship, and therefore do not fit within the concept of outsourcing. Treating them as such could create unnecessary barriers to innovation and restrict the use of foundational technologies, which are critical to the cryptoasset industry.

We do however recognise that firms remain fully responsible for maintaining operational resilience and should implement proportionate internal controls and risk management when relying on permissionless networks.

We would also request that the FCA provide further clarity on the definition of “permissionless DLTs”, in paragraph 3.78, to avoid any issues with interpretation and to ensure consistency in application across firms.

9. Do you agree with our proposal to require cryptoasset firms to follow the same financial crime framework as FSMA-authorised firms? If not, please explain why.

Whilst we agree with the proposal we request that the FCA issue practical, crypto-specific guidance to support effective implementation.

This guidance should cover typical use cases, typologies, and red flags unique to cryptoassets (including, for example, mixers/tumblers, DeFi protocols, cross-chain bridges, use of dark wallets, NFTs, and in-game items). We suggest that the FCA produce this guidance through engagement with the JMLIT. This would encourage valuable collaboration between the public and private sectors and would increase firms’ efficiency in preventing financial crime.

Clarity on specific use cases would also help to ensure consistent application of financial crime rules across the cryptoasset sector, improve firms’ accuracy and effectiveness in detecting illicit activity, and reduce operational uncertainty.

10. Do you agree with the guidance set out in this document, and can you outline any areas where you think our approach could be clearer or better tailored to the specific risks and business models in the cryptoasset sector?

Overall, the guidance is welcomed by the industry. It would be helpful for the FCA to provide additional guidance for firms acting as intermediaries. This would assist in understanding the interaction of accountabilities across a chain of regulated firms in the event of a disruption.

We note the reporting requirements are still to be consulted upon (paragraph 3.90). We would advocate consistent reporting requirements across traditional finance and cryptoasset firms.

11. Are there any emerging digital and cyber security industry practices or measures which we should consider when supporting cryptoasset firms complying with operational resilience and related requirements? Please elaborate.

There are no specific best practices we would highlight on this point.

However, we reiterate, as stated in previous consultation responses, that the cryptoasset space is not innately higher-risk than the traditional finance sector from a security perspective. This is because the nature of distributed ledger technology (DLT) enables transactions to be traced and bad actors to be more easily tracked and identified.

We support an approach where cryptoasset and traditional finance firms learn from each other and collaborate to share best practices.

12. Do you agree with our proposal to apply the ESG Sourcebook to cryptoasset firms?

We have not seen any data supporting the need to apply the ESG Sourcebook to cryptoassets. Nevertheless, we agree with the application of the anti-greenwashing rule and the exclusion of cryptoasset firms from using sustainability labels.

However, some of our members do not agree with the decision not to implement sustainability disclosures for cryptoasset firms. There is strong demand for this information from cryptoasset firms' core Gen Z demographic.

Further, contrary to the stakeholder feedback at paragraph 5.6 of the Consultation Paper, this information is readily available and developed to significant maturity, to comply with sustainability disclosure obligations under MiCA.

Finally, choosing not to implement sustainability disclosure obligations diverges from the approach taken in other key jurisdictions including the EU and UAE. International harmonisation is a priority for the FCA; this decision does not further that objective. In light of consumer interest and the goal of international harmonisation, some of our members would therefore support an approach that more closely mirrors first-mover jurisdictions.

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