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14 March 2025

Wholesale Cryptoasset Policy
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Submitted by email: dp24-4@fca.org.uk

Dear Sir or Madam,

Response to Discussion Paper 24/4 - Regulating cryptoassets: Admissions & Disclosures and Market Abuse Regime (the "*Discussion Paper*")

CryptoUK (**"we"**) and its members welcome the opportunity to comment on the Discussion Paper regarding the FCA's approach to regulating cryptoassets with respect to admissions, disclosures and market abuse. CryptoUK is the UK's self-regulatory trade association representing the cryptoasset sector. Our members comprise over 150 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 Discussion Paper within the Appendix. We seek to offer pragmatic and relevant observations about, and suggestions in response to the content within the Discussion Paper. However, at the outset, we would like to make a number of thematic comments that express our members' concerns and are applicable to our responses generally. These comments relate to (i) the proposed regimes from this Discussion Paper overall; (ii) specific proposals in the A&D/MARC regimes; and (iii) the FCA's broader approach to future cryptoasset regulatory regimes. We refer to these collectively as the "**General Comments**" throughout our responses in the Appendix.

1. A process for admissions and disclosures ("**A&D**") that is reliable, robust, comprehensive, easy to understand and engage with will not only maximise competition and economic growth, but also encourage market participants to engage responsibly.

2. Despite its stated objective of encouraging innovation and growth in the UK, the tone of the Discussion Paper appears to be disproportionately focused on measures that appear to overregulate and restrict the industry. By comparison, the FCA's proposals appear to be stricter than the approach taken under the European Union's ("**EU**") Markets in Crypto-Asset ("**MiCA**") Regulation in certain areas, and more prescriptive than the approach taken under the FCA's proposals under the reformed prospectus regime for traditional securities in some aspects. Our concern is that the proposals as currently drafted may further widen the gap in comparative advantages between the UK and other jurisdictions, at a time where firms are already choosing to relocate their business outside of the UK.

3. Historically, the FCA has appeared to have a one-size-fits-all approach, which is not proportionate for smaller or growing companies, especially those in innovative or emerging technologies. In line with the principle of "same risk, same regulatory outcome", we would expect that the regulatory framework for cryptoasset admissions and disclosures and market abuse treats smaller companies posing less risk in a more proportionate manner. Our concern is that the proposed regimes as currently drafted are both more prescriptive and less proportionate than is healthy for the growth of the industry.

4. Throughout the DP and in separate meetings with the FCA, the FCA has expressed its preference for "industry-led" solutions for various aspects of the forthcoming regime. We support the notion of a serious collaboration between the public and private sector on this, but would note that the outlines of this will need greater regulator clarity. However, our experience has been that such preference is not always followed by clear indications of how the FCA will be involved with or support industry-led endeavours, or if the FCA will indeed support them at all. See further our "Key Recommendations" section below.

5. Many analysts and market observers are still less able to exactly identify macro- or micro- forces that predictably move cryptoassets and markets (and therefore the correlating data points or information) as compared to assets in the traditional finance space. This is in contrast to traditional asset price movements and their correlations to information have been studied for decades by both industry and academia. We have raised this point during the April and May FCA industry roundtables held last year. Our concern is that the proposed A&D and MARC requirements, particularly those related to due diligence and insider information, assume and so require that the same level of knowledge exists in cryptoasset space.

6. Although we understand further detail will be given in a future consultation paper that this Discussion Paper is a precursor to, many members expressed difficulty with giving definitive views or more concrete suggestions without further clarity on (i) key concepts (e.g. "CATP", "asymmetrical information", etc.) and (ii) how the FCA envisions some proposals will exist in context and in practice (e.g. how DEXs will be treated under the MARC regime).

7. Finally, we would reiterate industry calls for a better consideration of emerging and current tool use and blockchain-related technology in this and future crypto-related regulatory regimes.

Additionally, we would also like to express a few thematic/general comments in relation to each of the proposed A&D and market abuse regimes:

A&D

- While the A&D regime rightly seeks to ensure greater consumer protections at the admission gateway through more informed decision making, it should be made clearer as a principle that consumers should be responsible for poor decision making, including the risk of loss due to fraud by the issuer (which could not have been foreseen or prevented through disclosures at the point of admission).
- As we outline in more detail below in our responses to questions 6 and 11, there is a disproportionate level of responsibility and liability applied to CATPs.

- Some requirements are more prescriptive than the approach taken under MiCA, to the detriment of the UK market and consumers, rather than as a benefit.
- The definition of CATP as currently proposed needs further clarity or guidance, considering how crucial it is to the majority of the Discussion Paper's proposals. While we note the framework is derived from the IOSCO CDA Recommendations cited in the Discussion Paper, we believe further clarity or consideration is required as the current definition creates uncertainty and inconsistency when applied directly to all of the proposals in the Discussion Paper.

MARC

- Importantly, while conversations with the industry should be advised by technological updates, the apportionment of liability and responsibilities under MARC should remain based on behaviours, rather than the underlying technology (i.e. the creators of any specific technologies or methods should not be held liable where they are abused by other parties).

Key Recommendations

Whilst the above comments and observations draw attention to a variety of areas of concern, we would like to close this letter with key practical and attainable recommendations for ensuring a safe and competitive economic future for the UK with respect to digital and cryptoassets. Likewise, we refer to these as the "**Key Recommendations**" throughout our responses in the Appendix.

1. Apply proportionality and a principles-based approach to the proposals set out for both the A&D and MARC regimes, particularly where they are prescribed by the FCA directly or impose obligations that affect a wide section of market participants.
   (see questions 4, 8, 10, 38, 44)

2. Proposed rules should be published or followed up with clear and practical guidelines (as has been increasingly the case for rules proposed over the last two years).
   (see question 16)

3. Equally, processes and requirements should be accessible, clear, and easy-to-follow for market participants, avoiding overly complicated drafting or an over-reliance on other legislation or regulations which may make the document inaccessible to non-specialists.
   (see questions 8, 15, 17, 20, 27, 36, 46, 48, 49)

4. Conduct or commission from leading universities or industry think-tanks research on the topic of pricing and valuation drivers of cryptoassets. The outcomes of such research should inform any rules and guidance relating to requirements that relate to data collection or analysis, such as those relating to the admissions document, due diligence requirements, and insider lists.
   (see questions 27, 28)

5. Disclosure requirements setting out basic information about the cryptoasset should follow a standardised terminology and framework based on internationally agreed industry standards and terminology.
(see questions 1, 4, 8, 9, 14, 18, 19, 20, 21, 29, 31)

6. Leverage existing regulatory frameworks wherever possible to minimise duplication and redundancy that add unnecessary costs to both the industry and to its regulators.
(see questions 21, 39, 40, 47)

7. Listing and disclosure requirements should not exceed the already robust requirements within MiCA.
(see questions 7, 8, 9, 12, 19, 21, 34)

8. Where the FCA asks for industry involvement or for the industry to lead on solutions or endeavours, we would further ask for clarity on how precisely this is envisaged to play out and what dependencies or bottlenecks there might be which could affect the timeliness and effectiveness of any collaborative endeavours. We would also ask that further attention be brought, by the FCA in their publications to market participants and consumers, to the amount and depth of industry input that goes into the set- up and operation of this and other regulatory regimes.
(see questions 8, 21, 22, 29, 35, 46)

9. Ensure that you (as the FCA) fully understand and effectively communicate where digital and cryptoassets and their related projects or organisational structures differ substantially from other assets and financial services; e.g. acknowledging that ownership rights in securities can be substantially different from those of native crypto tokens and that such difference is important.
(see questions 8, 9, 21, 49)

10. Resolve the liability questions that have been raised by responsible exchanges as a matter of priority.
(see questions 6, 8, 13, 17, 22, 48, 49)

11. Distinguish between retail investors with respect to the types, amounts, and delivery of key information; this suggestion needs to be coupled with the FCA conducting or sponsoring research so that the UK has evidence-based requirements.
(see questions 3, 8, 9, 29, 49)

12. Conduct a series of meetings with CryptoUK and its members to hold deep-dive discussions on the following topics (at a minimum):
    a. Centralised repository design, creation, ownership, and maintenance (see questions 7 and 29); and
    b. Required information vs optional information. (see questions 10 and 16)

13. Ensure a level of standardisation in the required information that could then be accessed by way of a central repository (e.g. the National Storage Mechanism).
(see question 11)

14. Provide one standardised platform-driven process, with the due diligence data requirements either enshrined in regulation or created by industry and approved by the regulator.
(see questions 7, 14, 15, 16)

15. Include MiCA-style exemptions to requiring an admission document, including where a cryptoasset has previously been admitted and documentation has already been filed by another issuer or CATP. Where this is the case, another issuer or CATP should be free to rely on that documentation, provided it is able to reasonably and independently verify the information, and to update that documentation where necessary.
(see questions 7, 8, 19, 21, 24)

16. Clarify whether you (as the FCA) are proposing some form of MARC insider information disclosure regime where certain insider information will only be available to CATPs and not to the public.
(see question 28)

In closing, we would like to thank you for the opportunity to respond to the Discussion Paper. We would like to reiterate here that CryptoUK and its individual members would be more than happy to meet further to elaborate on or discuss any of our recommendations or concerns.

Yours sincerely,

CryptoUK and our Members

Appendix

Discussion Questions:

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 support the outcomes proposed. However, we would reiterate the General Comments and Key Recommendations we make in our cover letter to this response, which set out our general thoughts on the overall regime.

We would also suggest that the following additional outcomes/benefits be present and actively considered by the FCA, and/or made more explicit in the future cryptoasset regulatory regime:

- **Active and clear recognition, and prioritisation of, innovation, inclusiveness, and economic growth** for the UK through the digital and cryptoassets industry. References to innovation within the 'Strategic Outcomes" or "Outcomes of Regulation" sections are either missing or at the end of the discussion. In other words, tangible outcomes should be laid out that clearly support the FCA's secondary objective.
- **The creation and maintenance of market integrity with respect to cryptoasset investment and trade;** this necessarily implies **a safe, orderly, fair marketplace** absent of market abuse and manipulation, where crypto and digital assets service providers and their customers are able to participate with confidence and on equal terms with the rest of the financial services sector, including, but not limited to:
    - access to banking and typical operational services such as external auditors, financial services; and
    - ability for CATP customers to legitimately move money seamlessly between the CATP and their banks.
- **Transition from an era of offshore businesses** to the clear support for and encouragement of emerging businesses of all types within the UK.
- An **industry-led, standardised glossary of terms**.
- **Clearer recognition that firms should not be held responsible where fraud and scams take place beyond their control**, to mirror the standards set in the traditional finance space. While this has been flagged in paragraph 2.7 of the Discussion Paper, it would be helpful if this was acknowledged more widely, particularly in the context of the new A&D regime.
- An **ongoing commitment by the relevant regulators to monitor and adapt** the regime to ensure it is fit for purpose.

We also would like to highlight some areas mentioned in our response to the House of Lords Request for Evidence with respect to the FCA's secondary objective, which could helpfully inform better outcomes in the digital and crypto assets industry and its regulation in the UK:

- **regulatory clarity and responsiveness** – authorisations should be in line with traditional finance firms in both timing and responsiveness;
- **innovation and product development** – acknowledging and regulating for increased number and types of new financial products and services introduced into

the market (particularly those that leverage emerging technologies such as blockchain, AI, and decentralised finance ("**DeFi**"));
- **market access and liquidity** – increased liquidity across markets (including cryptoassets); and
- **inward investment from abroad into the UK** – increased amounts and forms of investment into UK fintech, digital and cryptoasset businesses.

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?

While we agree generally with the assessment of costs, we are concerned that there may be a lack of appreciation of how such costs may impact firms of varying sizes, as well as the growth of the industry generally. There is a concern that the UK retail market will likely become dominated by the large international CATPs, which are better able to absorb the cost of compliance with regulatory requirements. We would also ask that consideration be paid to ensuring there is parity between the costs faced by new companies in the crypto and traditional finance spaces.

We also look forward to receiving the future cost-benefit analyses which will be published in the relevant consultation papers to help us better understand (i) the levels of actual and likely costs, both one-off and ongoing costs; and (ii) how these costs are ultimately passed along to consumers.

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?

Please refer to our reply to question 1. We believe that an effective and proportionate regulatory framework will support innovation and economic growth, as well as consumer and market protection. In our view, the two main competitive advantages arising from the proposals are: (i) an improved capacity for high-volume, regulated trading, particularly institutional trading, and (ii) increased trust in the UK market and regulatory system, both of which will together lead to increased business engagement and trading volumes.

However, it would be harmful to UK economic growth and innovation if the new A&D and MARC regimes are perceived by market participants as amounting to or being likely to amount to "over-regulation". This negative outcome could also result if the proposed regimes are viewed as being disproportionate relative to traditional finance, or to the regulatory regimes for digital and cryptoassets in other jurisdictions.

We expect that such "over-regulation" or the perception of over-regulation could result in a number of specific negative consequences for competition in the cryptoasset sector, including but not limited to:
- more CATPs moving outside of the UK's regulatory oversight and perimeter, potentially increasing UK consumer harm in some cases and reducing the opportunity for the growth of the cryptoasset industry in the UK;
- a smaller, consolidated pool of UK authorised CATPs (due to the increased burden of operating a CATP);

- highly consolidated asset listings (due to the introduction of admissions and due diligence requirements);
- fewer token launches or crypto projects in the UK and a smaller investor base (due to the general prohibition on public offers); and
- a further shift towards DEX trading by smaller investors (due to higher CEX cost, and limited product availability).

Our members have also expressed concern about how the proposals may be implemented in practice. With regard to how aspects of the Financial Promotions regime were implemented at the time its requirements came into force, there is concern that adopting similar approaches to implementing the proposals as currently drafted could result in unintended consequences, such as:

- mass delistings of currently traded assets, due to the new due diligence requirements;
- large-scale withdrawals or suspension of services in the UK market from CATPs, due to the increased burden of operating CATPs; or
- potential unavailability of products and services that consumers were previously comfortable to safely access.

To underscore our introductory thoughts, we remain of the opinion that consumer appetite for high-risk investments, including cryptoassets, not only continues to exist despite recent increases in cautionary messaging but is indeed, in the view of our members, increasing. As such, where the demand for such products cannot be accommodated by regulated CATPs, this will only send investors to higher-risk venues. In our view, and where an objective increase in such consumer appetite for high-risk investments can be quantified, we believe there may be arguments in exploring further consumer-focused exemptions such as those currently applicable to cryptoassets in the Financial Promotions regime (e.g. for sophisticated investors, etc.). This observation conveys that while our members were concerned with some negative aspects of how the Financial Promotions regime was designed and implemented, there are some areas within that regime that may be useful to replicate within this regulatory framework. See our response to question 13 as well.

We would also reiterate the need for further consultations with industry to allow for industry-led solutions.

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 agree that it may be necessary to introduce specific A&D requirements to form a minimum set of rules that will help establish a safe environment for customers to trade. However, we cannot form a definitive opinion on whether further specific A&D requirements are required on top of the Consumer Duty requirements as currently proposed, without clearer explanations or examples of:

(i) how the Consumer Duty (as it exists currently) would be applied in practice both to the A&D requirements (as a baseline rule) and as an A&D requirement itself; and

(ii) therefore what other additional requirements might capture or relate to.

While we await the FCA's separate consultation on the fuller application of the Consumer Duty to the wider cryptoasset regime, we would encourage the FCA to consult on this fully in

the coming A&D consultation, and to conduct industry surveys and/or its own research as to how this might be applied in practice where it may be helpful to create draft rules or examples for the purposes of the A&D consultation. One point we would raise is that our understanding of the existing A&D regime in traditional finance (which this A&D regime intends to emulate) serves mainly to ensure market integrity and foster fair competition, with consumer protections as a consequential result of its implementation, rather than its focus. As such, we query the use of the Consumer Duty as the **only** baseline for a cryptoasset A&D regime.

As a general point and as stated above, any A&D criteria and requirements need careful consideration to ensure proportionality, global competitiveness, and a level playing field across industries within the UK. They should also align with industry-led and other international standards and terms.

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 broadly agree with the identified risks and target outcomes for the A&D regime, although we would reiterate our comments made in the covering letter regarding the A&D regime.

Additionally, as above for question 3, we are concerned about the possible unintended consequences, which in turn cause harm to the UK's competitiveness versus other jurisdictions (particularly the US). For example, where expressions of the required disclosure obligations or principles such as 'detriment to the consumer' are vaguely expressed, or rules are overly prescriptive, the A&D regime could create challenges for compliance and be disproportionately costly for smaller firms, which is at odds with the FCA's secondary objective.

We also highlight the following considerations in relation to the key risks that the FCA has identified:

- The risk of "inadequate information" is exacerbated by the absence of adequate investor communication on 'tokenomics' - i.e., who has previously issued tokens and on what terms, and how supply is distributed.
- In relation to "market integrity", there is another specific risk posed by social media promoters and influencers (or "finfluencers"), in relation to potential undisclosed conflicts of interest and even inside information (e.g. OTC deals done by insiders at different prices off platform). There is also the risk posed by poor infrastructure security (e.g. blockchain SUDO access and key management).

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

Yes, we believe the admission document should always be required at the point of initial admission. However, we also believe the admission document should be token/product specific, not CATP specific (please see further in our responses to questions 8 and 11).

Paragraph 2.29 of the Discussion Paper identifies that where a cryptoasset is admitted to trading on more than one CATP, this will lead to variations in admission documents across

CATPs. This in turn would create the potential for consumer confusion where such gaps are not identified. Additionally, this would place a significant operational burden and disproportionate liability on CATPs, particularly smaller CATPs, to identify and correct each admission document in a timely manner while also being responsible and liable for underlying due diligence of the issuer and public offer.

We believe that the proposed approach in the reformed prospectus regime for traditional securities (the "**POATRs**") to make issuers (rather than the exchanges, or "Public Offer Platforms" as in the POATRs) responsible and liable for the preparation of admission documents is more proportionate, particularly given the admission document will (presumably) always be required at the point of initial admission. We also agree with the POATRs' approach of having the responsibility for Public Offer Platforms (in this case, CATPs) being limited to the due diligence of the issuer and the public offer.

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.

Yes, we generally support the requirement of an admission document at the point of further issuances, provided that there is a de minimis threshold which is met.

However, as we state in the General Comments, we do not think that it should be necessary for a subsequent **new** admission document to be produced at the point of further issuance. Rather, in our view the party responsible for this disclosure should be able to rely on the previously submitted disclosure documents for the same cryptoasset, where they can adequately verify the information. This is in line with existing exemptions set out in MiCA. The additional information should therefore only reflect an update to prior disclosure (rather than a new, full admission document), with potential exceptions for material or significant changes to the asset's value, supply, or market dynamics. The new disclosures and the reason for them should be clearly highlighted within the admission document.

In line with our response to the question above and our General Comments, we think that having clear mechanisms (and/or a centralised and accessible repository for disclosure information) will help ensure that information is kept up-to-date and frequently reviewed data is available to CATPs for ongoing due diligence.

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?

Generally we agree with the proposed approach, particularly the decision to provide CATPs with flexibility, use a principles-led approach, and engage with the industry, as per our General Comments. However, many of our members have expressed concerns about both the scope and implementation of the "necessary information test" in practice. Additional clarity from the FCA about this, based on substantive discussions with the industry, would be helpful. See further in our response to question 9 below.

We also acknowledge the tensions between prescriptive and principles-based approaches. However, there were concerns about the lack of definitive guidance and the detailed

expansion of concepts within the proposals which then leads to excessive responsibility (and liability) being placed on CATPs.

At a high level, we would propose the new regime:

- be aligned with (and not exceed) MiCA's approach to disclosures (to encourage cross-border market activity and ease of alignment with other international standards);
- have the FCA provide base-level mandatory disclosures, with additional detail or disclosures required by each CATP;
- feature industry-led, but regulator-published or approved, standards as to the level of detail and type of information requirement for each disclosure requirement;
- delineate different types of investors, with potentially differing information needs and requirements because a one-size-fits-all regime for investors and for the different types of crypto projects and assets will not be effective;
- define where liability falls and the limits to responsibility of those providing the required information in good faith, with reasonable effort and due diligence; and
- permit that any disclosure document or publication method should be reusable and repurposable by more than one CATP.

We would also appreciate clarity on whether there will be different information requirements for different types of investors, e.g. retail, professional, etc., and if so, then clear demarcations of such requirements. For the avoidance of doubt, we believe that such differentiations should exist and should be mandated by the FCA, even where CATPs are given the flexibility to create their own disclosure requirements. As an example, one proposed approach to ameliorate these concerns while still allowing CATPs some degree of flexibility could be the use of "key investor document" templates such as those already in use for traditional funds and insurance products. We propose that the FCA consults with industry participants to create such templates, to guide issuers and/or CATPs on what should be provided to customers in an easily digestible format, and that the remaining information can sit within prospectuses or other documents as decided by the responsible party. CryptoUK is well placed for these discussions and to assist with the design of such templates.

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.

In addition to the proposed disclosures, we would also suggest that the following items also be disclosed:

- Legal name of the cryptoasset's issuing person and/or entity (including but also beyond the name of the Decentralised Autonomous Organisation, or "**DAO**" where relevant) (the "**Issuer**");
- Legal name of the cryptoasset's White Paper's author (the "**Author**") where it/they are different from the Issuer;
- Legal Entity Identifier (**"LEI**") code of the Issuer or Author where applicable;
- Contact information of the Issuer and/or the Author;
- Jurisdictions of incorporation and/or headquarters of the Issuer and/or the Author;
- Any and all regulatory and/or financial intelligence unit authorisations or investigations relevant to the cryptoasset, the Issuer, or the Author;
- Key individuals and organisations associated with the cryptoasset's project and issuance;

- Names and locations of the information channels that the CATP uses for active dissemination;
- Significant holdings and their owners; and
- All key elements of the project's "tokenomics", some examples of which include the basics of:
    - Utility/use case
    - Supply and demand (along with permitted channels to buy and sell)
    - Governance mechanism
    - Rewards
    - Crypto actions (past and upcoming)
    - Vesting and/or lock-up release schedules, with confirmation that these align with on-chain details.

We generally support many of the disclosures as set out in paragraph 2.25 of the Discussion Paper. However, we strongly recommend that, prior to laying out any specific requirements, the FCA conducts another of its important market research studies that focuses solely on what information different types of digital and cryptoasset investors actually want or would find helpful to their decision-making. The above notwithstanding, we would also caution the FCA that here, as with the traditional finance space, the risk of information overload continues to be present, and could hinder the FCA's intended outcomes where there is perceived "regulatory overload", as per our General Comments.

Further, our members also wished to convey the following concerns about the scope and implementation of these disclosure requirements:

- Some factors as currently drafted:
    - are too broad and open to interpretational challenges (such as "nature and scope of governance mechanisms that may affect the cryptoasset"); and/or
    - are so wide as to be impossible to apply in practice (such as "operational and cyber resilience", "potential updates or changes to the protocols" and "relevant industry standards adhered to during protocol development"); and/or
    - are written in language that seems to ignore the highly disparate and technical nature of the operations of different cryptoassets and projects on different blockchains; and/or
    - create ambiguity and impreciseness that makes it difficult to understand how these requirements would sit in conjunction with the Consumer Duty;
- Further guidance and/or examples will be needed before these requirements become practicable.
- Ideally, and as stated above in our response to question 8, a template setting out the required information and format should assist both consumer understanding and CATP/issuer compliance.
- Generally, it is unclear how these requirements interact with and protect confidentiality and the FCA's objective to promote competition.
- It is also unclear how the FCA intends to monitor and enforce the quality and content of the disclosures, particularly given the disparate and often unreliable nature of publicly available information on certain cryptoassets.
- The proposals as currently drafted do not provide clarity on what the threshold of harm or inaccuracy is before the disclosure would be considered negligent or in breach, which in our view is critical for these requirements to be practicable.
- The disclosures in paragraph 2.25 seem predominantly focussed on the characteristics of the cryptoasset, and could benefit from adding disclosure requirements that consider:

- platform-specific and issuance-specific risks;
- how the assets are custodied and under what guarantees or regulations;
- what compensation entitlement a customer may benefit from, and if none exist, that the CATP (or issuer as the case may be) is satisfied that the customer understands this; and
- the legal status of ownership of the asset.

With regard to specific disclosure requirements in paragraph 2.25 of the Discussion Paper:

- At the moment, there is no single industry standard for a cryptoasset's identifier code and in our view more collaborative work between regulators and industry participants is needed to create one.
- Risk-related disclosures appear to overly rely on what is important in traditional finance and therefore these should be consulted on in some detail with the industry to ensure that they are truly relevant to all that is new or innovative within the industry.
- In relation to the sustainability and ESG-related requirements, given the importance of this subject, our members have queried whether there will be a separate discussion or consultation paper.

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

In our members' view and in line with our General Comment regarding proportionality and accessibility for more innovative or smaller market participants, the following disclosures as set out in paragraph 2.25 and elsewhere in the Discussion Paper should be made optional or encouraged rather than mandatory:

- the cryptoasset's ownership concentration (including how this is affected by options or lock-ups for holders including insiders and affiliates);
- the cryptoasset's greenhouse gas emissions and annualized energy use;
- the cryptoasset's track record, including trading history and major events or technology changes affecting the cryptoasset, where not publicly available; and
- the results of the due diligence conducted by CATPs in relation to each cryptoasset admitted.

Our response to this question 10 are subject to our comments on insider information in our response to question 27 below, which should take precedence where there is overlap.

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.

While we do not have a conclusive view on this question, we would suggest that the issue of exactly who is liable and under what circumstances continues to be a serious concern (as was brought up regularly during the April and May 2024 FCA roundtables we attended). We would also note that the NSM needs to be updated and upgraded to be effective in this context. See our response to question 19.

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?

At present, our members believe the information is not yet available to answer this question. Without a clearer and definite understanding of what these admission documents will require and how they need to be created, published, maintained, and displayed, it is not feasible to conduct a cost analysis or estimate at this time.

However, in line with the General Comments above, our view is that there appears to be more responsibility (and therefore more costs) on CATPs in the proposed regime as compared to MiCA (where a larger share of the responsibility lies with the issuers). We believe that aligning the division of responsibility similarly would reduce costs, particularly redundant operational costs as flagged above.

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

We agree with the concept of applying the protected forward-looking statements ("**PFLS**") concept to this regime. However, our members have concerns that the proposals in paragraph 2.36 of the Discussion Paper could lead to vague, speculative claims with little to no accountability, e.g. where issuers abuse this concept to make difficult-to-understand statements about a token's potential development (with the intention of manipulating the token's price, etc.)

To avoid this, we would suggest the implementation of an "approval gateway" akin to the s.21 gateway approval regime currently in use for the approval of Financial Promotions. As part of this approval process (or even without), the party responsible for the preparation of PFLS should be required to abide by the principle of "fair, clear, and not misleading", and the FCA (or any such PFLS approver) should look at that party's internal procedures to ensure they consider e.g. which language to use, avoiding making unwarranted promises or projections, and disclosing the sources for such projections.

Separately, some members believe that the proposed liability standards are likely to create the "chilling effect" envisioned in paragraph 2.33 of the Discussion Paper, especially where CATPs or the responsible parties have or bring on seasoned compliance experience.

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.

We agree with the obligation to conduct due diligence. However, we do not agree with a prescriptive approach as to what must be reviewed or analysed as part of such due diligence. We believe a risk-based and principle-based approach to due diligence is more appropriate, especially where the FCA intends to allow CATPs flexibility in deciding disclosure requirements.

We also do not agree that the details of the due diligence conducted by a particular CATP should be disclosed, particularly where the contents of the required "due diligence summary" is prescribed instead. We note this would not be required for market participants conducting pre-admission due diligence of assets under the proposed POATRs, that generally such disclosures are unusual in any industry, and that it is unclear what the benefits of applying this requirement to a cryptoasset regime are. Assuming it is to create a standard across the

industry, we believe it may be more effective to focus on disclosing (to the submitting party) the criteria and reasoning behind a CATP's decision to reject an admission document or an asset from admission rather than requiring specific due diligence disclosure.

Due diligence procedures should be proportionate to the scale of the CATP and the type of cryptoasset being admitted. As currently drafted, there are concerns that the amount and type of due diligence proposed is prohibitively expensive, especially for newer or smaller CATPs. In our view, an initial risk assessment of the asset (possibly as an industry standard practice) against the CATP's own risk-handling capabilities should determine the level of due diligence required. We appreciate that this would require a more granular analysis of assets and their associated risks on a case-by-case basis, but we believe if combined with an overarching requirement for CATPs to have adequate and effective record keeping and assessment procedures in place, this would lead to a more proportionate regime for pre-admission due diligence.

In line with the General Comments regarding a fair apportionment of responsibility to CATPs, while we agree that CATPs should have clear and public listing/'delisting' rules in place, we assert that CATPs should retain control over the details of their own admission and due diligence requirements and tailor them to their respective risk appetites and capabilities.

If the FCA decides to proceed with a prescriptive approach (whether as proposed or as amended in the future consultation paper), particular care needs to be placed on enforcement, as there is a substantial risk some market participants are unduly stunted or burdened by these due diligence requirements, while those who conduct only performative due diligence may escape regulatory scrutiny or penalties.

We are also concerned that obliging the CATP to conduct due diligence on the admittance of cryptoassets that the CATP itself has issued (and then publish the results of such due diligence) could potentially be unfair on CATPs as well as lead to conflicts of interest. For example, in the case where a less liquid token becomes more popular at the end of its lifecycle, CATPs may face considerable market pressures to allow further issuances at a speed faster than its own due diligence processes may allow, especially where the issuer does not instigate a further issuance in response to the increased demand.

As a general point, our concern is that this proposed approach could encounter many of the same pitfalls that the extension of the Financial Promotions regime to cryptoasset services did, including:

- an inconsistency in the level of rigorousness in terms of requirements and enforcement e.g. varying and disproportionate customer journey requirements between different market participants–e.g. as one onboards on different exchanges, one can encounter differing levels of rigour with respect to this regime; and
- the existence of loopholes and under-considered requirements that leave UK businesses at a disadvantage relative to those operating in other jurisdictions, which then drives economic growth offshore (e.g. s.21 approver route being available to offshore entities).

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?

It is important to clarify that we believe that this area should be industry-led. In terms of barriers to implementation, some key ones include:

- significant costs (which in our view are not adequately justified in the Discussion Paper);
- unclear justification of why the approach taken differs so significantly from traditional finance admissions (and is therefore disproportionate in our opinion in this instance), and why these responsibilities should fall on CATPs;
- a lack of clarity as to exactly what constitutes or could be viewed as a proportionate level of due diligence; and
- practical difficulties in assessing the quality and credentials of providers of third-party assessments.

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?

No. We believe that while this could be optional, it should not be required, as it would bear significant and disproportionate costs, especially for smaller CATPs.

Generally, we believe that it could be in a CATP's best interest to carry out some form of internal validation but, as stated above, we question the cost-benefit efficacy of requiring a full code audit.

As above in our response to question 14, we would venture that this code audit/assessment requirement could potentially be construed as the FCA creating and requiring separate admissions criteria while still leaving CATPs with the onus to create and be responsible for their own set of admissions criteria. We would reiterate our view that while the FCA should outline parameters and set principle-based and industry-informed guidelines, the exact details of a CATP's admission criteria should be left to each CATP to ensure they remain proportionate to the size and capability of the firm.

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?

We do not agree that such a need exists. As stated above in our responses to questions 15 and 16, where the liability for admission rests with the CATP, CATPs should retain the ability to determine what the admission (and therefore rejection) criteria are, and how they should be implemented.

Several members have voiced concerns as to why the FCA believes such a prescriptive approach is necessary, especially where the existing financial services regime under the Financial Services and Markets Act 2000 (**"FSMA"**) adopts a wider and less prescriptive approach. We agree that where such requirements are already covered by FSMA or other legislative regimes, clearly signposted references to those other rules should suffice, without the need for new overlapping rules.

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?

No, we do not agree with such a requirement, in line with our responses to questions 15, 16 and 17.

However, we do support the inclusion of a requirement to publish high-level standardised criteria and disclosures, similar to those currently in place for the Financial Action Task Force's ("**FATF's**") implementation of the Travel Rule.

We would reiterate that the details and reasons for any admission or rejection decisions should not be publicly disclosed as:

- prescriptively requiring the details of each decision is likely going to result in the publication of a mass of information; and
- any requirements placed on crypto and digital assets firms through this regime should be similar to and consistent with those placed on their traditional finance counterparts.

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

As above in our General Comments and our responses to questions 7 and 8, we agree with this approach, on the conditions that:

- the information requirements are not prescriptive; and
- the required filings can be repurposed (i.e. that previously filed admission documents may be used again for subsequent issuances of that same asset on the same CATP or other CATPs, in line with the exemptions allowed under MiCA).

Conversely, we are comfortable with the storage requirements being prescriptive. However, with respect to the NSM as currently designed:

- the NSM portal's search functionalities are very company- / issuer-specific, which may present an issue for cryptoasset service or web3-native firms as the terminology used may cause confusion (e.g. when contacting the "issuer" or "issuing company");
- generally the user-interface of the NSM will need updating to make it more user-friendly, easy to access for all participants, and specific to cryptoassets; and
- there will likely also be a need for an upgrade to the search and indexing system and for interoperability before the NSM can be fit for these purposes.

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)?

Our members did not have a consistent view on the exact format, or even whether the documents needed to be in a machine-readable format.

Members noted that while XBRL and iXBRL are globally used standards for financial and tax reporting, they also come with significant challenges for users trying to access the information. For example, in most cases, users must pay for additional services or products to access the information in a machine-readable way (despite iXBRL allowing for both human readable and machine-readable access), which would make the use of iXBRL as a standard format a costly and potentially prohibitive approach.

However, we agree that the document's format is important, due to the inherent costs of preparing and using the document, and that therefore careful research and consideration should be conducted before requiring a certain format or document type, ideally in conjunction or consultation with regulators or trade bodies in other major jurisdictions. Such format will need to be:

- clear;
- easy to prepare;
- easy to use and understand;
- interoperable with other software and in-app functionalities;
- readable across a variety of devices; and
- still cost-effective in terms of creation and use.

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?

Generally, our view is that there is no reason for a market abuse regime regulating crypto or digital assets to differ from existing traditional finance regimes. Indeed, we believe there is a key opportunity for the industry to work on a shared market surveillance arrangement establishing cross-market monitoring and an active cross-market alerting framework, as financial crimes and market abuse do not exist in a vacuum and in fact leverage arbitrage between different levels and types of financial technology.

We believe that the following risks or outcomes should be considered when the FCA develops this regime:

- Inside information:
    - this could be ameliorated with disclosure requirements similar to those set out in MiCA.
- Crypto-specific market structure and environment:
    - a global, 24/7/365 "always-on" market with significant retail participation;
    - an asset's trading life cycle occurs both on chain and off chain via centralised and permissionless actors/venues;
    - assets are decentralised and generally are not native to any single exchange; and
    - a vast amount of transaction data is always publicly available, transparent, and located on-chain.
        - However, most trading still occurs off-chain through centralised entities, and in those scenarios such trading data is private and not transparent from an on-chain perspective.
- Trading venues and data:
    - millions of cryptoassets exist, with highly divergent underlying characteristics (e.g. Bitcoin and Ethereum, memecoins, stablecoins, etc.); and
    - these assets are all traded at different prices across hundreds of centralised and permissionless venues.
- Artificial Intelligence ("AI"):
    - there is a significant risk of AI agents being used for market manipulation, insider trading & other forms of sophisticated illegal activity, and indeed there are likely already some nascent use cases in existence already.
- Miscellaneous:
    - manipulation typologies may need to be developed for types that are new or different from standard, pre-existing ones in traditional finance;

- cross-chain manipulation needs to be considered (e.g. DEX → CEX);
- preponderance of pump & dumps, venue-specific price deviations, and sentiment-driven schemes; and
- on-chain vulnerabilities due to malicious smart contract code, oracle exploits, across the asset life cycle.

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.

Yes, we believe those as set out in paragraph 3.13 cover behaviours we would regard as "abusive" at present. As noted in our response to question 21, we believe that traditional finance examples of market abuse and insider trading are applicable to cryptoasset trading.

However, with regard to "any new abusive behaviours that may emerge", we are also wary that novel abusive behaviours may emerge as the technology progresses beyond current capabilities, such as the use of AI bots on social media and communication channels that may manipulate market prices in real time. As such, we would strongly advocate, as per our Key Recommendations, for the proposed MARC regime to use a behaviour- and principle-led framework, and for the FCA to keep in constant conversation with the industry to update and evolve the MARC regime as needed.

Importantly, while such conversations should be advised by technological updates, the apportionment of liability and responsibilities under MARC should remain based on behaviours, rather than the underlying technology (i.e. the creators of any specific technologies or methods should not be held liable where they are abused by other parties).

At the moment, we would supplement the examples we noted in question 21 with the following examples:

- front-running (before block is validated);
- flash loans;
- pump and dumps with meme coins;
- the disproportionate impact of high-profile individuals (e.g. 'finfluencers' and individuals in positions of political power) on coin value and market movements; and
- unregulated exchanges/platforms.

This list is not intended to be an exhaustive list, but is illustrative of some of the areas that are either unique to cryptoassets or are perhaps more prevalent than in traditional finance settings.

We would also mention other jurisdictions that take a more principled approach to their own crypto market regime, such as Singapore and the UAE.

Separately, we believe that further elaboration on the differences between market abuse and fraud would be beneficial to market participants, and in particular to retail participants. This distinction is important because there are (and should continue to be) differing legal consequences for each.

The industry further suggests that it be clear that such behaviours are prohibited regardless of where crypto transactions occur or whether a given cryptoasset has been admitted to or

requested admission to trade on a trading platform. It is also important that all prohibitions (including insider trading) be applied to cryptoassets where a request to trade has been made, but that are not yet listed on any CATP.

Finally, our members consistently expressed concern that the FCA had not clarified the treatment of DEXs in this context. Since DEXs are especially technology-centric, we would reiterate our position that regulations should focus on market abuse or fraudulent behaviours, rather than on the technology.

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?

Yes, we believe that whenever there is an issuer seeking admission to trading, the issuers or project itself should be responsible for disclosing all inside information over which they have control or are able, in good faith, to identify and provide.

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?

Yes, we agree with the proposal that the person seeking admission should be responsible for this disclosure whenever there is no issuer, or when the issuer is not the one involved with the application for the admission to trading. We would caveat that the FCA should consider the role of AI and bots in this process, and be prepared for this application of emerging technology to play a role in information gathering and dissemination, inside or otherwise.

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, we believe that all persons can only be responsible for what falls within their respective and good faith sphere of influence and knowledge.

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?

As a point of clarification, we believe the FCA should provide more insight as to what they mean by information asymmetry in this context and exactly how they intend this concept from economic theory to be applied in this instance. In economic theory, this notion is intended to mean that there will always be information that management will have that non-insider investors may not. In our view, the mere existence of information asymmetry in markets is a natural element of business and is not in itself a problem – rather, the primary problems arise where (i) regulators specify what information should or must be in the public domain and participants do not comply; or (ii) such insider information is abused in a way prohibited by regulators and the law.

If we interpret the FCA to be asking about information asymmetry that occurs when CATPs are required to provide required information when no issuer exists or the issuer has not made the necessary level of information available, then we would agree that this raises a risk. The quality of the information is subject to good faith attempts to gather and disclose projects or information, where the CATP may not have first-hand knowledge or involvement in such projects. Likewise, if we interpret information asymmetry to mean a difference in how CATPs or other cryptoasset service businesses access information versus how retail consumers access that information, then we would also agree this raises a risk.

In our view, one way to mitigate this type of informational challenge is to require information provided by someone other than the issuer or project to be clearly identified as such. Another means for alleviating challenges in providing information to investors in a cryptoasset setting is a required register of all disclosures. Please see our subsequent answers to questions 34 and 35. Finally, we would highlight innovative solutions that utilise AI due diligence and on-chain screening tools that already exist to provide required information. Please see our responses to questions 18 through 20 for further information.

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?

We would agree with the FCA providing a non-exhaustive list of examples of insider information in future guidance. However, as per our General Comments we would caution that, across the industry (i.e. regulators, market participants, academia), **the available research and data are still less able to exactly identify all the macro- or micro- forces that consistently move cryptoassets and markets (and therefore the correlating data points or information) as compared to assets in the traditional finance space.** Traditional asset price movements and their correlations to information have been studied for decades by both industry and academia. We have raised this point during the April and May FCA industry roundtables held last year, and reiterate here that additional research should be either commissioned and conducted by leading universities or conducted by the FCA itself. The outcomes of such research should be the basis of any such lists provided in guidance.

Additionally, we wish to reiterate that we support the FCA also providing principles and a clear definition of insider trading for cryptoassets within the guidance. In our view, examples should provide additional insight into how the FCA expects to apply its definitions and principles.

Some non-exhaustive examples that we believe cross over well from the traditional finance space and can be considered in any such list include:

- future investments in a given project to which the token is attached or related;
- request for admission to trading;
- decision to approve the listing or to delist;
- any decision related to the financial status, or material information about the finances, of the issuing company or project, e.g.:
    - private funding rounds;
    - project partnerships or acquisitions;
    - internal token allocation and unlocking events;
    - burn or supply increases or reductions;
- any news related to possible judicial actions or regulatory actions or approvals that would affect the project or team members;

- new security vulnerabilities, hacks or breaches;
- product launches and upgrades;
- upcoming political, celebrity, or other influencers' endorsement or support of a particular project or cryptoasset;
- governance or management team changes; or
- audit results.

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.

We refer you to our answers in question 27 for our views on the limited (to date) understanding of what moves prices and volumes in cryptoasset markets. Initial academic research by leading universities, such as Rutgers University and others, suggests that sentiment from traditional media is a primary price-discovery information source for many cryptoassets.

As such, we do not believe that there are additional information types to require at present until the FCA has conducted its own studies or collaborated with academia. We note that the FCA recently conducted and published research (on March 5th 2025, after the publication of this Discussion Paper) on its multi-firm review of valuation processes for private market assets, which did not include cryptoassets. We would strongly welcome a similar study or review to examine cryptoasset valuation and the value-relevance of various types of information on cryptoasset pricing (as an example); such data could feed into future proposals and consultations.

CATPs, in particular, should not be required to monitor all media sources to locate and disclose information that is readily available to the public. However, we do wish to reiterate that the most important thing for regulators to focus on is to ensure that the required information is disclosed as soon as received and is easily accessible to all market participants.

Finally, we would request clarification from the FCA whether they are proposing some form of MARC insider information disclosure regime where certain insider information will only be available to CATPs and not to the public.

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?

Yes, in our view, we generally favour the methods of (i) publication on websites and "active dissemination" and (ii) the use of a crypto-specific PIP, although there were a variety of concerns from members about both.

We believe the following points should be considered as part of the implementation of either or both options:

- A standardised set of minimum required information must be conveyed in a standardised format or template that is (i) easy to comply with by those responsible for its preparation, and (ii) easy to understand and consume by end users (including by retail investors):

    - We caution the FCA to consider other international requirements and how they are formatted, etc. If the UK requires substantively different information or in a format that is not compatible or is inconsistent with other significant regulatory regimes, then UK businesses and consumers will be disadvantaged with respect to crypto market interest in the UK itself, or to the amount and quality of information available here.
    - As noted in our response to question 20, we also urge caution on requiring XBRL or iXBRL as a format. While these are often utilised for the transmission of financial information, it is not always user-friendly for either the front-end tagging or for end user consumption, even with significant strides by the XBRL industry. We do acknowledge however that, for international consistency, XBRL may be needed.
- Where a central repository is used, it should be easy to access and understood by all market participants and especially retail investors:
    - If a crypto-specific PIP or another form of central repository is used, then further to our Key Recommendations we would urge the FCA to consult with the industry to ensure that the required information is fit for purpose for crypto assets and their transactions (which we and the FCA have acknowledged can vary at times in a significant way from the traditional finance space).
    - Further, given that the FCA intends to launch (what we understand to be) a simplified version of the FCA register, we would like to take this opportunity to encourage the FCA to update its portals (including a crypto-PIP portal, if pursued) to become more user-friendly in general.
- With regard to the "website and active dissemination approach", our primary concerns are:
    - Information online is easily manipulated, hard to regulate/supervise;
    - A morass of information and different information channels makes it difficult for CATPs/regulators to supervise;
    - Both of which increase risk of harm to consumer understanding and risk of fraud etc.

We believe that, if done well, the crypto-specific PIP approach would be the best (among all the suggested proposals) for both businesses and consumers to locate the relevant and necessary information, but note that it is also the most difficult to execute well in practice.

Our members have noted that they would be happy to help develop such a PIP system either in conjunction with the FCA or independently and with the FCA's approval and guidance, if that would be preferable (subject to further and fuller discussions with the FCA post this Discussion Paper and assuming that such discussion would not be part of the next Consultation Paper directly). We would also reiterate our General Comments regarding the FCA's support of industry-led endeavours.

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

We note that the FCA should strongly consider the development of regulatory technology and AI-based tools and methods. These developments likely will be utilised to scrape insider information from various appropriate sources, and to keep such information up to date in a more seamless fashion. Any guidance should allow for the future growth and importance of both of these.


CryptoUK

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.

Our members expressed varied views on this question.

The majority do not support a centralised coordinating body specific to the above activities. Instead, they would suggest that the website and active dissemination of information would be sufficient. However, they also do envisage a centralised coordinating body or consortium to manage these efforts because this would help optimise standardisation and provide enhanced oversight of those two areas.

A significant minority of members believe that there is a strong case for a central co-ordinating body for the following reasons:

- a very diverse set of stakeholders with conflicting interests;
- no existing global disclosure standards for this industry; and
- significant jurisdictional fragmentation.

Our summary conclusion would be that this area would be best followed up on via direct consultation with the industry, along with a more formalised study of exactly what should or should not be included within the remit of a centralised body. We also believe that the FCA should clarify whether the coordinating body is a newly created external and separate entity to themselves, or simply a new or carved-out department or body within the FCA itself.

We of course appreciate that there are many considerations and complexities to account for, and as such believe a detailed and ongoing conversation with industry participants would best serve the FCA. CryptoUK and its members would be glad to meet to discuss this in more detail.

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

At present and as above with our response to question 12, our members do not feel that enough information has been published for them to answer this question or provide an estimate. Further details are required, such as the required scope, methods, frequency, and end goals of the required disclosures.

Further, we would not recommend relying on any estimates at this point, but at this early juncture they would not be realistic and could even essentially be misleading since the full scope of the regulatory requirements are not yet clear. We would welcome, however, a realistic and well-designed cost-benefit analysis related to proposed or new regulation.

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

Yes, but we believe there should be additional principles that are more clearly applicable to digital and cryptoassets. Some examples of these principles include:

- Providing embedded compliance through the use of smart contracts;
- Safe harbour(s) informed and led by industry best practices:
    - Projects may withhold disclosure of upcoming features if:
        - the upgrade of feature is not yet finalised;

- disclosure would cause misleading speculation about its impact;
- the information is not selectively shared to benefit specific parties– e.g. a Layer 2 project is working on a major scalability upgrade; and
- they do internal testing before announcing it publicly to avoid false expectations.

In relation to the above safe harbour(s), we also have identified the following three areas to take into consideration prior to finalising the principles:

- Network and protocol security:
  - Early disclosure may prove problematic, as crypto projects often discover critical vulnerabilities (bugs, exploits, or protocol weaknesses) that, if disclosed prematurely, could cause mass panic, exploits, or attacks, or enable hackers to exploit vulnerabilities or threaten stability of the network.
- Confidentiality of decentralised governance and voting:
  - Many crypto projects use on-chain governance (DAOs, token-holder voting, treasury decisions). Pre-vote disclosures could:
    - allow whales or external actors to manipulate votes;
    - lead to vote-buying or coercion;
    - cause governance participants (DAOs, foundations, major token holders) to delay disclosure if revealing information prematurely would compromise fair governance (e.g., prevent vote-rigging) or expose sensitive strategic discussions.
- Technology development:
  - crypto projects often develop new products, features, and upgrades that are not yet finalized; and
  - premature disclosure can lead to misinterpretation by the market, or front-running by competitors if details are incomplete.

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?

Yes, with limitations. For example, MiCA only provides a safe harbour for delays in disclosure.

Further, we would add the following suggestions:

- any safe harbour(s) must be carefully defined and prescribed within the legislation; and
- instead of the concept of “legitimate behaviours”, we believe the FCA should focus instead on “accepted market practices”, as addressed in our response to question 35.

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?

Yes, as long as they are defined carefully, and are based on a wide and thorough consultation with the industry. Crypto is a fast-moving and evolving industry, so there also needs to be a degree of flexibility so that AMPs remain fit for purpose as the industry and its transactions change. We also recommend, due to the speed of innovation in this industry, that any AMPs be regularly reviewed to remain effective and current.

Further to these points, we suggest the following crypto-specific examples be taken into account when thinking through possible approaches to AMPs within the regulatory framework (please refer to our response to question 34 as well):

- For automated market makers (**"AMMs"**) in decentralised exchanges (**"DEXs"**):
    - The absence of appropriately identified and defined AMPs could lead to the incorrect conclusion that AMM liquidity provisions are price manipulation or insider trading.
    - However, the safe harbour should not protect selective order execution that unfairly benefits insiders.
- For maximal extractable value (**"MEV"**):
    - Validators and miners often reorder transactions to extract value (MEV), which can be an unavoidable by-product of blockchain design.
    - However, the safe harbour should not protect harmful MEV tactics like front-running and "sandwich" attacks that exploit retail users.
- For decentralised autonomous organisations:
    - DAO governance and operations can have unique processes or actions that could look suspicious when compared with traditional approaches (e.g. DAO voting processes).
    - However, defining and recognising legitimate DAO governance behaviours as an AMP would prevent routine activities from being misinterpreted as market abuse.

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?

We refer you to our answers in questions 34 and 35 for our broad views on AMPs, and for some specific examples.

In response to your question about possible amendments to the MAR formulation of safe harbours and about additional clarity, we would like to suggest that the FCA include the concepts and specifications delineated within EU COMMISSION IMPLEMENTING REGULATION (EU) 2024/2861 of 12 November 2024, article 3 (Implementing regulation - EU - 2024/2861 - EN - EUR-Lex). We believe that the FCA should specify technical means for delaying public disclosure of insider information as is found in the EU guidance.

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.

We refer you to our answers to questions 34 to 36 inclusive.

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?

While we agree that CATPs and intermediaries would have a central role in the monitoring and disruption of market abuse, we would like to point out that these activities are in essence, a type of public good. As such, it should be done with proportionality and with

effective and regular public/private sector collaboration. While there are ways to automate this, given current and emerging technologies, we would stress that human expertise is also needed to ensure that knowledge of the regulations is leading to the correct assessments–i.e., tools and technologies are sometimes no replacement for human expertise that truly understands and can separate suspicious activities from AMPs.

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?

Yes, we would agree, in general, but we would like to mention several reservations and concerns.

A key reservation is that we believe that actual analysis should be conducted by the FCA on the proposed systems and controls. In particular, we would like to suggest that a stronger, and clearer business-wide risk assessment ("**BWRA**") approach (that adds in crypto-specific risks) be examined and analysed as a better solution. A worst case scenario is that the FCA adds layers and layers of systems and controls, when an effective BWRA approach could better protect the markets and consumers, in line with the risk-based and proportionate approach suggested in paragraph 3.66 of the Discussion Paper. See further in our response to question 40 below.

Further, we would suggest that rather than stating a minimum list of controls and systems, the FCA conveys areas for the entities to think about within the context of their own respective business models and risk assessments.

In relation to additional systems and controls, we have identified the following additional areas for the FCA's consideration:

- employee training–such as mandatory yearly employee training on insider dealing and market manipulation;
- crypto-specific manipulation typologies;
- systems to take into account risk stemming from an asset's trading across different product venues;
- mandated cross-product (eg, derivatives and spot) and cross-venue monitoring;
- systems tailored to asset liquidity parameters to improve efficiency of the market surveillance;
- systems to monitor the same asset across multiple venues it is traded in and required cooperation across venues to enable shared market surveillance mechanism;
- systems to provide the possibility for deferred automated reading, replaying and analysis of order book data;
- systems to enable risk profiling–market surveillance practices must address precise risk profiles of participants; and
- intermediaries should also be required to do real-time and post-trade surveillance; they are equally concerned. Further, they should report directly to the FCA, not to the CASPs or other intermediaries.

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 with an outcomes-based approach at a high level.

However, we would refer you back to our strong recommendation in our response to question 39 that the outcomes-based approach be linked to a BWRA approach that now encompasses crypto-specific business risks and outcomes, or that incorporates these matters into the existing risk assessment frameworks found within the AML/CTF, proliferation financing, tax evasion, and bribery and corruption regimes. We believe this would be substantially more efficient and in turn more effective in encouraging compliance than simply adding another, separate regime that attempts to deal with crypto risks and outcomes in isolation, in an additive, possibly redundant manner.

Ultimately, we would ask the FCA to clarify how this would all feed into the other risk frameworks noted, and what their enforcement and risk mitigation steps would include.

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 believe that standard approaches and tools from the traditional finance space would be effective in this setting.

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

Yes. However, CATPs should have a list of insiders when listing assets of others. Insider lists could be shared amongst regulated venues to enable cross venues monitoring, and better deterrence and surveillance. Further, CATPs could possibly implement firm-wide trading embargoes whilst any market-sensitive or privy information is being processed or considered (with clear, well-documented, and consistent processes in place).

We would like to draw to your attention that, with trading of digital and cryptoassets, an insider would not generally conduct insider dealing on their own platform or exchange, so effectively-designed and enforced information sharing would be key in this setting.

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?

No. While we fully understand the PDMR regime and its intentions in the traditional finance space, we do not believe it is suitable for crypto for the following reasons:

- The number of persons with access to insider information is broader within crypto than PDMR. Relatedly, it would reflect a double standard being applied here, in that the issues are present within venture capital, and UK regulators do not apply a PDMR regime in that context.
- It is likely to result in personal investment portfolios being disclosed to the public.

- Existing technology, coupled with the availability of relevant information due to how blockchains work, would provide a more cost-effective and beneficial approach than relying on a regime like PDMR.
    - According to a 2021 Sydney University of Technology study, insider trading still happens in 20% of M&As and 5% of quarterly earnings reports.
    - Cryptoasset technology and the participants in this market approach information and its dissemination in a way that is more likely to produce a better outcome than in the traditional finance space.
        - The nature of blockchain transactions and the availability of a wide range of on-chain and off-chain tools means that insider behaviour tracking and insider trading detection can be conducted much more effectively and thoroughly.
        - Additionally, the technological design of on- and off-chain data, when joined up properly, actually allows one to capture trading behaviour at the level of the person in the trade, rather than looking for signs of market abuse or insider trading solely at the exchange or issuer level.

We would refer you to our response to question 39 that lists additional methods and approaches for achieving the desired outcomes instead.

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

Yes, with some key caveats, as follows:

- All CATPs and intermediaries should be monitoring (this is the prescriptive part), but the precise how and what should be permitted to vary (this is the principles-based part).
- In particular, flexibility should be allowed for different monitoring processes and tool-use.
- Likewise, the FCA should allow for differences among CATP and intermediaries discretion and risk appetites.

The following examples convey why on-chain monitoring is necessary (and why we support the general thesis):

- Insider trading can be generated via an initial on-chain transaction by acquiring an asset on a DEX, and then disposing of it on a CEX. Without clear monitoring of both legs of the transaction (i.e. the on- and off-chain transactions in tandem), it would be harder to identify the abuse or insider behaviour.
- Manipulation of trade pairs on a DEX can occur with the sole intention of impacting the price of a derivative contract on a CEX. Similar to the prior point, it is the combined and cumulative monitoring that includes the on-chain behaviours that permits the most effective monitoring environment.

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

Yes. As per our General Comments and as reiterated through our responses above, we believe the FCA should consider allowing CATPs to use the following examples of tools (current and emerging) and in turn consider how such use can be regulated effectively and efficiently:

- supervision and monitoring can occur via smart contracts or AI;

- market participants could be alerted that they may be instituting a trade or transfer with a scam address/wallet, etc; and
- on-chain activity could be utilised to review user trading patterns and history in order to define a profile that can be used to monitor the same user's behaviour on CEXs, where relevant.

However, while we are proponents of its benefits and believe the FCA should consider them when designing regulatory regimes (and even for its own use), we wish to reiterate that we believe where the FCA agrees, the need for such technologies or tools should not be prescriptive. Given the wide variety of tools, market participant business models, and even on-chain capabilities, CATPs should be permitted to use their own discretion and business judgment within reason to decide how and when to employ such technologies.

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 agree that some amount of information sharing should be prescribed, as well as the format, especially given crypto-related market abuse and financial crime tend to happen on a cross-platform and cross-product basis (as set out above in our responses to question 44). Further, there are excellent examples from the traditional finance space for information sharing agreements that regulators are comfortable with and support, such as the Intermarket Surveillance Group ("**ISG**"). However, as above with our General Comments, we are also concerned an overbearing amount or standard of regulation may drive otherwise responsible actors out of the UK, particularly smaller and more innovative market participants.

With those dual views in mind, we support Options 3 or 4, with the following rationales and qualifiers:

- Option 3 could be carried out through:
    - A dual-database model, consisting of:
        - an open-source database of wallet addresses suspected of market abuse for all CASPs to screen, which could operate automatically using current and emerging tools and databases; and
        - a private source database shared between CASPs, containing user names and detected behaviours, which could operate as a 'call to check' on issues privately between CASPs; or
    - Alternatively, an alliance or network of CASPs could provide the tools and information sharing noted in the bullets above; this could be similar to what is currently done among some travel rule providers.
- Option 4
    - This option minimises the problem of fragmented information.
    - However, there are concerns that this option as currently proposed is unclear about who would be responsible, how would the governance work, and who would ensure accuracy.
    - We also are aware of how this is currently conducted in the traditional assets space with respect to third-party providers of regulatory information repositories and dissemination services. Where the FCA does consider these service providers or existing technologies, we would caution careful

consideration, with specific input from industry, that such services would be appropriate in the context of the crypto industry.
    - Further, we would reiterate our General Comment that where the industry is asked for input in helping to set up such a cross-platform system, the FCA must clearly show how it will support and be involved with the implementation and maintenance of such a system.
    - CryptoUK stands ready to assist with such coordination and input, including with supporting an industry-led approach to creating such a platform.

Regardless of which option is chosen, we would suggest the following qualifiers:

- Both of the options require an exact demarcation of liabilities and responsibilities from the FCA between private and public sector entities. These parameters should be created in collaboration with industry and effective methods of collaboration should be suggested by the FCA where relevant.
- Data protection legal issues are a major and important concern that the FCA would need to address prior to the private sector being willing to provide these solutions.
- The risk of being de-banked systemically if a user name or identifying information is provided needs to be addressed publicly.
- While the private sector can make suggestions and recommendations, the regulator would need to be prepared to be more specific and deliberate in how it intends to support and protect the private sector's responses, further to our General Comments about the same.

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.

While we believe that information sharing should be made mandatory by the FCA (in line with our responses provided to prior questions), we recommend that the details of its implementation should be left up to the industry to coordinate and organise in a broad sense. In other words, we would envision an industry-led regulatory framework that is informed by the FCA and NCA sharing intelligence with regulated CATPs, rather than under a new regulatory body. As per our General Comments, our concern is with a perception of regulatory overreach if a new coordinating body is created and imposed with input from participants as to its jurisdiction or oversight.

This topic warrants the consideration of models that exist in the traditional finance space for stock exchanges (i.e. the ISG), and the online loan industry's Online Lending Network. Both of these networks are industry-driven and proportionate to their respective industries and participants, and as a result, they have simultaneously increased compliance and reduced regulatory burden.

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?

As set out in our General comments, a key concern that our members would like to reiterate is a lack of clarity regarding how the FCA will support any industry-led endeavours, especially those that it calls for. Our members had and continue to have concerns about how liability in this scenario would be attributed/calculated, and that the FCA may not in practice support

industry-led endeavours after the considerable amount of time and cost required has already been contributed by participants. These concerns have been raised on multiple occasions, including during the FCA roundtables held over April and May 2024. We reiterate the following point from our General Comments and in our response to question 46:

"*While the private sector can make suggestions and recommendations, and even build a platform, the regulator would need to be prepared to be more specific and deliberate in how it intends to support and protect the private sector's responses*."

With regard to the kinds of regulatory input or involvement we think may be beneficial, we propose the following:

- draw from existing and successful examples from traditional finance–i.e., the Intermarket Surveillance Group (ISG) and Online Loan Network;
- consult in detail with industry leaders already seeking to implement or support such endeavours, such as the Crypto Market Integrity Coalition (**"CMIC"**) and CryptoUK.

We would also request a few further action points from the FCA:

- a description of how it intends to support and endorse an "industry-led" platform, and what that might mean in practice;
- provide a clear list and definitions of the mandatory information or data items;
- delineate clear expectations about what information should be included and how;
- enhance the information on and usability of the FCA website to include:
    - enhanced investor warning page that takes the new platform and regulations into account;
    - information (similar to that provided now by Chainalysis) with OSI data feeds and commentary boards; and
    - link to and support of the information-sharing platform (in whatever form it takes).

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

We would like to provide the following additional information or feedback:

- The FCA should review all recommendations provided from all respondents in light of cost/benefit analysis, and with a view to ensure that unnecessary paperwork and redundant information across UK regulatory regimes are eliminated.
- The UK needs to ensure that there is a clear pathway for start-ups and those that are in the early stages of their corporate development in light of the significant innovation and economic growth opportunities they often provide.
- The UK should consider how it can leverage other jurisdictions' regulatory outcomes to potentially "fastpath" entities who have met high-bar regulatory certification in other countries. "Fastpath" does not mean a watering down of standards, but would focus on the deltas between the jurisdiction and the UK, and provide both an effective and an efficient way to onshore responsible crypto businesses into the UK.
- Suspicious activity reporting should be done by all in scope parties, and should be provided directly to the FCA (and not to CATPs).
- Data protection and privacy considerations and liability needs to be more directly and clearly addressed by the FCA in its proposed regulations.
- The FCA needs to conduct or sponsor research that correlates the amount and type of information needed by differing types of investors.

- The Financial Promotions regulatory framework and execution needs to be reviewed in earnest and at pace, as it will overlap in some respects with the other proposals and regulations that are forthcoming in the UK. In particular, we believe that the FCA needs to consider the following:
    - whether the “one size fits all” approaches within it are, in fact, effective;
    - whether all companies that are in its scope can be regulated appropriately; and
    - whether companies that are not in scope can also legitimately proceed to promote their products within the UK markets without falling through regulatory gaps.
- Finally, while we make comparisons at times to traditional finance, and find good practices or recommendations from that industry, we must strongly conclude by stating clearly that it is not appropriate or effective to simply copy and paste from traditional finance regulations without scrutinising, with industry input, which approaches from that space are not fit for purpose for digital and crypto assets; investing in or participating in crypto projects is not directly analogous to investing in a company, for example. All such differences should be fully understood by the FCA before finalising its regulatory framework.