UK Finance

Financial Conduct Authority's (FCA) 'Regulating Cryptoassets: Admissions & Disclosures and Market Abuse Regime for Cryptoassets' Discussion Paper (DP24/4)

UK Finance response

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About UK Finance

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The financial services industry plays a vital and often underappreciated role enabling individuals, families and communities to achieve their ambitions in a safe and sustainable way – through home ownership, starting a new business or saving for retirement. The sector is fundamental to people's lives, and we are proud to promote the work it is doing to support customers and businesses up and down the country.

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About Simmons & Simmons

Simmons & Simmons LLP assisted UK Finance in preparing this response.

Simmons & Simmons is a leading international law firm that combines its experience in digital assets, capital markets and financial regulation to deliver effective solutions for its clients. Visit www.simmons-simmons.com for further information.

About PwC

PwC provided additional subject matter and market expertise for this response.

PwC is one of the leading professional services consultancies in the world. Visit www.pwc.cpm for more information.

This is UK Finance's response to the FCA's 'Financial Conduct Authority's (FCA) '**Regulating Cryptoassets: Admissions & Disclosures and Market Abuse Regime for Cryptoassets**' Discussion Paper (DP24/4). The document was submitted to **dp24-4@fca.org.uk**.

Executive summary

Our response focuses on:

- *A practical approach to responsibilities*.
- *Clarification of the different requirements for 'institutional' and 'retail' investors*.
- *The need to focus on market manipulation*.

Our response builds on the general points (regarding admissions and disclosures, and market abuse) and high-level principles set out in our response to HM Treasury's 'consultation and call for evidence on the future financial services regulatory regime for cryptoassets'[1] from 2023 (referred to as the 'HM Treasury consultation' for the remainder of this response). However, as we note throughout this document, the cryptoasset and stablecoin markets and regulatory maturity across jurisdictions internationally has developed substantially since the publication of HM Treasury's high-level proposals. This means much of our thinking has also evolved.

Summary of points raised in our response

The industry is generally supportive of the FCA adopting existing regimes from the traditional securities market, as regards admissions and disclosures, and market abuse. Whilst the principle is broadly appropriate, in practice when working through the requirements in this discussion paper, our members identified a number of areas where differentiation may be appropriate.

[1] UK Finance: **Response to the HM Treasury consultation and call for evidence on the future financial services regulatory regime for cryptoassets** (paragraph 2.1).

We've identified four thematic points raised throughout our response:

- **A practical approach to responsibilities**: The FCA must work with relevant firms across the value chain to understand who has access to information during the admittance and administration of the trading of a token. As expressed in our response to the HM Treasury consultation[2], there's a risk that requirements on exchanges will be too onerous, which could drive cryptoasset firms away from the UK, whilst discouraging existing authorised firms from taking the proper role they should play. This may be especially true where the UK regime is going further than comparable markets, for example, the European Securities and Markets Authority's (ESMA) 'Markets in Crypto-assets Regulation'[3] (MiCA) regulation. Further, the proposed requirements imposed on CATPs seem to be more onerous compared to the obligations of trading venue operators in traditional securities markets.
- **Clarification of the different requirements for 'institutional' and 'retail' investors**: Members believe there should be more nuance in the requirements for issuers, Cryptoasset Trading Platforms (CATPs) and intermediaries' services depending on whether they are for institutional investors or retail investors. This clarity will be important for firms' business planning around which types of customers they will look to serve following the establishment of the regulatory framework.
- **The need to focus on market manipulation**: The industry sees market manipulation in cryptoasset markets as a bigger issue than insider dealing. Our members would therefore emphasise the importance of reviewing the approach of applying the Market Abuse Regulation from the traditional securities market in tackling novel cryptoasset threats such as oracle manipulation[4].

High-level principles

Following the above, our members have formulated a set of high-level principles which have underpinned our response to the detailed questions set out in the discussion paper.

Ensuring Safe, resilient and secure products for consumers

[2] Pages 15-16.
[3] ESMA: MiCA.
[4] As set out in our response to question 22.

Our members continue to regard customer safety and the resilience of the financial services ecosystem as of paramount importance. Our members fully support the efforts of the FCA in this discussion paper to introduce measures that would give confidence and security, particularly to consumers. In some places, our members are unclear whether the measures proposed would result in a net benefit to users (for example, whether users will use disclosure documents). Our members would welcome further engagement with the FCA on how cryptoasset market participants and others can help to ensure that the right information is shared (and absorbed) by market participants at the right times. We would also like to engage further with the FCA on the intersection between the APP fraud rules and DP24/4, as the Payment Systems Regulator's (PSR) APP fraud compensatory mechanism applies to investment fraud. This raises the question of how we can harmonise the APP fraud framework with MARC to support those reimbursing customers.

Proportionality

Our members continue to support this broad principle. We recognise that as the regulators and industry grapple with the details of both regimes, the practicality of applying existing rules to cryptoassets can be more complex. We appreciate that the FCA has tried to find a balance between creating rules that have the effect of 'same risk, same regulation' while acknowledging that the structures and models of cryptoassets markets are different[5]. While there are likely to be some challenges for cryptoassets firms in the short term, members believe that the longer-term trajectory of the traditional and cryptoasset markets coming together means the UK. Additionally, a grandfathering approach for some cryptoasset tokens already traded should be considered for the MARC regime.

Support for industry-led solutions where needed

The industry recognises the complex cross-border nature of the cryptoassets market, which is why we're supportive of industry taking a lead to develop or implement certain aspects of the A&D regime and MARC, including the creation of uniform disclosure document templates[6]. Our members would, in principle, support this endeavour, and encourage the FCA to coordinate this work with a relevant international industry-led organisation such as the Global Blockchain Business Council (GBBC).

Clear definitions

[5] Particularly regarding our response to question 22, where we set out some unique technological challenges facing cryptoassets, such as oracle manipulation.
[6] As set out within our response to questions 11-13.

Throughout the response we have noted challenges raised by lack of clarity on definitions. Our members appreciate this is challenging in a fast-evolving market, and that makes identifying consistent definitions difficult. We have noted the need for clarity in other UK Finance responses[7] and thought leadership documents. This includes our response to the November 2023 stablecoin discussion papers[8], where our members called for further clarity on the understanding of 'wholesale' and 'retail' use cases (and whether there are any differences in views across the FCA, BoE and Prudential Regulation Authority (PRA)). This also includes setting out definitions from existing traditional securities' regimes which may work differently in practice[9]. Policymakers' work to standardise regulatory definitions must also align with the industry's understanding of technical definitions.

International regulatory interoperability, growth and competitiveness

There are opportunities for growth and competitiveness given the right vision from the government, and corresponding regulatory regimes. Other jurisdictions internationally are well ahead of the UK in terms of implementing cryptoasset and stablecoin regulatory regimes. The UK is nevertheless still well-positioned to attract investment given its substantial FinTech market and clear legal framework whilst taking advantage of this situation by learning from the frameworks that are already live. Where the principles of these frameworks align with the UK's, we encourage avoiding duplicating requirements where possible. For example, in the context of the A&D regime, our members are generally supportive of allowing CATPs to use the same disclosure documents used in other jurisdictions internationally, if they meet the requirements under the FCA's Consumer Duty regarding supporting retail investors making informed investment decisions.

The industry also notes the FCA's reference to the International Organisation of Securities Commissions' (ISOCO) approach from its work in developing high-level principles for the regulation of stablecoin and cryptoassets[10]. This is particularly important when it comes to how the FCA compares cryptoasset tokens with instruments from traditional securities markets.

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[7] UK Finance: Bank of England Discussion Paper on Innovation in Money & Payments (page 29).
[8] UK Finance: Response to FCA DP23/4: Regulating cryptoassets – Phase 1: Stablecoins, Response to the Bank of England's Discussion Paper: Regulatory regime for systemic payment systems using stablecoins and related service providers.
[9] Including how the FCA thinks the 'public offers and admission to trading regime' 'will work for the cryptoasset market.
[10] IOSCO: Policy Recommendations for Crypto and Digital Asset Markets (FR11/23).

As the FCA develops these proposals into consultation paper stage, the market would value further insight into how both the strategic approach and detailed requirements across the relevant regimes differ from the approach taken by ESMA. Whilst building interoperability (where possible) with respective requirements in other jurisdictions (as outline above) is important, we have also noted areas where the FCA should take a different approach. This includes white paper disclosure documents under MiCA being potentially too prescriptive and detailed for retail investors. Our members recognise that there is a challenge for the regulators to balance international interoperability and equivalence where possible, but at the same time, making use of the UK's ability to pursue the benefits of its 'second mover' advantage and learn from jurisdictions that are already live. The industry is eager to work with the regulators to get this balance right.

Wider cross-authority vision, coordination and alignment

The industry welcomes this discussion paper as the first development stage (in 2025) of the FCA's Crypto Roadmap[11]. Whilst the Roadmap is useful, due to the many cross-regulatory areas being covered, there is a strong view from our members that the UK needs a centralised/coordinated framework that brings all this work together, with one combined approach and timeline. Our members also believe that the UK would benefit from a clear strategic narrative on cryptoassets and stablecoins. Other jurisdictions such as the US now have a clear roadmap and vision, which will help to crystallise investment decisions for firms there.

HM Treasury should publish its own roadmap (agreed and supported by the BoE, FCA, and PRA), building a clear sense of coordination as the 'Cryptoassets Taskforce's' (chaired by HM Treasury at the time)[12], and the cross-authority roadmap from November 2023[13]. Our members also note that the thinking from HM Treasury's consultation response will underpin the development of the wider regulatory framework. This means there will be a continual 'back and forth' between the regulatory authorities moving proposals forward and needing to confirm whether they meet the high-level aims of HM Treasury. Our members also note that there isn't yet consistency between the FCA and BoE on key aspects of the regulatory framework. For example, the BoE thinks there is 'significant financial stability risks from the

[11] FCA: Crypto Roadmap.
[12] HM Treasury, BoE, FCA: Cryptoassets Taskforce: final report.
[13] BoE: Cross-authority roadmap on innovation in payments.

use of stablecoins for wholesale transactions'[14], whilst at the same time, HM Treasury and the FCA have paused its plans to regulate stablecoins as means of retail payments[15]. This potentially leaves gaps and doesn't give clarity on what the regime would cover. This challenge of misalignment across the regulators further emphasises the importance of clear working level dialogue between policymakers to develop a more coherent and unified approach to enabling growth in the UK's emerging stablecoin and cryptoasset market.

The industry also notes that as the UK moves closer to the deadlines set out in the FCA's Roadmap, having a more detailed outlook of when the regulators will expect to publish more frequent and detailed proposed policy statements, amendments to relevant rulebooks and supervisory guidance documents would be helpful. Our members expect HM Treasury and the regulators to move into detailed cross-authority dialogues regarding the regimes and technical instruments proposed across the regulatory framework. Giving the industry visibility of these detailed developments will be crucial for firms getting ready to comply with the framework's requirements, whilst also helping new entrants into the cryptoassets and stablecoin markets map their business plans accordingly.

We also note HM Treasury's work to develop a Memorandum of Understanding (MoU) between the authorities following its consultation responses published in October 2023[16]. Our members would encourage HM Treasury and the regulatory authorities to consider whether MoUs, a mechanism used more often for high-level, strategic engagement is the appropriate mechanism for coordinating the delivery of the complex and detailed cryptoassets and stablecoin regulatory framework. Nonetheless, the industry would welcome sight of how these MoUs have progressed, and the detailed policy discussions and decisions that have come out of them.

The industry encourages close interaction between the teams developing the stablecoin and cryptoassets framework with those involved in the Payments Vision Delivery Committee

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[14] BoE: The Bank of England's approach to innovation in money and payments, Discussion Paper.
[15] HMT: Keynote address at the Tokenisation Summit: UK government approach to tokenisation and regulation.
[16] Noting HM Treasury's plans to amend the Financial Market Infrastructure Special Administration Regime (FMI SAR) to give the BoE relevant powers to effectively manage future instances of systemic stablecoin providers failing. See paragraph 2.24 of 'Managing the failure of systemic digital settlement asset (including stablecoin) firms: Government response to consultation' which mentions HM Treasury's plans regarding MoUs.

(PVDC) and Vision Engagement Group (VEG), including how decisions being taken forward on the framework will feed into the Committee's long-term future technology strategy.

Response to Questions

Overview

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?**

Please refer to the 'Summary of points raised throughout response' subsection in this response.

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

Whilst our members support the FCA's initial thinking when it comes to this question[17], we would encourage the FCA to build its understanding of costs on firms (both direct and indirect) from equivalent requirements under MiCA. However, we note that estimating costs can only occur once the FCA has specified which requirements fall under each part of the value chain (issuers, exchanges, intermediaries, etc).

Where relevant, the industry would also welcome the FCA conducting a cost benefit analysis (CBA) of the wider regulatory framework in conjunction with the other regulators. An assessment overseen by the FCA's CBA Panel[18] could pull expertise from regulatory teams and market data around firms' compliance costs under both regimes within traditional securities.

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**

[17] As set out within paragraph 1.15.
[18] FCA: Cost Benefit Analysis Panel.

competition in the UK cryptoasset market? What competitive implications do you foresee as a result of our regulatory proposals?

Please refer to the 'Summary of points raised throughout response' subsection in this response.

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

Our members agree with the use of the Consumer Duty to formulate more outcomes-based requirements on firms with direct retail clients. However, we would encourage the FCA to outline instances of requirements (such as the liability requirements under the A&D regime) that go beyond the Consumer Duty's remit, and the reasons for this. The FCA should then assess whether this more prescriptive approach is appropriate and leads to better outcomes for market participants.

Our members also note the possibility of newer (less 'tech-savvy') retail investors investing in cryptoasset tokens following the regulatory framework being implemented. The Consumer Duty will help to unify requirements from across traditional investments into cryptoasset investments (such as investor communications and disclosures), formulating a (where possible) more familiar investment landscape for these retail investors. There should also be an emphasis on the importance of investors making responsible decisions for themselves.

In relation to the FCA's plans to implement Consumer Duty obligations for the activities around issuing and holding custody of stablecoins for retail customers, we would encourage the regulator to work with the BoE and the industry to understand how delayed disclosures around shortfalls of stablecoin backing assets would work[19].

Admissions and Disclosures (A&D) regime

[19] We would encourage the FCA to review our response to question 5 (particularly pages 30-31) of the BoE's 'approach to innovation in money and payments' Discussion Paper, where we unpack the industry's initial thinking on this challenge.

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?**

Our members generally agree with the risks and outcomes that have been identified for the admissions and disclosures regime. It's essential that market participants and regulators have accurate, verifiable and decision-useful information about the cryptoassets admitted to trading on CATPs.

In addition, our members would urge the FCA to consider the issues faced by both regulators and market participants in the EU in light of the requirements under MiCA, and endeavour to avoid similar challenges.

Firstly, MiCA requires 'Crypto-Asset Service Providers' (CASPs) to produce white papers where an issuer has not done so, and places full liability on those CASPs for the information provided, even in circumstances where that information is not publicly accessible or verifiable. In practice, this has led to issuers not prioritising the creation of MiCA-compliant white papers, as their focus has been on building for the US market. Were the same approach to be taken in the UK, it could lead to a reluctance from CATPs to list new assets.

Secondly, the A&D regime should apply to broker entities established in the UK, as well as CATPs. The equivalent disclosure requirements under MiCA are limited to trading platforms, which has led to concerns about non-compliant cryptoassets being offered in the EU through brokers. ESMA has since had to issue clarifying opinions which are at odds with how traditional markets work. The FCA can avoid this issue by drafting appropriate rules from the outset.

It's important that investors should receive critical information about cryptoassets to allow them to be able to make informed decisions about investments. However, much of the information that is suggested to be disclosed is perhaps not necessary for consumers to make informed decisions regarding cryptoasset tokens (or would be applicable to all individual cryptoassets tokens). It could be that a full admission document is only required where necessary to highlight significant changes or differences across different cryptoasset token types. Our members would encourage the FCA to consider what it deems to be essential to be included in any A&D regime to ensure that it's appropriate for the cryptoasset value chain.

Once the regime has been finalised and implemented our members believe that an ongoing process will be required to assess the evolving threat and risk landscape and ensure that the rules remain appropriate.

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.**

Our members agree that admission (or seeking admission) to trading for a cryptoasset to a UK cryptoasset trading venue should generally trigger the requirement for the disclosure of an admission document.

Our members also agree that the starting point would be that the responsibility for producing the admission document falls on the issuer, moving to the CATP to the extent that the issuer has not produced an admission document and the CATP has initiated admission to trading.

We would suggest, that where the CATP is responsible for preparing and publishing the admission document, the requirements should be proportionately adjusted to avoid being excessively onerous on the CATP, with liability adjusted accordingly.

Further, and contrary to the initial requirement, where there is no identifiable issuer, for example Bitcoin, we would suggest that admission documents aren't required. There isn't information available for such cryptoassets that isn't already in the public domain.

In addition, our members believe that not all the information currently required for disclosure may be necessary for cryptoassets tokens. While members broadly support the principle of 'same activity, same risk, same regulation' where relevant[20], it may be prudent to review the mandated information to ensure admission documents are both user friendly and contain information that is relevant to both institutional and retail investors investing in cryptoassets. One approach could be a two-tier approach to disclosures: a standard disclosure applicable to all cryptoassets, supplemented by an additional disclosure for each cryptoasset which is tailored specifically for consumers and investors.

One aspect that requires further consideration is the treatment of assets listed prior to the implementation of the new regulatory framework. Our members suggest that these assets, which are already widely circulated and familiar to market participants, be granted a grandfathering period of three years following the introduction of the regime, consistent with the EU's approach.

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**

[20] As we outline under the 'High-level principles' subsection on page 4.

same CATP? If not, what would be the scenario where it should not be required? Please provide your rationale.

For cryptoasset tokens, given their unique characteristics, we don't consider it necessary to require a new admission document, except in cases where there has been a change concerning the asset or the issuer that would make the existing version of the admission document materially inaccurate. Again, while our members support the general position of same activity, same risk, same regulation, it's nevertheless important that the UK drafts its rules relating to admissions and disclosures to reflect the nature of the cryptoasset market, and its differences from traditional finance.

For example, cryptoassets are generally not issued through multiple events, but instead are released in a primary issuance, followed by secondary automated events. CATPs will normally list assets that have already been issued into the market, rather than be involved in primary issuances, CATPs primarily list assets for secondary trading. Once the admission and disclosure document is finalised and the cryptoasset token is admitted to trading, a CATP will rarely concern itself with any ongoing issuance activities by the issuer. Any admissions regime should be designed to recognise this.

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?**

Our members support the general approach of allowing CATPs the flexibility to determine how best to meet these principles, and agree with the FCA that overwhelming market participants with excessive information may obscure the most critical details, hindering their ability to make well informed decisions. We find the necessary information test suitable but suggest that the list of factors that may be included in FCA rules is very broad, and could result in an excessive amount of information that the FCA is keen to avoid.

Further, many of the suggested factors would not be knowable to a CATP and would impose excessive requirements and liability standards on CATPs to disclose. For example, the operational and cyber resilience of the cryptoasset's underlying technology and exposure to risks of hacks, vulnerabilities and disruptions is not something that a CATP is likely to determine beyond publicly available information. It shouldn't be liable for this information and shouldn't be required to produce it. Instead, as we note in our response to question 6, a different standard of disclosure should be required where the CATP is the one producing the admission document.

The FCA should clearly set out the principles governing disclosure documents to provide clarity to the market. The principles should differentiate between the information required for

issuers as compared to CATPs, given the differing access levels to certain information. CATPs, for example, typically lack access to details about an issuer's financial condition or business plans. Therefore, requirements for trading platforms as stated in our response to question 6 should be limited to publicly available information on a 'best efforts' basis.

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.**

Some other disclosures that could be required may include any regulatory issues with the issuer, trading history, and any adverse media that the cryptoasset or issuer may have faced. The key barrier to providing disclosures has been noted above. This is where the obligation to disclose sits with a CATP which will not have the same access to information as the issuer.

The other barrier will be the extent to which liability for errors or omissions applies to a CATP or issuer. Overly onerous liability may disincentivise certain disclosures.

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

In line with the FCA's position, our member's view is that disclosures should be focused on what cryptoasset investors prioritise when making investment decisions and should not be excessive. As such, our members would suggest that it's not necessary to include generic information that may not be important to the materiality of the token. Unnecessary additional information results in a lengthy document that is overly complex[21] and not relevant to an investor in making informed investment decisions.

Disclosure obligations should vary depending on the author of the disclosure document and the nature of the asset. In respect of disclosures from the issuer, our memberswould recommend focusing on:

- Details relating to the issuer, its management, track record etc.
- The project itself, including its purpose and nature, and forward-looking plans.
- The rights attaching to the crypto asset, how it operates, and its core use cases.
- The nature and scope of governance mechanisms that may affect the cryptoasset.

[21] and could also lead to important information being missed.

- Track record and trading history, including detailed disclosures on holdings by insiders.
- For stablecoin backing assets, underlying price stability mechanisms and details relating to reserves, treasury management etc.
- Any bespoke or specific features of the asset in question.

The purpose of the list is to ensure that the disclosure avoids generic information and is instead focused on information relevant and useful to investors for making informed decisions. UK Finance continues to support efforts from HM Government and the regulators to standardise the way sustainability matters are disclosed. Information needs to be presented to market participants in a clear, accountable, and proportionate manner[22]. Simultaneously, with cryptoasset tokens operating across blockchain 2.0, there is important innovation being conducted to promote sustainability in the cryptoasset market (such as the proof of stake validation solution 'gas sharding'). The FCA must also consider factors that are either in the control of blockchain operators themselves, or individual crypto token issuers. Where responsibility exists for disclosing this information is a complex challenge. Our members would welcome further detailed engagement with the FCA on these points.

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.

This question brings into focus a clear difference between traditional finance markets and cryptoasset markets. While in traditional finance there is the prospectus prepared by the issuer of a security, it is envisaged that multiple CATPs could prepare their own version of admission documents relating to the same cryptoasset. Clearly, this isn't in the best interest of a potential investor in that asset, with the question acknowledging the risk of inconsistencies in the admission documents filed. If different disclosure documents can be uploaded to the NSM for the same tokens this could potentially confuse consumers.

It doesn't seem reasonable to hold CATPs liable for ensuring consistency with the admissions documents prepared by other firms. If each CATP is required to produce their own admission and disclosure document, they should only be responsible for their own

[22] UK Finance: Smarter regulation non-financial reporting review, UK Finance response to DBT call for evidence.

approach to due diligence and disclosures, without having to reconcile these disclosures with that of multiple other firms.

It seems to be clearly in the best interests of consumers for there to be a consistent and industry wide approach to admission and disclosure documents, and the FCA should explore incentives within the regulatory framework to encourage a market-wide solution for delivering a uniform admission document template.

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?

Please refer to question 2 in this response.

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

Our members agree that the information consumers rely on must be accurate and that cryptoasset issuers should be liable for the accuracy of the disclosure documents that they prepare.

Where the CATP has produced the disclosure document it seems reasonable that it would only be liable for information that is publicly available, with a balance needing to be struck between investor interests and avoiding placing excessive liability on the CATP. This links to our response to question 8 that CATPs should only be responsible for a certain level of disclosure, within the bounds of what they are able to determine from publicly available information, with liability set as such.

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.

Our members question the level of detailed due diligence being proposed on CATPs. These include:

- Security audits of the cryptoasset's underlying DLT.
- Tests conducted on the code (for example, through red teaming exercises) and conducted via test networks for the underlying DLT.
- Code audits on smart contract code, where applicable and relevant to the cryptoasset. It should be noted that to the extent that that assets are not listed on venues in the UK,

consumers will seek exposure to them through other means, through public blockchains or through other offshore, more lightly regulated venues.

Whilst the industry acknowledges the regulatory principle for exchanges to conduct due diligence processes on issuers, the FCA must consider the practical and proportionate implications of these requirements on CATPs[23]. As outlined throughout this response, exchanges must have the ability to operate commercially under the regulatory framework.

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's essential for CATPs to have access to the relevant technology development teams within blockchain systems, as well as the token issuers themselves, to implement adequate due diligence measures. This access ensures that CATPs can thoroughly assess the cryptoassets they list, and maintains the integrity and reliability of the trading platform.

The FCA should actively monitor future technological advancements across blockchains to ensure that retail investors can continue to rely on the regime's mechanisms, including disclosure documents, to make informed investment decisions. This proactive approach will help maintain investor confidence and support the evolving landscape of cryptoassets.

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?

Following our high-level principle of 'proportionality' and responses to questions 14 and 15, we note the practical implications of CATPs being asked to conduct code audits and other such assessments. However, some members also feel strongly that a full and thorough due diligence process by CATPs is essential for banks and other financial institutions to mitigate risks related to weaknesses in a cryptoasset token's code or smart contracts. Our members would encourage the FCA to engage further with the market to determine how to ensure a more effective code audit market could be developed. This could also include exploring a 'tiered' approach to due diligence depending on the resourcing, size and budget of an individual CATP.

[23] Following the high-level principle of 'proportionality' set out in this response.

We would also encourage the FCA to assess whether these proposed due diligence requirements meet the high-level principles set out by the ISOCO.

The industry welcomes further engagement on question 16 at consultation paper stage.

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?**

Yes, our members agree that there should be requirements to ensure that CATPs don't admit cryptoasset tokens that aren't suitable for trading. Our view is that this should be largely outcomes based.

Whilst the industry welcomes the FCA's initial thinking when it comes to defining 'consumer detriment'[24], some guidance on what needs to happen in instances of material flaws in tokens occurring *after* admission would also be valuable. Clearly imposed requirements will help those rejected to understand the decision was made under proper circumstances where a process has been followed.

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?**

While CATPs should have in place a rigorous policy to determine whether or not to list an asset, it's not clear whether this needs to be public.

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

The discussion paper suggests that the NSM is intended to give consumers access to information on listed assets. While our members see benefit to requiring issuers and CATPs to file disclosure documents on a central repository, our view is that it's unlikely that consumers will see documents listed on the NSM, with it being more likely that they would seek information from the CATP on which they are trading. Further, if multiple disclosure documents for the same asset are held on the NSM this will inevitably lead to confusion among consumers. Where a central repository is to be used, members suggest that it would be helpful to allow this data to be used for other wholesale related projects where needed (e.g. the Bank for International Settlements' (BIS) Project Agora).

[24] Within paragraph 2.54. We would advise the FCA to build this detail at consultation paper stage.

Whilst the NSM may not be used in the short-term by retail investors (due to the reasons outlined above), the industry recognises that a central repository to store information across an increasingly complex market landscape could be an important tool in the medium-long term, as future market participants could use the mechanism as a helpful 'one source of truth'. The platform needs to be technologically robust, enabling CATPs to be able to submit information seamlessly.

Our members also note that information[25] around the backing assets of stablecoin tokens will be uploaded to the NSM. Whilst this concept makes sense, the industry awaits further details from the FCA around the stablecoin regime[26], and how this impacts information being submitted to the NSM in this context.

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)?

We note that in August 2024, the FCA consulted[27] on proposals to implement improved data quality controls for the NSM to make it easier for NSM users to find information. The finalised rules and guidance were published in December 2024[28].

Where appropriate[29], it's important to ensure alignment of the proposed requirements on machine readable formats between traditional securities markets and cryptoassets markets and that they be consulted upon widely across both markets as part of the FCA's longer term plans to improve the mechanism and in the context of the ongoing work on the new public offers and admissions to trading regime.

Whilst the above remains UK Finance's wider view on the NSM, the industry is concerned that following the technological nature of the cryptoasset market[30], firms will find it challenging to submit machine-readable data to all information included in disclosure documents. Our members would therefore encourage the FCA to work with relevant firms across the cryptoasset market to ensure information being requested to be in a machine-

[25] Both within individual disclosure document submissions, and wider reports to a proposed cross-platform information sharing mechanism.
[26] For example, building on the high-level safeguarding and redemption proposals within the FCA's 'Regulating cryptoassets Phase 1: Stablecoins' (DP23/4) Discussion Paper from November 2023.
[27] FCA: Enhancing the National Storage Mechanism, Consultation Paper (CP24/17).
[28] FCA: Enhancing the National Storage Mechanism (PS24/19).
[29] For example, limiting this requirement to quantitative data types such as ISINs and LEIs.
[30] Following the predominance of text based, qualitative unstructured data.

readable format within disclosure document submissions remains technologically and commercially viable.

Market Abuse Regime for Cryptoassets (MARC)

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

Yes, our members agree. In our view, where the market abuse risks in the cryptoasset space are the same as or similar to those in traditional finance, then similar regulation should be applied to the extent feasible. We agree with the FCA's observations on how cryptoassets differ from traditional financial instruments[31].

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. Our members would see market manipulation in crypto markets as a bigger issue than insider dealing (and our members would comment that the discussion paper focuses too heavily on inside information, and not sufficiently on market manipulation). Assuming that the FCA's rules will define market manipulation in a similarly broad way as the Market Abuse Regulation, then our members would expect most types of crypto market manipulation to be caught. However, there are forms of market manipulation that are peculiar to cryptoassets such as oracle manipulation, which is when a set of automated investments into a series of tokens is amended to make it impossible to sell the asset (known as 'honeypots') or to allow the token's creator to mint unlimited new ones (known as 'hidden mints'). Various types of these scams have been documented and, and our view, it will be important to ensure that any wording borrowed from the Market Abuse Regulation is adjusted as necessary to ensure it's broad enough to catch these crypto-specific behaviours.

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?**

[31] As we outline under the 'High-level principles' sub-section.

Generally, yes, the responsibility should sit with the issuer. Some members noted that an impact assessment of this position could be helpful as it's not clear what proportion of issuers are identifiable.

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?**

Our members think this proposal is problematic. The person seeking admission may have no access to any inside information, in which case this could be an empty obligation. This also compares unfavourably to traditional finance markets where investors may request instruments to be admitted to Multilateral trading facilities (MTFs) or organised trading facilities (OTFs) without incurring a disclosure obligation and so may deter people from seeking to get cryptoassets admitted to trading.

Where the obligation to disclose inside information falls on the CATP, it's not clear what types of inside information firms might expect the CATP to have access to that it would need to make public (beyond information on whether the asset would be delisted or suspended, which is already being disclosed publicly across CATPs). Even where there is an issuer, very often any proposals to modify the asset or its operation are voted for by holders (through the 'governance tokens' arrangement) and are therefore made public. It's possible that the concept of public disclosure of inside information doesn't translate into crypto markets and that at best, it's limited to situations where there is an identifiable issuer who has been involved in seeking admission to trading. There is also the challenge of geographic scope.

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?**

Please refer to question 24 in this response.

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

Please refer to question 24 in this response.

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

Yes, a non-exhaustive list would be welcome. The list should differentiate between the various types of cryptoassets, and how inside information could arise in relation to each of them. Our members think it's important that the list should be compiled in consultation with the industry.

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.**

As set out throughout this response, our members encourage the FCA to only consider additional information deemed of critical importance to a market participant's cryptoasset investments.

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?**

In practice, it would seem more reasonable to publish disclosures on websites which are actively used by token holders (for example, CATPs) rather than via a central repository which is unlikely to be used by consumers at this point[32].

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

None at this stage.

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.**

As we outline in our response to question 24, disseminating inside information may only be relevant where there is a clearly defined issuer. Following this point, it's possible the FCA may need to change its expectations around appointing primary information providers (PIPs) as seen within traditional finance. However, our members would welcome further engagement with the FCA and existing PIPs to understand how these firms could possibly support the disclosure of information of cryptoasset tokens.

[32] Building on our response to question 19 regarding the NSM.

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

Our members would welcome further engagement on this question at consultation paper stage.

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

Our members agree in general with these principles.

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?

Care needs to be taken to ensure that any safe harbours are suitable to the cryptoasset market. For example, legitimate instances of delayed disclosures of inside information may be different from traditional finance. This could include scenarios around stablecoin issuers having technological problems referencing backing assets[33].

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, this could potentially be useful but the process for AMPs to be adopted would need to be streamlined. An area that would be worth exploring would be legitimate and illegitimate practices in MEV. This is an important area and requires clarity in terms of what miners and validators may do without fear of being accused of market manipulation.

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?

[33] As set out under paragraph 3.54.

Our members would welcome the FCA to develop its thinking further regarding the wider approach to MARC[34] before the industry can understand the full implications of safe harbours in the cryptoasset market.

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.**

Please refer to question 36 in this response.

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

Our members agree that CATPs and intermediaries can monitor and attempt to disrupt market abuse insofar as they are able. However, our members consider that a great deal of market manipulation can happen off-platform and that beyond reporting misconduct and closing accounts, there isn't much that CATPs and intermediaries can realistically do to disrupt abusive behaviour. The rules should be drafted so as to avoid placing the onus on CATPs and intermediaries to intervene in areas that they cannot reasonably control.

Ultimately, the threat of being ejected from an account or a platform may not be a sufficient deterrent to bad actors. Our members think that, as in traditional markets, the FCA should take an active role in policing and enforcing market abuse rules (noting that MiCA does appear to contemplate a more active role for ESMA in its supervisory duties).

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?**

Whilst the proposed list of systems and controls make sense, we would again highlight points raised in our response to question 38 regarding the need to consider CATPs and intermediaries' lack of access to abusive behaviour occurring off-platform.

[34] As set out within our response to questions 21-35.

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?

Our members would welcome further insight from the FCA at consultation paper stage on how these outcomes-based requirements would fit alongside the business models of CATPs and intermediaries. For example, implementing 'emerging crypto RegTech tools'[35] could be particularly costly and onerous for CATPs to implement internationally. We therefore highlight our response to question 38 regarding the FCA's role in supporting a cross-platform information sharing mechanism.

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, our members would generally agree with this.

42. Do you agree on the proposals regarding insider lists for issuers and persons seeking cryptoasset admissions to trading? Yes, we would generally agree with this.

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?

There is a risk that imposing onerous requirements on issuers will make the UK less attractive for issuers to operate in. This would lead to assets being admitted primarily by CATPs, which, as discussed in previous responses, do not have the same access to information as issuers. As such consumers will have less information available to make investment decisions.

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

Our members agree, however this needs to be proportionate to the relevant CATP's or intermediaries' business activity, and firms should be given latitude to determine what is

[35] Cited under paragraph 3.65.

proportionate within a reasonable range. In particular, we would suggest that firms should only monitor for activity that is connected to their business and not more generally.

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

Our members emphasise the territorial, cross-border nature of exchanges and intermediaries' operations, and the need for interoperability with other jurisdiction's technical standards (including for on/off-chain monitoring).

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?**

UK Finance notes the diversity of opinions regarding the question of who should run this cross-platform information sharing mechanism. Whilst we're are inclined towards the industry taking a lead, with the support of the regulators, our *members don't have a strong preference on this question*. Nevertheless, UK Finance and its members are willing to support the operator where needed to ensure the mechanism runs smoothly whilst meeting the intended outcomes of MARC. We point out the following complications that contribute to our position regarding question 46.

Factors that suggest an industry-led operator would work best	Factors that suggest an FCA-led operator would work best
Resourcing and bandwidth challenges: We note from the FCA crypto roundtables hosted in 2024 that the regulator has proposed these mechanisms to be industry-led due to a lack of bandwidth and resourcing.	*The need to reevaluate comparable industry-led mechanisms*: Paragraph 3.83 mentions existing private-to-private information sharing systems such as the Travel Rule platform, built under the Cryptoassets: AML / CTF regime. Whilst this approach works for registering information on the sending and receiving of transactions, the information sharing mechanisms being proposed in DP24/4 would likely be a supervisory mechanism, involving reporting, communicating and processing potentially fraudulent activity across a complex international value-chain.

Support of industry stepping up when needed: As set out under this response's high-level principle 'support for industry-led solutions where needed', UK Finance generally encourages the industry taking the lead within instances of stretched regulators.

Connection to stablecoin backing asset requirements: As we outline in our response to question 19, critical information on the stability of stablecoin assets will likely need to be added to disclosure document submissions. As such, it's likely a cross-platform mechanism will play a role in helping to monitor information on stablecoin issuers' fiat-references. For example, the FCA is proposing exchanges (as one example) to use this platform to submit information when 'a CATP decides to offboard a user[36]'. Whilst our members acknowledge the platform will be used to report activities of market abuse and market manipulation from individual users, we would request the FCA to consider whether these challenges also exist in the stablecoin market. This could include critical information around the stability of a supporting stablecoins' backing assets, which would need the attention of the BoE under its (what will be) powers to manage the failure of a systemic stablecoin provider[37]. This further emphasises the importance of the regulators being closely involved within the development of this mechanism, given this work's significance to the BoE's wider objectives around financial stability and resilience[38].

[36] Paragraph 3.85.
[37] Under HM Treasury's proposals to amend the Financial Market Infrastructure Special Administration Regime (FMI SAR) in its 'Managing the failure of systemic digital settlement asset (including stablecoin) firms' consultation response from October 2023.
[38] Regarding risks around singleness of money, dissemination and runs.

As highlighted in paragraph 3.82, our members would be supportive of third-party solutions plugging into this mechanism to support the monitoring, analysis and detection of fraudulent activity. Whichever operating model is chosen, our members would welcome the opportunity to input into the design and implementation of relevant industry agreed API standards.

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.**

Please refer to question 46 in this response.

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

Please refer to question 46 in this response.

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

Our members note the varying types of cryptoasset tokens (utility tokens, security tokens, meme coins, etc) that currently exist in the market. We would welcome sight of the regulators' thinking (particularly regarding requirements to tackle market manipulation under the FCA's MARC) when it comes to how these different token types will fall under scope of the wider regulatory framework.

Our members encourage the FCA to embark on more detailed engagement with the industry as the sector moves closer to the Q4 2026 implementation date. This engagement should also involve industry and regulatory experts (within the FCA) on equivalent regimes in traditional securities. The industry notes the challenge for the FCA in pulling expertise from these two areas. In terms of format, this could be through relevant cross regulator-industry engagement sessions which input into the drafting of final Policy Statements expected in Q2 2026.

ENDS