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Regulating Cryptoasset Activities

Financial Conduct Authority

May 2025

Response from
The Payments Association

June 2025

Introduction

The Payments Association welcomes the opportunity to contribute to the FCA DP 25/1 “Regulating Cryptoasset Activities”.

The community’s response contained in this paper reflects views expressed by our members and industry experts recommended by them who have been interviewed and who are referenced below. As The Payment Association’s membership includes a wide range of companies from across the payments value chain, and diverse viewpoints across all job roles, this response cannot and does not claim to fully represent the views of all members.

We are grateful to the contributors to this response, which has been drafted by Riccardo Tordera, our Director of Policy & Government Relations and James Turner, Knowledge Counsel at Travers Smith. We would also like to express our thanks to the FCA for their continuing openness in these discussions. We hope it advances our collective efforts to ensure that the UK’s payments industry continues to be progressive, world-leading, and secure, and effective at serving the needs of everyone who pays and gets paid.

Tony Craddock
Director General
The Payments Association

Our members views:

Overview

The Payments Association is committed to supporting the development of a credible, proportionate, and forward-thinking regulatory regime for cryptoassets in the United Kingdom.

We endorse a proportionate disclosure framework for crypto lending, ensuring that yield-generation methods and attendant risks are clearly communicated to consumers. Stablecoins should receive regulatory exemptions where their low-volatility profile supports this distinction from speculative tokens – reinforcing clarity around asset categorisation.

Concerns arise regarding the proposed ban on using credit cards to purchase crypto. This suggestion seems to equate crypto purchases with gambling; instead, consumers should be empowered to make informed choices within predefined credit limits. The overall regime should mirror a similar approach to that applied for the usage of credit cards to purchase traditional financial products. Recognising that outright bans merely drive users offshore, we advocate for regulatory education over prohibition, positioning the UK as a safer, regulated crypto hub.

Nonetheless, our banking sector members point out that industry practices already place controls on credit card use for high-risk investments beyond crypto. They view preventing retail users from buying crypto with credit cards as not an arbitrary prohibition but consistent with how credit is managed for any high-volatility asset. While we acknowledge banks' concerns, we are also aware that many consumers encounter significant challenges when attempting to purchase crypto products using debit or current accounts, as numerous financial institutions increasingly restrict or block such transactions to counter fraud. This trend often leaves retail users with no alternative but to rely on credit cards if they wish to engage in crypto transactions. Implementing a blanket ban on credit card usage would effectively eliminate their only remaining option, thereby denying them access entirely.

We also emphasise the importance of staking as a mechanism to attract neobank deposits and suggest flexible DeFi guidance that reflects its evolving nature. Ultimately, striking a thoughtful balance between consumer protection and innovation is vital to secure both market safety and competitive advantage.

Our banking sector members advocate for a consistent regulatory approach where "same activity, same risk, same regulatory outcome" applies equally to both retail consumer access to stablecoins/cryptocurrencies and traditional investment products. The advent of tokenisation has introduced new avenues for investment. However, divergent regulatory treatments between traditional and tokenised assets could inadvertently create competitive imbalances.

In relation to payments, we have highlighted the following:

1. Cryptoasset Lending and Borrowing

We broadly agree with the FCA's articulation of the risks associated with cryptoasset lending and borrowing, as outlined in paragraph 4.8 of the Discussion Paper. We would highlight in particular the structural risk to consumers where cryptoasset firms may execute rights over customer assets unilaterally – such as enforcing a margin call using direct wallet access – without the consumer's explicit, contemporaneous consent. Such mechanisms may undermine transparency and heighten the risk of loss.

We offer the following observations in response to the proposed regulatory approach:

- **Use of Credit for Stablecoins:** We strongly support the recognition that qualifying stablecoins should not be subject to any proposed ban on credit-financed purchases. Qualifying stablecoins are not typically acquired for speculative purposes, and the FCA's rationale for potential prohibition (i.e., consumers relying on price appreciation to repay credit) is inapplicable. In many instances, consumers may reasonably use credit cards for stablecoin purchases for practical reasons – such as liquidity, rewards, or Section 75 consumer protections. Accordingly, any regulatory restrictions should be narrowly targeted to high-risk, unbacked cryptoassets and should not impair the lawful use of qualifying stablecoins.
- **Regulatory Proportionality:** We consider the proposals in paragraphs 4.12 to 4.24, focusing on enhanced disclosure and risk mitigation, to represent a more proportionate approach than outright prohibitions on retail access. Denying consumers access to well-structured crypto lending products risks stifling financial innovation and driving activity offshore, which would be counterproductive to the FCA's consumer protection mandate.
- **Consideration of the RMMI Regime:** We further suggest that the FCA explore the application of the Restricted Mass Market Investments (RMMI) regime as a regulatory tool for controlling access to higher-risk crypto lending and borrowing products. This could provide an intermediate solution that balances consumer protection with market access and would avoid unnecessarily blunt regulatory instruments.
- **Stablecoin Use Cases:** We strongly support differentiated treatment of qualifying stablecoins within these markets, in line with paragraph 4.28. The inherently lower volatility of qualifying stablecoins, coupled with their practical utility, justifies a more permissive regime than for unbacked cryptoassets.

2. Staking

We recognise the growing role of staking in digital finance and support the FCA's attention to its regulation. Two issues merit specific emphasis:

1. **Risk Alignment with Lending Models:** In many instances, the risks associated with staking mirror those in cryptoasset lending. As such, the regulatory response should mirror the principles of proportionality, disclosure, and risk segmentation discussed above.
2. **Custody Perimeter Clarity:** We note widespread industry concern that the current drafting of the statutory instrument may inadvertently capture cryptoasset lending and staking activities within the scope of the new Article 90 "custody" activity. The staking chapter of DP25/1 also reveals conceptual ambiguity concerning the boundary between staking and custody. This definitional boundary must be clarified in the forthcoming consultation paper to avoid significant legal uncertainty and compliance risk. Precision in this area is essential to avoid unintended consequences for service providers offering staking-related services.

3. Decentralised Finance (DeFi)

We agree with the FCA that regulatory guidance is needed on the application of the framework to the DeFi ecosystem, particularly given the wide spectrum of decentralisation models currently in operation. We offer the following views:

- **Guidance Structure:** We assume such guidance would be issued through the Perimeter Guidance Manual (PERG), and we support its inclusion in that framework. We interpret paragraph 7.4 of DP25/1, along with HM Treasury’s accompanying policy note, as a restatement of the existing legal position – that is, that regulatory obligations attach where a centralised operator is effectively carrying on regulated activities, regardless of DeFi branding.
- **Content of Guidance:** We strongly recommend that the guidance be technical, specific, and legally rigorous to be meaningful in practice. At the same time, it should avoid becoming a de facto roadmap for regulatory arbitrage. This tension underscores the need for careful drafting and industry consultation.
- **Supervisory Focus:** We further suggest that the FCA prioritise enforcement action against projects and entities that market themselves as DeFi while operating in substance as centralised financial service providers. Effective policing of the regulatory perimeter will be essential to maintaining market integrity and regulatory credibility.

4. Stablecoins

While not the central focus of DP25/1, stablecoins are referenced throughout the paper and are inherently linked to the use cases under discussion. We reiterate our strong support for a differentiated, risk-based regime for fiat-referenced stablecoins that reflects their relatively low volatility, clear redemption mechanisms, and their utility within payment and DeFi ecosystems.

Future regulatory treatment of stablecoins – including their classification for credit usage, prudential treatment on balance sheets, and segregation of backing assets – will have profound operational implications for firms. We therefore encourage the FCA to ensure alignment between its ongoing workstreams and forthcoming HM Treasury and Bank of England consultations, to avoid fragmentation or contradictory regulatory expectations.

About The Payments Association

The Payments Association is for payments institutions, big & small. We help our members navigate a complex regulatory environment and facilitate profitable business partnerships.

Our purpose is to empower the most influential community in payments, where the connections, collaboration and learning shape an industry that works for all.

We operate as an independent representative for the industry and its interests, and drive collaboration within the payments sector in order to bring about meaningful change and innovation. We work closely with industry stakeholders such as the Bank of England, the FCA, HM Treasury, the Payment Systems Regulator, Pay.UK, UK Finance and Innovate Finance.

Through our comprehensive programme of activities for members and with guidance from an independent Advisory Board of leading payments CEOs, we facilitate the connections and build the bridges that join the ecosystem together and make it stronger.

These activities include a programme of monthly digital and face-to-face events including our annual conference PAY360 and PAY360 Awards dinner, CEO round tables and training activities.

We run seven stakeholder working Project groups: Inclusion, Regulator, Financial Crime, Cross-Border, Digital Currencies, ESG and Open Banking. The volunteers within these groups represent the collective view of The Payments Association members at industry-critical moments and work together to drive innovation in these areas.

We also conduct exclusive industry research which is made available to our members through our Insights knowledge base. These include monthly whitepapers, insightful interviews and tips from the industry's most successful CEOs. We also undertake policy development and government relations activities aiming at informing and influencing important stakeholders to enable a prosperous, impactful and secure payments ecosystem.

See www.thepaymentsassociation.org for more information.

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