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Consultation Paper 25/42
prudential Regime for cryptoasset firms

Financial Conduct Authority
December 2025

Response from
The Payments Association
February 2026

Introduction

The Payments Association welcomes the opportunity to contribute to the FCA CP 25/42 “A prudential regime for cryptoasset firms”.

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-Ricchi, our Vice President, Policy & Government Relations, and Policy Advisor Robert Courtneidge with assistance from law firm and member 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.

Ben Agnew
CEO
The Payments Association

Our members views:

Overview

Whilst we genuinely support the FCA's objective of establishing a robust prudential framework for cryptoasset firms, most of our members consider the proposals to be overly rigid and insufficiently risk-sensitive. We argue that the framework relies primarily on own-funds requirements and does not adequately reflect differences in firms' residual risk profiles, particularly where firms make use of insurance and other risk mitigation tools. This contrasts with international approaches, notably under the EU's MiCA regime, which allow greater flexibility through the use of own funds, insurance (or comparable guarantees), or a combination of both.

The proposed "operational risk" K-factors for agency business adopt a largely volume-based, "one-size-fits-all" methodology. The trading book rules contain ambiguities around key definitions and classifications (such as the exact circumstances in a firm will be dealing as principal, and which exposures should qualify as trading book exposures) risk inconsistent application and increased compliance burden, especially for firms with mixed business models.

Significant concerns arise from the proposed categorisation of cryptoassets into Category A and Category B populations, and the impact on associated K-NCP and (where relevant) K-CCD capital charges. The volatility-based criteria which form part of this classification framework may produce inconsistent outcomes across trading venues, disproportionately impact smaller firms, and encourage asset delisting, reducing consumer choice and increasing the risk of regulatory arbitrage. Requirements for intraday monitoring to determining Category A or Category B eligibility further add to operational complexity.

Uncertainty also remains regarding the treatment of settlement periods under K-CCD, the interaction between concentration risk and other K-factors, and how firms should evidence compliance within the overall risk assessment. While the move toward an overall risk assessment is welcome, greater clarity is needed on how crypto-specific risks, capital requirements, and risk mitigation measures are expected to interact. Disclosure requirements should remain proportionate and aligned with international standards to avoid placing UK firms at a competitive disadvantage.

We would also take this opportunity to request clarification on how capital instruments currently issued by firms that are currently authorised as authorised payment institutions (APIs) or electronic money issuers (EMIs) will transition into the new regime. These firms must currently comply with the UK CRR framework to determine if their instruments are eligible to be classified as CET1, AT1 and/or T2 instruments. Under the FCA's current proposals, these firms would become subject to the COREPRU 3 framework if they are authorised to carry on cryptoasset regulated activities. When the FCA introduced the MIFIDPRU framework, capital instruments previously issued under the UK CRR framework were effectively grandfathered into the MIFIDPRU framework by virtue of their UK CRR permissions being deemed to be converted into the MIFIDPRU equivalent. Please could the FCA confirm whether an equivalent mechanism will be introduced under COREPRU for APIs and EMIs becoming authorised under the cryptoasset framework, or will the FCA carry out a substantive reassessment of their instruments as part of the application process for the new Part 4A FSMA cryptoasset permissions.

We also note that unlike for the introduction of the MIFIDPRU regime, the FCA is not proposing any temporary transitional relief for firms transitioning into the new COREPRU /

CRYPTOPRU regime. Firms may have existing cryptoasset businesses which will become subject to the new framework. To prevent disruption to existing business frameworks and to allow firms time to build up any necessary capital and liquid assets to comply with the new requirements, we would request that the FCA introduce equivalent multi-year "ramp-up" periods that are similar to those introduced under the MIFIDPRU transitional framework. This will encourage competition and development of UK cryptoasset markets by allowing existing businesses to continue to operate, while avoiding a concentrated rush of capital raising in advance of the October 2027 application date for the new regime.

Other firms, particularly our banking community, support the FCA's proposals and believe that the prudential requirements fall far short of requirements that sit upon deposit taking institutions. As the customer expectations of cryptoasset firms may evolve to be similar to that of deposit taking activities, this lighter touch regime could put customers at greater risk of loss. Cryptoasset firms should be robustly capitalised to avoid, for example:

- CATPs lacking sufficient capital to cover liabilities arising from retail customer losses due to errors within Qualified Cryptoasset Disclosure Document(QCDDs.)
- An inability to wind down operations effectively in cases of insolvency, risking disruption to customers.
- Insufficient capital to absorb appropriate fines imposed by the FCA or other regulators for misconduct; this is especially concerning given the heightened economic crime risks within the cryptoasset sector.
- Vulnerability to economic downturns, particularly for stablecoin issuers or in scenarios where confidence in cryptoassets diminishes.

As noted above (and in some cases, explained further below), our members have different views on the specifics of the prudential proposals, However, our members are united in recognising the need to ensure an effective and proportionate regimes that minimises customer risks, and wider risks to the reputation of the UK's financial industry, while ensuring capital requirements ensure appropriate competition between differently permissioned firms.

Response to questions:

Question 1: Do you agree with the proposed PMR for the various activities that cryptoasset firms will need to comply with?

We partially agree with the proposed PMR framework and acknowledge that the base capital amounts (e.g. £150k for cryptoasset trading platforms and £750k for principal dealers) are clearly defined and broadly consistent with existing prudential structures. However, the proposed approach is rigid and does not adequately reflect differences in firms' risk mitigation strategies.

Under the EU's MiCA framework, firms may satisfy prudential requirements through own funds, an insurance policy, or a hybrid of both. Similar flexibility also exists in other regulatory regimes such as Bermuda's Digital Asset Business Act (DABA). By contrast, the FCA's proposal relies solely on own funds.

Recommendation:
The FCA should permit firms to reduce their PMR by up to 50% where they maintain a Qualifying Insurance Policy or a comparable guarantee covering key risks such as professional indemnity, fraud, and cyber-theft. This would improve proportionality, align the UK regime more closely with MiCA, and better reflect firms' actual residual risk profiles.

Our banking community members believe that, given the proposed approach is consistent with existing prudential structures, the FCA should consider the need for a level playing field between differently authorised firms and therefore recommend no change is made.

Question 2: Do you have any views on the operational risk K-factors we are proposing for cryptoasset firms?

The proposed operational risk K-factors focus primarily on the volume of assets and activity. This “one-size-fits-all” approach does not sufficiently recognise the quality of firms’ risk management or mitigation measures. Experience under IFPR in traditional finance shows that ambiguity in definitions (e.g. “dealing as principal” and “trading book exposures”) leads to inconsistent application and supervisory friction.

A firm that holds comprehensive insurance coverage for digital assets (such as “specie” insurance for cold storage) has a materially lower residual operational risk profile than an uninsured firm, yet this distinction is not reflected in the K-factor methodology.
We also consider that there may be some drafting errors or ambiguities in the proposed text and would request that the FCA review these before finalising the rules. These include:

- The narrative text in paragraph 3.17 of the CP indicates that orders handled by a firm in its capacity as the operator of a qualifying cryptoasset trading platform should be included in K-CCO. However, it is unclear from the drafting of CRYPTOPRU 4.7 how such orders are caught within the calculation, since they would appear to represent neither the reception and transmission of orders (since they involve matching different orders, not transmitting an order received) or the execution of orders on behalf of clients.
- CRYPTOPRU 4.7.2G and the proposed Glossary definition of "client cryptoasset orders" refer to orders being caught where they result from either reception and transmission of cryptoasset orders, or execution of orders on behalf of clients. It is not entirely clear what "reception and transmission" means in the context of cryptoassets, as this is generally considered to be a MiFID concept (and even in that context, there has been some uncertainty about the scope of the activity). We would request that the FCA provide further guidance on how "reception and transmission" should be interpreted in this context.
- CRYPTOPRU 4.7.9R(2) refers to excluding the daily values for the most recent "6 months", which should presumably be "3 months" for consistency with the calculations for the other K-factor metrics, and to ensure that there is 6 months' remaining data for the purposes of 4.7.9R(3).
- We also note that the Glossary definition of "execution of client orders" does not appear to be being updated to align with the intended scope of the CCO in order to capture cryptoassets. As currently defined in the Glossary, "execution of client orders" broadly means acting to conclude agreements to buy or sell one or more financial instruments. The concept of financial instruments would include only MiFID financial instruments and not qualifying cryptoassets, as appears to be the policy intention.

Recommendation:
The FCA should:

- Provide clearer guidance and worked examples on key definitions (particularly “dealing as principal” and “trading book exposures”),
- Review and, if necessary, correct the drafting errors or ambiguities in the rules noted above, and

- Introduce a “Risk Mitigation Factor” within the K-factor framework, allowing capital charges to be discounted where firms hold insurance from an A-rated carrier (or a comparable guarantee) covering at least 100% of the relevant K-factor exposure.

Question 3: Do you have any views on our proposals for positions in the trading book, including the definition, management and additional value adjustments?

Respondents noted the risk of confusion between trading book and non-trading book positions, particularly for firms operating mixed business models combining agency, platform, and principal trading activities. This mirrors difficulties already observed under IFPR.

In addition, the proposals do not clearly address whether risk mitigation tools beyond traditional capital buffers can be recognised.

We would also appreciate clarification from the FCA on the precise scope of application of the K-NCP and K-CCD rules. In both cases, the draft rules refer to firms entering into a trading book transaction involving a qualifying cryptoasset. The definition of "trading book" references to positions held with trading intention, or positions used to hedge positions held with trading intent. "Positions held with trading intent" is an existing defined term in the Glossary, which includes both proprietary positions and positions arising from client servicing and market making.

We note that a firm could potentially end up with a balance sheet position in a qualifying cryptoasset without carrying on the Article 9T RAO dealing as principal activity. This could be the case where, for example, the firm is able to rely on the Article 9U RAO 'absence of holding out' exemption in relation to the transaction. In the equivalent MIFIDPRU regime for 'traditional' securities dealing, a firm must be authorised to deal on own account to be subject to the equivalent K-NPR and K-TCD rules. In our view, the same approach should be adopted under CRYPTOPRU, so that the rules make clear that a firm must be authorised to carry on the Article 9T dealing as principal activity in order for K-NCP and K-CCD to be applicable to the firm. This would be a proportionate approach which would be consistent with MIFIDPRU and would prevent a firm potentially becoming subject to K-NCP or K-CCD as a result of minor incident balance sheet positions in qualifying cryptoassets which are acquired in circumstances where the firm is exempt from the dealing as principal activity.

Recommendation:
The FCA should:

- Update the draft K-NCP and K-CCD rules to clarify that those sections of CRYPTOPRU apply only to a firm that is authorised to deal as principal in qualifying cryptoassets under Article 9T RAO, and
- Provide clearer definitions and supervisory guidance for trading book classification and clarify whether credit risk mitigation techniques, including insurance-based hedging instruments, may be recognised in reducing trading book exposures.

Question 4: Do you have any views on the categorisation of cryptoassets, particularly on the conditions attached to a cryptoasset being included in category A? Do you agree with the proposed capital charges for each category under our net cryptoasset position (K-NCP) proposals?

Significant concerns were raised regarding the Category A and Category B framework. The criteria for Category A (including volatility thresholds, liquidity measures, and exchange-based metrics) are operationally burdensome and risk producing inconsistent outcomes across firms and venues.

The 40% (Category A) and 100% (Category B) risk weightings were viewed as extremely punitive, particularly given that:

- A single day of volatility could reclassify an asset for a prolonged period,
- Smaller exchanges may be disproportionately penalised due to thinner liquidity, and
- Intraday monitoring requirements are impractical for many firms.

There is a real risk that firms will delist or avoid certain assets altogether, reducing consumer choice and encouraging regulatory arbitrage.

Given that some of the requirements (such as Condition 6, relating to price range and trading volume) look at intraday metrics, this may impose onerous monitoring obligations on firms. It is also unclear how some of these criteria apply where a cryptoasset is traded on multiple exchanges and there are differences in relation to trading volumes and/or daily prices in relation to those different exchanges. For example, it is unclear from the rules whether a firm should (or can) pick a "primary exchange" for these purposes, or whether it has to synthesise information from multiple exchanges to form an overall judgement.

We would also appreciate clarity from the FCA on how some of the proposed criteria for classification of an asset as a Category A cryptoasset are intended to work in practice. For example:

- ***Operational history:*** CRYPTOPRU 4.9.23R requires that a cryptoasset must demonstrate a "stable operational history". Under CRYPTOPRU 4.9.24G, a firm is directed to consider the track record of the asset, any operational incidents involving the asset (such as a hacking of the ledger) and the governance framework of the cryptoasset. However, it is unclear how much weight a firm must give to these different elements or how a firm would be able to obtain some of this information in relation to a cryptoasset. It is likely to be impractical to expect firms to do detailed ongoing due diligence on all relevant cryptoasset issuers, for example. It is also unclear whether this simply is left to the judgement of individual firms, in which case the same cryptoasset might be treated as a Category A cryptoasset by some firms a Category B cryptoasset by another firm.
- ***Active and sizeable market:*** CRYPTOPRU 4.9.26R requires a Category A cryptoasset to have an "active and sizeable market", with CRYPTOPRU 4.9.27E stating that demonstration of a tight daily bid-ask spread over the last 12 months and significant daily trading volume relative to the amount of the cryptoasset in issuance will generally be taken as evidence of this. However, it is unclear what terms like "tight" and "significant" mean in practice, and they introduce inherent subjectivity.
- ***Reliable data requirement:*** CRYPTOPRU 4.9.33R states that a firm must use reliable data to inform its assessment of whether a cryptoasset meets the Category A cryptoasset criteria. CRYPTOPRU 4.9.34G(1) states that the FCA generally expects a firm to use data published by a UK qualifying cryptoasset trading platform (QCATP) for these purposes. However, it is not clear that a QCATP would necessarily publish all of the required data – for example, information on the governance framework and operational incidents of a cryptoasset issuer.

Given the uncertainties and subjectivity in many of the Category A criteria, it would be helpful if the FCA can provide more standardised, objective criteria or can define broader categories of sub-types of cryptoassets which benefit from Category A treatment. If the FCA maintains the existing criteria, which in many cases involve the exercise of substantial judgement by firms, it will be important that firms are protected from "hindsight" decisions by the FCA when the firm has made a reasonable and good faith attempt to apply the criteria,

even if the FCA's reaches a different supervisory judgement. Given the potential for a significant change in capital requirements if an asset is recategorised from Category A to Category B, a lack of certainty in this area may disincentivise principal trading by firms, harming liquidity, competition and the development of vibrant cryptoasset markets in the UK.

Our banking members noted the FCA's proposed alignment with Basel requirements first published in 2022.[1] While the alignment of the FCA to this policy, and the creation of a regulatory level playing field between firms of different authorisations, is supported, there is a risk that the FCA front-runs any prudential requirements which may need to be altered following any final implementation of BIS requirements.

Recommendation:
The FCA should consider a more standardised or prescriptive approach to classification (e.g. regulator-defined presumptive categories) and clarify whether credit risk mitigation (CRM) techniques — including credit default insurance or other insurance-linked hedging arrangements — can be used to reduce K-NCP capital charges.

Question 5: Do you have views on our framework for calculating cryptoasset counterparty default requirements (K-CCD)? Are there any transactions that you think would give rise to counterparty credit risk but are not covered by our proposed rules?

The proposed framework relies on the concept of a "standard settlement period", which is well-established in traditional securities markets but far less clearly defined in crypto markets, where settlement conventions vary widely by product and venue. This creates uncertainty as to which transactions fall within scope of K-CCD.

In addition, our interpretation of the calculation in CRYPTOPRU 4.10.5R, read together with CRYPTOPRU 4.10.7R and 4.10.8R, is that if a firm receives a Category B cryptoasset as collateral for a non-spot cryptoasset transaction, that collateral has zero effect on reducing the exposure value under K-CCD. This is because a Category B asset has a 100% volatility adjustment and under CRYPTOPRU 4.10.7R, the value of C must therefore be decreased by 100%. Given the (in our view, overly) strict criteria for recognising assets as Category A cryptoassets, in many cases, a counterparty which wishes to offer cryptoassets as collateral may only have Category B cryptoassets. In such a case, a firm subject to CRYPTOPRU is disincentivised (from a regulatory perspective, at least) from taking such assets as collateral, on the basis that such collateral does nothing to reduce the firm's resulting K-CCD requirement. It appears anomalous that an uncollateralised transaction and a transaction collateralised with Category B cryptoassets would effectively receive the same treatment under K-CCD.

We also note the FCA's commentary in paragraph 3.60 of CP25/42 that the FCA expects that the only recourse a firm will have in relation to retail clients will be to the collateral it has received from the retail client. If a retail client has only Category B cryptoassets, no matter how much collateral the firm takes, this will have no impact on the K-CCD calculation. In practice, this may significantly reduce firms' willingness to transact with such clients outside of spot transactions, reducing competition, consumer choice and market liquidity.

We therefore suggest that the blanket use of a 100% volatility adjustment for Category B cryptoassets is excessively punitive and may have unintended side effects for market development and liquidity. As noted above, this can be partly addressed through amending the criteria for categorising an asset as a Category A cryptoasset, but we would recommend

[1] https://www.bis.org/bcbs/publ/d545.pdf

that the FCA should also consider a more risk-sensitive and graduated volatility adjustment for Category B cryptoassets depending on their features.

In addition, certain crypto derivatives and forward-style products already embed counterparty risk via margining and replacement cost exposure, but the interaction with K-CCD remains unclear.

Recommendation:
The FCA should:

- Clarify how settlement periods should be defined for crypto markets and explicitly recognise insurance-based risk transfer mechanisms,
- Create a more risk sensitive and graduated approach to defining the volatility adjustment for Category B cryptoassets (in conjunction with reconsidering the criteria for classification of a cryptoasset as a Category A cryptoasset), and
- Exclude transactions covered by first-loss insurance or equivalent bank guarantees from K-CCD calculations to avoid double-counting of risk.

Question 6: Do you have any views on the proposed framework for calculating concentration risk requirements (K-CON)?

While no specific technical objections were raised, respondents noted that the interaction of K-CON with K-NCP and other K-factors could lead to disproportionate capital burdens, particularly for smaller or less diversified firms.

The framework also does not reflect the potential mitigating effect of insurance arrangements that transfer concentration risk away from the firm's balance sheet.

Recommendation:
The FCA should clarify how K-CON interacts with other K-factors and permit the exclusion of exposures covered by qualifying trade credit insurance or comparable guarantees from concentration risk calculations.

Question 7: Are our expectations of firms regarding the overall risk assessment sufficiently clear? If not, which areas could benefit from further clarification?

The move toward an "overall risk assessment" is welcomed. However, greater clarity is needed on:

- The interaction between K-factors and additional own funds requirements,
- How crypto-specific risks should be reflected in internal capital assessments, and
- How firms should evidence compliance with Category A criteria.

We support the FCA's proposed approach to the treatment of groups under the overall risk assessment and agree that this is strongly preferable to introducing a complex set of prudential consolidation provisions, which we consider would be disproportionate in this context.

Recommendation:
The FCA should:

- Explicitly require firms to assess the adequacy of insurance coverage as part of their overall risk assessment and provide worked examples illustrating how firms can demonstrate financial resilience using a combination of own funds and insurance.
- Provide additional guidance in CRYPTOPRU 7 about how the proportionality principle should apply in practice to ensure that the overall risk assessment does not

impose disproportionately complex or onerous requirements on smaller firms or firms with less complex, predominantly agency business models.

Question 8: Do you have any views on our proposals for the public disclosure of prudential information, in particular on group arrangements and for firms that undertake dealing in cryptoassets?

Disclosure requirements should be proportionate and aligned with international standards, particularly MiCA, to avoid placing UK firms at a competitive disadvantage. Care should also be taken to avoid forcing disclosure of commercially sensitive information.

Recommendation:
The FCA should introduce a defined template for a Qualifying Insurance Policy (similar to MiCA's requirements, such as minimum perils covered and 90-day cancellation notice periods). This would provide firms with a clear and standardised method of evidencing financial resilience and support consistent public disclosures across the sector.

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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