

The BBA CLG Ltd, Kemp House 124 City Road London, EC1V 2NX, UK

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Financial Conduct Authority **Crypto Policy Payments & Digital Assets Division** 12 Endeavour Square London, E20 1JN

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The British Blockchain Association's Response To FCA's Discussion Paper: DP25/1 - Regulating Cryptoasset activities

On behalf of The British Blockchain Association (BBA), I am pleased to submit our formal response to the FCA's Discussion *Paper DP25/1, Regulating Cryptoasset Activities*. As one of the world's leading authorities on evidence-based blockchain and crypto policy, research, and education, BBA commends the FCA's commitment to engaging meaningfully with the industry, to shape a future-fit regulatory framework.

Established in 2017, The BBA is one of the world's oldest and most respected blockchain industry associations. We have contributed to several FCA consultations over the years, including our participation in the UK's first *HM Treasury's Cryptoasset Taskforce (April 2018)* in collaboration with the FCA and Bank of England. We continue to advocate for a regulatory approach that is proportionate, innovation-driven, and globally competitive, underpinned by robust scientific evidence designed to safeguard consumers while positioning the UK as a centre of excellence for blockchain and digital assets.

Our submission provides a detailed response to the questions set out in <u>Annex 3</u> of the FCA DP25/1 discussion paper. Our feedback is based upon empirical and industry evidence, global regulatory comparisons, and the experiences of builders and innovators across the UK's crypto ecosystem. While we welcome the FCA's focus on consumer protection, operational resilience, and market integrity, we have also highlighted several areas where greater clarity, proportionality,



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and flexibility will be essential, particularly regarding decentralised finance, staking, cross-border compliance, governance of crypto exchanges and trading platforms, and the classification of emerging tokenomics landscape. We welcome the FCA's open and consultative approach to this important policy process and looking forward to continued dialogue to help inform effective, evidence-based regulation for the UK's digital economy.

Yours faithfully,

Professor Dr Naseem Naqvi MBE

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About the British Blockchain Association:

Established in 2017, The British Blockchain Association (The BBA) is the world's leading industry body advancing evidence-based adoption of Blockchain, Cryptoassets and Distributed Ledger Technologies (DLT). The BBA has advisors, ambassadors, members, partners, and editorial board network in 78 countries across six continents. In 2021, BBA authored the UK's National Blockchain Roadmap. BBA is home to the world's first peer-reviewed blockchain research journal The JBBA - Journal of The British Blockchain Association; The world's first Centre for Evidence-Based Blockchain (CEBB); the world's first trans-national collaboration consortium of 53 countries - BAF - The Blockchain Associations Forum, as well as BBA Fellowships (FBBA), Blockchain International Scientific Conferences (ISCs), Scholars in Blockchain International Symposium (SIBIS) and a host of other world-class blockchain initiatives. BBA also has its headquarters in the Metaverse. BBA president was awarded the UK's most prestigious National Honour (King's Honour) for services to Blockchain, in New Year's Honours 2023. The BBA is also the Secretariat of the UK's All-Party Parliamentary Group on Blockchain Technologies.



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Chapter 2 – Cryptoasset Trading Platforms

Question 1: What are the operational and practical challenges of applying the suggested trading, market abuse, and other requirements to authorised overseas firms operating branches in the UK? Are there alternative approaches that could equally mitigate the risks?

Over the years, BBA has published several high-impact industry research papers analysing Cryptoasset trading platforms, and how they should be effectively governed. (*S Correa, "Crypto Governance: Analysing and Comparing Platforms for Crypto Assets Trading", https://doi.org/10.31585/jbba-3-1-(4)2020*)



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Crypto Governance: Analysing and Comparing Crypto Assets Trading Platforms Sabino Correa

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Correspondence: scorrea.sln2019@london.edu Received: 30 October 2019 Accepted: 24 January 2020 Published: 18 February 2020

Abstract

The annualised volume of Crypto Exchange markets reaches the trillion dollars threshold. Due to the dispersed and decentralised

The BBA supports the FCA's objective of applying robust trading, market abuse, and consumer protection requirements to authorised overseas firms with UK branches, especially where those firms offer access to UK retail clients. However, there are several operational, legal, and enforcement challenges associated with applying the full domestic regime to overseas entities, which require thoughtful and proportionate mitigation strategies. The authorisation of overseas firms operating cryptoasset trading platforms (CATPs) via UK branches is likely to promote greater transparency and enhance consumer confidence in the assets offered to retail investors in the UK. However, the authorisation process and the assessment of applications must be carefully managed. It remains unclear what the outcome will be if, following assessment, the FCA concludes that an adequate level of supervisory cooperation with the firm's home-state regulator cannot be achieved, particularly in cases where the regulation of cryptocurrency and CATPs in the home jurisdiction is underdeveloped or non-existent. Based on the current wording, it appears that such applications may be denied authorisation, which could significantly restrict access to the UK market for firms from a variety of jurisdictions.

1. Key Operational and Practical Challenges



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a. Jurisdictional Fragmentation

Overseas firms often operate across multiple legal and regulatory frameworks. Applying UKspecific market abuse and conduct rules to a branch rather than a UK legal entity creates enforceability and jurisdictional ambiguity, especially in cross-border enforcement, insolvency, or investigation contexts.

b. Data Access and Surveillance Limitations

The ability of the FCA to access real-time transaction data, communications, and audit trails may be hindered if infrastructure, servers, or key personnel are located outside the UK. This weakens the ability to detect or prosecute market abuse or manipulation.

c. Lack of Equivalence or Supervisory Cooperation

Some overseas jurisdictions do not yet have equivalent rules to those proposed by the FCA (e.g. on market abuse, best execution, or retail protections). Without clear and binding MoUs or cooperation agreements, it is difficult to ensure consistency in enforcement or compliance.

d. Cost and Duplication for Firms

Applying an entire UK rulebook on top of home-country regulations creates costly compliance duplication, particularly for smaller firms. Some may exit the UK market, reducing innovation or competition.

e. Inconsistent Customer Protections

Without structural reforms, UK retail clients may still face lower protections from firms using a UK branch structure compared to fully UK-incorporated firms.

f. Regulatory Divergence & Dual Reporting

Overseas firms must reconcile their home-jurisdiction requirements with the FCA's UK rulebook, creating duplicate or conflicting reporting (e.g. transaction reporting under MiFIR vs. UK QRadar formats).

g. Technology & Data Integration

Many non-UK platforms lack real-time connectivity into FCA systems (e.g. Market Watch, TRADE et al.), requiring costly IT remapping or bespoke APIs to feed UK trade-surveillance and marketabuse alerts.

h. Time-zone & Operational Staffing

Market-abuse surveillance demands around-the-clock monitoring. Branches operating in Asia or the Americas incur significant expense to staff UK-hours shifts or rely on home-office teams unfamiliar with UK legal thresholds.

i. Governance & Escalation

Escalation protocols for suspicious transactions often default back to head-office, delaying UK-specific remediation. Establishing local escalation chains can conflict with group-wide policies.

j. Legal Entity Distinction



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Firms may struggle to carve out UK-branch exposures from global positions for capital and clientmoney segregation, complicating intra-group netting and collateral calculations.

Impact of these challenges and recommended Alternative or Complementary Approaches

Increased Compliance Cost

Parallel systems and staffing add 5%–10% to operating expenses, discouraging some firms from maintaining a full UK branch.

Supervisory Fragmentation

The FCA may receive incomplete data, limiting its ability to detect UK-market abuses and undermining market integrity.

Competitive Disadvantage

UK branches of overseas firms can become second-class to their home-domiciled entities, leading to reduced liquidity and choice for UK end-users.

Alternative Approaches:

Equivalence & Third-Country Regime

Build on the existing UK "third-country" framework by granting equivalence to jurisdictions whose regimes deliver outcomes comparable to the UK's. This would allow consolidated reporting via a single template agreed between regulators, with targeted UK addenda only for material UK activity.

Co-supervision MoUs

Negotiate memoranda of understanding with key overseas regulators (e.g. SEC, MAS, FINMA) to share trade-surveillance feeds and align breach-notification protocols, reducing data-integration burdens.

Tiered Permissions

Introduce a "limited branch" category for firms below a defined UK-turnover threshold, offering a lighter touch (e.g. waived continuous real-time reporting in exchange for periodic summaries).

Outcome-Based Carve-Outs

Permit branches to use home-office systems if they can demonstrate (via periodic testing) that their surveillance, reporting, and escalation achieve the same outcomes as UK systems—allowing technology neutrality.

Proportional Regulatory Tiering

Apply risk-based proportionality:

- Full UK compliance for firms actively soliciting UK retail clients.
- Lighter regime or interim compliance path for firms with limited or institutional-only UK access.

Enhanced MoUs and Equivalence Assessments

- Prioritise FCA regulatory cooperation agreements with home jurisdictions of large overseas firms.



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- Firms from equivalent jurisdictions could benefit from streamlined compliance, provided they meet core FCA principles.

Data Localisation or Access Commitments

- Require overseas branches to replicate or route UK client data to FCA-accessible servers or ensure real-time API-based data access for monitoring and audit.

Mandate a UK Point of Accountability

- Require firms to appoint a UK-based compliance officer or "responsible person" accountable to the FCA, even in branch models, to ensure accountability and responsiveness.

Interim Regulatory Sandboxes

- Create a sandbox path for overseas branches to test compliance with UK requirements under FCA observation before full authorisation or structural realignment.

International Precedents and Lessons

- MiFID II and EMIR provide frameworks for third-country firms that operate under equivalence or local supervisory conditions.

- FINMA and BaFin apply similar conditional access models for foreign entities offering services to their citizens—requiring information parity and redress as minimum standards.

Question 2: What are the challenges and limitations of requiring the establishment of an affiliated legal entity for retail access to trading services by an overseas firm with a UK branch?

One of the practical challenges lies in the complexity of the application process and associated processing times. It remains uncertain whether the FCA will have sufficient resources to review applications in a timely manner and ensure that the overall process is not so burdensome as to discourage overseas firms from applying in the first place. Requiring overseas firms with a UK branch to establish an affiliated legal entity as a condition for offering retail trading access brings notable regulatory, operational, and prudential benefits, but it also introduces practical challenges and legal complexities, particularly for innovative or resource-constrained market participants.

While the objective of enhanced supervision, clearer accountability, and localised consumer protections is sound, this requirement must be implemented proportionately, with defined thresholds, exemptions, and transitional support to avoid creating unintended barriers to market entry and innovation.

1. Benefits of Requiring a UK-Affiliated Legal Entity

- Enables direct FCA oversight and enforcement powers.

- Ensures full compliance with UK regulatory perimeter.
- Facilitates ring-fencing of UK retail client funds and transaction records.

- Improves consumer recourse mechanisms, including access to UK-based dispute resolution schemes.

- Reduces jurisdictional ambiguity in cases of insolvency, fraud, or cross-border legal conflicts.



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2. Key Challenges and Limitations

a. High Entry Costs and Complexity

Creating a UK-based legal entity imposes substantial legal, operational, and financial burdens, including:

- Incorporation and registration fees
- Office setup and staffing
- Regulatory compliance infrastructure

- FCA authorisation timeline (often 6–12 months) - This may deter smaller or innovative firms from entering the UK market, potentially reducing competition and consumer choice.

b. Fragmentation of Operations

Overseas firms with multi-jurisdictional platforms may face duplicative systems and fragmented order books, leading to:

- Increased operational risk
- Reduced liquidity
- Inconsistent user experiences

c. Regulatory Arbitrage by Larger Entities

Larger firms may absorb the cost while structuring around the rules through complex legal layering, while smaller firms are disproportionately affected. Without effective substance requirements, shell entities could be established that lack real operational accountability.

d. Legal Conflicts in Insolvency or Enforcement

In cases where assets, users, or infrastructure remain offshore, enforcing UK rules may still require cross-border cooperation, even if a UK entity exists.

3. Recommendations for Proportional Implementation

To strike the right balance, we recommend that the FCA:

a. Apply a Threshold-Based Requirement

Only require an affiliated UK legal entity for firms that:

- Exceed a certain volume or user base of UK retail clients.
- Engage in custody, staking, or lending services.
- Actively market to UK consumers.

b. Introduce Transitional Periods

Provide a 12–18-month grace period for compliant overseas firms to establish a UK entity while maintaining operational continuity under strict interim conditions.

c. Permit Alternatives for Low-Risk Use Cases

For example, firms offering view-only access, non-custodial services, or DeFi frontends could comply via:



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- Representative agent model
- FCA-recognised foreign legal structure + cooperation MoU

d. Mandate Operational Substance

UK entities should not be shell companies. They must meet minimum operational requirements, such as:

- Local staff and directors
- UK audit and reporting obligations
- Access to customer data and complaint resolution

Question 3: What conditions should apply to the direct access of trading services of an overseas CATP with a UK branch?

The FCA must ensure that overseas CATPs operating UK branches are fully aligned with domestic regulatory objectives, particularly in protecting retail consumers. By requiring equivalence, localisation, and operational transparency, the FCA can prevent jurisdictional loopholes while fostering a safe, open, and globally integrated digital asset market for the UK. The direct access of trading services offered by an overseas Cryptoasset Trading Platform (CATP) operating via a UK branch must be subject to stringent, clearly defined conditions to safeguard UK consumers, ensure regulatory consistency, and mitigate systemic risks arising from jurisdictional arbitrage.

Overall, the proposed home/host approach appears promising, as does the list of suggested requirements and obligations for both home and host regulators. Additional conditions could include ongoing reporting and monitoring following authorisation; transparency in ownership

structures and any subsequent changes; and mandatory cybersecurity assessments and safeguarding mechanisms to protect retail customers. We recommend a principles-based framework, backed by operational requirements, which ensures that any overseas CATP with a

UK branch meets the FCA's full regulatory expectations, offers equivalent consumer protection, and is subject to effective supervisory oversight.

1. Core Conditions for Direct Retail Access via UK Branches

a. Full FCA Authorisation and Ongoing Supervision

An overseas CATP must be authorised by the FCA, not merely registered. It must comply with the same standards as UK-domiciled CATPs, including rules on:

- Governance and control functions
- Risk management
- Market abuse and transparency
- Retail client protections

b. Equivalence of Home Jurisdiction Regulatory Framework



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The overseas CATP's home regulator must operate an equivalent or higher standard of oversight (e.g. enforcement powers, AML/CTF compliance, conduct rules).

In the absence of equivalence, stricter UK onshore compliance should apply to the UK-facing operations.

c. Operational Segregation of UK-Facing Business

The UK branch must be operationally distinct with:

- A dedicated UK management team
- Localised customer support, complaints resolution, and incident response
- Segregated custody and transaction record-keeping for UK clients

d. Data Localization and Access

Trade data, customer records, and compliance logs related to UK customers must be stored within the UK or accessible in real-time to the FCA. Platforms must commit to full audit cooperation with the FCA, including real-time access to order books and system logs.

2. Additional Safeguards to Protect UK Consumers

a. English-Language Risk Disclosures and Contracts

All customer interfaces, terms and conditions, and risk disclosures must be presented in plain English, approved by UK legal counsel, and aligned with FCA's consumer duty obligations.

b. Complaint Handling and Redress Mechanism in the UK

Firms must provide UK consumers with:

- A clear complaints procedure based in the UK
- Access to an FCA-recognised redress mechanism (e.g. ombudsman, arbitration service)

c. Client Asset Safeguarding

Overseas CATPs with a UK branch must comply with UK client asset safeguarding rules, including:

- Segregation of client cryptoassets
- Daily reconciliation
- Bankruptcy remoteness of customer holdings

3. Mitigating the Risk of Regulatory Arbitrage

The FCA should prohibit firms from "passporting" retail access into the UK through nominal branches while conducting most activities offshore. To prevent forum shopping, the FCA could introduce minimum substance requirements, including:

- Local board presence
- Staff thresholds
- UK audit and compliance functions

4. Coordination with International Regulators

The FCA should establish memoranda of understanding (MoUs) with regulators in key jurisdictions (e.g. MAS, CFTC, BaFin) to:

- Share supervisory intelligence on overseas CATPs



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- Coordinate on cross-border enforcement actions
- Ensure effective incident response and consumer redress

Question 4: What, if any, additional responsibilities should we consider for CATPs, to address the risks from direct retail access?

In section 2.24, the proposal to authorise all retail customers on the platform is presented as a potential solution, acknowledging the risk of diminishing the attractiveness of direct access to the crypto market. However, it is not clear how this will apply to decentralised exchanges (Yousaf et al., 2023), and further clarification would be beneficial. In addition, CATPs could offer guarantees to consumers in cases of fraud, cyberattacks, or data breaches. This may include reasonable compensation and a clearly defined duty of care to retail users.

Direct retail access to Cryptoasset Trading Platforms (CATPs) introduces a heightened level of consumer risk, especially in an asset class known for volatility, complexity, and limited recourse protections. We strongly support the FCA's objective to ensure CATPs assume a proactive duty of care and go beyond passive facilitation of trades.

To achieve this, CATPs should be held to additional, clearly defined responsibilities, tailored to mitigate the risks of information asymmetry, inadequate risk comprehension, and technological exploitation by sophisticated actors.

1. Recommended Additional Responsibilities for CATPs

a. Enhanced Suitability and Risk Profiling Mechanisms

CATPs should implement dynamic risk profiling tools that assess a retail user's financial literacy, investment experience, and risk tolerance before enabling certain activities (e.g., margin trading, high-risk token exposure). These tools should adapt based on user behaviour and portfolio volatility.

b. Retail-Facing Token Risk Ratings

Platforms should provide standardised risk scores or classifications for each listed token (e.g. volatility index, liquidity score, regulatory status) to help non-expert users make informed decisions.

c. Default Protections for New Users

First-time retail users should be automatically placed in a 'beginner tier', restricting access to higher-risk products until certain knowledge thresholds or behavioural indicators are met (e.g. number of completed trades, educational modules completed).

d. Mandatory Educational Disclosures

Prior to engaging in specific activities (e.g. staking, lending, derivatives), CATPs should require retail users to complete short, FCA-approved learning modules with embedded quizzes to ensure baseline understanding of the risks involved.



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e. Cooling-Off Periods for High-Risk Activity

Introduce cooling-off windows (e.g. 24 to 48 hours) for risk-intensive decisions such as leverage activation, large asset conversions, or participation in newly listed tokens, reducing impulsive or FOMO-driven trading.

f. Real-Time Loss Notifications and Safety Alerts

CATPs should notify users of portfolio losses breaching specific thresholds (e.g. 20%, 50%) and trigger educational prompts or suggest a pause in trading.

2. Enhanced Duty of Care and Conflict Management

a. Platform Neutrality

CATPs must not promote specific tokens or investment strategies to retail users without clear, prominent disclaimers outlining potential conflicts of interest and associated risks.

b. Ban on Gamified Interfaces

The use of gamification mechanics such as confetti animations, streaks, or reward wheels should be restricted in retail-facing interfaces, as these features trivialise financial risk and encourage addictive behaviour.

3. Ongoing Monitoring and Intervention

Platforms should develop behavioural analytics models to identify signs of excessive trading, compulsive losses, or activity inconsistent with a user's risk profile, and implement intervention mechanisms (e.g. pop-up warnings, voluntary time-outs). CATPs must report anonymised behavioural risk patterns to the FCA for regulatory learning and market risk assessments.

The responsibilities of CATPs in a direct-to-retail environment must reflect the unique behavioural, informational, and systemic risks that cryptoassets present. By introducing tailored protections such as spanning education, product gating, real-time monitoring, and interface design, the FCA can ensure that retail access to CATPs is empowering, not exploitative. A forward-looking framework must balance innovation with protection, especially for those least equipped to navigate complex, high-risk markets.

Question 5: How can CATPs manage the risks from algorithmic and automated trading strategies?

Algorithmic and automated trading strategies play a significant role in cryptoasset markets, contributing to liquidity and market efficiency. However, when left unchecked, they can introduce substantial operational, systemic, and conduct risks including market manipulation, flash crashes, and unfair access to pricing advantages.

In addition to the suggested approach, CATPs could consider implementing a flagging system that allows community members to report suspicious activities for further investigation. While this may



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not directly minimise the risk of collusion, it could assist authorities in identifying and investigating potential cases, particularly where illicit activity, such as artificially inflating trading volumes or market manipulation, may have gone unaddressed by the platform. Such reports could also be included in periodic disclosures as part of broader transparency and accountability requirements.

We recommend that Cryptoasset Trading Platforms (CATPs) be required to implement a robust risk management framework, drawing from best practices in traditional financial markets (e.g., MiFID II, ESMA guidance), but adapted to the technological and structural specificities of digital asset platforms.

1. Key Risks from Algorithmic and Automated Trading

- Market manipulation (e.g., spoofing, layering, quote stuffing).
- Flash crashes caused by malfunctioning or misconfigured algorithms.
- Latency arbitrage and unfair trading advantages.
- Systemic risk amplification due to high-speed, correlated trading strategies.
- Lack of auditability, particularly in cross-border or pseudonymous entities.

2. Risk Management Measures CATPs Should Implement

a. Algorithm Pre-Approval and Certification

- Require all high-frequency or algorithmic trading firms to register their strategies with the CATP and obtain approval before live deployment.

- Implement testing environments (sandboxes) to allow for simulation and risk assessment before execution on live markets.

b. Kill Switch and Throttle Mechanisms

Platforms should require all algorithmic traders to implement automated kill switches that halt trading when pre-defined thresholds (losses, volatility, execution anomalies) are triggered.

CATPs themselves should retain the ability to suspend or throttle specific accounts, trading pairs, or strategies in case of market disruption.

c. Real-Time Surveillance and Pattern Monitoring

Employ automated surveillance systems that detect:

- Abnormal quoting behaviour
- Repetitive rapid-fire orders and cancellations
- Quote stuffing or pinging strategies
- Alerts should trigger investigation and possible suspension of the algorithm or account.

d. System Resilience and Latency Controls

- Require algorithmic traders to certify system resilience, uptime, and recovery procedures.

- Enforce latency floor mechanisms to prevent ultra-low-latency advantages that undermine fair access (particularly relevant to co-located bots).

e. Code of Conduct for Algorithmic Traders



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Platforms should implement a code of conduct for algorithmic trading firms, detailing prohibited behaviours (e.g., self-dealing, momentum ignition) and enforcement mechanisms.

3. Governance and Oversight

- Appoint a designated risk officer within the CATP to oversee algorithmic trading risk, escalation, and incident response.

- Maintain audit logs of all automated trades and related order messages, subject to inspection by the FCA.

- Require periodic reporting from algorithmic traders on strategy performance, risk metrics, and compliance incidents.

4. Additional Recommendations for FCA Consideration

Introduce mandatory registration or authorisation for high-volume algorithmic trading firms accessing UK CATPs, especially where they serve as primary liquidity providers.

Collaborate with international regulators (e.g. ESMA, CFTC) to ensure that standards for algo trading are interoperable and address cross-border risk.

Question 6: Do you agree that CATPs should have contractual agreements in place with legal entities operating market making strategies on their platforms? Are there alternative approaches that could equally mitigate the possible risks to market integrity?

Yes, we agree that Cryptoasset Trading Platforms (CATPs) should be required to have formal, legally binding contractual agreements in place with any market makers operating on their platforms. This is a fundamental step toward ensuring market integrity, transparency, and accountability in crypto markets. Without clear contractual arrangements, market making activity can become opaque, potentially manipulative, and unaccountable, exposing retail participants to distorted pricing, artificial liquidity, and increased volatility.

Contractual agreements represent a viable approach to mitigating the risks associated with automated market makers on CATPs. In addition, imposing disclosure requirements for any potential conflicts of interest could further reduce the risk of collusive practices. However, identifying a minimum threshold for the number of market makers presents a significant challenge, as this would depend on a variety of factors including market size, liquidity, and trading volume.

Definition of "Regulated DeFi Pathway":

For clarity, we propose defining the "Regulated DeFi Pathway" as a structured entry route whereby DeFi firms can test innovative protocols under temporary, proportionate waivers from certain handbook requirements, subject to strict conditions on consumer safeguards, capital, and governance. This mirrors the FCA's Regulatory Sandbox (*Regulatory Sandbox Guidance, PS18/10*), which has successfully enabled firms to trial novel business models in a controlled environment.

Under our Regulated DeFi Pathway:



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1. Firms must submit a detailed test plan, including risk-mitigation measures and clear exit-orpause triggers.

2. The FCA grants time-limited relief from specified rules (e.g. client money, custody) in return for enhanced reporting and consumer disclosures.

3. Outcomes are evaluated against predefined metrics (e.g. security incidents, consumer redress requests), with findings published to promote best practice.

1. Rationale for Contractual Agreements with Market Makers

a. Accountability and Supervision

Contracts formalise the relationship between CATPs and market makers, allowing supervisory oversight of trading behaviour, pricing obligations, and conduct standards.

b. Minimum Liquidity Commitments

Agreements can specify requirements such as:

Quoting depth and spread thresholds.

Time-in-market obligations.

Maximum order cancellations (to avoid spoofing or layering).

c. Clear Disclosures to Clients

Contracts enable CATPs to inform users which entities are acting as designated liquidity providers, and on what terms (e.g. fee rebates, listing incentives, early access to tokens).

d. Audit and Enforcement Capability

CATPs can retain the right to monitor, audit, and sanction non-compliant market makers under contract.

e. Mitigation of Collusion and Wash Trading Risks

Market making without oversight can result in self-dealing, circular trading, or price manipulation, particularly for low-liquidity or newly listed tokens.

2. Requirements to Include in Market Making Agreements

- Legal identity and regulatory status of the market maker.

- Scope of market making obligations (e.g. which pairs, hours, assets).
- Controls on abusive practices (e.g. spoofing, pump-and-dump behaviour).
- Data sharing and surveillance protocols.
- Termination clauses and penalties for misconduct or manipulation.

3. Alternative or Complementary Approaches

In addition to contractual agreements, the following measures could further strengthen market integrity:

a. Public Whitelisting of Approved Market Makers



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CATPs should publish a list of all authorised market makers with key terms of their engagement, ensuring user transparency.

b. On-Chain Market Making Registries (for DeFi CATPs)

For decentralised platforms, a smart contract-based registry could bind liquidity providers to rulesets (e.g. bonding minimums, quoting parameters) with automated slashing for violations.

c. Third-Party Surveillance Systems

Require CATPs to deploy or integrate real-time market surveillance tools that track liquidity provision and flag abnormal quoting patterns.

d. FCA-Notified Liquidity Providers

In future, high-volume market makers could be required to register with the FCA, particularly those serving multiple UK-facing CATPs.

4. International Precedents

MiFID II requires transparency around market making strategies and imposes obligations for liquidity provision under certain conditions.

In traditional exchanges, market makers are subject to performance monitoring and public disclosures (e.g. NYSE DMM model).

FINMA and BaFin have both emphasised the need for market making contracts in cryptoasset exchange frameworks.

Question 7: Is there a case for permitting discretionary trading practices for CATP operators? If so, how could the above risks be appropriately mitigated?

We do not support the routine use of discretionary trading practices by CATP operators, particularly in markets that are retail-facing, lightly regulated, or prone to volatility and illiquidity. Discretionary trading practices, where the platform exercises judgement over order execution timing, venue, or counterparty, create significant risks of abuse, information asymmetry, and customer harm.

While there may be narrow use cases for discretion in institutional contexts (e.g. large block orders, dark pools), these should be the exception, not the norm, and subject to strict governance, transparency, and audit requirements.

1. Key Risks of Discretionary Trading by CATPs

a. Conflicts of Interest

CATPs could use discretion to prioritise affiliated trades, internal liquidity, or high-fee clients, compromising fair treatment of all users.

b. Lack of Transparency



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Discretionary trading can obscure how and when orders are executed, especially if platforms are not required to publicly justify execution logic or outcomes.

c. Front-Running and Price Manipulation

With access to the full order book and flow data, discretionary execution gives CATPs a timing advantage that could be used to front-run clients or trade ahead of the market.

d. Undermining Best Execution Obligations

Discretion makes it harder to enforce objective standards for execution quality, especially when there are no mandated benchmarks or comparative pricing tools.

2. Limited Cases Where Discretion May Be Justified

Discretionary trading could be permitted in specific, well-defined scenarios, such as:

- Institutional block orders requiring order-splitting to minimise market impact.
- Over-the-counter (OTC) facilitation for bespoke client needs, with written pre-trade agreements.
- Extreme volatility or outages, where automated routing fails and intervention is needed to reduce systemic disruption.

Even in these cases, discretion must be pre-approved, client-consented, and recorded with full audit trails.

3. Risk Mitigation Measures (If Permitted)

If the FCA permits limited discretionary trading by CATPs, the following safeguards should be mandatory:

a. Client Consent and Disclosure

CATPs must obtain explicit client consent for discretionary execution and disclose:

- When discretion may be applied.
- The rationale and parameters guiding discretionary decisions.

b. Policy and Governance Controls

Firms should maintain a written Discretionary Execution Policy, subject to:

- Internal compliance approval.
- Periodic review by FCA or independent auditors.

c. Post-Trade Transparency

All discretionary trades should be flagged, and execution outcomes must be benchmarked against available market prices at the time.

d. Restrict to Certain Client Types

Discretionary execution should be prohibited for retail clients unless under extraordinary conditions (e.g. system failure, force majeure).



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Professional and institutional clients should opt-in explicitly, with bespoke agreements.

4. FCA Oversight Recommendations

- Require CATPs to submit periodic reports to the FCA detailing discretionary executions, rationale, affected clients, and price comparisons.

- Apply conduct risk metrics (e.g. slippage, delay, trade quality) to assess harm potential. Consider introducing a whitelist of acceptable discretionary practices, with all others requiring FCA approval.

Question 8: Should firms operating a CATP be permitted to execute transactions on a matched-principal basis? If so, how could the above risks be appropriately mitigated?

We believe that matched-principal trading by a Cryptoasset Trading Platform (CATP) should be prohibited or only allowed under exceptional, tightly regulated circumstances. While it may offer some efficiencies in traditional finance, in the context of retail-facing cryptoasset markets, it presents significant risks of conflict of interest, reduced transparency, and potential market abuse, particularly in a lightly regulated or opaque trading environment.

If permitted, it must be subject to robust governance, operational separation, and strict disclosure rules. Matched-principal trading occurs when the CATP interposes itself between the buyer and seller, taking temporary principal risk to facilitate the trade, but without intending to hold market risk. The CATP matches both sides of a trade internally, typically at the same price, and profits from spreads, fees, or internalised order flow.

Key Risks of Matched-Principal Trading by CATPs

a. Conflict of Interest

CATPs may prioritise their own matched trades over client interests, reducing fairness and neutrality in execution.

They have incentives to route orders internally rather than seek best external pricing.

b. Transparency and Execution Risk

Retail consumers may not realise they are trading against the CATP itself, not an open market, especially when pre-trade transparency is low.

This undermines price discovery and creates informational asymmetries.

c. Market Manipulation and Internalisation

CATPs could use matched-principal trading to create illusory volume, manipulate spreads, or influence benchmark prices.

d. Reduced Liquidity for Genuine Market Participants

By internalising flow, CATPs may reduce visibility and access for third-party market makers, harming overall market liquidity and order book depth.



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Recommendations for Risk Mitigation (If Permitted)

If the FCA chooses to permit matched-principal trading under certain conditions, the following controls should be mandated:

a. Mandatory Disclosure

Firms must disclose to clients when matched-principal execution is used, including:

- That the firm is the counterparty.
- The methodology used to determine fair pricing.

b. Operational Separation

Execution and risk functions for matched-principal trades must be separated from client order routing and trade-matching logic.

c. Execution Quality Benchmarking

CATPs must demonstrate that matched-principal trades achieve best execution, with comparison to at least three external price sources, and must publish regular execution quality metrics.

d. Limit Scope of Application

Matched-principal trading should be limited to: Institutional or professional clients (not retail). High-liquidity pairs where pricing is robust and manipulation risk is lower.

e. FCA Supervision and Audit

FCA should reserve the right to audit matched-principal trades, review trade logs, and enforce disciplinary measures where conflicts are not appropriately mitigated.

Alignment with Traditional Finance and Regulatory Principles

Under MiFID II, matched-principal trading is allowed but must be explicitly disclosed and regulated as systematic internalisation. The FCA should draw parallels but also recognise that retail crypto markets lack many of the institutional safeguards present in traditional finance.

Question 9: Have we properly identified the risks from the operator of a CATP also being able to deal in principal capacity off -platform? What is your view on these risks and whether it should be permitted or restricted for an operator of a CATP? If permitted, how should those risks be mitigated?

The identified risks pose a substantial threat to platform users and undermine market integrity. The proposed mitigation strategies and restrictions appear to address some of these concerns effectively. However, in light of the note in section 2.42, we question whether a 'one-size-fits-all' approach is truly appropriate for cryptoasset markets, given the significant differences between



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asset types and business models, for example, NFT platforms. On the one hand, such an approach may provide clarity and help avoid regulatory overengineering; on the other hand, it risks creating

blind spots and offering inadequate consumer protection. For example, NFT and DeFi assets are becoming part of investment portfolios, and while they remain relatively decoupled from other asset classes, they can still pose volatility spillover risks (Yousaf and Yarovaya, 2022). Nonetheless, the outlined suggestions represent an important first step toward mitigating the identified risks.

The FCA has rightly identified a critical risk area: permitting a Cryptoasset Trading Platform (CATP) operator to also trade in principal capacity off-platform poses multiple potential threats to market integrity, conflict management, and consumer protection.

While outright prohibition may be excessive in all cases, significant restrictions and robust governance safeguards should be introduced to ensure that off-platform principal activity does not distort on-platform behaviour, especially where the CATP operator has visibility over market-sensitive information or user activity.

Risks of Off-Platform Principal Trading by CATP Operators

a. Information Asymmetry and Front-Running Risk

CATP operators have access to non-public trading data, including order books, customer flow, stop losses, and open positions.

Trading off-platform while holding such asymmetric information creates incentives to front-run or arbitrage user behaviour, undermining market fairness.

b. Market Manipulation via Cross-Market Activity

Operators could use off-platform trades to manipulate pricing, particularly in low-liquidity tokens, which then influence on-platform trading decisions or margin positions.

c. Undermining of Market Confidence

Even perceived conflicts—such as platform operators profiting from proprietary trades—could erode consumer trust and deter institutional adoption.

d. Lack of Auditability

Off-platform principal trades are harder to monitor and audit than on-platform activity. This reduces regulatory visibility and complicates enforcement.

We believe that off-platform principal trading by CATP operators should only be permitted under strict regulatory conditions, where:

- There is clear functional and legal separation between the CATP operation and the trading entity.
- Full disclosure, transparency, and reporting obligations are imposed on off-platform principal activity.
- Internal data firewalls prevent the use of on-platform customer data to inform off-platform trades.



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Recommended Risk Mitigation Measures

b. Legal and Operational Separation

Operators should be required to maintain a separate legal entity for off-platform trading activities. These entities must be independently governed and regulated as principal trading firms, subject to FCA supervision.

b. Prohibited Use of Non-Public Data

- Explicit prohibition on using customer flow data, internal order book insights, or trading histories for any off-platform trading strategies.

- Implement robust information barriers and enforceable internal controls, subject to FCA review.

c. Trade Disclosure and Record-Keeping

All off-platform principal trades by affiliated entities should be:

- Reported in real-time or near-real-time to the FCA.
- Logged with comprehensive audit trails, including trade rationale and execution timestamp.

d. Conflict of Interest Policies

CATPs must publish a conflict of interest policy specifically addressing any off-platform trading relationships, activities, or exposures.

e. Restrictions on Token Issuance or Affiliation

Where the CATP operator or its affiliates have a direct financial interest in a cryptoasset (e.g. treasury holdings, governance rights), off-platform trading of that asset should be restricted or banned to avoid manipulation risk.

Question 10: What are the risks from an entity affiliated with the CATP trading in principal capacity either on the CATP or off the CATP? What additional requirements are necessary to mitigate these risks?

Allowing an entity affiliated with a Cryptoasset Trading Platform (CATP) to trade in a principal capacity, whether on the platform or elsewhere, poses significant risks to market integrity, competition, and consumer trust. Without strong safeguards, this creates a potential for market abuse, self-dealing, preferential access, and information asymmetry.

While outright prohibition may not always be necessary, the FCA must establish strict rules on segregation, disclosure, and surveillance to mitigate these risks effectively.

1. Key Risks of Principal Trading by CATP-Affiliated Entities

a. Market Manipulation and Self-Dealing



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Affiliates may use privileged access (e.g. order book visibility, latency advantages) to front-run, spoof, or wash trade, distorting market prices and harming retail participants.

b. Information Asymmetry

CATPs often have access to non-public order flow and trading behaviour data. Affiliated entities could misuse this for unfair advantage in market-making or arbitrage strategies.

c. Erosion of Consumer Trust

If customers suspect that affiliated entities are trading against them, especially in volatile markets, this undermines confidence in the fairness and neutrality of the platform.

d. Lack of Chinese Walls

Many crypto firms operate complex group structures with blurred lines between exchange operations, trading desks, venture arms, and custodians. Without functional separation, principal trading by affiliates could introduce circular flows of risk and profit.

e. Contagion Risk

Losses from affiliated trading activities—especially in leveraged or derivatives markets—may spill over into the CATP through shared infrastructure, liabilities, or liquidity relationships.

2. Recommended Regulatory Safeguards

a. Mandatory Disclosure of Affiliate Trading Activities

CATPs must publicly disclose all affiliated entities that engage in trading activities, with:

- Nature of trading (market making, arbitrage, prop trading)
- Whether activity occurs on or off the CATP
- Description of any financial arrangements (e.g. rebates, volume-based incentives)

b. Prohibition of Preferential Access

Affiliates must not receive faster data feeds, lower latency order routing, or access to internal order flow beyond what is available to external market participants.

c. Ringfencing and Functional Separation

Affiliates engaged in principal trading must be legally and operationally distinct from the CATP, with:

- Separate management and staff
- Independent risk systems
- No shared databases or APIs for sensitive trading information

d. Enhanced Surveillance and Reporting

Require CATPs to monitor and report trading patterns of affiliates to detect front-running, wash trading, or price manipulation.

FCA should have access to real-time audit trails of trades executed by affiliates.



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e. Position Limits and Capital Requirements

Affiliates trading on the CATP may be subject to exposure limits, especially when trading tokens affiliated with the CATP. Principal traders should meet minimum capital requirements to ensure solvency and absorb trading losses.

3. International Best Practice Alignment

Under MiFID II, trading venues must manage conflicts where related parties act in multiple capacities. The IOSCO principles also caution against affiliated trading without strict conflict mitigation mechanisms. The SEC has imposed similar restrictions on alternative trading systems (ATS) to avoid market distortion via internal affiliates.

Principal trading by CATP-affiliated entities, without robust controls, poses clear risks to market fairness, transparency, and consumer protection. The FCA should not ban such activities outright, but enforce a comprehensive regime of disclosure, segregation, independent governance, and market surveillance. This will help the UK establish high-integrity digital asset markets that attract institutional participation and protect retail users.

Question 11: What are the risks from admitting a cryptoasset to a CATP that has material direct or indirect interests in it? How should we address these?

We support the statement in section 2.60 that 'CATPs should remain risk-neutral trading systems.' As such, it should be considered best practice for CATPs to refrain from admitting assets in which they hold a direct or indirect interest, in order to maintain neutrality and avoid undermining market integrity. If this is not feasible due to platform architecture or other technology-related constraints, CATPs should be required to disclose both direct and indirect interests, and clearly inform consumers that conflicts of interest may arise.

Admitting a cryptoasset to a Cryptoasset Trading Platform (CATP) where the platform has material direct or indirect interests in the asset introduces serious conflicts of interest. These can distort price discovery, undermine market integrity, and harm retail investors. As such, these relationships must be carefully regulated, transparently disclosed, and appropriately ringfenced to mitigate risk.

1. Key Risks from CATP-Aligned Token Listings

a. Conflict of Interest and Preferential Treatment

The platform may prioritise its own token in listings, market making, or promotional activities, creating an uneven playing field for other assets.

It could engage in self-dealing, artificially inflate volumes, or delay negative disclosures.

b. Distorted Price Discovery

When a CATP has a stake in the token's success (via treasury holdings or governance power), it may manipulate order flow, liquidity provisioning, or listing timing to benefit its own financial position.



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c. Increased Risk to Consumers

Retail users may not fully understand the platform's economic interest in the token, believing it to be a neutral marketplace.

If the token fails or is delisted, users may suffer significant losses, particularly if the CATP promoted the token as a default or featured asset.

d. Market Abuse and Lack of Accountability

Platforms with ownership or governance rights in tokens may engage in pump-and-dump schemes, insider trading, or other manipulative practices, with limited third-party oversight.

2. Forms of Material Interest to Be Addressed

The following should be considered material interests requiring special scrutiny:

- Holding a founder, treasury, or pre-mined allocation of the token.
- Exercising governance rights or DAO voting power.
- Serving as a validator or operator for the network.
- Having direct involvement in the issuance, smart contract development, or branding of the token.
- Financial arrangements such as token warrants, lockups, or liquidity provision deals with issuers.





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3. Recommended Regulatory Measures

a. Mandatory Disclosure and Conflict Register

CATPs should maintain a public register of any material interests they or their affiliates have in listed tokens.

Disclosures should include the nature of the interest, financial exposure, governance rights, and any lock-up periods.

b. Independent Listing Committees

Token admission decisions should be made by an independent listing committee, with no involvement from those with economic interest in the asset.

This mirrors best practice in equity and fund listing governance.

c. Ongoing Monitoring and Governance Restrictions

Where the CATP has governance power in the protocol, it should be restricted from voting on issues related to market structure, emissions, or utility parameters.

Regulatory audits may be required to ensure non-intervention in on-chain governance processes.

d. Labelled or Segregated Trading Interfaces

Where proprietary or platform-affiliated tokens are traded, CATPs could be required to visibly label them and segregate trading pairs, so consumers are not misled into believing the asset is independent.

4. International Best Practice Alignment

These recommendations are consistent with:

- IOSCO's policy recommendations for crypto-asset service providers.
- MiCA provisions on conflicts of interest for CASPs operating multilateral trading facilities.
- UK Financial Services and Markets Act principles on fair dealing and transparency.

Allowing CATPs to list and trade cryptoassets in which they have material interests, without clear safeguards, poses conflict of interest, consumer harm, and reputational risks to the UK's regulatory regime. The FCA should mandate full transparency, impose listing governance controls, and introduce rules-based thresholds for determining when platform-affiliated assets require enhanced scrutiny or prohibitions.

Question 12: Are there important reasons why the same entity authorised to operate a CATP should also be able to provide credit lines or financial accommodations to the CATP's clients?



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As a matter of principle and prudence, we believe that a Cryptoasset Trading Platform (CATP) should not simultaneously operate as a provider of credit or financial accommodation to its clients. There are very few, if any, compelling reasons to justify combining these roles within the same legal entity. Doing so introduces significant conflicts of interest, regulatory arbitrage risks, and systemic vulnerabilities.

Integrated credit provision could improve trading efficiency and liquidity, particularly for institutional clients who often rely on leverage as part of their trading strategies. For retail investors, however, such credit services are less critical and may expose them to excessive risk. Even if all conflicts of interest are properly disclosed, it would be more appropriate to limit credit provision to corporate or institutional clients, while restricting or prohibiting access for retail users in order to protect them from potential harm.

Where credit services are essential to support liquidity or enable advanced trading strategies, these should be provided through legally and operationally separate entities, subject to independent regulatory oversight and enhanced disclosure obligations.

1. Risks of Combining CATP and Credit Provider Functions

a. Conflict of Interest and Self-Dealing

A CATP that both facilitates trading and offers credit has incentives to promote leveraged activity, even where inappropriate for retail clients. It may favour its own margin borrowers or internalise order flow to protect its credit exposure, undermining fair access and market integrity.

b. Lack of Risk Segregation

If a trading platform fails, embedded credit operations can amplify the fallout by triggering crossliabilities, forced liquidations, or client asset loss.

The collapse of FTX is a cautionary case study in the dangers of co-mingling trading and lending functions within the same corporate entity.

c. Consumer Harm and Opacity

Retail consumers may not distinguish between the exchange and credit provider, assuming implicit guarantees or regulatory protection. The blending of services can obscure risks, costs, and obligations, reducing informed consent and increasing vulnerability to mis-selling.

d. Regulatory Inconsistency

Credit provision is subject to a distinct set of rules, including capital requirements, consumer credit rules, conduct standards, and risk controls (e.g. under CONC or CRR).

CATPs that engage in credit provision within the same entity undermine the purpose of functional regulation.

2. Are There Any Justifiable Exceptions?

There may be a limited case for providing pre-approved credit lines or delayed settlement to institutional clients under strict governance arrangements. However:



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- These should occur outside the CATP legal entity, under a separately regulated affiliate (e.g. a credit institution or investment firm).
- Robust controls must ensure firewalls, transparency, and no preferential access to liquidity or order flow.

3. Recommendations for the FCA

- Require a strict legal separation between CATPs and any affiliated credit or margin lending services.

- Mandate full disclosure of credit relationships, terms, and associated risks to clients.

- Ensure that CATPs cannot automatically enrol users into credit services or incentivise leverage through default settings or UI design.

- Where credit is provided by affiliates, require regulatory authorisation and ring-fencing of capital and risk.

Question 13: Do you agree with our proposal to prevent CATPs from managing or internalising credit risks between counterparties trading on their platforms? If not, why not and how would you suggest the CATP manage these risks?

Yes, we agree with the FCA's proposal to prevent Cryptoasset Trading Platforms (CATPs) from managing or internalising credit risk between counterparties. This is a necessary safeguard that aligns with the principles of market neutrality, systemic risk containment, and the protection of retail consumers. CATPs should operate as neutral marketplaces, not as de facto credit intermediaries or prime brokers.

However, a clear framework is needed to delineate which practices constitute credit intermediation, and what risk-mitigation mechanisms are permitted under a neutral exchange model.

1. Rationale for Prohibiting Credit Risk Intermediation by CATPs

a. Conflict of Interest and Market Abuse Risk

If CATPs internalise credit risk or extend leverage, they are incentivised to take proprietary positions or favour certain counterparties, compromising market neutrality and increasing systemic fragility.

b. Undermines Consumer Protection

Retail users often lack the sophistication to understand counterparty risk and the implications of platform-managed credit exposure. Prohibition ensures CATPs are not transferring the risks of default, insolvency, or margin calls to unsuspecting participants.

c. Limits Contagion and Structural Risk

Several high-profile crypto collapses (e.g. FTX, Celsius) involved commingling of client assets and opaque credit relationships. By keeping CATPs credit-neutral, the FCA reduces the likelihood of platform-level cascades and liquidity spirals.



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d. Maintains Functional Separation

Traditional financial market infrastructures separate trading venues from clearing houses and lenders for good reason. The same principle should apply to CATPs.

2. Permissible Alternatives for Managing Risk Without Internalising Credit

If CATPs are not to assume credit risk, the following risk management frameworks may be permitted or encouraged:

a. Pre-Funded Trading Models

Require full prefunding of both legs of a trade before order matching. This ensures that no counterparty credit exposure exists and that all trades are settlementassured.

b. Use of Independent Custodians or Clearing Agents

Trades could be cleared and settled through third-party custodians or automated smart contract escrows that enforce delivery-vs-payment (DvP) models.

c. Optional Risk Disclosure for Margin/Leverage Services

Where CATPs facilitate margin trading via partnerships or separate affiliates, these services should be segregated, opt-in, and fully disclosed, with appropriate regulatory oversight.

d. Smart Contract-Based Collateral Locking

In DeFi models, credit risk is often mitigated via overcollateralised smart contracts (e.g. Aave, Compound). While this is not credit intermediation in the traditional sense, such structures should be separately assessed by the FCA.

3. Clarifications the FCA Should Provide

Clear examples of what constitutes "internalising credit risk" vs. legitimate custody, trade settlement, or collateral management functions.

Guidance on affiliate structures (e.g. whether lending services operated by CATP-owned entities are permissible).

Transparency rules for any platform that enables margin trading, rehypothecation, or derivatives.

Question 14: How should we interpret or define settlement for the purpose of CATP settlement rules? Would these rules be specific to CATPs or should they be extended to other trading activities?

Settlement in the context of cryptoasset markets, particularly for Cryptoasset Trading Platforms (CATPs) should be defined as the final, irreversible transfer of cryptoassets (and, where applicable, fiat or stablecoin payments) between counterparties that discharges the obligations of a completed trade.



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A clear, adaptable definition of settlement is critical to enhancing trust, risk management, and regulatory consistency in UK crypto markets. Settlement rules should apply primarily to CATPs, but the core principles should extend to other trading models where settlement risk is material, particularly in relation to retail consumer protection. The FCA's approach should be functional, technologically neutral, and outcome-focused to accommodate evolving innovation.

Given the unique characteristics of blockchain-based assets, the FCA should adopt a technologyneutral, outcome-based definition of settlement, while recognising crypto-native distinctions such as on-chain vs. off-chain settlement, custodial vs. self-custodial fulfilment, and probabilistic vs. deterministic finality.

1. Recommended Definition of Settlement (for CATPs)

"Settlement refers to the final transfer of ownership of cryptoassets and associated payment obligations between transacting parties, following a matched trade, such that both sides of the transaction are fulfilled, and the trade is no longer subject to revocation, reversion, or settlement risk." This definition should apply regardless of whether the transaction is settled on-chain, through internal ledger entries, or via third-party custodians, and should align with principles from traditional finance while accommodating the realities of decentralised systems.

2. Key Considerations in Interpreting Settlement

a. Probabilistic Finality

Many blockchains (e.g. Bitcoin, Ethereum) offer probabilistic rather than instant finality. Settlement rules should account for confirmation thresholds to determine when a transaction is deemed final.

b. Custodial vs. Non-Custodial Execution

On many CATPs, users trade within omnibus wallets. "Settlement" here may occur as internal ledger updates rather than actual on-chain movement. Settlement rules must clarify what constitutes effective delivery in such models, including obligations for withdrawal rights and auditability.

c. Smart Contract and Layer-2 Transactions

Trades executed via DEXs or L2 protocols may settle via automated smart contracts, often outside the visibility of a central operator.

A flexible, function-driven approach is necessary to classify when such interactions constitute settlement.

d. Atomic Swaps and Interoperability

Cross-chain trading protocols may enable atomic swaps, where both sides are settled simultaneously or not at all. FCA rules must recognise such mechanisms as compliant if properly executed.



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3. Should Settlement Rules Be Specific to CATPs?

Not entirely. While CATPs should be the primary focus, we recommend that complementary guidance or principles be extended to other trading activities that involve settlement risk, particularly where retail consumers are exposed. This includes:

- Decentralised Exchanges (DEXs) and AMMs facilitating P2P settlements
- OTC cryptoasset dealers and liquidity providers
- Staking platforms offering liquidity tokens or derivatives
- Tokenised asset platforms (e.g. RWAs or stablecoins) involving post-trade delivery

This would promote a level playing field and avoid regulatory arbitrage between centralised and decentralised actors.

4. Recommendations for Implementation

- FCA should issue technical guidance on when settlement is considered final (e.g. number of confirmations, validator consensus).
- Require CATPs to clearly disclose their settlement model, expected timelines, and mechanisms for dispute resolution.
- Consider third-party attestations or audits for internal ledger-based settlement mechanisms to ensure client protection.
- Include operational resilience rules ensuring firms can manage delayed or failed settlements due to network congestion or smart contract failures.

Question 15: Do you agree that CATPs should be subject to both pre-trade and post-trade transparency requirements? Are there any reasons we should consider pre-trade transparency waivers?

Yes, we agree that Cryptoasset Trading Platforms (CATPs) should be subject to both pre-trade and post-trade transparency requirements, consistent with the FCA's objectives of fair, orderly, and efficient markets. However, we also acknowledge that limited and clearly defined waivers for pre-trade transparency may be justified in specific circumstances, particularly where full transparency could undermine market liquidity, increase manipulation risk, or disadvantage institutional orders.

1. Benefits of Pre- and Post-Trade Transparency

a. Supports Fair Pricing and Best Execution

Pre-trade transparency—i.e. visible order books and indicative quotes—enables retail and institutional participants to assess market depth, identify fair prices, and make informed decisions. Post-trade transparency (e.g. time-stamped trade data, execution venue, and volume) enables auditability and market surveillance, while building public trust.



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b. Reduces Asymmetry and Insider Advantage

Many crypto markets operate with opaque internalisation models or asymmetric access to order flow. Transparency requirements level the playing field.

c. Aligns Crypto with Traditional Market Integrity Rules

Comparable rules apply under MiFID II and in equity, fixed income, and derivatives markets ensuring that crypto markets are not a regulatory exception.

d. Improves Regulatory Oversight and Analytics

Standardised transparency outputs allow regulators to monitor for:

- Price manipulation
- Wash trading
- Frontrunning or quote stuffing
- Anomalous trading patterns

2. Potential Justifications for Pre-Trade Transparency Waivers

While transparency is critical, blanket rules may cause unintended consequences in certain situations:

a. Block Trades and Large Orders

Immediate publication of large orders could lead to front-running or market impact, harming both liquidity providers and institutional investors. Waivers (similar to MiFID II's "large in scale" exemption) should be available for block trades that exceed defined thresholds.

b. Thinly Traded or Illiquid Tokens

For niche tokens with low liquidity, full pre-trade transparency may result in price signalling risks and predatory trading. Waivers could be considered where liquidity is below a defined threshold, provided firms can demonstrate harm reduction.

c. Algorithmic and OTC Trading Models

Some CATPs offer request-for-quote (RFQ), auction, or off-order book negotiation models. Mandatory display of indicative quotes in these cases could disrupt pricing models and create arbitrage opportunities.

3. Recommendations for Implementation

- Define clear thresholds and eligibility criteria for any waivers (e.g. minimum trade size, token liquidity metrics).

- Require pre- and post-trade transparency disclosures to follow a standardised format, including timestamp, asset pair, volume, execution price, and spread.

- Mandate public transparency policies from CATPs, including rationale for any waivers and controls to prevent misuse.

- Leverage existing international frameworks (e.g. MiFID II, IOSCO) to ensure consistency and cross-border compatibility.



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We support the FCA's proposal to impose both pre-trade and post-trade transparency requirements on CATPs, as they are essential to ensuring robust, efficient, and fair cryptoasset markets. Limited, well-defined waivers for pre-trade transparency such as for large or illiquid trades may be appropriate, provided they are tightly controlled and publicly disclosed.

Question 16: Which challenges may emerge for transaction data requirements if there is direct retail participation?

One of the key challenges is the risk to data privacy, particularly when collecting and storing personally identifiable information from retail users. In addition, user errors and inconsistent data quality may arise due to varying levels of digital literacy among retail participants (Colombo and Yarovaya, 2024). There may also be technological limitations in collecting, processing, and securely storing large volumes of transactional data, which could increase the risk of data breaches and compliance failures.

Direct retail participation in cryptoasset markets introduces several unique challenges for implementing effective, consistent, and compliant transaction data requirements. These challenges are technical, behavioural, and operational, and if not addressed appropriately, may hinder the FCA's ability to ensure transparency, market integrity, and consumer protection.

1. Key Challenges Arising from Direct Retail Participation

a. Data Fragmentation Across Platforms

Retail users often engage with multiple platforms, wallets, and blockchains simultaneously, without consolidated reporting or interoperable data formats.

This leads to incomplete or inconsistent transaction records, making it difficult for firms or regulators to reconstruct end-to-end activity or assess risk exposure.

b. Self-Custody and "Unhosted" Wallets

Retail users may conduct transactions via unhosted (non-custodial) wallets, where no centralised entity maintains transaction records. In such cases, regulators may face limited visibility into off-platform activity, particularly across DEXs or P2P protocols.

c. Lack of Standardised Record-Keeping by Users

Retail users are unlikely to maintain comprehensive transaction histories, especially across swaps, staking, bridging, and NFT activity. This complicates tax reporting, dispute resolution, and proof of ownership in the event of fraud or insolvency.

d. Inaccurate or Manipulated Data Inputs

Some platforms allow users to self-report metadata (e.g. purpose of transaction, transaction category), which may be incomplete, inaccurate, or deliberately misleading.



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e. Complexity of On-Chain Data Interpretation

On-chain data is technically transparent but not user-friendly; interpreting smart contract interactions (e.g. yield farming, liquidity provision) requires advanced tooling. Retail users may not understand how to verify or interpret their own transactional data, and may fall prey to misinformation or scams.

2. Regulatory and Compliance Implications

Supervision gaps may emerge if transaction flows occur off-registry or beyond the reporting perimeter.

Consumer protection frameworks may fail if transaction data is insufficient to establish liability, pricing, or misconduct.

AML and Travel Rule compliance becomes harder when originator/beneficiary data is not collected or transmittable from non-custodial setups.

3. Recommendations to Mitigate Challenges

a. Promote Interoperable Data Standards for Retail-Facing Platforms

- Require firms to maintain standardised transaction ledgers and exportable transaction reports for customers.

- Use digital token identifiers (DTIs) and wallet tagging standards (e.g. ISO/TC 307) for consistency across ecosystems.

b. Encourage Use of RegTech Tools for Retail Reporting

Incentivise integration of wallet analytics, portfolio tracking, and tax reporting APIs that help retail users maintain compliant records.

c. Implement Proportionate Reporting for Unhosted Wallet Interactions

Require declaration and tagging of unhosted wallet transactions by regulated firms, rather than full control over off-chain wallets.

d. Education and Digital Literacy Campaigns

Equip consumers with tools to understand on-chain records, risks of pseudonymity, and how to verify transaction integrity.

Question 17: Are there preferred standards for recording transaction data?

Yes, a number of emerging and established standards can guide the recording of cryptoasset transaction data, both on-chain and off-chain. However, these standards are currently fragmented, inconsistently applied, and often not crypto-native. To enable effective regulatory oversight and harmonised compliance, the FCA should support the development or endorsement of fit-for-purpose, interoperable, and blockchain-agnostic standards for transaction data recording.

1. Existing and Emerging Standards



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a. ISO/TC 307 Standards for Blockchain and DLT

ISO/TC 307 is a globally recognised initiative developing international standards for blockchain technologies, including:
ISO 22739: Terminology
ISO 23257: Reference architecture
ISO 24165: Digital Token Identifier (DTI)
ISO 23894: Guidelines for governance

These standards offer a foundational framework for data structuring, asset identification, and interoperability.

b. Digital Token Identifier (DTI) - ISO 24165

- Developed by the DTI Foundation and recognised by ISO, the DTI standard assigns unique identifiers to cryptoassets—similar to ISINs for securities.

- Adoption of DTIs can support transaction traceability, reduce ambiguity in multi-token environments, and streamline reporting.

c. FATF Travel Rule Data Schema

The Financial Action Task Force (FATF) recommends a standardised set of fields for transmitting originator and beneficiary information for cryptoasset transfers. While designed for AML compliance, it establishes a baseline for identity-linked transaction metadata.

d. OpenZeppelin and Ethereum Event Logs

On-chain transactions recorded via smart contracts (e.g. ERC-20 transfers) use standardised event logging structures that can be extracted via indexing services like The Graph or Etherscan APIs.

These native blockchain formats offer structured, timestamped, and verifiable data—suitable for audit and regulatory use.

e. Global Legal Entity Identifier Foundation (GLEIF)

Use of LEIs to identify transacting entities can enhance the integrity and attribution of crypto transactions, particularly in institutional contexts.

2. Key Considerations for FCA Adoption or Endorsement

a. Blockchain-Agnostic Design

Standards must be applicable across different blockchain types (e.g. UTXO vs. account-based models, private vs. public chains).

b. Interoperability with Existing Regulatory Frameworks

Data standards should integrate with MiFID II reporting fields, UK EMIR, and financial promotions regime to ensure regulatory coherence.

c. Machine-Readable Format and API Compatibility



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Standards should support machine-readable formats (e.g. JSON, CSV, XML) and be easily exportable via APIs to enable automation, RegTech, and real-time analytics.

d. Minimal Yet Sufficient Metadata

Overly burdensome reporting obligations could hinder innovation. The FCA should endorse a minimum viable reporting schema that captures key dimensions:

- Asset identifier (e.g. DTI or contract address)
- Timestamp
- Quantity and price
- Buyer/seller (or wallet ID) anonymised, with linkage to KYC data
- Venue or protocol used

3. Recommendation

The FCA should:

- Collaborate with the BSI, ISO/TC 307, and the British Blockchain Association to support the development of UK-aligned transaction recording standards.
- Encourage industry adoption of DTI identifiers, LEIs, and machine-readable event logs.
- Develop or endorse a standardised taxonomy and data schema for crypto transaction reporting, tailored to both retail and institutional use cases.

Question 18: What opportunities and challenges do you see in trying to harmonise on-chain and off-chain transactions' recording and/or reporting?

The harmonisation of on-chain and off-chain transaction recording and reporting presents a major opportunity for improving transparency, auditability, and regulatory oversight across the cryptoasset ecosystem. However, it also brings significant technical, legal, and operational challenges, especially given the heterogeneity of blockchain architectures and the lack of established standards.

1. Key Opportunities

a. Enhanced Auditability and Transparency

On-chain records are immutable, timestamped, and verifiable in real-time, enabling regulators to conduct more effective supervision and forensic analysis.

Harmonised reporting can reduce reliance on self-reporting by firms and create a shared source of truth.

b. Automation and RegTech Integration



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Smart contracts and blockchain oracles can automate reporting requirements, enabling near realtime compliance through machine-executable rules.

This facilitates cost-efficient, continuous compliance rather than manual, point-in-time reporting.

c. Cross-border Regulatory Alignment

A harmonised framework can support international regulatory interoperability, aligning the UK's regime with emerging global standards (e.g. FATF's Travel Rule, ISO TC/307 standards). This would strengthen the UK's position as a leader in digital asset regulation.

d. Improved Market Integrity

Reduces opportunities for double-spending, wash trading, or off-ledger manipulation by providing end-to-end transaction traceability across ecosystems.

2. Key Challenges

a. Fragmentation of Ledger Architectures

Different blockchains have varying structures (e.g. UTXO vs. account-based models), privacy features (e.g. zk-proofs, mixers), and data schemas—making standardised reporting complex.

b. Off-Chain Activity is Often Opaque

Centralised exchanges and custodians often settle trades internally (off-chain) and only batch transactions periodically on-chain, making full traceability difficult.

Off-chain records may not follow the same security or timestamping principles as blockchain records.

c. Data Reconciliation and Duplication Risks

Without careful design, harmonising records may lead to double-counting or mismatched data between on-chain and off-chain records. Differences in time zones, confirmation speeds, and trade execution vs. settlement times further complicate this.

d. Privacy and Commercial Sensitivity

Full on-chain disclosure of all transactions may conflict with data protection laws (e.g. GDPR) or reveal sensitive commercial information.

Regulators must strike a balance between transparency and confidentiality.

3. Recommendations for the FCA

a. Develop UK Technical Standards for Crypto Reporting

In collaboration with the industry and standards bodies (e.g. ISO, BSI, BBA), the FCA could codevelop a Crypto Reporting Standard that defines:

- Core fields for transaction metadata (e.g. timestamp, asset type, wallet address, counterparty type)
- Reporting thresholds (e.g. transaction size or frequency)
- Tagging mechanisms for on-chain identifiers (e.g. wallet classification)



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b. Leverage Blockchain Analytics Providers

Authorised analytics firms can bridge the on-chain/off-chain gap by linking wallet addresses to entities, reconciling on-chain activity with exchange-level data, and flagging anomalies.

c. Encourage On-Chain Record-Keeping for Regulated Activities

Where possible, encourage regulated entities (e.g. staking providers, CATPs) to record client activities on-chain, while maintaining private off-chain records for sensitive information.

d. Explore Privacy-Preserving Compliance Tools

Technologies such as zero-knowledge proofs can enable transaction validation and regulatory access without revealing private data on public ledgers.

Chapter 3 – Cryptoasset Intermediaries

Question 20: What benefits and risks do you see with the proposed guidance requiring firms to check the pricing for an order across at least 3 UK-authorised trading platforms (where available)?

We broadly support the proposed guidance requiring firms to check pricing across at least three UK-authorised trading platforms, where available. This measure enhances price competitiveness, market integrity, and best execution standards. However, it must be applied proportionately and with flexibility, considering the unique liquidity dynamics and infrastructure limitations of the cryptoasset market. While there are potential benefits to this proposition such as increased competition between platforms, in practice it may not be feasible for new market entrants who lack the necessary skills or infrastructure to conduct real-time price comparisons across multiple platforms, even where such platforms are available. This requirement could be considered a best practice; however, it remains unclear how compliance will be monitored or enforced.

1. Benefits of the Proposal

a. Improved Best Execution Standards

Requiring a comparison across multiple venues ensures that firms source the most competitive prices for their clients, reducing slippage and implicit costs.

b. Mitigates Information Asymmetry

Prevents firms from relying solely on internal pricing or single-venue data, which could disadvantage retail clients and allow poor execution to go unnoticed.

c. Promotes Competition Among Trading Venues


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Encourages UK-authorised CATPs to maintain tight spreads and high-quality execution to remain competitive, which ultimately benefits end-users.

d. Aligns with Traditional Financial Best Practice

Mirrors MiFID II obligations where firms must consider "a range of execution venues" to achieve best results, helping ensure regulatory consistency.

2. Risks and Challenges

a. Limited Availability of UK-Authorised Platforms

Currently, the number of UK-authorised crypto trading platforms is low. For many tokens, particularly niche or emerging ones, these venues may not exist. Rigid application of this rule may hinder trading in such assets or lead to unnecessary delays.

b. Operational Burden for Smaller Firms

Regular multi-venue checks may create cost and technical burdens for small firms, especially those without advanced order-routing or pricing aggregation infrastructure.

c. Fragmented Liquidity

In some cases, liquidity may be concentrated on a single platform. Checking prices on illiquid venues could result in inaccurate comparisons and misinformed decisions.

d. Incompatibility with DeFi or On-Chain Execution

For decentralised execution models (e.g. AMMs), pricing is determined by liquidity pool algorithms rather than order books. Requiring "price checks" across UK-authorised platforms may not be technically meaningful.

3. Recommendations and Mitigations

- Proportional Application: Where fewer than three venues are available, firms should be permitted to compare against as many as are reasonably accessible and explain their process.
- Use of Aggregators: Firms could use trusted data aggregators or APIs that compile realtime pricing from multiple platforms, including UK and recognised overseas venues.
- FCA Guidance on Token Coverage: The FCA could publish an evolving list of tokens with sufficient venue coverage to guide firms on when this requirement is applicable.
- Safe Harbour Provision: A documented pricing policy and audit trail should be sufficient to demonstrate compliance, rather than real-time enforcement for every trade.



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Question 21: What benefits and risks do you see with the idea that best possible results should be determined in terms of the total consideration when firms deal with retail customers?

Best execution rules are indeed challenging to apply to cryptoassets due to market fragmentation and varying levels of transparency. The proposed use of "total consideration" as a measure is a meaningful step forward in protecting the interests of retail clients, as it incorporates both price and associated costs. However, in paragraph 3.23, it is essential to clearly define which assets are considered "in-scope cryptoassets". Different asset classes may involve various components such as spreads, fees, or gas costs—that should be consistently accounted for under the total consideration framework. Without a clear and standardised definition, firms may apply inconsistent practices, undermining the effectiveness of the rule.We broadly support the FCA's proposal that the "best possible result" for retail customers should be assessed based on total consideration, which includes price, fees, costs, and other relevant factors affecting value. This approach aligns with established principles in MiFID II and enhances transparency, fairness, and client protection in cryptoasset markets.

However, careful implementation is needed to address crypto-specific risks and ensure firms do not obscure key costs through opaque pricing structures or bundled fees.

1. Benefits of Using Total Consideration as the Benchmark

a. Holistic Consumer Protection

Retail clients often focus on headline price (e.g. bid/ask) while overlooking embedded fees, slippage, or execution costs.

Total consideration ensures firms cannot provide superficially competitive prices while embedding hidden charges elsewhere.

b. Prevents "Low Price, High Fee" Arbitrage

By aggregating execution price and all associated charges, this model prevents platforms from misleadingly offering low trading spreads while charging excessive withdrawal, custody, or liquidity fees.

c. Supports Informed Comparisons

Helps retail customers compare services across platforms on a like-for-like basis. Encourages competition on effective cost, not just nominal pricing.

d. Consistency with Traditional Financial Regulation

Aligns cryptoasset treatment with MiFID II rules on best execution and reinforces FCA's objective of creating a technology-neutral regulatory framework.

2. Risks and Implementation Challenges



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a. Opaque or Non-Linear Fee Structures

In crypto markets, fees may be dynamic, volume-dependent, or expressed in native tokens making comparison and disclosure difficult. Some DEXs or CeFi platforms offer rebates or variable spreads that complicate calculation of total cost.

b. Price Discovery Variability

- Prices may vary significantly across venues, particularly for low-liquidity tokens or during high-volatility events.

- Firms may struggle to benchmark whether a total consideration was indeed the "best possible" at a given moment.

c. Bundled Services

Platforms offering "all-in-one" services (e.g. custody, staking, trading) may bundle costs in ways that obscure the true cost of individual transactions.

3. Mitigation and Recommendations

To ensure this model delivers its intended outcomes, we recommend the FCA:

- Mandates clear disclosure of all components of total consideration, including execution price, trading fees, spreads, network fees, and any rebates or subsidies.
- Encourages standardised cost disclosure templates (e.g. fee dashboards or cost summary sheets) for all retail-facing firms.
- Requires periodic transaction cost reporting, so retail clients can review historical execution performance over time.

Applies proportionality, allowing simplified disclosure for low-value or stable token trades while maintaining rigour for complex or volatile assets.

Question 22: Do you see any potential problems with the proposal to restrict intermediaries to offering regulated services for UK retail customers solely for cryptoassets admitted to trading on a UK authorised CATP?

While this is a reasonable restriction to protect retail clients, as illustrated by Figure 2, it may result in overreliance on a limited number of platforms, thereby reducing diversification opportunities for retail investors. Consequently, some clients may deliberately seek these opportunities on unregulated platforms, which could undermine the broader regulatory efforts aimed at protecting retail clients. While the intention behind this proposal is understandable, namely to increase oversight, enhance consumer protection, and promote regulatory standards, there are several potential issues and unintended consequences that could arise from limiting regulated services for UK retail customers to only those cryptoassets admitted to trading on a UK-authorised Cryptoasset Trading Platform (CATP).



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1. Risk of Reduced Access and Consumer Choice

Restricting retail access to cryptoassets solely listed on UK-authorised CATPs may significantly reduce the range of tokens available to UK consumers. Many well-established and globally traded tokens may not initially be listed on UK CATPs due to:

- Delays or costs associated with local listing
- Fragmentation in global crypto liquidity
- Lack of incentives for non-UK based issuers to seek UK admission

This could artificially restrict consumer choice and push retail users towards unregulated, offshore platforms that remain outside the UK perimeter, ironically increasing risk.

2. Barriers to Innovation and Market Dynamism

Many early-stage, innovative crypto projects start life outside major regulated venues and only migrate to larger platforms over time. By tying regulated activity solely to assets listed on UK CATPs, the UK risks:

- Disincentivising token innovation and experimentation
- Preventing responsible retail participation in legitimate new projects
- Creating a first-mover disadvantage for UK-regulated firms compared to global counterparts

This could undermine the UK's ambition to be a Web3 and digital asset innovation hub.

3. Concentration Risk and Gatekeeper Power

Limiting access to cryptoassets via a narrow set of UK CATPs may unintentionally centralise market power in the hands of a few trading platforms, leading to:

- Reduced competition
- Higher fees for consumers
- Risk of conflicts of interest or abuse of listing power

A more open model, with clear standards for asset due diligence and consumer disclosures, may be more effective and inclusive than strict admission requirements tied only to specific UK venues.

4. Regulatory Arbitrage and Offshore Leakage

Restrictive access rules may push both firms and consumers towards:

- Offshore platforms without equivalent consumer protections
- DeFi services operating without regulatory accountability
- Use of VPNs or proxy services to bypass UK restrictions



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This undermines the FCA's policy intent, reduces its supervisory visibility, and increases the probability of harm.

5. Suggested Alternative Approach

Rather than imposing a blanket restriction, we recommend:

- Requiring that cryptoassets offered to UK retail clients meet defined standards of transparency, liquidity, and due diligence, regardless of listing venue.
- Allowing listings on equivalent overseas CATPs, subject to recognition under UK rules (similar to MiFID's third-country equivalence).
- Introducing a token classification framework to determine suitability for retail distribution based on risk, complexity, and governance, as proposed in BBA's Evidence-Based Token Classification Model: V Sumanov, "Token Classification Framework: Considering the Origins of Value and their Mechanisms of Manifestation", The Journal of The British Blockchain Association The JBBA 2025, https://doi.org/10.31585/jbba-8-1-(3)2025

Question 23: Are there any specific activities or types of transactions we should expressly carve out of our proposed order handling and best execution rules? If so, why?

Yes, there are specific activities and transaction types that may be appropriate for carve-outs from standard order handling and best execution rules, provided certain conditions are met. These carve-outs should be narrowly defined to prevent abuse, preserve market efficiency, and reflect the unique structures of cryptoasset markets while still upholding the FCA's overarching goals of consumer protection and market integrity.

1. Suggested Activities and Transactions for Carve-Out

a. Non-Financial Utility Token Transactions

Transactions involving tokens used exclusively for access, membership, or non-financial utility (e.g. event tickets, in-game items, voting rights) should be carved out.

These tokens are not used for investment or trading and typically do not involve price formation or execution risks in the conventional sense.

b. On-Chain Automated Transactions via Smart Contracts (DeFi)

- In decentralised finance (DeFi), users interact directly with protocols (e.g. AMMs, DEXs) via smart contracts.

- The concept of "order handling" is often inapplicable because:
- There is no intermediary exercising discretion over execution
- Pricing is determined algorithmically via liquidity curves, not order books

A carve-out should apply to direct user-to-protocol interactions where no discretionary execution or order routing is involved by a central party.

c. Direct OTC Trades with Pre-Agreed Terms



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Where both counterparties have pre-agreed price, size, and asset pair, and execution is bilateral, the intermediary has no discretion in order handling. These OTC trades may be subject to appropriate disclosure and settlement standards, but best execution duties should not apply where price discovery is not occurring.

d. Token Swaps Within the Same Platform or Fund Structure

Internal token rebalancing, staking-to-reward conversions, or reallocation within a crypto index or portfolio may not involve execution in a traditional trading sense.

Provided these are fully disclosed and priced at pre-defined or NAV-based values, they should be carved out from best execution obligations.

2. Rationale for Carve-Outs

- These activities do not involve discretionary execution by intermediaries.

- Standard best execution metrics (e.g. price improvement, execution venue choice) are inapplicable or misleading.

- Imposing such rules could hinder operational efficiency or innovation without improving consumer outcomes.

- Carve-outs also align with precedent in traditional finance, where MiFID allows exemptions in certain principal trades, matched bargains, and non-discretionary execution scenarios.

3. Safeguards and Limitations

To prevent abuse of carve-outs, the FCA should:

- Require firms to clearly disclose when a transaction is exempt from best execution rules
- Retain oversight powers to review and reassess carve-outs if practices evolve
- Set a high threshold for defining non-financial utility or non-discretionary execution

Question 24: What risks arise when specific instructions (for example, specifying which execution venue to use) from retail customers are allowed to override certain best execution requirements? How can these be mitigated?

Allowing retail customers to provide specific execution instructions, such as selecting a preferred trading venue, may seem to support client autonomy. However, it can introduce material risks that compromise the overall fairness, efficiency, and safety of the trading environment—especially in the volatile and fragmented cryptoasset market.

We recommend that the FCA impose appropriate guardrails and disclosures, ensuring that such instructions do not compromise firms' overarching duty of best execution.

1. Key Risks When Specific Instructions Override Best Execution Duties

a. Exposure to Poor Liquidity or Pricing



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Retail clients may unknowingly select venues with limited liquidity, wide spreads, or thin order books, resulting in inferior execution prices or slippage.

b. Venue Selection Influenced by Promotions or Misinformation

Social media and influencer-driven promotion of certain platforms may cause clients to make decisions based on hype rather than due diligence, potentially exposing them to scams, wash trading, or poor-quality execution.

c. Bypassing Risk-Based Execution Logic

When platforms override pre-defined smart order routing or internal best execution logic, it may undermine controls that are designed to secure optimal execution outcomes.

d. Regulatory Arbitrage and Offshore Risks

Clients may instruct execution through unregulated or offshore venues, increasing risks of fraud, loss of funds, or lack of redress mechanisms.

e. Erosion of Responsibility and Consumer Duty

Firms may seek to rely on customer instructions to avoid accountability, even when such instructions lead to poor outcomes. This may conflict with the FCA's Consumer Duty, particularly in relation to vulnerable customers.

2. Risk Mitigation Measures

To strike a balance between user choice and regulatory protection, we recommend the following safeguards:

a. Informed Consent and Prominent Disclosures

Firms should present clear warnings to retail clients when they request specific venue execution, outlining the:

- Risks of poor pricing, slippage, or delays
- Absence of investor protections on certain venues
- Consequences of overriding best execution policies

b. Limits on Venue Types

Platforms should be prohibited from executing retail instructions on:

- Non-compliant, non-UK registered venues without equivalent regulatory safeguards
- Venues known for manipulative practices or high failure-to-settle rates

c. Suitability and Reasonableness Checks

Where retail clients seek to override best execution, firms should:

- Assess the reasonableness of the request
- Document rationale
- Retain the right to decline instructions deemed manifestly harmful

d. Default Routing with Opt-Out

Platforms can provide a default best execution route, with a clear "opt-out" feature where clients must explicitly accept the associated risks of manual venue selection.



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e. Enhanced Oversight and Audit Logs

Firms should retain detailed logs of overridden orders, justifications, and outcomes. These should be available for FCA inspection and periodic review.

Question 25: Are there circumstances under which legal separation should be required to address potential conflicts between executing own orders and client orders?

Yes, there are specific circumstances where legal separation should be required to address material conflicts of interest between intermediaries executing their own trades and client orders, particularly in vertically integrated cryptoasset business models. Given the unique structure of crypto markets—where firms often act simultaneously as broker, exchange, market maker, custodian, and token issuer—legal separation may be necessary in situations where operational or functional segregation alone is insufficient to prevent client harm.

1. When Legal Separation May Be Necessary

a. Proprietary Trading by Trading Platforms

If a crypto trading platform also engages in proprietary trading or operates a market-making desk, there is a high risk of:

- Front-running client orders
- Preferential execution for in-house trades
- Use of confidential order book or client position data

In such cases, legal separation between the platform and the proprietary trading entity should be mandated to avoid systemic abuse of market power.

b. Platform Token Issuance and Self-Listing

When a firm issues its own token and lists or promotes it on the same platform, the incentive to manipulate trading conditions, suppress negative information, or influence liquidity is significant. Legal separation between the token-issuing entity and the exchange function could reduce the risk of token price manipulation and abusive market conduct:

(S Corea, "Crypto Governance: Analysing and Comparing Platforms for Crypto Assets Trading", https://jbba.scholasticahq.com/article/12039-crypto-governance-analysing-and-comparingplatforms-for-crypto-assets-trading



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Crypto Governance:

Analysing and Comparing Crypto Assets Trading Platforms

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Abstract

The annualised volume of Crypto Exchange markets reaches the trillion dollars threshold. Due to the dispersed and decentralised

c. Aggregated Client and House Orders

If client orders and firm's own trades are routed through the same execution infrastructure without clear legal and operational segregation, clients may be disadvantaged in execution priority or pricing. Legal separation can formalise execution priority rules, establish liability pathways, and improve market transparency.

2. Risks of Not Requiring Legal Separation

- Conflict of Interest: Without legal separation, firms may prioritise house profits over best execution for clients.

- Market Abuse: Blurring proprietary and client order flows can lead to insider trading, manipulation, or quote stuffing.

- Lack of Recourse: In insolvency or dispute scenarios, clients may find it difficult to assert their rights or trace asset ownership without clear legal entities.

3. Alternatives and Safeguards Where Legal Separation Is Not Imposed

In cases where legal separation may be disproportionate or operationally burdensome (e.g. small firms), the following safeguards should be required:

- Clear functional separation and governance firewalls
- Independent compliance oversight
- Enhanced disclosures detailing execution policy and order handling
- Audit trails and regulatory reporting of all proprietary vs. client executions
- Best execution requirements applicable to all orders, regardless of origin

4. Precedents in Financial Regulation

Legal separation is well established in traditional finance under:



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- MiFID II best execution rules and trade transparency frameworks
- FCA's principles of treating customers fairly and managing conflicts of interest
- Volcker Rule under the Dodd-Frank Act in the US, which limits proprietary trading by banking entities

These frameworks provide a useful reference for setting guardrails in crypto markets. Legal separation should be required in high-risk scenarios such as where firms act as both trading venue and principal, or where in-house token promotion risks distorting markets. Where legal separation

is not mandated, robust safeguards and clear FCA guidance on governance, execution priority, and risk disclosure are essential to mitigate conflict-related harms and uphold market integrity.

Question 26: Are there any other activities that may create conflicts of interest and risks to clients if performed by the same intermediary? How can these be managed?

Yes, there are several additional activities within the cryptoasset ecosystem that, if undertaken by the same intermediary, can create material conflicts of interest and heightened risks to clients. These conflicts are often more acute in crypto markets than in traditional finance due to vertical integration, opaque business models, and a lack of regulatory segregation requirements to date.

1. Additional Activities That May Create Conflicts of Interest

a. Operating a Trading Platform and Acting as a Market Maker

When a platform both hosts a trading venue and engages in proprietary trading or market making, it may prioritise its own trades, manipulate order flow, or exploit client data for internal advantage. This was a key issue in the collapse of FTX, where customer trading data was allegedly used to benefit affiliated trading firms.

b. Providing Custody Services and Lending Client Assets

Firms that both safeguard client cryptoassets and lend those assets out (without full transparency or consent) may create irreconcilable conflicts. Clients may lose access to assets or face credit risk exposures without understanding the full implications.

c. Issuing Tokens and Facilitating Their Trading

Platforms that issue their own native or platform tokens and simultaneously list, promote, or trade them have an inherent incentive to inflate demand or suppress negative information.

Token self-listings without independent due diligence can distort price discovery and harm uninformed investors.

d. Staking Services and Governance Voting

Where intermediaries stake user assets and retain control of the associated governance rights (e.g. in proof-of-stake blockchains), they may vote in ways that benefit the intermediary, not the client.

e. Advisory Services and Distribution of Products



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Platforms that offer crypto investment advice or 'education' while distributing their own or affiliated high-risk products (e.g. leveraged tokens or yield products) risk misleading clients or concealing the true cost and risk profile of these offerings.

2. Managing Conflicts of Interest

To effectively mitigate these conflicts, we recommend:

a. Functional Separation

Clear organisational boundaries between custody, exchange, trading, and lending arms. Where functional separation is not feasible, firms should implement internal firewalls and ensure no sharing of sensitive client data.

b. Enhanced Disclosures and Consent

Firms must disclose all material conflicts of interest in plain English. Clients must give informed, granular consent for use of their assets in activities such as lending or staking.

c. Independent Token Listing Committees

Self-issued tokens should undergo the same listing scrutiny and compliance procedures as external tokens.

A listing committee with external oversight could reduce risk of preferential treatment.

d. Restriction on Proprietary Trading

Consider restricting proprietary trading by platforms that have access to sensitive order flow data or client positions, unless such activities are ring-fenced and supervised.

e. Governance Neutrality in Staking

Where intermediaries stake on behalf of clients, they should either pass on governance rights or demonstrate how voting is aligned with client interests, possibly through a published voting policy.

Question 27: What benefits does pre-trade transparency provide for different types of market participants and in what form will it be most useful for them? Please provide an analysis of the expected costs to firms for each option if available.

We support the principle of pre-trade transparency as a critical mechanism for enhancing market fairness, promoting competition, and reducing information asymmetries in cryptoasset markets. However, its implementation must account for the diversity of crypto business models and the operational realities of both centralised and decentralised platforms.

1. Benefits of Pre-Trade Transparency by Market Participant Type

Retail Consumers:

- Enables informed decision-making through visible bid-ask spreads, improving price fairness.



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- Reduces exposure to asymmetric pricing or front-running.
- Builds confidence in order execution and fairness.

Institutional Traders:

- Supports more effective execution strategies through visibility of liquidity depth and pricing trends.
- Enhances ability to assess market quality across platforms.
- Facilitates arbitrage and cross-market analysis, contributing to efficient markets.

Liquidity Providers (Market Makers):

- Encourages tighter spreads in the presence of visible order books, contributing to market stability.
- Promotes fair competition among providers.
- Incentivises deeper liquidity provisioning in transparent environments.

Regulators and Analysts:

- Assists in surveillance of potential market manipulation (e.g. spoofing, wash trading).
- Supports empirical analysis of market dynamics and systemic risks.

2. Forms of Pre-Trade Transparency

The form in which transparency is provided matters significantly. The most effective methods include:

- Real-time display of top-of-book quotes (best bid and ask)
- Full or partial order book depth (aggregated or non-aggregated)
- Indicative pricing for large block trades or thinly traded assets

Where real-time data is not feasible, a short delay (e.g. 1–5 seconds) may still offer benefits without revealing too much about trading strategies.

3. Proportionality and Cost Analysis

Centralised Exchanges (CEXs):

Most regulated and institutional CEXs already maintain real-time order books and can comply with minimal additional cost. For firms lacking this infrastructure, one-off development costs may range between £30,000 and £70,000, with modest ongoing costs for data infrastructure.

Decentralised Exchanges (DEXs):

DEXs operating on AMM (automated market maker) models may not have traditional order books. In these cases, pricing curves or liquidity pool data could be disclosed as a form of pre-trade transparency. These adjustments may require technical upgrades but would not replicate full order book systems.

Small or Niche Platforms:



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To reduce undue burden on smaller firms, proportional disclosure requirements could be introduced, for example:

- End-of-day snapshot publication for low-volume assets
- Exemptions for token pairs with minimal activity
- Use of third-party data aggregators to standardise and distribute pricing information

4. Recommendations

- Introduce a tiered pre-trade transparency framework based on platform size and risk level.
- Mandate real-time or near-real-time pricing display for high-volume and fiat-quoted pairs.
- Permit simplified or delayed disclosure for low-liquidity assets or decentralised protocols using AMMs.
- Develop standardised data formats for market transparency, enabling industry-wide interoperability and reduced compliance costs.

Question 28: What alternative solutions to the post-trade transparency requirements proposed above could mitigate the risks? Please provide an analysis of the expected costs to firms for each option if available.

We agree that post-trade transparency is essential for promoting market integrity, fair price discovery, and investor protection. However, a uniform approach to post-trade transparency may not be suitable for all firms, particularly smaller ones or those dealing in low-risk cryptoassets. A more flexible framework can deliver the same regulatory outcomes at reduced cost.

We propose three alternative or complementary solutions:

1. Tiered Post-Trade Transparency Regime

This approach involves a graduated model of post-trade disclosure, based on firm size, trading volume, and the risk profile of the cryptoasset in question. Larger firms trading in high-volume or high-volatility tokens would be subject to near real-time reporting. Smaller firms or those dealing in stable, low-risk tokens could disclose post-trade information on a delayed basis (e.g. end-of-day or T+1).

This model reduces compliance burdens on small market participants while maintaining high transparency where systemic risk is greater.

Estimated costs: Low to moderate for small firms using delayed reporting; higher for large platforms that already support real-time infrastructure.

2. Centralised Post-Trade Repository



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A centralised FCA-endorsed reporting utility could be developed, allowing firms to submit posttrade data in a standardised format. Smaller firms would have the option to use this utility to meet their reporting obligations efficiently.

This approach would:

- Improve consistency of disclosures
- Allow regulators and consumers to access a consolidated view of trade activity
- Minimise duplication of effort for firms

Estimated costs: One-time integration costs in the range of £20,000–£50,000 depending on firm complexity, with shared ongoing operational costs.

3. Blockchain-Integrated Post-Trade Disclosures

For firms settling transactions on-chain, post-trade transparency could be achieved by embedding standardised metadata into blockchain transactions or reporting trade data via decentralised

explorers and oracles. This solution would be particularly effective for DeFi platforms or hybrid models and leverages existing infrastructure rather than requiring parallel systems.

Estimated costs: Low for on-chain-native firms; moderate for centralised exchanges needing to adapt systems for metadata tagging.

Recommended Approach

We recommend a **hybrid model** where firms may comply using one of several approved posttrade reporting methods, subject to FCA guidance on proportionality. This ensures that:

- Large firms maintain robust real-time transparency
- Smaller or early-stage firms are not unduly burdened
- Decentralised and blockchain-native firms can meet obligations in innovative, costeffective ways

Question 29: Do you believe that certain cryptoassets should be exempted from transparency requirements? If so, what would be the most appropriate exemption criteria which would best balance the benefits from transparency and costs to the firms?

We note that DP25/1's proposed perimeter for 'Qualifying Stablecoins' includes both fiat-backed and algorithmic models. Our primary recommendation focuses on fiat-backed stablecoins - those fully redeemable one-for-one against fiat reserves. If the FCA's policy intent is to treat algorithmic stablecoins differently, we suggest spelling this out explicitly. For example:

'For the purposes of this regime, "Qualifying Stablecoins" are defined as fiat-backed stablecoins backed by one-to-one fiat reserves and redeemable on demand. Algorithmic stablecoins are



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excluded from this definition and instead fall under [insert alternative classification or bespoke requirements].'

Fiat-backed stablecoins could be considered for exemption from full transparency requirements, provided they meet specific criteria. GBP or Dollar-backed stablecoins with transparent, regularly audited reserves and full compliance with applicable stablecoin regulations typically demonstrate low price volatility and may pose lower risks to price discovery and market manipulation compared to more speculative cryptoassets. Stablecoins also play a key role in liquidity provision within the cryptoasset ecosystem (Farag et al., 2025), and therefore, a targeted exemption could help make regulatory measures more proportionate and risk-based. That said, when stablecoin transactions involve other cryptoassets, particularly those with higher volatility or lower transparency, the full transparency requirements should continue to apply.

We believe there is a limited but justifiable case for exempting certain cryptoassets from full transparency requirements, provided these exemptions are narrowly defined, risk-based, and aligned with regulatory outcomes, particularly the FCA's Consumer Duty and market integrity objectives.

The aim should be to reduce undue compliance burdens for low-risk assets and activities, while ensuring that material information continues to be disclosed for assets posing higher risks to consumers or financial stability.





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1. Categories of Cryptoassets Potentially Eligible for Exemption

a. Qualifying Fiat-Backed Stablecoins

Fully backed, regulated fiat stablecoins (e.g. GBP- or USD-backed tokens with 1:1 redeemability and prudential safeguards) may pose lower transparency risks due to their:

- Predictable value
- Limited speculative use
- Close alignment with e-money or bank-like models

b. Non-Fungible Utility Tokens with No Financial Characteristics

NFTs or tokens with purely access or membership functions and no expectation of profit or resale (e.g. digital event tickets, loyalty badges) may not warrant extensive transparency obligations.



c. Open-Source Public Goods Tokens

Community-governed tokens supporting non-profit or infrastructure projects with no investor-like rights or returns, especially if distributed without payment (e.g. through airdrops), could be exempt in limited cases.



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2. Suggested Exemption Criteria

To avoid abuse and ensure consistency, exemption criteria should be strictly defined. We recommend the following:

Criterion	Description
No Expectation of Profit	Token holders receive no returns, rights to revenue, or speculative upside
No Financial Instrument Features	Token does not function like a security, derivative, or loan instrument
Limited Transferability	Secondary market trading is restricted or non- existent
Regulatory Equivalence	Token is already regulated under e-money or payment services regime
Low Market Capitalisation & Volume	Below a defined materiality threshold (e.g. £1M market cap or daily volume)
Consumer Impact	Token poses no meaningful risk of capital loss, leverage, or fraud

Any token meeting all criteria may be eligible for exemption, subject to FCA approval or notification.

3. Risk of Over-Exemption and Recommendations

We caution against broad exemptions that could enable regulatory arbitrage or shield high-risk tokens under the guise of innovation. To mitigate this:

- Require firms to submit an exemption rationale based on defined criteria
- Maintain FCA oversight with power to revoke exemptions in public interest
- Periodically review exempt tokens for changes in market behaviour, utility, or scale

Transparency is vital for consumer protection and market confidence but applying it uniformly to all cryptoassets may be disproportionate, particularly for low-risk, non-financial tokens or prudentially regulated stablecoins. A carefully scoped exemption regime, based on defined



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functional, financial, and market impact criteria, can balance innovation with accountability and reduce unnecessary burdens on firms.



Question 30: What would be the most appropriate exemption threshold to remain proportionate to the size of the firm while balancing the benefits from transparency and costs to the firms?

We support the idea of applying proportionate exemption thresholds for smaller cryptoasset firms from certain transparency or disclosure requirements, provided that core consumer protections and prudential safeguards remain unaffected.

A well-calibrated threshold would encourage innovation, reduce unnecessary burden on start-ups and SMEs, and support competition in the UK crypto market, while still upholding the FCA's statutory objectives.

1. Recommended Exemption Threshold



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Based on regulatory precedents and industry input, we propose the following as a starting point for exemption thresholds:

Exemption Type	Suggested Threshold
Revenue-Based	≤ £1 million in annual UK crypto-related revenue
Client Asset Size (AUM- equivalent)	≤ £10 million in client cryptoassets under custody or management
Client Base	≤ 1,000 active UK retail clients
Staff Headcount	≤ 10 full-time UK-based employees engaged in regulated crypto activity

These thresholds mirror proportionate regimes used for small AIFMs, MiFID investment firms, and FCA sandbox participants.

2. Scope of Exemptions

The exemptions should not compromise core standards (e.g. safeguarding, operational resilience), but may apply to:

- Detailed transparency disclosures (e.g. platform token conflicts, client classification reporting)
- Non-critical reporting obligations that impose high operational cost for low-risk entities
- Certain recordkeeping or audit requirements, provided alternative controls are in place

Importantly, any exemption must still require firms to comply with:

- AML/CTF regulations
- Fair communication and disclosure standards
- Consumer Duty obligations

3. Conditional and Time-Limited Approach

Exemptions should be time-limited (e.g. valid for 18–24 months or until threshold is crossed). Firms benefiting from exemptions must notify the FCA when thresholds are exceeded and transition to full compliance within a reasonable window (e.g. 90 days).

4. Alternative Proportionality Models

If fixed thresholds are considered too blunt, the FCA could consider:

- Graduated requirements, increasing in complexity as firms grow
- A proportionality scorecard using multiple criteria (revenue, clients, leverage, asset complexity)



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- Regulatory sandboxes or controlled pilots for small firms trialling new models

A threshold of £1 million annual revenue or ≤1,000 active retail clients provide a fair balance between transparency and proportionality. It encourages early-stage innovation, eases compliance costs for small firms, and reduces market entry barriers — without compromising the FCA's overarching consumer protection mandate. These exemptions should be clearly defined, conditional, and subject to regular review.

Question 31: What are the crypto-specific risks of opting retail customers up? How should these be managed and what additional guidance on how to assess the expertise, knowledge and experience of clients can we give firms to better mitigate risks of harm?

It is unclear how firms can realistically fulfil these requirements in practice. For example, as noted in section 3.70, it may be unrealistic to expect firms to conduct a thorough assessment of each client's expertise, experience, and knowledge relative to the specific cryptoasset trading activities they intend to undertake. This requirement could significantly restrict the potential client base, particularly considering that overall financial literacy among retail investors is generally low (Colombo and Yarovaya, 2024).

Opting retail customers up to professional status in the context of cryptoassets introduces unique risks that differ from traditional financial instruments. While the process can facilitate broader market participation, it must be approached with heightened caution due to the complexity, volatility, and novel nature of crypto markets.

We support the FCA's emphasis on ensuring robust client assessments and recommend tailored crypto-specific guidance and safeguards to prevent inappropriate opt-ups and protect consumers from foreseeable harm.

1. Crypto-Specific Risks of Opting-Up Retail Clients

a. False Confidence Based on Past Returns

Retail clients may seek professional status due to past gains in bull markets, rather than actual understanding of underlying risks, especially in complex areas like DeFi, staking, and token derivatives.

b. High Volatility and Irreversible Loss

Crypto markets are open 24/7 and highly volatile. Liquidations, smart contract exploits, and depegging events can cause sudden and irreversible losses, unlike most traditional asset classes.

c. Lack of Clarity on Product Structure and Rights

Clients often do not fully understand: Custodial arrangements (or lack thereof)



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Legal status of assets Liquidity limitations or lock-up periods

d. Decentralised Infrastructure Complexity

Users may not comprehend smart contract risks, oracle manipulation, front-running, or governance attacks — all common in DeFi platforms.

e. Marketing and Social Hype

Opt-up decisions may be driven by social media influence, not informed self-assessment or financial capability.

2. Recommendations for Managing These Risks

a. Enhanced Crypto Knowledge Assessment Framework

We recommend that the FCA provide firms with explicit guidance for assessing crypto-specific competence. Areas should include:

Assessment Area	Sample Topics
Product Understanding	Lending/borrowing mechanics, staking, yield farming
Risk Awareness	Smart contract risk, liquidation risk, custodial vs non-custodial
Wallet and Security Knowledge	Private keys, self-custody risks, phishing risks
Legal and Redress Understanding	Insolvency claims, lack of FSCS protection, jurisdiction risks

Firms should be required to document the **basis for classification**, including user responses, history of transactions, and KYC data.

Firms should be required to document the basis for classification, including user responses, history of transactions, and KYC data.

b. Mandatory Cooling-Off and Acknowledgement

Introduce a cooling-off period (e.g. 3–5 days) after approval, during which the client must reaffirm their opt-up decision.

Require explicit acknowledgment of the loss of protections, such as access to ombudsman services, disclosure regimes, and suitability assessments.



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c. Ongoing Competence Validation

Introduce revalidation every 12 months, requiring clients to reaffirm understanding, particularly if they have not actively used complex crypto products.

d. Restricted Scope Opt-Up

Consider partial opt-up classifications — e.g. a client may qualify for advanced spot trading access but not lending or perpetuals — depending on the depth of their knowledge and historical behaviour.

3. Additional FCA Guidance to Support Firms

The FCA can strengthen industry practice by publishing:

- A Crypto Competence Assessment Template for firms
- Model questions and answers for knowledge tests
- A list of minimum disclosure standards for each product class
- Case studies showing when opting-up would (or would not) be appropriate

Question 32: What are the benefits of having quantitative thresholds when opting clients up? How should we determine any quantitative threshold? What alternative rules or guidance specific to crypto should we consider?

We support the use of quantitative thresholds as one component of a multi-factor framework for opting clients up from retail to more advanced classifications (e.g. elective professional). However, these thresholds should be complemented by qualitative criteria, crypto-specific guidance, and safeguards to ensure clients are not misclassified and exposed to excessive risk.

1. Benefits of Quantitative Thresholds

a. Objective Baseline

Quantitative thresholds (e.g. net worth, income, trading volume) offer an objective and auditable basis for classification decisions, reducing the likelihood of mis-selling and inappropriate access to high-risk products.

b. Risk Correlation

Financial capacity (as measured through thresholds) is often positively correlated with risk tolerance and ability to absorb losses, particularly relevant in volatile crypto markets.

c. Consistency with Wider Regulatory Regimes

Similar frameworks are used in MiFID II, FCA's COBS rules, and eligible counterparty classifications, fostering regulatory consistency.

2. Determining Suitable Thresholds for Crypto Markets



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Any thresholds should reflect the unique characteristics of the cryptoasset ecosystem, including its volatility, limited consumer redress mechanisms, and rapid innovation. We propose the following principles:

Category	Recommended Thresholds (Indicative)
Net Investable Assets	≥ £250,000 in crypto and/ or liquid financial assets
Crypto Trading Experience	≥ 10 crypto trades per quarter over 4 quarters OR ≥ £50,000 annual volume
Income	≥ £100,000 annual income (optional supplement to trading/asset threshold)

Thresholds should be reviewed annually and adjusted for market developments and inflation.

3. Alternative or Complementary Approaches for Crypto

Given crypto's distinct risk profile, we recommend complementing quantitative thresholds with the following:

a. Knowledge-Based Assessments

Platforms should assess a user's understanding of:

- Volatility and liquidation mechanics
- Wallet security and smart contract risk
- Yield products and counterparty exposure

b. Tiered Access Model

Users can "unlock" higher-risk products through:

- Education modules
- Time-based progression
- Track record of responsible use (e.g. no margin calls, no complaints)

c. Mandatory Risk Warnings and Disclaimers

Even for opted-up clients, high-risk products (e.g. perpetuals, lending) should carry visual, interactive risk warnings to ensure conscious engagement.

d. FCA-Certified Crypto Competency Pathway



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Consider industry-led certification or accreditation (similar to CISI qualifications) for advanced users seeking professional designation in crypto markets.

4. Risks of Relying Solely on Quantitative Criteria

- Wealth does not always equals sophistication: A high-net-worth individual may have limited understanding of decentralised finance or staking mechanisms.

- Risk of over-inclusion: Without additional behavioural checks, wealthy but inexperienced users may gain access to products unsuited to their knowledge.

Quantitative thresholds provide a helpful starting point for client classification, but in crypto markets, they must be used in conjunction with knowledge testing, progressive access models, and behavioural safeguards. A hybrid model ensures the right balance between innovation, accessibility, and consumer protection, supporting the FCA's objectives under the Consumer Duty.

Chapter 4 – Cryptoasset lending and borrowing

Question 33: Do you agree with our understanding of the risks from cryptoasset lending and borrowing as outlined above? Are there any additional risks we should consider?

Yes, we agree that the FCA's assessment broadly captures the key risks associated with cryptoasset lending and borrowing. These include:

- Volatility of collateral and liquidation risk
- Lack of clear disclosures
- Complex product structures
- Interconnectedness and contagion
- Inadequate consumer understanding

However, we believe there are additional emerging and structural risks that warrant closer regulatory attention. These risks, if left unaddressed, could undermine the resilience of crypto lending markets and amplify consumer harm.

1. Additional Risks to Consider

a. Rehypothecation and Re-use of Collateral

Some platforms engage in multiple layers of rehypothecation (i.e. re-lending of pledged assets), which amplifies counterparty risk and increases systemic fragility. This contributed to the collapse of several centralised crypto lenders in 2022 (e.g. Celsius, Voyager).

b. Maturity Mismatch Risk

Platforms often offer instant withdrawals while locking lent assets in illiquid or long-term yield strategies, creating a risk of liquidity crises and bank-run dynamics during market downturns.



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c. De-Pegging of Stablecoin Collateral

Stablecoins are frequently used as collateral. If the stablecoin experiences de-pegging or issuer failure (e.g. TerraUSD, USDC's momentary de-peg in 2023), the value of collateral can collapse unexpectedly.

d. Smart Contract and Oracle Risk (DeFi-specific)

In DeFi lending protocols, vulnerabilities in smart contracts or reliance on manipulated price oracles can lead to unintended liquidations or complete protocol insolvency.

e. Unclear Legal Claims on Assets

In both centralised and decentralised models, the legal status of lent cryptoassets remains ambiguous. Consumers may be treated as unsecured creditors in insolvency, with no recourse to reclaim their assets.

f. False Perceptions of Safety

Some platforms market lending products with language like "earn," "savings," or "guaranteed returns," which can mislead consumers into underestimating the real risks of loss.

2. Risk to Market Integrity and Financial Crime

Lending models can facilitate layering and obfuscation of asset flows, making them vulnerable to money laundering, illicit collateralisation, and sanctions evasion, particularly in cross-border DeFi lending.

3. Recommendations

To mitigate the above risks, we suggest:

- Mandatory disclosure of collateral practices, including rehypothecation
- Stress testing requirements for liquidity under adverse market scenarios
- Enhanced audit and code review obligations for DeFi protocols offering retail-facing lending
- Plain-language disclaimers on yield product risks, liquidation terms, and asset claim status

Question 34: Do you agree with our current intention to restrict firms from offering access to retail consumers to cryptoasset lending and borrowing products? If not, please explain why.

We do not fully agree with the FCA's current intention to implement a blanket restriction on retail access to cryptoasset lending and borrowing products. While we support the FCA's commitment to consumer protection, we believe that a nuanced, risk-tiered, and proportionate regulatory approach would better serve the public interest by:

- Reducing harm to vulnerable or inexperienced users
- Preserving innovation and financial inclusion
- Avoiding unintended migration of users to unregulated offshore or DeFi platforms



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1. Rationale for a Calibrated Alternative to a Full Ban

a. Innovation and Financial Inclusion

Retail access to crypto lending has enabled non-bank credit alternatives, access to USD-equivalent liquidity, and on-chain income generation through asset-backed yield.

For many users (especially the underbanked), these services are not speculative but foundational to their digital financial participation.

b. Global Competitive Disadvantage

The UK risks falling behind jurisdictions like the EU, Singapore, and Hong Kong, where regulators are exploring regulated access rather than prohibitions.

A ban may encourage talent and capital flight to more permissive markets.

c. Consumer Displacement to Riskier Channels

Historical evidence shows that strict bans (e.g. CFDs, gambling) often result in users seeking offshore or decentralised alternatives with:

- No disclosures
- No redress mechanisms
- Increased exposure to fraud and systemic failure

2. Preferred Alternative: Tiered and Controlled Retail Access

We recommend a graduated model with strong consumer safeguards rather than a prohibition:

Appropriateness Assessment	Tailored tests based on user knowledge and risk profile
Retail Exposure Limits	Caps on lending/borrowing volume or percentage of portfolio
Stablecoin-Only Option	Limit retail participation to qualifying fiat-backed stablecoin products
Cooling-off Periods & Disclosures	Friction layers to discourage impulsive participation
Opt-In Access After Education	Require users to complete learning modules before access is granted
Platform Certification	Only FCA-registered firms meeting risk standards may offer retail services

3. UK Leadership Through Smart Regulation

A proportionate model would position the UK as a leader in safe, accessible digital finance.



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It supports the objectives of the **UK National Blockchain Roadmap (Vision 2030**) by promoting responsible adoption rather than reactive prohibition.

Question 35: Do you agree that applying creditworthiness, and arrears and forbearance rules (as outlined in CONC) can reduce the risk profile for retail consumers? Could these be practicably applied to existing business models? Are there are any suitable alternatives?

Applying CONC-style creditworthiness and forbearance principles to cryptoasset lending models especially centralised and custodial ones is an appropriate and effective means of reducing risk for retail consumers. For DeFi protocols, equivalent protections can be introduced through smart contract design, front-end risk controls, and governance standards. A proportionate approach that acknowledges the diversity of market models will maximise consumer protection without stifling innovation.

We agree that applying elements of the FCA's Consumer Credit sourcebook (CONC) specifically creditworthiness assessments and arrears and forbearance provisions can help reduce the risk profile for retail consumers engaging in cryptoasset borrowing or margin-based services. However, a tailored, proportionate adaptation of these rules is necessary for them to be practicable within decentralised and novel crypto business models.

1. Why CONC-Based Protections Are Important in Crypto Lending

a. Credit-like Exposure Without Traditional Oversight

While many crypto lending products are technically "overcollateralised," they behave similarly to traditional loans, exposing users to repayment obligations, liquidation risk, and interest accrual. Applying creditworthiness assessments ensures users do not overextend themselves, particularly when collateral values are volatile.

b. Arrears and Forbearance in Consumer-Centric Lending

In the event of platform error, delayed unbonding, or repayment difficulties, minimum forbearance obligations ensure firms act fairly (e.g. no instant liquidations without recourse). Such obligations reflect principles already well-established in FCA-regulated credit, mortgage, and BNPL services.

2. Practical Considerations for Application in Crypto Models

a. Centralised Platforms

For custodial or centralised crypto lenders, adaptation of CONC rules is both feasible and appropriate. These firms already control user onboarding, collateral management, and repayment schedules. They can integrate affordability assessments, credit checks (if fiat lending is offered), and customer support for forbearance.



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b. Decentralised Protocols (DeFi)

For DeFi platforms, a direct application of CONC may not be feasible due to:

- Non-custodial, permissionless architecture
- Automated liquidation logic governed by smart contracts

However, adaptations can include:

- Front-end interfaces offering voluntary risk disclosures and simulations
- Pre-borrowing knowledge tests or tiered access
- Community governance enforcing slower liquidation curves or grace periods

3. Suitable Alternatives or Complements

a. Crypto-Adapted Creditworthiness Proxies

- Use on-chain reputation (e.g. wallet age, past repayment history) and KYC data to inform tiered lending limits.

- Platforms can adopt simplified "affordability" models such as:
- Caps based on a % of verified net worth or average wallet balance
- Real-time collateral health ratios with notification triggers

b. Forbearance Protocol Templates

FCA could encourage industry-standard DeFi contract templates that include:

- Minimum liquidation buffers
- Optional pause periods during extreme market volatility

c. Consumer Journey Enhancements

Combine product warnings, top-up limits, and automated disclosures to mimic the effect of forbearance rules, even when human discretion is not available.

Question 36: Do you agree that the proposed restrictions for collateral top ups would reduce the risk profile for retail consumers? Are there are any suitable alternatives?

Yes, BBA agrees that introducing restrictions on collateral top-ups, particularly in the context of over-collateralised cryptoasset lending and margin-based borrowing, is a proportionate and effective measure to reduce the risk profile for retail consumers. This approach mitigates the dangers of recurring margin calls, auto-liquidations, and "chasing losses" behaviour, which are especially harmful to inexperienced or vulnerable users.

1. Rationale for Restricting Collateral Top-Ups

a. Prevention of Escalating Financial Exposure

Without restrictions, consumers may continually top up collateral to avoid liquidation, increasing their risk exposure in declining markets. This behaviour mirrors harmful patterns seen in leveraged trading, where sunk-cost bias leads to loss amplification.

b. Consumer Protection from Forced Liquidations



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Platforms often liquidate collateral automatically and with punitive fees when thresholds are breached. Retail consumers typically do not understand the mechanics or timing of liquidation events, which are often triggered during market volatility or congestion.

c. Mitigating Complexity

Real-time collateral management, LTV monitoring, and top-up schedules are operationally and cognitively demanding — increasing risk of consumer error and delayed reactions.

2. FCA's Proposed Measures – Support with Enhancements

We support measures such as:

- Pre-commitment to a limited number of top-ups
- Time-buffered cooldown periods between top-ups
- Capping total value of collateral top-ups per loan

We recommend further enhancements:

a. Collateral Top-Up Risk Disclosure and Calculator

At the point of entering a loan, firms should offer:

- A simple collateral stress test tool (e.g. "What happens if BTC drops 20%?")
- Clear guidance on maximum permissible top-ups and liquidation thresholds

b. One-Time Top-Up Limit for Retail Borrowers

- Allow one discretionary top-up per loan term for retail users

- Additional top-ups should require manual re-approval and user risk acknowledgment

c. Alternative: Auto-Limit with Partial Liquidation Option

Rather than full liquidation after LTV breach, allow partial asset sales or risk-smoothing options (e.g. gradual liquidation bands) to reduce consumer losses

3. Suitable Alternatives (If Restrictions Are Not Enforced)

If a blanket restriction is not adopted, the following alternatives could achieve similar consumer protection outcomes:

- Tiered collateral requirements based on user risk profile and prior usage
- Mandatory educational module before enabling top-up functionality
- Algorithmic buffer thresholds that enforce auto-closures before full collateral depletion

Question 37: Do you consider the above measures would be proportionate and effective in ensuring that retail consumers would have sufficient knowledge and understanding to access to cryptoasset lending and borrowing products?



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Yes, the proposed measures outlined by the FCA such as strengthened disclosure, appropriateness testing, and consumer journey oversight are broadly proportionate and directionally sound. However, to ensure they are fully effective in equipping retail consumers with the necessary knowledge and understanding, we recommend enhancing the measures through targeted adjustments and additional safeguards. The measures proposed by the FCA form a strong starting point for ensuring retail consumer understanding of crypto lending and borrowing products. When enhanced with tiered access, behavioural nudges, risk-tiered disclosures, and robust appropriateness testing, they can meaningfully reduce consumer harm and support safe, informed engagement in this emerging area of digital finance.

1. Appropriateness Testing: Necessary but Not Sufficient

Appropriateness assessments should be dynamic, scenario-based, and tailored to the specific complexity of the product (e.g. fixed vs variable-rate lending, collateralised vs uncollateralised borrowing). Tests should include:

- Understanding of margin calls, liquidation risks, interest volatility
- Awareness of smart contract and counterparty risk

Results should inform product access tiers (e.g. allow limited exposure for users with basic understanding).

2. Enhanced Risk Disclosures and KFDs

Crypto lending and borrowing products carry unique risks including protocol failure, rehypothecation, asset liquidity constraints, and stablecoin depegging. The FCA should mandate clear, visual product disclosures, ideally in the form of:

- A Key Facts Summary (KFS) with scenario illustrations
- Comparative risk ladders for different products
- Explicit warnings on non-FSCS protection and lack of depositor insurance

3. Staged Access and Cooling-Off Mechanisms

First-time users of lending and borrowing products should be subject to cooling-off periods (e.g. 24–48 hours) post-appropriateness assessment.

Introduce progressive exposure limits, which can be increased based on:

- Repeated use without incident
- Engagement with educational materials
- Improved results in periodic knowledge checks

4. Consumer Journey Controls and UX Interventions

Embed real-time nudges during onboarding or product initiation. For example:

"Are you aware your assets may be locked and inaccessible during protocol stress?"

"Click to confirm: you understand the liquidation risk if collateral value drops."



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Design should promote reflective rather than impulsive behaviour, especially in yield-based or variable interest products.

5. Broader Financial Education Integration

The FCA could partner with the Money and Pensions Service, digital literacy charities, and industry associations (e.g. the British Blockchain Association) to develop crypto lending education content for the public.

Emphasise long-term financial planning and the role of lending within a diversified portfolio.

Question 38: What benefits do platform tokens provide to consumers?

Platform tokens, typically native tokens issued by exchanges, DeFi protocols, or Web3 platforms can offer several legitimate benefits to consumers, especially when they are implemented with clear utility, strong governance, and transparent disclosures. However, these benefits must be weighed against potential risks and should not be overstated or misrepresented.

1. Key Consumer Benefits of Platform Tokens

a. Access and Functionality

Gatekeeping utility: Some tokens are used to access premium features or services within a platform (e.g. reduced trading fees, exclusive staking opportunities, access to governance). Token-gated services create network effects that can enhance user experience and participation.

b. Incentivisation and Rewards

Consumers can earn platform tokens as part of loyalty schemes, yield rewards, or liquidity provision, which incentivises ongoing engagement and platform growth.

- Examples include: - Fee rebates
 - Trading incentives
 - Airdrops or referral bonuses

c. Governance Participation

In decentralised platforms, tokens may enable voting rights on upgrades, parameter changes, or treasury allocation. This empowers users to shape the evolution of the platform and contributes to community-led innovation.

d. Interoperability and DeFi Composability

Platform tokens often serve as collateral, liquidity, or routing assets across broader decentralised finance ecosystems.

For instance, a platform token may be:

- Staked to secure a network
- Used as liquidity in AMMs
- Integrated into lending protocols



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e. Alignment with Platform Growth

In theory, as the platform's usage grows, the demand for the token increases, offering value alignment between the platform and its users.

This can foster long-term loyalty and economic alignment, though this model requires caution and full transparency to avoid mis-selling.

2. Examples of Platform Tokens Offering Benefits

- BNB (Binance): Reduced trading fees, launchpad participation, cross-chain utility.

- UNI (Uniswap): Governance over protocol decisions and treasury allocation.
- DYDX (dYdX): Staking rewards and protocol governance participation.
- LDO (Lido): Voting on protocol upgrades and validator sets.

These tokens provide functionality beyond speculation, though risks must be managed through proper controls and consumer education.

3. Safeguards for Realising Consumer Benefits

To ensure platform tokens genuinely benefit consumers and do not become predatory or purely speculative:

- Require clear disclosures about token function, rights, and risks
- Prohibit misleading marketing about "investment returns" or speculative value
- Introduce cooling-off periods and friction for high-risk token purchases
- Encourage platforms to align token use with functional utility, not hype-based incentives

Platform tokens, when properly designed and transparently implemented, can offer consumers functional access, incentivisation, governance participation, and composable utility across decentralised platforms. These benefits are legitimate and increasingly relevant in the Web3 economy but must be delivered responsibly and with proportionate safeguards to ensure they do not mask excessive risk or create consumer harm.

Question 39: How can conflicts of interest be managed for platform tokens to reduce the risk profile for retail consumers?

Conflicts of interest surrounding platform tokens (such as exchange-native or protocol-governance tokens) arise when the issuer, operator, and token holder incentives are not clearly aligned or transparently disclosed. These conflicts can significantly increase risks for retail consumers, especially when tokens are marketed as investments or used to access services within the issuer's own ecosystem.

To reduce these risks, firms should adopt a multi-layered approach combining governance, transparency, and conduct controls.



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1. Key Conflict Scenarios in Platform Tokens

Self-referential incentives: Platforms may reward users with tokens to drive volume or lock-in, regardless of underlying utility or value.

Dual-role risk: Platforms may issue a token and simultaneously act as the market-maker, custodian, or liquidity provider — creating price manipulation risks.

Voting power asymmetry: Governance structures often disproportionately favour insiders or early investors, undermining retail interests.

Misaligned disclosures: Retail consumers may not fully understand whether the token provides equity-like rights, utility, revenue sharing, or governance.

2. Risk-Mitigation Measures and Best Practices

a. Independent Governance and Disclosure Framework

Platforms should publish a Platform Token Risk Disclosure Document, clearly outlining:

- Token supply schedule, allocation breakdown, and vesting periods
- Role of the token (e.g. access, staking, governance)
- Revenue linkage (if any), voting rights, and issuer obligations
- Conflict risks (e.g. platform profit motives vs tokenholder dilution) should be explicitly disclosed.

b. Functional Separation of Duties

Establish internal controls to separate:

- Token issuance from market-making
- Listing decisions from promotional activities
- Custody and staking from price exposure
- Where possible, use independent third parties to validate pricing, audits, and performance claims.

c. Board or Oversight Committee for Token-Related Decisions

Platforms with retail exposure should form an independent oversight function (e.g. governance committee or conflict review panel) to review token-related decisions. This can mirror traditional financial services' approach to conflicts of interest under SYSC rules.

d. Ban or Limit Preferential Insider Treatment

Strict rules should prevent early insiders or platform employees from:

- Engaging in undisclosed sales during retail marketing periods
- Receiving excessive token allocations without lock-ups
- Using insider information to front-run listings or incentive schemes

e. Retail Suitability Filters for High-Risk Token Models

For platform tokens with limited utility or high volatility, implement:

- Suitability assessments
- Educational onboarding
- Spending limits or cooling-off periods for retail consumers



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3. FCA Role in Oversight

We recommend that the FCA:

- Publish minimum standards for platform token governance
- Require firms to notify the FCA of any material token-related conflicts, similar to market abuse and listing rules

Consider a Platform Token Code of Conduct for UK-regulated exchanges and token issuers

Question 40: Do you consider that if we are to restrict retail access to cryptoasset lending and borrowing, an exemption for qualifying stablecoins for specific uses within the cryptoasset lending and borrowing models would be proportionate and effective in reducing the level of risk for retail consumers?

Yes, we consider that a limited exemption for qualifying stablecoins — when used for specific, clearly defined purposes within crypto lending and borrowing models — would be a proportionate and risk-sensitive approach. Such an exemption could reduce consumer harm while preserving access to low-risk use cases, such as payments, liquidity provisioning, and basic yield products.

1. Rationale for Stablecoin Exemption in Lending Contexts

a. Lower Volatility

Qualifying stablecoins (e.g. fiat-backed GBP or USD stablecoins issued by regulated entities) do not exhibit the extreme price volatility that characterises most other cryptoassets. This reduces the risk of margin calls, liquidation cascades, and collateral erosion in lending/borrowing arrangements.

b. Core Financial Infrastructure Use

Stablecoins often serve as on-chain liquidity rails, not speculative assets.

Retail access to regulated lending protocols using qualifying stablecoins enables participation in basic financial functions (e.g. earning interest, providing liquidity) without excessive exposure to price risk.

2. Parameters for a Proportionate Exemption

To ensure the exemption is effective and does not introduce new systemic risks, we recommend that the following conditions apply:

a. Definition of 'Qualifying Stablecoin'

Must be fiat-referenced (e.g. GBP or USD), fully backed by high-quality liquid assets, and issued under a regulated regime (e.g. under the FCA's stablecoin regime or equivalent overseas). Algorithmic or crypto-collateralised stablecoins should be excluded.



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b. Restricted Use-Cases

The exemption should be limited to:

- Lending/borrowing against stablecoins as collateral
- Participating in overcollateralised lending pools with qualifying stablecoins
- Yield-generating accounts that use stablecoins in low-risk strategies (e.g. short-duration treasury-backed lending)

c. Risk Disclosure and Suitability Filters

Firms offering such products should still provide:

- Key risk disclosures (e.g. counterparty risk, protocol risk)
- Opt-in features or suitability assessments for retail users

3. Benefits of a Calibrated Approach

- Encourages safe financial innovation while limiting exposure to high-risk instruments.
- Preserves UK competitiveness in digital finance and tokenised money markets.
- Prevents over-regulation that could drive users to unregulated offshore platforms.

4. Potential Safeguards

FCA could cap retail allocations into stablecoin-based lending products to limit concentration risk.
Require lending platforms to publish real-time collateral ratios and stress-test results for transparency.

A targeted exemption for qualifying stablecoins within the lending and borrowing context can provide a measured pathway for safe retail participation, reduce risk exposure, and align with the FCA's commitment to proportionate regulation. Such an approach ensures that consumer protection does not come at the cost of financial exclusion or offshoring of safer use-cases.

Chapter 5

Restrictions on the use of credit to purchase cryptoassets

Question 41: Do you consider that implementing restrictions on the use of credit facilities to purchase cryptoassets would be effective in reducing the risk of harm to consumers, particularly those who could be considered vulnerable? Are there alternative approaches that could equally mitigate the risks?

Yes, we consider that restricting the use of credit facilities to purchase cryptoassets would be a prudent and proportionate measure to reduce the risk of consumer harm, especially for vulnerable individuals or those exhibiting risk-prone financial behaviours. This aligns with the FCA's Consumer Duty outcomes and is consistent with restrictions already applied to high-risk investments (e.g. CFDs, spread bets).



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1. Rationale for Restrictions on Credit-Based Purchases

a. Crypto Is Highly Volatile and Speculative

Using borrowed funds to buy volatile assets amplifies downside risk, potentially leading to unaffordable losses. Leverage magnifies financial distress and can push consumers into debt spirals — particularly when margin calls or interest accruals compound the initial exposure.

b. Behavioural Risk Amplification

Evidence from behavioural finance shows that access to easy credit can encourage impulsive, emotionally driven investing, particularly during market hype cycles. This is a particular concern for young, inexperienced, or financially vulnerable users, who may overestimate upside and underestimate risk.

c. International Precedent

Other jurisdictions have implemented similar protections. For example:

- Australia has proposed banning credit card usage for crypto purchases.
- The UK already prohibits use of credit cards for gambling based on the same principles of harm reduction and vulnerability protection.

2. Implementation Approaches

a. Direct Prohibition (Preferred)

Prohibit the use of credit cards and other forms of unsecured credit for purchasing cryptoassets via regulated platforms. Enforcement would be straightforward through card issuers and PSPs (e.g. merchant category code restrictions).

b. Real-Time Credit Screening or Warnings

Require platforms to flag or block credit-based funding sources at the point of transaction (e.g. BIN filtering, source of funds analysis).

Alternative: present a high-friction warning screen if credit use is detected, with opt-out disabled by default.

3. Alternative or Complementary Approaches

a. Spending Limits for New Users or High-Risk Profiles

Platforms could implement tiered limits based on financial profile, knowledge tests, or risk indicators (e.g. self-declared income, failed affordability checks).

b. Opt-In Delay Periods for First-Time Credit Users

Introduce a 24–48 hour delay for any credit-based crypto purchase, allowing consumers to reconsider the decision.

c. Affordability Assessments (Optional)

Platforms could offer integrated financial health checks (voluntary or required for higher-value credit-based transactions).


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Chapter 6 – Staking

Question 42: Do you agree that firms should absorb retail consumers' losses from firms' preventable operational and technological failures? If not, please explain why? Are there any alternative proposals we should consider?

Yes, we agree that regulated firms should be responsible for absorbing retail consumers' losses arising from preventable operational and technological failures under their control. This is consistent with established expectations under the Consumer Duty, CASS rules, and the FCA's broader focus on accountability and market integrity.

1. Rationale for Holding Firms Accountable

a. Preventable Failures Fall Within Firms' Control

Examples include:

- Infrastructure outages due to poor systems maintenance
- Slashing caused by validator mismanagement
- Mishandling of keys or faulty smart contract integrations

These are operational risks that firms have a duty to mitigate through internal controls, vendor due diligence, and systems testing.

b. Consumer Protection and Trust

Retail clients typically lack the expertise or visibility to assess operational risks behind crypto staking, custody, or platform function.

Consumers cannot reasonably be expected to carry the burden for firm-led failures. Liability must lie with the provider, not the user.

c. Alignment with Financial Services Precedents

In traditional finance, regulated firms are liable for losses caused by operational negligence, such as:

- Settlement errors
- IT system failures
- Mishandling of client funds

2. Important Clarification — "Preventable" Failures Only

It is appropriate that only preventable failures trigger mandatory firm compensation. This should exclude:

- Blockchain-level failures (e.g. a protocol bug in a public chain outside the firm's control)
- Volatility in rewards or price performance (commercial risk)
- Consumer misuse or loss of credentials (user error)

3. Alternative or Complementary Proposals



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a. Staking Risk Reserve Fund

Firms could be required to hold a ring-fenced contingency fund to cover losses from slashing or preventable incidents. Similar to compensation arrangements in the insurance or payments sector (e.g. safeguarding rules under PSD2).

b. Mandatory Operational Insurance

Firms should consider third-party professional indemnity or cyber insurance to cover preventable losses.

c. Mandatory Incident Disclosure and Redress Process

Firms should maintain:

- Clear consumer redress protocols
- Regulatory reporting obligations for operational failures
- Timely disclosure of platform incidents and consumer impact

Firms must be held accountable for operational and technological failures that fall within their control. This ensures consumer confidence, promotes high standards of governance, and deters underinvestment in systems resilience. Where appropriate, FCA should allow firms to manage this liability through risk funds, insurance, and robust operational standards, but never at the cost of consumer protection.

Question 43: Do you agree that we should also rely on the operational resilience framework in regulating staking, including the requirements on accountability?

Yes, we agree that the FCA's operational resilience framework, including its emphasis on accountability, should form a core pillar of the regulatory regime for staking activities. Staking, particularly when offered as a service to retail clients, introduces specific operational, technical, and governance risks that make resilience and clear lines of responsibility critical to market integrity and consumer protection.

1. Why Operational Resilience is Vital in Staking

a. Validator Risk and Infrastructure Downtime

Staking performance relies on node uptime, network connectivity, and avoidance of slashing conditions. Infrastructure outages or misconfigurations can result in irreversible consumer losses (e.g., missed rewards, slashing penalties).

b. Custody & Key Management Failures

Loss, theft, or compromise of staking keys can lead to permanent asset loss or slashing. Firms must demonstrate robust controls, redundancy, and key rotation protocols.

c. Protocol-Level Events



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Forks, upgrades, governance changes, or bugs in staking smart contracts require rapid risk response capability. Operational resilience ensures that firms can adapt and protect clients during protocol-level disruptions.

2. Accountability Framework – Essential for Trust and Compliance

Clear SMF responsibility under the FCA's Senior Managers and Certification Regime (SM&CR) is necessary to:

- Prevent blame-shifting in the event of slashing or system failure.
- Ensure that key risks (e.g. validator selection, custody practices, liquidity) are being actively managed by accountable individuals.
- A named accountable person should oversee:
- Validator risk assessment and delegation policies
- Slashing risk management and client disclosure
- Infrastructure resilience and contingency planning

3. FCA Operational Resilience Framework – Key Elements to Apply to Staking Firms

We recommend applying the following expectations from the existing operational resilience regime to regulated staking firms:

FCA Principle	Staking Application Example
Identify Important Business Services	e.g. validator delegation, reward distribution, unbonding process
Set Impact Tolerances	e.g. maximum allowable delay in unstaking, downtime before incident triggers client harm
Scenario Testing	Simulate validator slashing, chain forks, smart contract bugs
Governance & Accountability	Assign senior management responsibility for staking risk management
Communication Plans	Real-time incident reporting protocols to clients during disruption

Our proposed staking fail-safe mechanism maps directly onto the **FCA's resilience framework**. Under PRIN 2.2 ('A firm must take reasonable care to organise and control its affairs responsibly



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and effectively, with adequate risk management systems'), the fail-safe embeds clear ownership, governance and escalation procedures for staking operations. In the **SYSC 15 chapter on Operational Resilience**, it aligns with:

SYSC 15.1 (Identification of Important Business Services): by treating delegated staking as an 'important business service' and explicitly defining its impact tolerances;

SYSC 15.2 (Mapping of Resources): by requiring firms to document all people, processes, technology and third-party interdependencies that support staking, so the fail-safe can be triggered to restore service within the agreed tolerance; and

SYSC 15.4 (Scenario Testing and Lessons Learned): by mandating regular, documented drills of the fail-safe activation, with post-mortem reviews to capture and remediate any gaps.

Question 44: Do you agree that firms should have to get express consent from retail consumers, covering both the value of consumer's cryptoassets to be staked and the type of cryptoassets the firm will stake, with each cryptoasset staked by the consumer requiring its own consent?

Yes, we agree that firms should be required to obtain express, asset-specific consent from retail consumers before staking their cryptoassets. This approach is necessary to uphold the principles of informed decision-making, asset-level risk transparency, and compliance with the Consumer Duty.

Rationale:

1. Asset-Specific Risk Profiles

Different cryptoassets carry different:

- Slashing risks (e.g. Ethereum vs Cosmos)
- Lock-up durations (e.g. Polkadot unbonding vs instant withdrawal tokens)
- Reward volatility and validator centralisation

Therefore, generic or blanket consent fails to account for the diverse risk-return profiles of each asset.

2. Informed Consumer Participation

Express consent encourages consumers to actively consider:

- What they are staking
- For how long
- With what risk exposure

This reinforces responsible user behaviour and deters impulsive or FOMO-driven staking decisions.



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3. Record-keeping and Dispute Protection

Per-asset consent creates a clear audit trail for both consumers and firms, improving dispute resolution and complaint handling.

Implementation Recommendations:

a. Consent Interface Design

Present staking options per asset, with:

- Value to be staked clearly shown
- Slashing risk disclosures
- Estimated lock-up/exit timeline
- Checkbox or digital signature required for each asset.

b. Re-consent for Material Changes

Require fresh consent if:

- The validator set or slashing terms change
- The asset is migrated to a new protocol or staking method (e.g. from native staking to liquid staking)

c. Batch Staking Option (Advanced Users Only)

For experienced users, allow optional portfolio-level opt-in to stake multiple assets, but only after initial per-asset consent has been established and risk profiles explained.

Q45: Do you agree that firms should provide a key features document as outlined above to retail consumers? If not, please explain why? What other means should be used to communicate the key features and risks of staking to consumers?

Yes, we agree that firms offering staking services to retail consumers should be required to provide a Key Features Document (KFD). This aligns with the FCA's objectives on consumer understanding, transparency, and risk awareness, especially under the Consumer Duty framework.

However, a KFD should be part of a multi-channel communication strategy, not a standalone measure.

1. Importance of a Key Features Document

Clarity: Summarises complex staking concepts (e.g. lock-up, slashing, APY variability) in accessible terms.

Consistency: Enables standardised comparisons across providers.

Risk Disclosure: Ensures visibility of less understood risks (e.g. validator risk, smart contract bugs, governance attack vectors).

Auditability: Provides a clear record of disclosures made at point of sale.



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2. Minimum Requirements for a KFD

A well-designed KFD should include the following elements in plain English:

- What staking is, including lock-up and unbonding timelines
- Expected rewards (variable, not guaranteed)
- Custody model (pooled vs segregated, on-chain vs off-chain)
- Slashing risks, downtime penalties
- Early withdrawal penalties or exit conditions
- Associated fees and charges
- What happens in case of validator or firm failure

Visual summaries (infographics, timelines, or risk icons) are highly encouraged.

3. Additional Communication Methods (Beyond KFD)

a. Interactive Risk Warnings

Pop-ups or in-app banners when users initiate a staking position. These can dynamically highlight protocol-specific risks.

b. Short Educational Videos or Explainers

Embedded into platform interfaces to explain staking, slashing, compounding, and unbonding.

c. Behavioural Nudges

"Are you sure?" screens before confirming stake. Default opt-out from auto-compounding or restaking.

d. Dynamic APY Risk Labelling

Clearly distinguish between base staking rewards and any additional incentivised yield, with labelling that reflects changing on-chain conditions.

4. Recommendation: Tiered Disclosure Framework

- Simplified KFD for low-risk, native staking services (e.g. ETH staking via pooled validator).

- Enhanced disclosures for complex or bundled products (e.g. liquid staking tokens, leveraged staking, staking-as-a-service with custodial third parties).

Q46: Are there any alternative proposals we should consider to minimise the risks of retail consumers' lack of understanding leading to them making uninformed decisions?

Yes, there are several alternative and complementary measures the FCA should consider to mitigate the risk of retail consumers making uninformed decisions in cryptoasset markets — particularly in complex areas such as staking, lending, tokenisation, and DeFi.

1. Risk-Layered Product Categorisation Framework (RPCF)



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Proposal: Introduce a standardised risk labelling system for crypto products, similar to food labelling or investment risk grades.

Mechanism: Categorise products into bands (e.g., Green – Stablecoin; Amber – ETH staking; Red – Leveraged DeFi).

Benefit: Enables retail users to quickly assess risk exposure at the point of sale or onboarding.

2. Enhanced Risk Disclosures via "Know Your Product" (KYP) Sheets

Proposal: Mandate concise, visual product fact sheets at the point of entry, covering: Volatility history Slashing/liquidation risk Lock-up periods Custody and governance structure

Benefit: Encourages informed participation and aligns with Consumer Duty outcomes on "foreseeable harm."

3. Interactive Consumer Risk Profiling and Suitability Checks

Proposal: Require regulated crypto firms to conduct basic risk tolerance assessments, similar to MiFID II suitability tests.

Mechanism: Short interactive Q&A or behavioural prompts before enabling high-risk products (e.g., staking or perpetual futures).

Benefit: Aligns product exposure with consumer understanding and financial literacy levels.

4. Time-Gated or Tiered Access for High-Risk Services

Proposal: Introduce cooling-off periods or staged access for retail users engaging in complex products like staking-as-a-service or synthetic tokens.

Mechanism: Access granted after a delay or after the consumer completes an educational module. Benefit: Reduces impulsive or FOMO-driven decision-making.

5. "Regulated By Design" UX Interventions

Proposal: Require crypto platforms to embed choice architecture and interface nudges that: Highlight risks with friction (e.g. "Are you sure?" overlays)

Disable default opt-ins for auto-reinvestment or leverage

Benefit: Encourages reflective thinking, reduces mis-clicks, and enhances behavioural safety.

6. Public Crypto Literacy Campaigns in Partnership with FCA, Schools & Media

Proposal: Partner with education bodies and fintech charities to deliver basic crypto literacy through schools, libraries, and government sites.

Topics to include: blockchain basics, wallet custody, stablecoins, scams, and staking. Benefit: Equips consumers before they engage with products — not after harm occurs.

The BBA believes that retail harm is best mitigated through a combination of intelligent design, regulatory nudging, and education, rather than exclusion. A balanced approach that respects



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consumer autonomy while embedding protective friction and transparency can support a safer, more informed cryptoasset market in the UK.

Question 47: Do you agree that regulated staking firms should be required to segregate staked client cryptoassets from other clients' cryptoassets? If not, why not? What would be the viable means to segregate clients' assets operationally?

Yes, we agree that regulated staking firms should be required to segregate staked client cryptoassets from other clients' assets — both to uphold client asset protection principles and to support transparent, auditable operations in line with the FCA's Consumer Duty and market integrity objectives.

1. Rationale for Segregation

a. Risk Containment

Segregation limits the contagion of loss or slashing penalties from one client's staking activity to another's. It enables targeted risk attribution in the event of protocol failure, validator misconduct, or fraud.

b. Consumer Trust and Transparency

Clients must have clarity and confidence that their staked assets are being treated fairly and independently of others.

Segregation aligns with existing expectations under CASS rules for safeguarding client assets.

c. Operational Resilience

Distinct staking positions reduce complexity during reconciliation, dispute resolution, asset recovery, or transition of services (e.g., firm wind-down).

2. Viable Means of Segregation – Operational Approaches

The method of segregation may vary depending on the staking model and protocol constraints, but viable options include:

a. On-Chain Segregation by Wallet

Assign each client a unique staking address or sub-account (e.g., separate validator delegation address or smart contract vault). This is technically feasible on protocols such as Ethereum, Polkadot, Cosmos, and Solana using native staking tools or smart contracts.

b. Off-Chain Ledger Segregation + On-Chain Aggregation

For pooled staking models, client assets can be aggregated on-chain but segregated in internal records with precise ledgers of:

- Stake contribution
- Reward shares



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- Timing of bonding/unbonding

This model must include robust reconciliation controls and withdrawal priority logic.

c. Smart Contract Vaults or Tokenised Staking Receipts

Use of non-transferable tokens or vault contracts to track individual client positions within a staking pool. These systems can be designed to enforce slashing risk separation, reward accounting, and individual exit rights.

3. Proportionality and Practicality

While full on-chain segregation is ideal, FCA should allow proportional implementation based on:

- The protocol's technical features
- The firm's business model
- The client risk exposure
- Firms should disclose their segregation method to clients and justify why it is sufficient to protect client interests.

Question 48: Do you agree that regulated staking firms should be required to maintain accurate records of staked cryptoassets? If not, please explain why

Yes, we agree that regulated staking firms should be required to maintain accurate records of staked cryptoassets. This is fundamental to achieving transparency, consumer protection,

operational resilience, and regulatory oversight. `This is especially important due to the time-lock mechanics, slashing risks, and complexity of reward structures. It also supports the FCA's Consumer Duty and wider objectives of market integrity and resilience. However, this may be a challenge in fully decentralised systems.

1. Client Asset Safeguarding

Accurate records are essential for segregating client assets, tracking entitlements (e.g. rewards, penalties), and ensuring that individual clients' funds are not co-mingled or misallocated.

2. Dispute Resolution and Consumer Redress

In the event of a slashing incident, chain fork, or service failure, robust records will allow the firm to:

- Attribute losses fairly
- Compensate affected clients
- Demonstrate compliance with safeguarding obligations

3. Regulatory and Audit Requirements

Accurate records ensure that firms can respond to supervisory audits, meet reconciliation standards, and prove that their internal controls align with FCA expectations under conduct and prudential standards.



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4. Operational Risk Mitigation

Without a precise, verifiable record-keeping system, firms risk misreporting balances, misallocating staking rewards, or failing to process unbonding requests in a timely manner — exposing clients to material financial harm.

What should be included in "accurate records":

- Client-by-client staked amounts and validator assignment
- Time-stamped records of staking, unbonding, and reward distribution events
- Associated on-chain transaction hashes
- Any third-party validator arrangements and associated delegation metadata
- Audit trails of custody or reward management changes

Question 49: Do you agree that regulated staking firms should conduct regular reconciliations of staked cryptoassets? If not, please explain why? If so, what would be the appropriate frequency?

Yes, we agree that regulated staking firms should conduct regular reconciliations of staked cryptoassets. Reconciliation is essential to ensure asset integrity, detect discrepancies, prevent fraud, and maintain consumer trust — especially in environments where funds are delegated to validators, pooled across participants, or locked in smart contracts.

Rationale for Reconciliation

Transparency and Accountability:

Ensures that on-chain balances (delegated, rewards earned, slashed amounts) match internal ledgers.

Consumer Protection: Reduces risk of undetected errors or mismanagement that could lead to consumer loss.

Regulatory Consistency:

Aligns with existing principles for safeguarding client assets under traditional custody regimes.

Recommended Frequency

The appropriate frequency of reconciliation depends on the staking model and risk exposure, but we propose the following minimum standards:

a. Daily reconciliation

For custodial staking models where the firm actively manages client funds and validator relationships (e.g., staking-as-a-service for retail clients).

Particularly important when rewards are redistributed or clients can request withdrawals at any time.

b. Weekly reconciliation



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For non-custodial or pooled validator models with automated staking but limited real-time client redemption options.

c. Event-triggered reconciliation

Following major network events (e.g., slashing, hard forks, validator jailing), reconciliations should be performed immediately to assess exposure and consumer impact.

Implementation Notes

Reconciliation processes should include: On-chain verification tools (e.g. beacon chain explorers, validator dashboards) Client-by-client ledger matching Tracking of pending rewards, penalties, and unstaking requests Reconciliation records should be auditable and available to the FCA on request.

Chapter 7 – DeFi

Question 50: Do you consider the proposed approaches are right, including the use of guidance to support understanding? What are the effective or emerging industry practices which support DeFi participants complying with the proposed requirements in this DP? What specific measures have you implemented to mitigate the risks posed by DeFi services to retail consumers?

We support the use of guidance, in addition to formal rulemaking, as an important tool to clarify regulatory expectations in the rapidly evolving DeFi space. However, to be effective, guidance must be:

- Technology-neutral, not tethered to specific protocols or models
- Outcome-oriented, focusing on consumer protection, market integrity, and accountability
- Evolving, with regular updates to reflect emerging practices, tooling, and governance innovations in DeFi

1. Appropriateness of FCA's Proposed Approach

Strengths:

Recognising the distinction between protocol developers, front-end interfaces, and governance participants is essential.



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The discussion of "functional equivalence" (i.e. regulating based on activity rather than structure) is a proportionate and forward-looking approach.

Areas for refinement:

The FCA could do more to differentiate between non-custodial protocols and DeFi interfaces that intermediate risk.

Legal liability and enforcement in decentralised contexts remain unclear — more work is needed on "responsibility mapping" within DAOs, multisigs, and front-end teams.

2. Emerging Industry Practices Supporting Compliance

The DeFi industry is actively developing and adopting best practices that align with the FCA's objectives. Examples include:

a. Decentralised Front-End Disclosures

Open-source DeFi interfaces (e.g. Yearn, Aave, Lido) have begun adding "risk disclaimers", UI flags for smart contract audits, and frontend warnings about slippage, impermanent loss, and liquidation risk.

b. Auditing and Bug Bounty Programs

Protocols implement formal smart contract audits (e.g. by firms like CertiK, Trail of Bits) and incentivise responsible disclosure via bug bounty platforms like Immunefi.

c. Governance Risk Frameworks

Some DAOs now follow structured frameworks (e.g. Gauntlet's risk modeling, Llama's treasury management strategies) to mitigate market manipulation or governance abuse.

d. Self-Regulatory Tooling

DeFi Score (now deprecated) and newer efforts like DeFiSafety score protocols based on transparency, code quality, and operational history.

Cross-chain identity protocols (e.g. Gitcoin Passport, Ethereum Attestation Service) allow users to verify reputation while maintaining pseudonymity.

The British Blockchain Association Advocating Evidence Based Blockchain

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3. Measures to Mitigate Retail Risk in DeFi (Implemented or Recommended)

While not all apply to every organisation, common risk mitigation strategies include:

- Retail gating mechanisms based on jurisdiction, knowledge checks, or wallet reputation scores
- Front-end legal disclaimers warning users of potential loss or lack of recourse
- Education initiatives to promote informed participation in liquidity pools, yield farms, or lending protocols
- Use of permissioned access control for early-phase DeFi experiments (e.g. allowlisting KYC'd wallets)
- Fail-safe or circuit-breaker logic embedded in smart contracts to pause trading in abnormal market conditions

4. Recommendations for FCA Guidance

To support implementation, we recommend the FCA publish thematic guidance on:



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- Risk disclosures in DeFi interfaces
- Smart contract audit expectations and best practices
- DAO governance responsibility mapping
- Handling of pseudonymous users in KYC/AML obligations (e.g. through verifiable credentials)

Question 51: We consider these potential additional costs to firms and consumers in the context of the potential benefits of our proposed approach, set out earlier in Chapter 1. In your view, what are the costs of these different approaches? Can you provide both quantitative and qualitative input on this.

We agree that regulation must strike the right balance between market integrity and consumer protection on one hand, and innovation and competitiveness on the other. Below is a breakdown

of key costs associated with the proposed regulatory approach, presented in both qualitative and quantitative terms where possible.

1. Direct Costs to Firms

a. Authorisation & Compliance Costs

We suggest an estimated cost range of £300,000–£2 million per firm (setup and initial compliance), depending on size and complexity. Annual regulatory maintenance (e.g., audit, reporting, training) may add £150,000–£500,000 per year for mid-sized firms. These estimates are derived from consultations with the **BBA industry members** and **partners of the Centre for Evidence Based Blockchain**, reflecting costs for firms of varying sizes in 2025, and are consistent with industry benchmarks such as Model Office's report that compliance costs average 19% of annual revenue for financial firms (AscentRegTech,2025).(<u>https://www.ascentregtech.com/blog/the-not-so-hidden-costs-of-compliance/</u>)

Financial firms globally spend \$206 billion annually on financial crime compliance, with North America alone at \$61 billion. It also cites a Model Office report stating that compliance costs average 19% of annual revenue, varying by firm size. While these figures are not UK-specific or crypto-focused, they suggest that compliance costs are significant and can scale with firm size, supporting the BBA's broad range.

Any estimated costs must also take into account new capital, liquidity, and risk management requirements for crypto firms - <u>https://www.solegal.co.uk/insights/crypto-regulation-uk-fcas-roadmap-unveiled</u>. Sources like Grant Thornton and Norton Rose Fulbright research shows the UK's crypto regulatory framework, timelines, scope, or qualitative impacts (e.g., barriers to entry) rather than quantitative costs):



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https://www.nortonrosefulbright.com/en/knowledge/publications/2b6d1b40/the-future-financialservices-regulatory-regime-for-cryptoassets-in-the-uk

Breakdown includes:

Legal and advisory services IT system upgrades (including wallet segregation and risk monitoring) Reporting infrastructure HR and training on new requirements

b. Ongoing Compliance Costs

Annual regulatory maintenance (e.g., audit, reporting, training) may add \pounds 150,000 – \pounds 500,000 per year for mid-sized firms.

Qualitative Impact: These burdens may deter market entry or drive consolidation, particularly among start-ups or non-UK firms serving UK clients remotely.

2. Indirect Costs to Firms and Market

a. Slower Time-to-Market

Regulatory authorisation cycles could delay product launches by 6–12 months, particularly for novel offerings (e.g., staking, DeFi front-ends).

b. Disincentivised Innovation

Lack of tailored pathways for decentralised or hybrid business models may result in projects relocating to more permissive jurisdictions.

c. Duplicative Compliance Burdens

Firms operating across jurisdictions may face inconsistencies between UK requirements and those of MiCA (EU), Dubai VARA, Singapore MAS, etc.

3. Costs to Consumers

a. Reduced Access and Choice

Stricter rules may limit the availability of certain services (e.g., algorithmic trading tools, crosschain swaps, or yield products).

Increased compliance costs are likely to be passed on to consumers through higher fees or reduced service availability.

b. Risk of Informal Markets

Some consumers may turn to unregulated or offshore providers with weaker protections, increasing systemic consumer vulnerability.



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4. Opportunity Costs (Macro Level)

a. Capital Flight

If the UK is perceived as less innovation-friendly, firms may relocate to more flexible regimes, reducing domestic crypto-related capital flows and employment.

b. Missed Strategic Advantages

A less agile regime could prevent the UK from leading in next-gen finance, including tokenised securities, programmable payments, and verifiable AI governance infrastructure.

5. Offsetting Benefits (as per Chapter 1)
Despite these costs, the proposals offer significant benefits in: Market integrity
Consumer confidence
International credibility
Fraud and risk reduction

But to fully unlock these benefits, proportionality, clarity, and interoperability will be essential in final rulemaking.

The costs of implementing this regime, both monetary and operational are substantial, especially for smaller firms. However, a proportionate, innovation-aligned approach, supported by FCA sandboxes, phased implementation, and tailored obligations, can mitigate many of these burdens while realising the full promise of a safe and competitive UK crypto economy.

Question 52: Do you agree with our assessment of the type of costs (both direct and indirect) and benefits from our proposals? Are there other types of costs and benefits we should consider?

We broadly agree with the FCA's assessment of the direct and indirect costs and benefits outlined in DP25/1. However, there are additional nuanced costs and opportunity benefits that warrant further consideration to ensure a balanced, innovation-aligned framework.

1. Direct Costs (Acknowledged and Agreed)

The FCA correctly identifies key compliance costs such as:

- IT infrastructure upgrades
- Legal and governance adjustments
- Staff training and consumer communication
- Reporting and record-keeping systems

Comment: These costs will vary widely based on business model, scale, and regulatory maturity of firms. Early-stage firms and DeFi front ends will likely face a disproportionately high cost burden.



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2. Indirect Costs (Partially Captured, Needs Expansion)

d. Market Exit and Consolidation Risk

Smaller or non-UK firms may choose to exit the UK market rather than undertake costly authorisation procedures.

This could reduce consumer choice, increase market concentration, and impact innovation dynamics.

b. Innovation Suppression

If regulatory clarity around DeFi, staking, or smart contract-based models is too conservative or ambiguous, it may inhibit experimentation or lead to jurisdictional arbitrage.

e. Reduced Interoperability

Divergence from emerging global norms on terminology, custody, or staking could introduce friction for multi-jurisdictional firms, reducing the UK's competitiveness in cross-border crypto finance.

3. Additional Benefits (Understated or Missing)

f. Economic Growth and Job Creation

A clear and innovation-friendly regime could catalyse growth in crypto-native financial services, legal tech, compliance-as-a-service, and tokenised markets — leading to UK-based jobs, tax revenue, and global capital inflows.

b. Regulatory Exports

By becoming a first mover in thoughtful, proportionate crypto regulation, the UK could export its standards globally, similar to its historical influence on fintech and open banking frameworks.

g. Al and Data Governance Synergy

Regulating cryptoasset activities creates a foundation for trusted data layers and provenance, which will be critical in Al governance, financial data integrity, and cross-border auditability.

4. Recommendation: Cost-Benefit Tracking Mechanism

The FCA should consider establishing a Regulatory Impact Monitoring Framework with periodic post-implementation reviews, to ensure the benefits of innovation, inclusion, and market integrity are realised, and unintended burdens are mitigated.

Question 53: How do you see our proposed approach to regulating these activities affecting competition in the UK cryptoasset market?



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The proposed approach is broadly positive in fostering consumer protection and market integrity, but its impact on competition will depend heavily on how proportionate and accessible the final regime is for new entrants and smaller firms. Below is a breakdown of the likely effects:

1. Market Confidence and Institutional Entry (Positive Impact)

By introducing a clear, consistent regulatory regime, the FCA is lowering reputational risk for firms operating in the UK. This is likely to attract institutional players, fintech innovators, and overseas capital, enhancing competition among high-quality, compliant providers.

2. Barriers to Entry for Startups (Potential Negative Impact)

Compliance costs, particularly legal, custody, and systems architecture requirements, may be disproportionately high for smaller firms and startups.

Without a graduated or tiered compliance regime, early-stage innovators may be priced out, consolidating market power among large incumbents.

Recommendation: Introduce sandbox extensions, regulatory accelerators, or lighter-touch regimes for firms under certain thresholds (e.g., volume, client assets).

3. Level Playing Field vs Regulatory Arbitrage

The UK's alignment with international standards (IOSCO, FSB, FATF) helps reduce regulatory arbitrage. However, if offshore firms with UK users are not held to equivalent standards, this may create an uneven playing field, disadvantaging UK-based competitors.

Recommendation: Implement and enforce location and incorporation requirements consistently, especially where firms market to UK retail consumers.

4. Competition Through Innovation (Opportunity)

Regulatory clarity on activities such as staking, lending, and custody can foster specialisation and service diversification. UK firms will be better positioned to develop new models (e.g., embedded finance, programmable payments) if regulation allows room for experimentation.

Recommendation: Allow firms to innovate within guardrails by encouraging principles-based outcomes, not overly prescriptive rules.

5. Consumer Choice and Market Structure

Regulating custody, intermediaries, and trading venues will reduce risk for consumers and could shift demand toward regulated service providers. However, over-consolidation risk must be managed, especially if high compliance burdens limit the number of viable competitors.



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Question 54: Are there any additional opportunities, including for growth, we could realise through a different approach to regulating these activities?

Yes. A different, more innovation-aligned regulatory approach could unlock several strategic opportunities for growth in the UK's cryptoasset and digital economy sectors. These include:

1. Positioning the UK as a Global Hub for Tokenisation

Opportunity: A forward-thinking regime for tokenised real-world assets (RWAs) including bonds, equities, property, and commodities can establish the UK as a leader in regulated digital markets.

Alternative Approach: Implement a dedicated Tokenisation Framework alongside the FCA's sandbox initiatives to accelerate institutional adoption and unlock new capital markets infrastructure.

2. Growth Through Principles-Based and Tiered Regulation

Opportunity: Many cryptoasset activities fall along a spectrum of decentralisation and risk. A tiered regulatory model could enable innovation while safeguarding market integrity.

Alternative Approach: Adopt proportionate, activity-based thresholds (e.g. trading volume, retail exposure, custody scope) to reduce unnecessary compliance burdens for low-risk or non-systemic participants.

3. Exporting Regulatory Leadership via Open Standards

Opportunity: The UK could drive growth by helping set global benchmarks for crypto compliance, similar to the UK's role in FinTech, Green Finance, and Open Banking.

Alternative Approach: Encourage open technical standards for custody, staking, stablecoin reserve attestations, and smart contract security that can be adopted internationally.

4. Unlocking Institutional Growth via Staking and Digital Custody

Opportunity: Clarity and confidence in staking and custody rules would open the door for UK-based banks, asset managers, and pension funds to participate in crypto markets.

Alternative Approach: Separate staking from collective investment schemes; treat digital custody as a specialised service with bespoke capital and conduct requirements.

5. Decentralised Finance (DeFi) as a Regulated Innovation Frontier

Opportunity: DeFi protocols can drive programmable finance, cross-border settlements, and financial inclusion.

Alternative Approach: Launch a Regulated DeFi Pathway, where developers can opt into regulatory commitments in exchange for clarity, legitimacy, and supervised sandbox access.



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Conclusion:

The UK stands at a defining crossroads. By regulating with strategic foresight and clarity of purpose, it can shape a cryptoasset regime that not only protects consumers but also unleashes economic dynamism, digital leadership, and global regulatory influence. A more modular, principles-based approach focused on real-world outcomes will ensure that regulation remains agile, proportionate, and future-proof.

The British Blockchain Association commends the FCA for initiating this important consultation and views it as a pivotal step toward establishing a world-leading, evidence-based regulatory framework for cryptoassets. Clarity, consistency, and predictability will be vital to attracting responsible innovation. The greater the certainty around classification, regulatory perimeter, and supervisory expectations, the more confidently firms will anchor their operations within the UK. To that end, we urge the FCA to adopt a collaborative supervisory model that incorporates structured stakeholder engagement, cross-sector working groups, and regular bi-annual updates.

Global coherence must remain a priority. Alignment with frameworks such as MiCA, FINMA, MAS, and emerging standards from FSB and IOSCO will help avoid regulatory arbitrage and support the UK's leadership in the global digital economy. Looking ahead, the BBA welcomes the opportunity to support the FCA through continued consultation, evidence-gathering, regulatory innovation pilots, and public education campaigns. Together, we can build a trusted, transparent, and thriving cryptoasset ecosystem, anchored in integrity, informed by evidence, and driven by purpose.



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