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Dear FCA,

**The Financial Services Consumer Panel<sup>1</sup> welcomes the opportunity to respond to the Consultation on lifting the ban on retail sale, marketing and distribution of cryptoasset exchange traded notes (cETNs).**

The Panel continues to appreciate the FCA's efforts to create an environment that supports UK firms in growing and innovating, while also ensuring that consumers are adequately protected and markets operate effectively. The Panel also welcomes the FCA's ongoing monitoring and assessment of international regulatory developments.

While the FCA proposes to make UK Recognised Investment Exchange (UK RIE) cETNs available to retail consumers in the same way they are currently available to professional investors, the Panel does not believe this is appropriate. The Panel is concerned that retail consumers do not have the same level of resources, expertise, or risk tolerance as professional investors, and therefore should not be granted equivalent access to such high-risk products. The assumption that similar access equates to appropriate access overlooks the fundamental differences in investor protection needs between these two groups.

The Panel remains concerned that spot cryptoasset markets, leveraged exchange traded products (ETPs), and crypto proxy investments continue to be available to retail consumers, despite often carrying greater risks than the regulated cETNs under consultation. These products are typically highly volatile, complex, and operate outside the FCA's regulatory perimeter—offering limited, if any, consumer protection. Their ongoing availability creates a clear regulatory inconsistency, whereby unregulated

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<sup>1</sup> <https://www.fca.org.uk/panels/consumer-panel>

or higher-risk products remain accessible to retail investors, and potentially safer alternatives are restricted. This inconsistency risks causing consumer confusion and undermining confidence in the regulatory regime. The Panel therefore urges the FCA to consider this disparity and to ensure that consumer protection is applied consistently across all crypto-related products, not only those addressed in this consultation.

Although the Panel recognises that the proposals in this consultation could strengthen the disclosure requirements and facilitate more effective supervision, it remains concerned about the FCA's proposal to lift the ban to retail investors.

The Panel acknowledges that market maturity and regulatory oversight have improved since the 2021<sup>2</sup> ban, particularly through the introduction of the Money Laundering Regulations in January 2020 and the financial promotions regime in October 2023. However, the Panel does not consider that the core concerns which prompted the original ban—such as high volatility, valuation challenges, consumer understanding, and risk of financial crime—have been sufficiently addressed to justify its removal.

The Panel appreciates that by not giving retail investors access to cETNs that were admitted to a UK RIE will create a two-tier market where only professional investors have access to such investments.

### **Should the FCA decide to proceed with the proposals in this consultation:**

The Panel supports the requirement for firms to comply with the Conduct of Business Sourcebook (COBS), the Consumer Duty and risk warning obligations and financial promotion rules. The application of those requirements will help consumers receive information to support their decisions.

The Panel supports the inclusion of a standardised, bespoke risk summary for UK RIE cETNs, as proposed in COBS 4 Annex 1. We believe that clear and consistent risk disclosures are essential to enabling informed consumer decision-making, particularly given the complexity and volatility of these products. In line with the FCA's Consumer Duty, which requires firms to deliver good outcomes for retail customers, we recommend that the proposed risk summary be robustly tested with consumers to assess its clarity, comprehensibility, and real-world effectiveness. This aligns with the Duty's cross-cutting rules, particularly the need for firms to act in good faith, avoid foreseeable harm, and support consumers in making effective financial decisions. Without meaningful consumer testing, there is a risk that even well-intentioned disclosures may fall short of delivering the desired level of consumer understanding and protection.

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<sup>2</sup> [FCA bans the sale of crypto-derivatives to retail consumers | FCA](#)

The Panel is concerned by the language used in the statement, “You should do your own research before investing. If something sounds too good to be true, it probably is.” While the Panel supports efforts to encourage consumer vigilance and informed decision-making, the use of the phrase “*probably is*” introduces an element of ambiguity that may weaken the strength of the warning. This phrasing could be interpreted by consumers as leaving room for exceptions, potentially diminishing its intended cautionary impact. Given the high-risk and often speculative nature of cryptoasset investments, consumer messaging should be clear, unambiguous, and direct. The Panel recommends that the language be revised to reflect a firmer warning, ensuring that it effectively deters consumers from engaging with potentially harmful or misleading investment opportunities.

The Panel is also concerned with the directive that consumers should “do their own research” before investing. While promoting personal responsibility is important, this guidance does not sufficiently account for the realities of how retail consumers source information. In practice, consumers are likely to rely on unregulated and potentially unreliable sources—such as social media platforms, online forums, and influencer content—when attempting to assess complex and high-risk products like cryptoasset exchange traded notes (cETNs). These channels often lack accuracy, objectivity, or regulatory oversight, increasing the likelihood of consumers being misled. Without clearer direction or safeguards to ensure the quality and reliability of information sources, this type of message may unintentionally give a false sense of security and lead to poor investment decisions. The Panel urges the FCA to reconsider the phrasing and to provide stronger guidance on what constitutes appropriate, credible research.

The Panel agrees with the proposal to categorise UK RIE cETNs as Restricted Mass Market Investments (RMMIs), and supports the application of financial promotion rules equivalent to those applied to underlying cryptoassets. This approach provides an appropriate level of regulatory oversight and ensures that retail consumers are subject to consistent protections when engaging with high-risk investment products.

**The Panel remains concerned by the FCA’s position not to extend Financial Services Compensation Scheme (FSCS) coverage to retail consumers investing in UK RIE cETNs.**

While we acknowledge the FCA’s stated rationale that offering compensation for higher-risk products may lead to poor incentives for consumers and firms, we do not consider this a sufficient basis for withholding access to redress mechanisms. The Panel reiterates its view that access to the Financial Ombudsman Service (FOS) and the FSCS

should form a consistent and integral part of the consumer protection framework for all cryptoasset-related products within the regulatory perimeter. The broader regulatory regime should set appropriate incentives for firms that would not be undermined by the existence of FSCS coverage. From a consumer perspective, we remain unconvinced that the presence of FSCS protection would drive poor consumer decision making. On the contrary, in the context of rapidly evolving and complex markets, consumers face inherent risks—even when taking reasonable precautions—and should have clear, reliable avenues for redress. Further, consumers are likely to take a degree of reassurance from the FCA’s decision to lift the ban. The absence of such protections may undermine consumer confidence, limit the effectiveness of the broader regulatory regime, and ultimately lead to poorer outcomes. We therefore urge the FCA to reconsider its justification and ensure that appropriate consumer safeguards, including access to redress and compensation, are embedded from the outset of this regime.

The Panel continues to appreciate the FCA’s efforts and looks forward to further engagement on these topics.

Yours sincerely,

Chris Pond

Chair, Financial Services Consumer Panel