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Dear FCA,

Financial Services Consumer Panel¹ response to the Consultation Paper on the Application of FCA Handbook for Regulated Cryptoasset Activities II

The Financial Services Consumer Panel welcomes the opportunity to respond to CP26/4. The Panel broadly supports the FCA's proposals towards a more consistent, consumer-focused regulatory regime for cryptoasset activities, recognising that the proposals focus on strengthening consumer protection, enhancing market integrity, and aligning cryptoasset regulation with established financial market standards.

Our response emphasises several priority themes: the need for robust Consumer Duty application, clear conduct standards, and stronger safeguarding arrangements; the importance of redress mechanisms including DISP and Ombudsman jurisdiction; and significant concerns about the risks posed by international firms operating through UK branches, particularly regarding legal personality, accountability, and cross-border insolvency.

We also highlight gaps relating to the absence of FSCS protection, the need for enhanced appropriateness testing and consumer-understanding measures, and opportunities to strengthen reporting, training, prudential oversight, and third-party risk management.

Across the consultation, our position reflects a consistent principle: that consumers engaging with cryptoasset markets should receive protections equivalent to those in traditional retail financial services where this is possible and where risks are materially similar.

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

Our submission highlights several core positions:

First, the Panel supports the application of key Handbook standards—including the Consumer Duty, COBS, CASS 17, and the audit framework under SUP 3—to cryptoasset activities. These measures are essential to address well-documented risks relating to misleading promotions, inadequate disclosures, safeguarding failures, and weak governance.

In particular, the Panel believes that

- Consumer Duty is central to improving outcomes for retail users. The FCA's sector-specific guidance appropriately addresses the unique risks in crypto markets, including product complexity, volatility, and limited consumer understanding.
- The COBs proposals for financial promotions, appropriateness assessments, and disclosure requirements will materially reduce consumer exposure to misleading information and poorly understood high-risk products.

Second, we raise significant concerns regarding the risks posed by international firms operating in the UK solely through branches. The absence of a distinct UK legal entity materially limits supervisory effectiveness, weakens accountability, and presents acute cross-border insolvency and redress challenges. We encourage the FCA to ensure that firms cannot erode UK standards through structural arrangements that consumers may not fully understand.

Third, we strongly support extending DISP to all cryptoasset activities and enabling access to the Financial Ombudsman Service. However, we remain concerned about the continuing absence of FSCS protection for comparable cryptoasset activities. This creates inconsistencies in regulatory outcomes and may expose consumers to significant losses, even where they have acted reasonably and firms have failed.

Fourth, we welcome the FCA's proposals to strengthen appropriateness testing, consumer understanding requirements, and express-consent rules. We recommend further enhancements, including mandatory comprehension checks, explicit expectations on vulnerability, restrictions on behavioural-design practices that encourage impulsive trading, and the publication of standardised Consumer Duty metrics.

Fifth, we support the phased introduction of regulatory reporting but believe the framework requires greater granularity to identify harm early. We propose additional reporting on complaints, redress outcomes, vulnerability, operational failures, appropriateness-test results, and third-party dependencies.

Finally, we offer targeted observations on stablecoin issuance, staking, lending and borrowing, prudential thresholds under SM&CR, and the training and competence regime. Across these areas, we encourage a more forward-looking approach that recognises the pace of market evolution and the concentration, volatility, and complexity of cryptoasset business models.

We would be pleased to continue engaging with the FCA as it develops and implements this important regulatory framework. Thank you for considering our response.

Yours sincerely,

Chris Pond

Chair, Financial Services Consumer Panel

Annex A

Chapter 1 – Summary

1. Do you agree with our proposed approach on guidance for international crypto firms? If not, provide details.

The Panel agrees with FCA's proposal for international crypto firms to have a UK legal entity or UK branch, with clear expectations on supervision, promotes consumer protection, as this ensures:

- Stronger oversight and accountability
- Faster regulatory intervention if harm occurs
- Clearer UK jurisdiction over complaints and redress
- Reduced risk of complicated cross-border insolvency situations

The Panel continues to be concerned that the FCA may not have sufficient power to protect consumers of UK-authorized overseas CATPs operating only through a branch in the UK. This is particularly problematic because such branches have no legal personality of their own and are legally dependent on the international cryptoasset firm. Without a distinct legal entity in the UK, regulatory oversight is weakened, and accountability for consumer protection is harder to enforce. The branch's lack of legal independence means that any consumer redress or regulatory intervention is ultimately reliant on the parent firm, which may be based outside the UK and subject to different legal and regulatory frameworks. This limitation raises the risk that UK consumers could be left exposed if issues arise, as the FCA's powers may not extend effectively to the overseas parent company.

The Panel also believes that the FCA should ensure that overseas firms cannot bypass UK standards via branch structures, and that UK consumers receive the same protections regardless of where the parent firm is based.

The Panel continues to be concerned that the FCA may not have sufficient power to protect consumers of UK-authorized overseas CATPs operating only through a branch in the UK. This is particularly problematic because such branches have no legal personality of their own and are legally dependent on the international cryptoasset firm. Without a distinct legal entity in the UK, regulatory oversight is weakened, and accountability for consumer protection is harder to enforce. The branch's lack of legal independence means that any consumer redress or regulatory intervention is ultimately reliant on the parent firm, which may be based outside the UK and subject to different legal and regulatory frameworks. This limitation raises the risk that UK consumers could be

left exposed if issues arise, as the FCA's powers may not extend effectively to the overseas parent company.

The Panel recognises that allowing CATPs to operate through a UK branch can facilitate access to global liquidity, potentially resulting in better pricing and execution for UK customers. This is beneficial to consumers as it may reduce trading costs and improve market efficiency. However, the Panel notes that, when activities are conducted through branches of international firms, it becomes more challenging to monitor risks, obtain timely information, and intervene effectively in cases of misconduct or failure.

The argument that it is sufficient for the home regulator to have comparable levels of regulatory protection and requirements is not convincing. Even where home jurisdictions claim to have similar standards, there can be significant differences in enforcement practices, supervisory priorities, and the effectiveness of redress mechanisms. Cross-border cooperation between regulators is often slow and complex, potentially leaving UK consumers without timely or effective remedies.

Furthermore, the Panel believes that the FCA would not be able to effectively supervise those UK branches, as the FCA

- would not have direct authority to intervene or impose sanctions, which undermines the reliability of consumer protection and could erode trust in the UK regulatory regime.
- may not have sufficient access to information about a firm's business, products, customers and activities to intervene and prevent or mitigate harm if only accessing information through a branch.

The Panel is particularly concerned about the risk of harm of international firms operating through a branch when they are subject to insolvency procedures. The firm's home state regulator may not provide the same protections as the UK's CASS rules and will not have the same oversight as UK authorities. Insolvency regimes differ widely across jurisdictions, and there is minimal harmonisation of such laws internationally, especially in relation to cryptoassets. If an overseas firm safeguarding client cryptoassets fails, it is far more likely that the insolvency will be handled according to the firm's home state procedures, which may not offer equivalent safeguarding or distribution protections. The FCA's ability to participate in or influence these proceedings is often limited, raising the risk that UK consumers could be left without the full benefit of CASS and UK insolvency law. An insolvency practitioner from the home jurisdiction may not be obliged to observe UK protections when allocating cryptoassets, meaning the relevant UK rules might not be applied, might

only be partially applied, or might only be applied in certain circumstances. As a result, UK consumers could face significant uncertainty and reduced protection if an international firm operating through a UK branch becomes insolvent.

In conclusion, while the Panel agrees the exemptions are designed to balance consumer access to better pricing and execution, by enhancing access to global liquidity, there remain residual risks for UK retail clients, particularly in relation to insolvency and asset safeguarding. Consumers should be made aware of these distinctions and the associated risks when engaging with CATPs operating under these exemptions.

- a. In particular, we would be interested in views as to whether any of our proposed rules in this should be applied differently to a UK QCATP which is authorised via a UK branch of an overseas firm, in relation to non-UK users.

We do not agree that there should be different rules applied to a UK QCATP authorised via a UK branch of an overseas firm in relation to non-UK users. Consistent application of the proposed rules is essential to uphold consumer protection standards, maintain regulatory clarity, and ensure a level playing field across the market. Divergent rules for non-UK users could undermine the effectiveness of supervision and risk creating loopholes that compromise both consumer outcomes and market stability.

The Panel acknowledges the FCA's approach whereby, upon seeking authorisation, the FCA will authorise the entire firm, including both its UK and overseas offices. The Panel also agrees with the FCA's approach not to accept letter of good standing alone to be adequate for meeting FCA's expectations.

Despite this, the Panel remains unconvinced that relying on the home regulator's claimed equivalence is sufficient. Even where comparable standards are asserted, enforcement and redress mechanisms may differ, and the effectiveness of regulatory oversight can vary substantially. Therefore, the Panel believes further measures and scrutiny are needed to ensure UK consumers are adequately protected, and that the FCA's powers and standards are not undermined by reliance on overseas regulatory assurances.

2. Do you consider that the SUP 3.3-3.8 should be extended to all cryptoasset activities? If not, explain why.

The Panel supports extending SUP 3.3–3.8² to cryptoasset activities.

² [FCA Handbook - SUP 3 Auditors](#)

Independent audit oversight is a critical safeguard in markets characterised by high volatility, operational fragility, and elevated misconduct risk.

SUP 3.3–3.8 already establish a clear and proportionate framework for:

- mandatory auditor appointment (SUP 3.3)
- minimum competence and qualifications (SUP 3.4)
- auditor independence and conflict-management expectations (SUP 3.5)
- full access rights and cooperation duties (SUP 3.6)
- notification of matters raised by auditor
- auditors’ statutory duties to report matters of material concern to the FCA (SUP 3.8)

The Panel believes that extending SUP 3.3–3.8 would strengthen firms’ financial discipline, improve the reliability of regulatory reporting, and provide earlier detection of weaknesses that could harm consumers. Given the sector’s risk profile and the consumer harm seen to date, extending SUP 3.3–3.8 to all cryptoasset activities is both justified and necessary.

The Panel recognises that some smaller or non-custodial crypto firms may argue that full audit requirements impose cost. However, the risks associated with cryptoasset activities—particularly custody, exchange operations, staking, and token issuance—justify a consistent baseline of independent assurance.

Chapter 2 – Consumer Duty

3. Do you agree with our proposals to apply Principle 12 and PRIN 2A to cryptoasset firms supplemented by non-Handbook guidance to clarify how the duty applies to cryptoasset activities?

The Panel welcomes the FCA’s intention to apply Principle 12 and PRIN 2A to cryptoasset firms supplemented by non-Handbook guidance. The Panel believes these proposals can provide essential protections in a market where many consumers have low understanding of risks and information asymmetry is high.

4. Do you agree with our approach that the Duty will not apply to trading between participants of a UK QCATP?

The Panel does not agree with the approach where the Duty will not apply to trading between participants of a UK QCATP. While trading is

governed by UK QCATP's non-discretionary rules, the Panel would like to note that consumers may wrongly assume the Duty applies. The Panel would recommend a hybrid approach in which the Consumer Duty remains in place as the foundational framework, with rules operating as targeted, supplementary obligations that interpret and apply the Duty outcomes in the cryptoasset context.

5. Do you agree with our approach that the Duty will apply to all activities carried out in relation to UK-issued qualifying stablecoins, including activities relating to public offers and admissions to trading?

The Panel agrees with the approach that the Duty will apply to all activities carried out in relation to UK-issued qualifying stablecoins, including activities relating to public offers and admissions to trading.

Stablecoins are designed to behave like money-like instruments. Stablecoins are often perceived as "safe". The Panel would emphasise that Duty application is essential to counteract this misperception and ensure robust disclosures, governance, and clarity.

The Panel is disappointed that the Duty will not cover A&D for qualifying cryptoassets that are not stablecoins. The Panel would argue this is a major gap: consumers may assume Duty applies to all A&D disclosures regardless if they are stablecoin related or not. While we recognise the need for crypto specific requirements, regardless of that, removing the overarching Duty risks creating unnecessary divergence and weakening the consistency of consumer protection across the regulatory perimeter. The Panel recommends a hybrid approach in which the Consumer Duty remains in place as the foundational framework, with bespoke A&D rules operating as targeted, supplementary obligations that interpret and apply Duty outcomes in the cryptoasset context.

6. Do you have any comments on our proposed guidance on how cryptoasset firms should comply with the Consumer Principle and three cross-cutting rules?

Under the Cross Cutting Rules, firms must

- Act in good faith towards retail customers;
- Avoid causing foreseeable harm to retail customers; and
- Enable and support retail customers to pursue their financial objectives

The guidance is appropriate, but should be strengthened by requiring firms to test consumer understanding (including customers understanding of irreversible transactions before allowing access to

complex products and provide evidence-based risk warnings tailored to user profiles.

Current proposed rules include:

- an appropriateness assessment (for firms to assess whether the consumer has the knowledge/experience to understand the risks)
- prominent risk warnings
- a 24-hour cooling-off period for new crypto customers
- client categorisation

But none of these require firms to

- test comprehension of disclosures or risk explanations before allowing access. Firms are not required to demonstrate that the consumer understood the risks, and there is no prohibition on proceeding if the consumer simply clicks through.
- address vulnerabilities explicitly (e.g., cognitive or financial vulnerability). Cryptoasset firms should be required to identify, monitor, and mitigate harm to consumers with vulnerabilities. The Panel believes that the FCA should clarify expectations for screening for vulnerability, restricting access to high-risk products and enhancing friction for at-risk groups.
- assess and ensure firms do not exploit behavioural biases or use gamification, monitor for harmful patterns (e.g., excessive trading or lending). As crypto trading platforms often use design features that encourage impulsive behaviour. The guidance should explicitly prohibit nudge-to-trade mechanisms.

The Panel also believes that the guidance should explicitly address behavioural biases (FOMO and social influence), which are particularly acute in crypto markets. This is particularly important for crypto customers that often lack understanding and are exposed to complex risks.

Finally, the Panel believes that the FCA should introduce a standardised set of consumer-outcome metrics that firms must publish annually as part of Consumer Duty reporting.

The FCA should consider requiring firms to publish standardised Consumer Duty metrics annually, including comprehension-test results, incident reporting, withdrawal delays, and outcomes of fair value assessments. Board-level attestations of Consumer Duty compliance would further strengthen governance and accountability. This

recommendation introduces public accountability, which the current regime lacks, and would:

- create consistent, comparable metrics across firms
- strengthen governance through public board attestations
- give consumers visibility of firms' performance
- reduce information asymmetry
- support supervisory scrutiny and market discipline

The guidance should also clarify how firms should evidence a "reasonable belief" in consumer understanding beyond disclosures, for example, confirm whether the FCA will mandate a minimum standard for comprehension checks, scenario testing, or analytics-based assessments. The Panel believes that firms should be required to demonstrate a minimum evidential threshold before concluding that a consumer understood and accepted relevant risks. This could include mandatory comprehension checks, monitoring interactions with disclosures, and system level analytics on the effectiveness of warnings. The FCA should clarify what does not constitute sufficient evidence to prevent firms relying on superficial or tick box approaches.

7. Do you have any comments on our proposed guidance on application of the Duty's: (a) products and services outcome; (b) price and value outcome; (c) consumer understanding outcome; and (d) consumer support outcome?

Please refer to our detailed answer for the [Guidance application](#) as complementary to the answer below.

(a) Products & Services

- Mandate product testing for suitability
- Require extra scrutiny for high-risk features (leveraged tokens, lending, staking)

(b) Price & Value

- Ensure fees remain reasonable even when asset values fluctuate
- Require transparent disclosure of spreads, slippage, and platform fees

In particular, the Panel is pleased to see the Consumer Duty being applied for Pre-trade and post-trade customer interactions. The Panel was not pleased to see that the Consumer Duty is not going to

apply to trades between participants. The Panel would like to warn that consumers may assume that all executions are Duty protected. This misunderstanding can lead to misplaced trust in platforms.

(c) Consumer Understanding

- Require testing of consumer comprehension (see above)
- Ensure communications are accessible and avoid technical jargon.
- Refer to our answer above regarding firm requirements for consumer comprehension.

In particular, the Panel would like to stress that the Duty application for consumer communication will curb out mis-selling, influencer-style messaging, and omissions of key risks.

(d) Consumer Support

- Require timely support, especially during market stress
- Ensure that exit processes and withdrawal procedures are not obstructive (“sludge practices”)

8. Are there any areas where cryptoasset firms could benefit from additional guidance to better understand their obligations? Please provide examples.

Cryptoasset firms would benefit from clearer, more detailed guidance in several areas where existing expectations are either fragmented or not yet fully adapted to the operational realities of digital assets. Key examples include:

- **Treatment of assets in insolvency scenarios**
Greater clarity on how different categories of cryptoassets should be treated on failure, including segregation expectations, client title, and how the FCA’s regime interacts with the UK insolvency framework.
- **Management of third-party service risks**
More explicit expectations for due diligence, oversight, and contingency planning when firms rely on validators, custodians, liquidity providers, or other decentralised or offshore service components.
- **Handling consumer complaints linked to technical failures**
Guidance on how firms should assess, record, and remediate complaints arising from blockchain outages, smart-contract errors,

or network congestion—particularly where fault attribution is complex.

- **Approach to consumer vulnerability in a digital, high-risk market**

Additional examples illustrating how vulnerability principles apply in a crypto context, including behavioural biases, high-volatility exposure, and the challenges of digital-only engagement.

Chapter 3 – Redress

9. Do you agree with our proposal to apply the DISP 1 complaint handling requirements to all cryptoasset firms?

Yes, the Panel strongly agrees with this proposal. As set out in our previous responses, we think it is extremely important that firms are required to deal with consumer complaints effectively, and believe that in part, this will help contribute to consumer confidence in these relatively nascent markets. We also think there is value in replicating the regime many consumers are already aware of from other retail markets, both in terms of consumer understanding but also in terms of creating a level playing field among firms operating in different markets.

10. Do you agree with the proposal to add requirements to the crypto sourcebook for stablecoin issuers to put in place contractual arrangements with third parties that carry out activities on their behalf?

Yes, the Panel agrees with this proposal. It is essential that consumers know who to go to when they need to raise a complaint. Given some third parties may be unregulated, having a contractual obligation to inform consumers and forward complaints seems a valuable and proportionate way forward.

11. Do you agree that the Financial Ombudsman should consider complaints about all new cryptoasset activities carried out by all UK authorised firms? If not, are there specific activities it should not be able to consider complaints for?

Yes, the Panel strongly supports this proposal for reasons similar to those set out in our response to Q9 above, as well as the reason set out in the consultation paper.

12. Do you agree that the Financial Ombudsman should not extend the voluntary jurisdiction to cover complaints about the proposed new cryptoasset activities?

The Panel would prefer to see the Financial Ombudsman extend its voluntary jurisdiction to firms based in the EEA or Gibraltar to help reduce the risk of gaps arising in the protections available to UK consumers. However, we recognise there is a cost-benefit analysis to be undertaken. To the extent nearly all cryptoasset activities are carried out by firms subject to the Compulsory Jurisdiction of the Financial Ombudsman, we would agree there is likely to be limited practical benefit (although we would still expect this to be properly assessed).

To the extent the Financial Ombudsman does not extend its voluntary jurisdiction initially, we think it should keep the position under regular review and prepared to adopt an alternative course of action should the need arise.

13. Do you agree with our approach to not extend FSCS coverage to new regulated cryptoasset activities and all types of qualifying cryptoassets?

No, the Panel does not agree with the proposed approach.

We support the FCA's focus on preventing harm through the implementation of regulatory safeguards relating to matters such as conduct, disclosure and firm resilience. However, we do not think this justifies leaving consumers at risk of significant financial losses in the event something does go wrong.

As a matter of principle, we consider FSCS coverage should reflect the jurisdiction of the Financial Ombudsman Service: consumers with an upheld complaint should not be left without a route to the redress owed.

However, in our view the need for FSCS protection is even more stark where consumers are at risk from significant financial loss directly as a result of firm failure (e.g. because the consumer's assets disappear with the firm). Some cryptoasset activities (for example staking) would seem to carry this very risk. The absence of protection – if consumers are properly aware of this risk – may have a chilling effect on consumer engagement with the developing crypto markets.

Further, we note that for those that do engage, the market is relatively nascent. Many cryptoasset activities carry a higher-than-average degree of risk and many consumers will take a significant level of comfort from the FCA's introduction of a new regulatory regime. Consumers may act

entirely rationally and reasonably but may still face significant loss through no fault of their own.

Taken together, this would seem to be exactly the kind of scenario foreseen in the FCA's 2022 review of FSCS protection regime when restating the principles for the compensation framework, including principle 2:

".....FSCS protection should only be extended in cases where the risk of harm could prevent consumers from participating in those markets and where losses could result in significant harm to the consumer"

Finally, we are also concerned by the apparent lack of consistency between the positions consumers may find themselves in within the cryptoasset world and when engaging in comparable activities in other retail markets. We subscribe to the view that as a matter of principle the same risk should lead to the same regulatory outcome. It's not clear this is what is happening here.

14. Given that the move of Specified Investment Cryptoasset (SIC) safeguarding from Article 40 to Article 9N may remove it from the scope of FSCS protection, do you agree with our approach to SIC safeguarding even though it may give rise to potential inconsistent outcomes, for example, safeguarding a traditional share would fall within FSCS scope, while safeguarding its tokenised equivalent would not?

No, the Panel does not agree. As noted in our previous answer, we subscribe to the view that as a matter of principle the same risk should lead to the same regulatory outcome for consumers. Apparent inconsistencies are likely to be perceived as illogical and undermine consumer confidence in the products and markets in question.

Further, we consider the proposed approach raises level playing field concerns, particularly in a world where there is increased convergence between cryptoasset activities and more traditional markets (for example in terms of how investments are packaged or held).

Chapter 4 – COBS

15. What is your view on whether COBS generally (subject to COBS 1 Annex 1 carve-outs) should apply to non-UK retail and professional clients of a UK QCATP operator that is incorporated overseas and authorised via a UK branch?

We continue to support FCA's proposal to apply COBS 1.1, 1.2 and Annex 1. We understand FCA's position to introduce the carve-out for transactions between UK CATP operators and professional clients, given that professional clients could potentially afford a lighter level of protection due to their knowledge, experience, and risk-management capability.

However, consistent with the broader concerns raised throughout our response, the Panel continues to believe that COBS should generally apply to all clients regardless of their status and location (including non-UK retail and professional clients of a UK QCATP operator that is incorporated overseas and authorised via a UK branch)

The Panel has already highlighted that branch structures create reduced oversight, weaker accountability, and heightened consumer risk, because branches lack legal personality and depend entirely on the overseas parent. This limits the FCA's ability to supervise effectively or intervene when harm occurs. The Panel also notes that relying on home-state regulation is "not convincing," as enforcement, supervisory priorities, and redress mechanisms often differ materially across jurisdictions, potentially leaving consumers exposed to gaps in protection.

For these reasons, consistent application of COBS is necessary to ensure a level playing field, avoid regulatory loopholes, and maintain clear, predictable expectations for all clients interacting with UK-authorized operators—regardless of where those clients are located. Divergent standards would undermine market integrity and risk creating consumer harm, especially given the complexity of cryptoasset activities and the challenges in monitoring cross-border operations.

The Panel supports broadly applying COBS requirements to ensure strong conduct standards, clear disclosures, and protections for all clients dealing with UK-authorized QCATPs. Any carve-outs by the FCA should not undermine core conduct expectations or the regime's consistency, especially given the risks linked to cryptoasset activities.

16. Do you have any views on what qualifying cryptoassets should be assessed as Category A or Category B qualifying cryptoassets? If so, please provide details.

As per our response to CP25/42, the Panel continues to support the principle of differentiating cryptoassets based on liquidity, volatility, operational resilience and market maturity.

The Panel continues to believe that the FCA should publish more detail on:

- The actual list of assets included in the calibration analysis
- the time periods and data sources used: eg. We used hourly BTC-USD and ETH-USD prices from Coinbase and Binance from 2018 and 2023 sourced by "X" data provider. It does not also specify the start date and end date and whether stress periods were included and this matters as different windows produce very different results
- how the methodology accounts for structural breaks, market manipulation, or liquidity fragmentation.

In addition, the Panel encourages the FCA to consider whether, in current market conditions, a meaningful number of cryptoassets other than stablecoins are likely to meet the criteria for Category A.

The FCA should consider:

- requiring independent validation of classifications
- mandating periodic reassessment
- setting clear expectations for governance and oversight

As with other K factors, the complexity of the classification process may impose costs that are ultimately borne by consumers.

17. Do you agree with our proposals on express consent, appropriateness testing, and strengthening retail clients' understanding? If not, please explain why not? If there is an issue of timing or cost in relation to our proposals on appropriateness assessments and express consent, including as they apply to existing clients, please share details.

Express Consent

Firms must obtain from retail consumers clear, informed, and specific consent for both for the asset and the value being committed. Blanket or general consents should not be allowed. Instead, each asset should be consented to individually. Consumers will need to provide separate explicit permissions for each action or asset they want. This prevents firms from misusing customer permission to apply actions more broadly than intended. It also helps consumers stay in control of what happens with their assets. This also respects consumer autonomy and ensures they are not exposed to risks they don't fully understand or agree to.

For this to work, firms must provide retail consumers with clear information that cover important facts such as risks, costs and how the product works. It should also specify what could go wrong, whether

rewards are guaranteed and whether the assets remain under their control. Without this information retail consumers won't be able to make informed decisions.

Although not asked in this question, but still relevant in terms of client communication regarding express consent: The Panel is disappointed to note that COBS 5 will not be applied to regulated cryptoasset firms. We believe that the established framework of COBS 5 offers important consumer protections in the context of distance marketing, and its exclusion may leave gaps in safeguarding consumers, particularly given the unique risks associated with cryptoassets. While the Consumer Duty and additional guidance are intended to ensure clear communications, the Panel is concerned that without the explicit application of COBS 5, there may be inconsistencies in how firms communicate with customers at a distance, potentially undermining efforts to protect consumers. This divergence in approach between crypto-related activities and traditional financial services may also create uncertainty for consumers, who could reasonably expect consistent standards of communication regardless of the type of product or service they engage with.

We are concerned that the FCA's reliance on percentage-based summaries of consultation feedback may inadvertently place disproportionate weight on industry views. For example, in this consultation the FCA notes that 79% of respondents agreed with the proposal not to apply COBS 5 to regulated cryptoasset firms. While this figure is presented as indicative of broad support, it is important to recognise that the majority of respondents to FCA cryptoasset consultations are typically industry participants, not consumers or independent consumer bodies. As a result, percentage-based framing risks overstating the extent of consensus, particularly where the respondent pool is structurally imbalanced.

Given that industry respondents are more numerous, better resourced, and more incentivised to participate in technical consultations, their perspectives will naturally dominate any simple quantitative breakdown. Without transparent weighting or segmentation of respondent categories, there is a real risk that policy is shaped primarily by those with commercial interests in the regulatory outcome. We therefore encourage the FCA to exercise caution when relying on headline percentages and to ensure that consumer-centric and public-interest perspectives are not diluted by the numerical dominance of industry submissions.

Appropriateness Testing

The Panel acknowledges the FCA's findings that many firms' assessments did not adequately cover the relevant topics and, in some cases, allowed clients to proceed despite failing the assessment. We therefore agree with

the FCA's overall approach to the appropriateness test for qualifying cryptoassets and support the enhanced consumer protection needed in this space.

The Panel welcomes the proposal to strengthen consumer protection by introducing a rule requiring firms to ask questions covering, at a minimum, the matters in COBS 10 Annex 4G during appropriateness assessments. We are pleased to see the transition of COBS 10 Annex 4G from guidance to a formal rule, as this will help address consumer harm by ensuring clients better understand the nature and risks of the cryptoassets or services being promoted to them.

The Panel also supports the introduction of appropriateness testing for cryptoasset lending and borrowing (L&B) products. These products expose consumers to materially higher and more complex risks, and the absence of clear, consistent assessments can contribute to significant consumer detriment across the market.

While operational flexibility is important, allowing firms to choose whether to integrate L&B assessments into the broader qualifying-cryptoasset appropriateness test risks inconsistency and potential gaming. The Panel is concerned that firms may opt for the least burdensome route, leading to variable standards across the market, consumer confusion about what has actually been assessed, and weaker controls in firms with higher risk appetites. A minimum, mandatory set of L&B-specific questions—irrespective of integration route—would provide a more consistent baseline.

Although some respondents expressed a desire for greater flexibility or felt the test may introduce unnecessary friction, the Panel considers the proposed appropriateness test to be an essential safeguard for retail clients. It underpins a more robust understanding of the risks associated with cryptoasset products and services.

The Panel also believes that firms should evidence consumer understanding, not merely ask questions. We encourage the FCA to consider incorporating scenario-based questions, mandatory risk-warning acknowledgement steps, and periodic reassessment for repeat users.

We agree that firms must not process applications or orders from retail clients in response to a direct-offer financial promotion unless an appropriateness assessment has been conducted. Given the complexity and volatility of cryptoassets, this step is crucial to ensuring that consumers understand the risks they are exposed to. The Panel also supports the expectation that firms remain fully responsible for the integrity and robustness of their appropriateness assessments, even when these are carried out via automated, online systems.

While automation can improve scalability, it must not compromise the effectiveness of the assessment. The Panel supports the flexibility for firms to include additional questions, provided these build on a robust core framework and allow firms to tailor their assessments to reflect the specific nature and risks of the products being promoted. Overall, we believe firms should be required to assess a client's knowledge, experience, and financial resilience using objective, measurable standards.

Additional guidance should include mandatory risk profiling, cooling-off periods, and confirmation of understanding, ensuring decisions are informed, considered, and in the consumer's best interest.

The Panel continues to consider that mandatory signposting should be introduced to direct consumers to independent, FCA-approved sources of information and support (Citizens Advice, Action Fraud, HM Treasury / Government / FCA warning lists and guidance), helping them better understand the risks and protections associated with their investment decisions.

Many larger crypto firms already offer tutorials to explain key crypto concepts to consumers. To ensure consistency and accuracy, these educational materials could be made mandatory and subject to regulatory approval, similar to traditional financial marketing content. If individual firms do not perceive a competitive advantage in developing their own materials, they could collaborate to commission industry-wide resources from a credible, independent third party—ensuring consumers receive clear, trustworthy information across the board.

Cancellation rights

Although not asked in this question but also relevant in terms of client communication, the Panel wishes to comment on FCA's position not to apply COBS 15.

The Panel is disappointed to see the FCA conclude that cancellation rights should not apply to distance contracts for cryptoasset services such as staking and safeguarding. While we recognise the operational challenges highlighted by industry respondents, we are concerned that the position appears to be driven predominantly by industry feedback rather than by a balanced assessment of consumer needs and expectations.

The FCA notes that **87% of respondents agreed** with the proposal not to grant cancellation rights. However, the Panel questions how many of these responses reflected a **genuinely consumer-focused perspective**, given that industry participants are significantly more likely to engage with technical consultations and have far greater resources to respond. Without transparency on the composition of respondents, it is difficult to

determine whether this figure meaningfully represents consumer interests or simply the operational preferences of firms.

As per our previous response to this question on CP25/25 Question 25, the absence of cancellation rights in a high-risk, complex, and often poorly understood market raises concerns. Consumers entering staking or safeguarding arrangements may not fully appreciate the implications of locking assets, the technical irreversibility of on-chain transactions, or the nature of ongoing service agreements. These are precisely the types of scenarios where cancellation rights can provide an important safeguard.

While we acknowledge the FCA's view that applying COBS 15 to staking firms is not practicable, the Panel believes that consumer protection should not be constrained solely by industry operational convenience. Where existing frameworks are incompatible with emerging business models, the appropriate response is not to remove consumer rights but to consider alternative mechanisms that achieve equivalent protection. Please refer to our answer to this question on [CP25.25 Question 25](#).

Chapter 5 – The use of Credit

Panel Commentary on the FCA's Position on the Use of Credit

The Panel is disappointed to see the FCA adopt a position that does not restrict the use of credit cards or credit lines for the purchase of cryptoassets, particularly given the concerns we raised in our previous response to [DP25/1 \(Question 41\)](#). Our earlier position remains unchanged: using borrowed money to purchase highly volatile, speculative assets significantly increases the risk of consumer harm, especially for vulnerable consumers who may be influenced by hype, social pressure, or misleading marketing.

While the FCA notes that 57% of respondents opposed restrictions, the Panel again questions the composition of this respondent group. As with other areas of this consultation, industry participants have far greater resources, incentives, and technical capacity to respond to detailed regulatory proposals than individual consumers. Without transparency on how many responses reflected consumer perspectives versus industry interests, it is difficult to accept this figure as a meaningful indicator of consumer sentiment or consumer protection needs.

The Panel is also concerned by the FCA's reliance on the YouGov statistic showing a decline in consumers using credit cards to purchase cryptoassets (from 14% in August 2024 to 9% in August 2025). While this trend is noteworthy, year-on-year fluctuations do not provide a reliable basis for concluding that the underlying risk has diminished. Harm does not disappear simply because fewer people engage in a risky

behaviour. When harm does occur — particularly among consumers who may already be financially stretched — the consequences can be severe, long-lasting, and disproportionate.

Moreover, the fact that some consumers may not currently use credit cards does not negate the risk for those who do. Even a small proportion of consumers incurring high-cost debt to purchase volatile assets can lead to significant detriment. The Panel therefore does not consider the decline in usage to be a sufficient justification for maintaining unrestricted access to credit for crypto purchases.

We also note the FCA's reference to existing creditworthiness rules, the Consumer Duty, and the principle of consumer responsibility under FSMA. While these frameworks are important, they do not eliminate the heightened risks associated with leveraging debt to purchase cryptoassets. The Panel remains concerned that relying on these general protections — rather than introducing targeted restrictions — places too much weight on consumers' ability to navigate complex, fast-moving markets without adequate safeguards.

In our view, the FCA's final position risks underestimating the potential for harm and over-relying on industry feedback and behavioural trends that may not be stable or representative. The Panel continues to believe that restricting the use of credit for cryptoasset purchases is a proportionate and necessary consumer-protection measure, and we encourage the FCA to revisit this position as the market evolves.

Chapter 6 – SM&CR Tiering

18. Do you agree with our proposals to introduce thresholds for becoming an SM&CR Enhanced firm for authorised stablecoin issuance firms and authorised cryptoasset custodians? If not, please explain why.

The Panel recognises the importance of ensuring that the SM&CR framework is applied proportionately to cryptoasset firms, particularly those whose scale, complexity, and potential market impact warrant Enhanced classification.

While the FCA notes that over 50% of respondents agreed with using the existing FSMA classification framework and applying the principle of "same risk, same regulatory outcome," the Panel again questions the composition of this respondent group.

The Panel is also concerned that the FCA did not receive objections to its assumption that Enhanced firms should constitute around 1% of the sector, mirroring traditional financial services. While this may be

operationally convenient, it risks embedding thresholds that are shaped more by historical precedent than by the unique risk profile of cryptoasset markets. Crypto markets evolve rapidly, and the concentration of assets, operational dependencies, and cross-border exposures can shift materially in short periods. Relying on static proportions may not provide the supervisory agility needed in this sector.

We note the FCA's proposal to set Enhanced thresholds at £65bn for stablecoin issuance and £100bn for cryptoasset custodians, based on analogies to asset management and CASS Large criteria. While these analogies are understandable, the Panel remains concerned that the thresholds may be too high to capture firms whose failure could still have significant consumer or market impact. The FCA's own analysis acknowledges that most newly authorised crypto firms will fall well below these thresholds, meaning that Enhanced oversight may not apply until firms are already systemically significant.

Overall, while we support the principle of proportionality, the Panel is concerned that the FCA's final position may place too much weight on industry feedback and historical analogies, and not enough on forward-looking consumer protection considerations. We encourage the FCA to revisit these thresholds as the market evolves and to ensure that the SM&CR framework remains responsive to the unique risks posed by cryptoasset business models.

Chapter 7 – Training and Competence

19. Do you agree with our proposals to apply the TC Sourcebook to certain cryptoasset activities similar to the existing approach for traditional finance? If not, please explain why?

The Panel welcomes the FCA's recognition that robust training and competence standards are essential in a sector where retail consumers face heightened risks and where business models are often complex, fast-moving, and poorly understood.

The Panel supports the FCA's intention to map certain cryptoasset activities to existing TC requirements under the principle of "same risk, same regulatory outcome." Ensuring that employees dealing, safeguarding, or arranging staking for retail clients meet comparable standards to those in traditional finance is a sensible and proportionate step. We also agree that employees involved in arranging qualifying cryptoasset staking should fall within scope, given the complexity and risk profile of these activities.

While we recognise the FCA's view that the professional training market is still developing, the absence of minimum qualification standards risks

embedding inconsistency across firms and leaving retail consumers exposed to staff who may not fully understand the products, technologies, or risks they are responsible for explaining. The Panel believes that the lack of relevant training courses is not a justification for delaying qualification requirements; rather, it highlights the need for the FCA to stimulate and shape the development of credible, high-quality training pathways.

We also note the FCA's decision not to expand the territorial scope of TC requirements, despite the cross-border nature of cryptoasset markets. The Panel is concerned that this may create gaps in competence standards for firms servicing UK retail clients from overseas locations. As the regime matures, we encourage the FCA to revisit this position.

Overall, while the Panel supports the direction of travel, we believe the FCA's approach risks being overly cautious. Stronger, clearer expectations — including a roadmap toward mandatory qualifications — would provide greater assurance that retail consumers are being served by staff with the necessary skills, knowledge, and expertise to support informed decision-making in a high-risk market.

Chapter 8 – Regulatory Reporting

20. Do you agree with our proposed application of the existing regulatory returns to qualifying cryptoasset firms?

The Panel agrees with the proposed application of the existing regulatory returns to qualifying cryptoasset firms. Aligning reporting requirements ensures consistency across sectors and supports effective supervision.

21. Do you agree with our phased approach to introducing regulatory returns for qualifying cryptoasset firms?

The Panel supports the FCA's phased approach, recognising the nascency of the cryptoasset sector and the need for both firms and the regulator to adapt as the market matures. A phased regime is sensible, however, the reporting examples in Annex 6 reveal several material consumer-protection gaps. If these are not addressed early, the regime risks failing to identify emerging harms in a timely manner.

Below, the Panel outlines priority areas reporting should be strengthened for the "New Returns".

Complaint Reporting Requires Greater Granularity

Annex 6 currently requires only the total number of complaints and total upheld complaints. The Panel recommends adding:

- A breakdown of complaints by type (e.g., mis-selling, technical failures, custody issues).
- Root-cause analysis.
- Time to resolution.
- Whether redress was provided and in what form.

This granularity would materially improve the FCA's ability to identify patterns of harm at an early stage.

Absence of Redress Outcome Reporting

Given that cryptoassets are not covered by FSCS protection, visibility of redress is essential to assess whether firms are resolving harm effectively. The Panel recommends requiring firms to report:

- Total redress amounts paid per quarter.
- The type of redress provided (e.g., refund, reimbursement, compensation in lieu).

Vulnerable-Client Reporting Lacks Depth

Annex 6 requires only the number of vulnerable clients. No information is collected on:

- How vulnerability is assessed.
- Whether support mechanisms are deployed.
- Whether vulnerable customers experience disproportionate harm.

The Panel recommends introducing metrics that allow the FCA to monitor the treatment and outcomes of vulnerable customers more effectively.

No Reporting on Appropriateness or Consumer Understanding

There is currently no reporting on the effectiveness of appropriateness assessments. The Panel recommends requiring firms to report:

- The number and percentage of customers failing appropriateness tests.
- Instances where customers failed but were still permitted to transact.
- The number and percentage of transactions blocked due to inappropriateness.
- A summary of consumer-testing results.

This information is critical for identifying mis-selling risks and ensuring firms are not onboarding unsuitable customers.

Lack of Reporting on Consumer Harm from Operational Failures

The current proposal does not require reporting of consumer harm arising from:

- Data breaches.
- Wallet compromise or key-management failures.
- Outages or system downtime.
- Significant delays in redemption or withdrawal.

These events can cause acute consumer detriment and should be captured systematically.

Insufficient Visibility of Third-Party Dependencies

Given the sector's reliance on third-party providers, the Panel recommends requiring firms to report:

- A list of all material third-party providers.
- Concentration metrics (e.g., percentage of assets controlled by each provider).
- Incidents involving third parties that affect consumer positions.

Consumer-Outcome Reporting

To ensure the regime captures real-world customer experience, the Panel recommends adding certain consumer-outcome metrics such as:

- Average time to withdrawal.
- Number of delayed redemptions or settlements.
- Average time to return assets when clients close accounts.
- Percentage of lending customers liquidated.
- Percentage of staking customers who lost rewards due to provider error.

22. Do you agree with the proposed approach for:

- a. Stablecoin issuance**
- b. Operating a Qualifying Cryptoasset Trading platform**
- c. Dealing and Arranging (intermediation)**
- d. Cryptoasset Staking**
- e. Cryptoasset Lending and Borrowing**

The Panel broadly supports the FCA's proposed approach across all areas. The baseline reporting framework appears appropriate for early-stage supervision. However, the Panel considers that the proposals could be further strengthened through the following enhancements:

Stablecoins

- Introduce more granular, asset-level reporting.

- Capture intra-month deviations in backing quality rather than relying solely on quarterly data.

Qualifying Cryptoasset Trading Platforms

- Require platforms to report the proportion of liquidity sourced internally versus externally.

Cryptoasset Staking

- Request data on the proportion of client staking undertaken directly versus through third-party validators.
- Consider including reporting on average lock-up periods.

Cryptoasset Lending and Borrowing

- Require disclosure of collateralisation ratios by product type.
- Include reporting on rehypothecation practices and liquidity buffers.

Given the diversity of crypto business models and group structures, firms may also benefit from illustrative reporting templates and clarity on whether reporting should be provided on a consolidated or entity-level basis.

23. Do you agree with our approach to qualifying cryptoasset safeguarding reporting?

The Panel agrees with the FCA's approach to utilise the existing Client Money Asset Returns (CMARs) where appropriate, and we welcome the inclusion of crypto-specific reporting items that align with the proposed CASS 17 rules. We also support the FCA's decision to collect baseline safeguarding data at the commencement of the regime, as this will help establish a clear starting point and enable meaningful comparison with subsequent reporting cycles.

However, we do not agree with the proposal for small firms to be subject to less frequent reporting. Firm size does not necessarily reflect the scale or risk profile of their operations; smaller entities may still manage large volumes or values of client cryptoassets, and reduced reporting could obscure emerging risks. We therefore encourage the FCA to reconsider this position to ensure proportionality is assessed on activity and risk, rather than size alone.

Additionally, we note that the consultation does not provide a clear or operational definition of what constitutes a "small firm" in this context. Without clarity, firms and stakeholders may struggle to understand how reporting requirements apply and whether the thresholds appropriately capture risk. We recommend that the FCA define these terms explicitly

and ensure that reporting frequency is based on meaningful metrics such as activity levels, volumes, and exposures.

24. Do you agree with our approach to cryptoasset complaint and active client reporting?

The Panel agrees with the proposed approach to cryptoasset complaint and active client reporting. However, we ask that the FCA also consider our response to Question 21 when evaluating future enhancements to the reporting framework, particularly around proportionality and the interaction between baseline and phased reporting requirements.

25. Do you agree with our proposed approach to supplementary data collections?

The Panel agrees with the proposed approach to supplementary data collections. However, we ask that the FCA also consider our response to Question 21 when evaluating future enhancements to supplementary data collections.

26. Do you agree with our approach to prudential reporting?

The Panel agrees with the FCA's proposed approach to prudential reporting. As per our response to [CP25.42](#), we recognise the importance of establishing a prudential regime that supports effective oversight and enables timely identification of emerging risks in cryptoasset markets. At the same time, the Panel notes that prudential regulation can have both direct and indirect impacts on consumers, including through potential effects on firm behaviour, competition, and cost pass-through.

The Panel further notes that while consistency with existing regulatory frameworks is valuable, it should not override the objective of achieving the best possible consumer and market outcomes. Where appropriate, the Panel agrees with the FCA to remain open to evolving or adapting existing approaches to ensure that the prudential regime for cryptoasset firms is proportionate, effective, and fit for purpose for what remains a novel and fast-developing asset class.

Chapter 9 – Safeguarding client cryptoassets

27. Do you agree with our proposed approach to applying CASS 17 in these scenarios? If not, why not, and please describe any scenarios we may not have considered.

The Panel broadly agrees with applying CASS 17 consistently across firms conducting multiple regulated cryptoasset activities. Using a trust-based model is the right foundation for protecting client assets if a firm fails, and

we support it applying regardless of which activity leads to the firm holding client cryptoassets.

However, we would like to share the following concerns and observations:

Co-mingling and consent: Where firms are allowed to mix client and firm cryptoassets – for example in staking – consumers need to understand what that means for them. The Panel believes firms should clearly explain the risk of shortfall and how losses would be shared, and should get genuine informed consent. As we lay out in our response to Question 17 on express consent, blanket or general consents should not be acceptable. Consent to co-mingling should be specific and based on clear information, not buried in terms of service.

The 1% QCATP float: We understand why a small amount of client cryptoassets may need to sit outside the trust for off-chain settlement. But the Panel has not seen evidence that 1% is the right number. As with our concerns about the SM&CR thresholds (Question 18), we think the FCA should show its working and keep this under review. During periods of market stress, even 1% could represent a large sum, and firms should be monitoring float levels closely.

Safeguarding chains: Where firms use third parties to hold client cryptoassets, and those third parties use further third parties, each additional link adds risk and reduces transparency. The Panel believes firms should tell clients who is in the chain and where those parties are based. This echoes our call in Question 21 for reporting on third-party dependencies and concentration risks. Firms should remain fully responsible for failures anywhere in the chain, especially where third parties sit in jurisdictions with weaker protections.

Boundary with unregulated activities: Some firms will carry out regulated activities alongside unregulated ones, for example DeFi services or activities involving non-qualifying cryptoassets. There is a risk that client assets held under CASS 17 could become entangled with unregulated operations, particularly where the same wallets or systems are used. As we noted in our GC26/2 response, firms should be required to assess and document how emerging technologies and DeFi integrations affect consumer risk. We would welcome clearer guidance on managing these boundary risks.

International firms and branches: Consistent with our response to Question 1, the Panel remains concerned about overseas firms operating through UK branches. In a safeguarding context, this risk is especially serious: if the firm fails, the insolvency will likely be handled under the home country's laws, which may not recognise the CASS 17 trust. As we set out in detail in our Question 1 response, insolvency regimes vary

widely and an overseas insolvency practitioner may not be obliged to follow UK protections when returning cryptoassets to clients. Consumers of branch-based firms should be told clearly at onboarding that their protections may differ from those of consumers using UK-incorporated firms.

Lending and the loss of CASS protections: The Panel notes that the FCA proposes not to apply CASS 17 to cryptoassets that clients lend to firms, even where the firm holds a 9N safeguarding permission. We understand the rationale for a proportionate approach, but this creates a significant gap in protection that consumers may not appreciate.

A client who holds cryptoassets with a firm under CASS 17 and then agrees to lend some of those assets may not realise that those assets have moved outside the trust and would no longer be ring-fenced if the firm fails. The Panel believes firms should be required to make this distinction explicit at the point the client agrees to lend – not just through general appropriateness assessments, but through a clear, specific warning that CASS protections will no longer apply to the lent assets.

Beyond disclosure, the Panel questions whether informed consent alone is a sufficient safeguard for this transition. Evidence on consumer engagement with financial services information – including the FCA's own Financial Lives data – consistently shows that retail consumers have limited understanding of the structural protections that apply to their assets. The distinction between cryptoassets held under a CASS 17 trust and cryptoassets lent to a firm as an unsecured creditor claim is fundamental from a legal and insolvency perspective, but is unlikely to be meaningful to most retail consumers regardless of how clearly it is explained. The Panel is also concerned that the exclusion of lent assets from CASS 17 may create an incentive for firms to promote lending products, since doing so reduces the volume of assets subject to the more onerous safeguarding regime. This raises a risk of regulatory arbitrage that disclosure requirements alone cannot address. The Panel therefore encourages the FCA to consider whether stronger structural protections are needed – for example, product labelling requirements that make the distinction between custodied and lent assets visually unambiguous, segregated interfaces within platforms so that consumers can clearly see which of their assets are protected and which are not, or restrictions on the promotion of lending products to retail consumers who have not demonstrated an understanding of the difference in risk regime. The current approach places significant weight on consumer comprehension at a point of decision-making where the evidence suggests comprehension is unlikely to be achieved.

Borrowing collateral and firm use: The Panel supports the proposal that firms offering cryptoasset borrowing services should not take ownership of retail client collateral and use it themselves, except where express consent is given to discharge a debt. This is an important safeguard. However, we are concerned about how well consumers will understand the practical difference between collateral that is being safeguarded on their behalf and collateral over which the firm has taken full ownership. These are fundamentally different risk positions for the client, but may look identical from the consumer's perspective. The Panel would encourage the FCA to require that firms explain clearly, at the point of entering a borrowing arrangement, whether the client's collateral will remain protected under CASS 17 or whether ownership will transfer – and what the consequences of each would be if the firm were to fail.

Temporary holding of cryptoassets: The Panel notes that the Cryptoasset Regulations exclude from the safeguarding activity arrangements where client cryptoassets are held temporarily to facilitate the settlement of a transaction, and that further PERG guidance is planned. We would welcome clarity on this as soon as possible. The boundary between a temporary flow-through and substantive holding may not always be straightforward in practice, particularly where settlement is delayed or where cryptoassets sit with a firm for longer than expected due to operational issues. If there is ambiguity, there is a risk that some firms structure their arrangements to fall outside the safeguarding perimeter, leaving consumers without CASS protections during a period when their assets are in the firm's control. The Panel believes the guidance should err on the side of consumer protection and ensure that any exclusion is drawn narrowly.

28. Do you agree with our proposed approach to protecting clients' ownership rights, including the approach to the operational surplus and class of cryptoasset? If not, why not?

The Panel broadly supports the FCA's approach to protecting clients' ownership rights through the trust-based model, and agrees that providing firms with flexibility to structure the trust in a way that suits their business model is reasonable, provided there is a consistent baseline of protection across the market.

However, we would like to share the following concerns and observations:

Trust flexibility and consistency of protection: The Panel notes that firms will be able to hold cryptoassets on trust per client, per asset type, per virtual address, or within a single "tenants in common" trust covering

all clients, cryptoassets and addresses. While flexibility is welcome, we share the concern raised by some respondents to CP25/14 that this could lead to inconsistency in the standard of protection consumers receive. A consumer holding assets with one firm may have materially different protections from a consumer holding the same assets with another firm, depending entirely on how the trust has been drafted. The Panel would welcome guidance from the FCA on what the minimum terms of any such trust should include, so that the flexibility in structure does not result in a patchwork of consumer protection. As we set out in our response to Question 17, firms should be required to explain to clients, in plain language, how the trust is structured and what that means for them in practice – and this explanation should form part of the informed consent process, not be left to general terms and conditions.

Operational surplus – transparency and limits: The Panel accepts that in some circumstances firms may need to hold a small surplus of their own cryptoassets within the client trust to deliver additional services such as custodial staking. The proposed conditions – that the surplus must be necessary, must be of the same cryptoasset class, must be subordinated to client claims, and must be subject to the same rules as client assets – provide a reasonable framework. However, we note that the FCA is not proposing to mandate a fixed cap or percentage on the surplus (9.42), relying instead on firms to determine and justify an appropriate amount. As with our concerns about the 1% QCATP float in Question 27, where we called on the FCA to show its working and keep thresholds under review, we are concerned that without a cap or at least clear guidance on what constitutes an acceptable level, there is a risk that the operational surplus becomes a route for firms to hold significant quantities of their own assets alongside client assets within the trust. The Panel would encourage the FCA to monitor surplus levels through the safeguarding returns proposed in Question 23, and to be prepared to intervene with a cap if the proportionate approach does not deliver adequate discipline. Consumers, for their part, are unlikely to understand the concept of an operational surplus or what it means for them if the firm fails. Firms should be required to explain, in plain language, that the trust may contain some of the firm's own assets, the purpose of this, and that the firm's claim to those assets will always be subordinated to theirs.

Class of cryptoasset and shortfall allocation: The Panel supports the proposal that firms record the means by which the trust is segregated, including the name of clients who are beneficiaries and the class or classes of cryptoassets held. This is essential for orderly resolution if a firm fails. However, the concept of organising safeguarding by "class of cryptoasset" has significant implications that consumers may not appreciate. Where a firm holds multiple types of cryptoasset on trust, a shortfall in one class would be borne by the clients holding that class of

asset, not spread across all clients. This is technically logical, but most retail clients will not instinctively understand that a shortfall in one cryptoasset they hold might not be compensated by healthy balances in another cryptoasset they also hold with the same firm. This is a meaningful gap in consumer understanding, and firms should be required to explain how shortfalls would be allocated across different classes of cryptoasset at the point of onboarding. As we noted in our response to Question 17, genuine informed consent should be the standard, not blanket disclosures. We also note that the FCA's proposed COBS 6 disclosure requirements (4.26) include an obligation to explain how shortfalls will be allocated if the firm fails – the Panel supports this and would encourage the FCA to ensure this disclosure is tested for consumer comprehension, not simply treated as a compliance box to tick.

Cross-border recognition of the trust: The Panel welcomes the FCA's recognition (9.36) that other jurisdictions may not afford the same protections as the CASS trust rules. This risk is not hypothetical – if a firm fails and is subject to an insolvency regime that does not recognise English law trusts, consumers could find that the ownership protections they were promised do not apply. Consistent with our detailed response to Question 1 on international firms, and our concerns raised in Question 27 about safeguarding chains and overseas third parties, consumers of firms operating through UK branches or with significant overseas operations should be told clearly at onboarding that their protections may differ from those of consumers using UK-incorporated firms. The Approach to International Cryptoasset Firms in Annex 4 goes some way toward addressing this, but it does not eliminate the underlying risk for consumers whose assets sit in a safeguarding chain that crosses jurisdictions.

29. Do you agree with our proposed approach to exempting firms from holding cryptoassets on trust in certain scenarios? If not, why not?

Legal compatibility of the trust model: While the Panel is not in a position to offer a legal opinion, we note the question the FCA has raised (9.37) about whether the proposed rules are compatible with applicable legal requirements for trusts in the UK, including the Property (Digital Assets etc) Act 2025 and the Digital Assets (Scotland) Bill. This is a fundamental question. If the trust model does not work as intended under English or Scots law – for example, in scenarios where a firm controls the means of access to a client's cryptoassets but does not hold them directly – then the consumer protections built on that model may be weaker than the FCA intends. We urge the FCA to ensure it has received sufficient legal assurance on this point before finalising the rules, and to clarify for

consumers and firms alike how ownership protections will work in practice across the full range of safeguarding arrangements.

The Panel broadly agrees that there need to be defined exceptions to holding cryptoassets on trust, and that the five scenarios set out in paragraph 9.44 – lending, client-instructed transfers, discharge of debts, the QCATP float model, and absolute transfer of title – represent a reasonable framework for when cryptoassets may leave the trust.

However, we would like to share the following concerns and observations:

Informed consent and the loss of CASS protections: The Panel welcomes the proposal (9.46) that firms must explain to clients the risks of their cryptoassets not being held on trust, including the consequences if the firm fails, and that for retail market business this process must be compatible with the Consumer Duty. This is a critical safeguard. However, as we noted in our response to Question 27 on lending, the moment a client's cryptoassets leave the trust is a moment of significant risk transfer, and consumers may not fully appreciate this. The Panel believes the explanation should be specific and unambiguous at the point the exception is relied upon – not a general consent obtained at onboarding or buried in terms and conditions. As we set out in our response to Question 17, genuine informed consent requires more than compliance with a procedural requirement; it requires the consumer to actually understand what they are giving up, and firms should therefore be required to seek confirmation that the customer understood the explanation provided.

Breadth of the exceptions: While each exception has an identifiable rationale, the cumulative effect is that a firm may routinely hold a significant proportion of client cryptoassets outside the trust – through lending arrangements, the 1% QCATP float, absolute transfers, and fee deductions. The Panel is concerned that consumers may believe their assets are held on trust when in practice a material share sits outside it. As we noted in our response to Question 27 regarding the 1% float and in Question 28 regarding the operational surplus, clear monitoring and reporting of how much of a client's cryptoassets are inside and outside the trust at any given time would help both the FCA and consumers understand the true extent of protection.

Disclosure requirements and COBS 6: The Panel supports the complementary disclosure proposals in Chapter 4 (paragraph 4.26), which would require firms to explain how the trust is set up, whether exceptions are being used, and the risks involved. These disclosures are essential to making the exceptions workable from a consumer protection perspective. However, we would encourage the FCA to ensure these disclosures are tested for genuine consumer comprehension, particularly given the

complexity of the concepts involved. A disclosure that is technically accurate but practically incomprehensible does not deliver good outcomes under the Consumer Duty.

Five-year record retention: We note the proposal to retain consent records for five years after the firm stops relying on them. Given that the FCA plans to consult separately on its approach to cryptoasset firm failure (9.48), the Panel would encourage the FCA to consider whether this retention period is sufficient in the context of potential insolvency proceedings, which may extend well beyond five years.

30. Do you agree with our proposed approach to recordkeeping requirements, including only applying them to client cryptoassets held on trust? Please explain your answer and indicate whether this approach would create a gap in consumer protection.

The Panel agrees that robust record-keeping is essential for consumer protection, and supports the proposed requirements for firms to maintain client-specific records independently from the relevant DLT, covering the type, quantity, blockchain address, nature of claim, and relevant third parties for each client's cryptoassets.

However, we have a significant concern about the proposal (9.53) that record-keeping rules would only apply to client cryptoassets held on trust.

Gap in consumer protection for assets outside the trust: Where client cryptoassets have been removed from the trust – for example through lending, the QCATP float, or an absolute transfer of title under the relevant exceptions – the consumer retains an economic interest in those assets, even if they no longer benefit from CASS protections. If the firm is not required to maintain records of these assets to the same standard, there is a real risk that in an insolvency or dispute, consumers will find it difficult to establish what happened to their assets and what they are owed. This is precisely the scenario in which good records matter most. As we noted in our response to Question 27, consumers who agree to lend their cryptoassets may not fully appreciate that those assets have left the trust – and if the firm's records of the lent assets are incomplete, the consumer's ability to recover them or claim compensation will be significantly weakened.

The Panel believes the FCA should require firms to maintain records, to a comparable standard, of all cryptoassets they hold or control on behalf of clients, whether or not those assets are currently held on trust. This would align with the Panel's broader concern, expressed throughout our responses to this consultation, that the boundaries between protected and

unprotected assets should be transparent and well-documented, not a source of confusion for consumers or insolvency practitioners.

We also note that this gap could interact poorly with the separate consultation on cryptoasset firm failure (9.48). If distribution rules depend on accurate records and those records do not cover assets held outside the trust, consumers may face additional delays and losses.

31. Do you agree with our proposed approach to reconciliations, topping up shortfalls and removing excesses? If not, why not?

The Panel supports the principle that firms should conduct daily reconciliations and be required to top up shortfalls promptly, using their own resources if necessary. These are essential protections for consumers, and the proposed per trust/class approach to calculating requirements and resources is a logical way to structure the process.

However, we would like to share the following concerns:

Timeliness and consumer notification: The Panel notes that where a shortfall is identified, the firm must top it up but that if it decides not to immediately notify affected clients, it need only review that decision at least once a day until the shortfall is resolved (9.57). We are concerned that this gives firms too much discretion over whether and when to tell consumers that their assets are at risk. A shortfall in client cryptoassets is a serious event. While we accept that not every minor or transient discrepancy warrants immediate client notification, the default position should be transparency, not silence. As we set out in our response to Question 17, consumers should be given the information they need to make informed decisions – and a material shortfall in their safeguarded assets is clearly relevant information. The Panel would welcome clearer guidance on what constitutes a material shortfall that must trigger client notification, and how quickly that notification should follow.

Topping up with firm resources: The proposal that firms must top up shortfalls using their own cryptoassets, or acquire them, is a strong consumer protection. However, this presupposes that the firm has the financial resources to do so. As we noted in our response to Question 18 on SM&CR thresholds, the FCA's approach to prudential requirements and financial resilience for cryptoasset firms will be critical to ensuring that safeguarding obligations can actually be met. The Panel would encourage the FCA to consider whether the safeguarding returns proposed should specifically capture information about the firm's capacity to meet top-up obligations, so that emerging risks can be identified before they crystallise into consumer losses. The Panel also recommends that reconciliation reports be periodically audited by an independent third party to verify

compliance, and that firms implement automated systems to flag and escalate deviations in real time.

Excesses and the operational surplus: The proposal to remove excess cryptoassets unless they form part of a permitted operational surplus is sensible. However, as we raised in our response to Question 28, the absence of a cap on the operational surplus means the line between a legitimate surplus and an improperly large co-mingling of firm and client assets may not always be clear. The reconciliation process should help to monitor this, and we would welcome confirmation that surplus levels will be reported through the safeguarding return and subject to ongoing FCA scrutiny.

32. Do you agree with our proposed approach to private key management and security? If not, why not?

The Panel supports the FCA's technology-agnostic, outcomes-based approach to private key management and security. Given the pace of change in custody technology, a principles-based framework is more likely to remain relevant than overly prescriptive technical requirements, and we agree that the proposed requirements – covering generation, storage, control, key-mapping and backup arrangements – address the main areas of risk.

However, the Panel believes the FCA should set minimum expectations for key management practices – including hardware security modules, multi-signature arrangements, and geographic distribution of key material – to prevent inconsistent implementation across firms. The FCA should also require regular independent penetration testing of firms' key management systems, given the pace at which cyber threats evolve. We agree with this approach for the moment; however, the Panel considers that the position should be reviewed as the market develops and as more is understood about how custody models operate in practice, to ensure the framework remains robust, proportionate and aligned with emerging risks.

We offer the following relevant observations:

Consumer understanding of key management: While private key management is an operational matter for firms, the consequences of failure fall directly on consumers – potentially through permanent loss of access to their cryptoassets. Most retail clients will have no understanding of how private keys work, what sharding involves, or how reconstruction thresholds operate. The Panel does not suggest that firms should be required to explain these technicalities to consumers, but firms should be required to tell clients, in plain language, what arrangements are in place

to protect their assets and what happens if those arrangements fail. In addition, firms should be required to provide a clear glossary of key terms—such as sharding, multi-signature, threshold reconstruction, and custody models—and explain what each term means for consumers in practical terms, particularly in scenarios where those mechanisms may be relied upon or may fail. This links to the COBS 6 disclosure proposals in Chapter 4 (paragraph 4.26), which we supported in our response to Question 28, requiring firms to explain their access and security arrangements.

Interaction with operational resilience: We note the clarification (9.60) that the CASS 17.4 key management rules relate to business-as-usual practices and should be read alongside the SYSC requirements on cryptoasset operational resilience in CP25/25. The Panel supports this distinction but would encourage the FCA to ensure that firms understand how these two sets of requirements interact in practice. A private key management failure is both a CASS event and an operational resilience event, and the supervisory response should be joined up. Consistent with our response to Question 21 on phased regulatory reporting, the FCA should ensure it has sufficient visibility of key management incidents through its reporting framework.

Daily review of means of access records: The proposal that means of access records be reviewed at least once per business day is a proportionate requirement. However, given the 24/7 nature of cryptoasset markets, the Panel would note that a compromise or loss of a private key outside business hours could have significant consequences before the next scheduled review. Firms should be expected to have monitoring arrangements that reflect the continuous nature of the markets they operate in.

As one example, the Bybit incident of February 2025, involving the theft of approximately USD 1.5 billion, demonstrates the catastrophic and irreversible consequences of inadequate key security and underscores the need for continuous, not periodic, monitoring.

33. Do you agree with our proposed approach to the use of third parties? If not, why not?

The Panel broadly agrees with the proposed framework for the appointment of third parties to safeguard client cryptoassets, including the due diligence requirements, the written agreement obligation, and the requirement that appointments must not increase the risk of loss or diminution of client cryptoassets.

However, we would like to share the following concerns:

Safeguarding chains and consumer transparency: The Panel notes the proposal (9.65) that where safeguarding chains exist – that is, an appointed third party uses a further third party – firms may rely on the appointee to conduct due diligence on the onward third party and report back its conclusions. While this may be practical, it increases the distance between the firm and the entity actually holding or controlling the client's cryptoassets. As we set out in our response to Question 27, each additional link in a safeguarding chain adds risk and reduces transparency. The Panel believes firms should remain fully accountable for failures anywhere in the chain, and should be required to tell clients who is in the chain and where those parties are based. This echoes our call for reporting on third-party dependencies and concentration risks.

Delegated board approval: We note the proposal to permit firms to delegate board approval for the use of a third party to the PRz or a committee including the PRz, rather than requiring full board approval. While this is a pragmatic approach, the Panel would emphasise that the delegation should not dilute the quality of oversight. The use of third parties for safeguarding client cryptoassets is a significant decision with direct consumer protection implications, and the PRz or delegated committee must have adequate information and expertise to make a properly informed decision. This connects to our concerns about training and competence raised in our response to Question 19.

No liens for third parties over client cryptoassets: The Panel strongly supports the proposal (9.66) not to allow firms to grant liens to third parties over client cryptoassets. A lien would give a third party a claim over client assets that could compete with the client's own claim in an insolvency, fundamentally undermining the protections that the trust is designed to provide. This is consistent with our position throughout this consultation that the trust should provide a clear and enforceable ring-fence around client assets.

Cross-border third parties: Consistent with our responses to Questions 1 and 27 on international firms, the Panel is particularly concerned about the use of third parties in jurisdictions where clients' ownership rights may not be recognised or enforced in the same way as under UK law. The proposed due diligence requirements should specifically address the legal and insolvency framework of the jurisdiction in which the third party is based, and firms should be required to disclose this information to clients as part of the COBS 6 disclosures we supported in our response to Question 28.

The collapse of Signature Bank in 2024 illustrates how dependencies on a single third-party institution, without robust exit strategies and contractual safeguards, can leave clients unable to access their assets.

In addition, the Panel believes that firms should be required to conduct a structured third-party assessment and dependency analysis on at least a quarterly basis. This should include a review of all material third-party providers, their geographic location, and the jurisdictions in which client data or cryptographic material is stored or processed. Given the heavy reliance on cloud-based infrastructures across the cryptoasset sector, firms should also be required to map data-residency pathways and network dependencies, including where subcontracted services or cross-regional cloud failover may expose consumers to sovereignty risks or weaker legal protections. This enhanced, recurring assessment would support earlier identification of concentration risks, legal incompatibilities, and vulnerabilities linked to offshore or opaque operational chains, ensuring that the use of third parties does not dilute consumer protection or undermine the intent of the CASS 17 regime.

Chapter 10 – Safeguarding specified investment cryptoassets

34. Do you agree with our proposed approach to applying CASS 17 rules on protecting clients' ownership rights, private key management and appointment of third parties, applying SYSC and SUP rules to SIC custodians and amending the application of SUP 3.10.4R(2)? If not, why not?

The Panel agrees with the FCA's proposed approach. SIC custody carries risks analogous to traditional securities custody. The Panel therefore believes that firms safeguarding SICs should meet the same governance, operational resilience, and reporting standards as firms safeguarding traditional financial instruments. By anchoring the crypto-custody regime in CASS 17-style protections, the FCA ensures that client ownership rights, segregation, record-keeping, and insolvency return mechanisms are as robust as those applied to traditional custody. Applying CASS 17-style protections, combined with SYSC (Systems and Controls) governance requirements and SUP (Supervision) reporting obligations, is the right way to ensure that cryptoasset custody delivers the same regulatory outcomes as traditional custody.

Given the complexity of cryptoasset custody – including wallet structures, key management, and third-party dependencies – the Panel agrees with FCA's proposals to amend SUP 3.10.4R(2) to ensure that crypto custodians are subject to appropriate auditor reporting requirements. The parallel application of SYSC governance standards strengthens this foundation by requiring firms to demonstrate disciplined operational resilience, effective oversight of third-party wallet providers, and clear lines of accountability for private-key management.

Finally, the extension of SUP reporting requirements, including the amendment to SUP 3.10.4R(2), ensures that crypto custodians are subject to the same level of supervisory visibility and auditor scrutiny as firms safeguarding traditional financial instruments. Taken together, these measures create a coherent, risk-aligned, and internationally credible framework.

35. Do you foresee challenges for firms currently safeguarding SICs and subject to CASS 6 when transitioning to CASS 17? Please explain why.

The Panel has no comment to this question.

36. What are the potential use cases for and the rationale for SIC custodians to use these exclusions?

The Panel does not have any specific use cases to provide at this time. However, the Panel recognises that exemptions within the traditional custody framework have played an important role in ensuring proportionality and enabling operational flexibility where risks are appropriately managed. We expect similar considerations may be relevant for SIC custodians, particularly as the market for specified investment cryptoassets remains nascent and the diversity of underlying business models continues to evolve.

Any future use of exemptions must remain tightly controlled, clearly justified, and demonstrably consistent with safeguarding client ownership rights. The Panel therefore encourages the FCA to assess exemptions on a case-by-case, risk-based basis and to ensure they do not undermine the overarching objective of protecting consumers and market integrity.

37. Do you agree that rules applying to small AIFMs due to exclusions applying to UK UCITS and AIF managers should be extended to SIC and cryptoasset custodians under CASS 17? Please explain why.

The Panel agrees that consideration should be given to extending the rules applying to small AIFMs—arising from exclusions for UK UCITS and AIF managers—to SIC and cryptoasset custodians under CASS 17. The Panel also notes that while consistency with existing regulatory frameworks is valuable, it should not override the objective of achieving the best possible consumer and market outcomes. Cryptoassets, including SICs, represent a novel asset class with different operational structures, technological risks, and custody challenges. As such, direct transposition of traditional finance exemptions should not be automatic.

38. Do you anticipate SICs being used for SFTs in future? If so, should the requirements in CASS 6 permitting the use of clients' safe custody assets for SFTs be applied? Please explain why.

The Panel considers that it is likely that SICs will be used for SFT-like activity in future, particularly in institutional and wholesale markets, given their suitability as collateral and the economic incentives to monetise client balances.

We agree that any such use should be subject to a framework analogous to CASS 6, centred on express prior consent, specified terms, and robust systems and controls. However, we do not consider that a simple transposition of the existing CASS 6 rules would be sufficient or appropriate for cryptoassets.

Given the novelty and evolving nature of crypto markets, we would support a phased approach: initially permitting SFT use of SICs only for professional clients and under enhanced reporting and risk management standards, with any extension to retail subject to evidence of market maturity and robust supervisory experience.

Cost Benefit Analysis

39. Do you agree with our assumptions and findings as set out in this CBA on the relative costs and benefits of the proposals contained in this consultation paper? Please give your reasons.

The Panel believes that the FCA has done an excellent job of identifying the concepts that should be captured in the CBA and has made assumptions that are reasonable and support the findings. We particularly appreciate the recognition of and intent to achieve "same risk, same regulatory outcome".

The Panel would like to highlight the following points and challenges:

- As we have highlighted in this CP and also stated in prior cryptoasset consultation responses, consumers of these products currently face high levels of harm, including misleading disclosures, opaque trading practices, weak governance, and limited recourse. Stronger standards should reduce fraud, mis-selling, and platform failures, providing long-term improved outcomes for consumers.
- A material benefit to consumers will be firm compliance with the Consumer Duty. This should help reduce the likelihood that consumers will need to seek redress. Furthermore, if firms are

properly informing potential cryptoasset investors and looking out for their clients' best interests, unacceptable consumer losses on cryptoassets should decline.

- The ability for consumers to obtain redress from firms when things go wrong is very helpful. This will provide direct support to consumers who do not receive a satisfactory outcome from a firm, but it will also incentivise firms to provide a higher quality product / service to avoid consumer complaints going to the FOS.
- The fact that cryptoassets will be regulated, which will involve more aggressive monitoring, means that frauds and scams will be caught earlier, with perpetrators removed from the market more quickly. As enforcement increases, this should also deter others from engaging in these illegal activities. Consumer awareness of potential fraud and scams is also likely to increase. All of these should significantly reduce consumer harm from frauds and scams involving cryptoassets.
- We agree that it is likely that firms will pass on some of the regulatory costs to consumers. At the same time, some firms are likely to exit, as they will not be able to bear the increased costs. The combination of these factors would be to drive the price up for consumers. However, the Panel also believes that competition will put downward pressure on costs. These factors and others considered, the FCA should have a plan to continuously monitor that consumer protections are not eroded and that consumers are receiving clear value for money.
- The Panel is concerned that some of the outlined firm costs, such as the familiarisation and gap analysis effort are understated. As noted in paragraph 49, this is based on a reasonable number of firm responses. This may highlight that the firms that responded with estimates do not have a clear understanding of the amount of work that is required. It may also lead firms to cost cutting in key areas, leading to poor quality and the inability to meet regulatory expectations.
- Increased regulatory scrutiny is likely to lead to firm exits. However, we are of the view that these are firms that are more likely to harm consumers or to create unfair competition; therefore, these exits may be beneficial to consumers in the long-term. However, it is critically important that the FCA is alert to the potential impact of firm exits to the clients of those firms.
- The publication of poor behaviour by a particular cryptoasset firm may lead to a large impact to the volatility of the sector more broadly. Consumers must be made aware of this risk, and the FCA may need to be prepared to intervene in unusual extreme circumstances.

- Bringing cryptoassets under FCA regulation will level the playing field with traditional finance. This could change the perception of cryptoassets by aggressive risk takers, and the Consumer Duty should also ensure that potential investors have a full understanding of the risks of cryptoassets as well as other potential investments before making an investment decision.
- As we noted in our response to [CP25/40](#), the growing engagement of the traditional finance sector in cryptoassets increases the risk that turbulence in crypto markets could affect banks and other institutions. As we also noted, the fact that some publicly listed companies are holding strategic crypto reserves further amplifies their exposure to sudden price shocks. Together, these trends represent material, economy wide risks. The FCA should closely monitor these developments, as there is a potential for impacts to the entire financial system.
- We note that cryptoasset firms are very technology centric. In addition to the blockchain functionality underlying cryptoassets, they will be more likely to utilise technology, such as AI, to support their efforts. Whilst this heavy use of technology may reduce costs, it also brings other risks into the equation that must be considered, for example, loss of consumer access to wallets, cybersecurity, bias, etc. The FCA must have and continue to develop the skills needed to adequately monitor and supervise these firms.
- Because many cryptoasset firms are global, the FCA will need to monitor the impact of these firms on the UK market and be prepared to take appropriate actions whenever indicated.
- Paragraph 143 notes the FCA's conclusion that cryptoassets should not lead to an increase in growth; however, there is no mention of the opposite possibility that cryptoassets may be a material drain of capital from growth-generating markets, which is the more likely.

40. Do you have any views on the cost benefit analysis, including our analysis of costs and benefits to consumers, firms and the market?

Whilst the FCA has gone to great effort to conceptually identify costs and benefits to consumers, firms, and the market, the Panel believes that more could be done to provide detailed analysis across all three domains, which could lead to a more helpful presentation. We also suggest that the FCA provides details relating to additional costs it will or should incur to implement, maintain, monitor, supervise, and enforce the intervention. With enhancements, the CBA can be an extremely useful document for broader decision making.

The Panel makes the following comments / suggestions for the FCA's consideration:

- We understand that the HMT Green Book guidelines suggest that "financial transfers" between parties do not form part of the CBA. However, the Panel believes that this approach does not do justice to the FCA's statutory obligations. To demonstrate compliance with these duties, we believe that the FCA should be making every effort to identify where consumers benefit or face costs they wouldn't otherwise. In addition, we also believe the potential impacts to markets should also be the subject of detailed analysis.
- If it hasn't already done so, the FCA should engage in research that identifies what makes for effective communication relating to the risks of cryptoassets. This should also capture the different consumer behaviours, e.g., invest, not invest, etc. This information could then be extrapolated to show the consumer benefit of loss avoidance.
- The Panel would suggest that the FCA might look to the pre- and post-implementation of the Consumer Duty to determine the increase in costs to firms and whether these costs were passed on to consumers.
- We note the approach used by the FCA to calculate estimated redress costs as a result of cryptoasset regulation. This is based on reasonable assumptions to come up with a monetary figure. We realise that this consumer benefit is offset by amounts paid by firms. However, as a counter-argument to the Green Book approach, this information is important both as a measure of consumer outcome, but messaged clearly, should also be a deterrent to firms. We also mention that the redress amount alone accounts for £1.00 of the £1.10 to 1.90 breakeven analysis in paragraph 129. This means that the estimated benefits provided by redress outweigh the majority of estimated costs (91% for the central scenario or 53% for the higher cost scenario).
- The FCA should make an effort to quantify the potential reduction in consumer losses due to frauds and scams involving cryptoassets. A starting point may be to use the data captured by the FCA and the national fraud reporting services.
- Already regulated firms are likely to have lower up-front one-off costs, as they should have most of the infrastructure in place to comply with firm standards and cross-cutting rules. This should be reflected both in the costs, but also the potential impact to competition. In this light, the FCA should closely monitor the impact to smaller, innovative firms.

- In many cases (paragraphs 95, 97, 99, 100, 117) we find that firm training costs are extremely low. These should be presented on a per person per year basis.
- The Panel would like to see the underlying detail relating to the firm costs associated with cryptoasset safeguarding / custody. For example, as we stated in our response to [CP25/14](#), we strongly believe that an exit and contingency plan must be in place to manage disruptions or termination of a relationship. We are not confident that the costs to prepare and maintain such a plan are included.
- As noted in paragraph 73, there is the possibility that, once cryptoassets are regulated, there will be a transfer of investments from traditional finance to cryptoassets. The FCA should analyse the potential impact to the markets. This analysis could look at the capital flows into traditional markets in comparison to capital flows into cryptoassets. In addition, the analysis should also consider the impact on assets available to support lending.
- The Panel suggests that the FCA should make an effort to standardise and centralise their approach to identifying costs to firms that apply across most, if not all, interventions. This includes identifying minimum, maximum, and average hourly rates for the staff who are involved, time spent to read a page of text, etc. In addition to this, the FCA should also establish a data capture mechanism to analyse and document relevant costs for the specifics of interventions, which could also become a centralised source of data and approach, so that the CBA process becomes more standardised, accurate, and less labour intensive in the long term. This must start with the driver of the costs, such as the number of clients, number and amount of transactions, employees, access to information, engagement levels, etc.
- Whenever possible, the FCA should use modelling of various scenarios to better understand the impacts of potential interventions. For example, we consider that even high-level scenario modelling—such as indicative fee increases by product type, potential product redesign, and the resulting impact on consumer choice—would support early identification of access risks. However, this could also be relevant for decisions such as raised in Question 16 of this CP. Please also refer to our CBA response to CP25/41 for other suggestions.
- We urge the FCA to incur the costs needed to ensure that it can properly monitor the impact / outcome of the intervention on consumers, the market, and firms. This includes analysis of FOS and firm reporting, ad hoc data requests, good and poor practice

reviews, etc. These costs should be available from internal FCA records.

- The FCA should budget for increased supervision and enforcement in the short to medium term. These costs should be based on relevant FCA experience. As a counter to these costs, the FCA should also attempt to predict cost recovery through firm charges and fines.
- The FCA must include a post-implementation review in its cost budget. This will serve as a check of the accuracy of this CBA, which could inform further immediate actions. It will also contribute data for future interventions and CBAs.
- As part of its desire to be a data-led regulator, we urge the FCA to define and capture a wide range of relevant data that can further aid the FCA's efforts on an ongoing basis. The consumer outcome metrics highlighted in paragraph 148 are essential – consumer understanding of products and risks, scams, losses, negative experiences, and awareness of regulation are all key. We add to this redress outcomes, operational failures, appropriateness test results, etc. Furthermore, as we mentioned in prior responses, we also suggest incorporating more granular data on distributional impacts—for example, how costs may vary between small and large firms or affect vulnerable consumer groups differently. Other metrics could include comparisons between CBA predictions and actual results, successes and failures, alerts and trends, etc.
- The FCA must also include periodic good and poor practice reviews or multi-firm reviews in its cost budget as many cryptoasset firms will be new to regulation. This will identify those which are meeting Consumer Duty and other cross-cutting expectations, but will also identify those that are failing in that regard and require further support, supervisory action, or enforcement. If firms are aware that they may be captured in such a review, this will further incentivise the proper behaviour and good outcomes for consumers.
- The CBA Panel report raises an excellent point that the CBA “aggregates costs and benefits without adequately considering interactions or cumulative impacts”. The Financial Services Consumer Panel agrees with this position. We acknowledge that this complicates the analysis, but the ultimate goal should be a CBA that is a complete and accurate reflection of the impacts to consumers, the markets, firms, and the UK economy. This ensures optimal decision making by all parties.

