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Dear Sir/Madam,

Financial Services Consumer Panel response to GC26/2 Application of the Consumer Duty to Cryptoasset Firms

The Panel welcomes the FCA's intention to apply the Consumer Duty to cryptoasset firm as they enter the FSMA regulation for the first time. Cryptoassets present heightened risks to consumers because of the volatility, complexity, behavioural biases, scams, and current lack of recourse. The Panel believes this guidance is important to provide firms with clear, enforceable expectations for entering FSMA regulation for the first time. Our response highlights areas where the guidance can be strengthened to prevent foreseeable harm and support informed decision-making.

Crypto markets continue to be volatile, complex and continue to attract consumers from social media and aggressive marketing tactics. The Panel believes that the Guidance should explicitly recognise these risks and set expectations to protect consumers from these harms.

A. Vulnerability and Financial Resilience

Under the Cross Cutting Rules and Principle 12, 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 goals

With that in mind, cryptoasset firms should be required to identify, monitor, and mitigate harm to consumers with low financial resilience or low financial literacy. 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. 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, social influence, gamification), which are particularly acute in crypto markets. This is particularly important for crypto customers that often lack understanding and are exposed to complex risks.

B. Target Market Definitions for High-Risk Crypto Products

The guidance recognises that lending, borrowing, and leveraged products are “more complex or niche”. As previously mentioned in our consultation responses we believe that these products should be available to a much narrower target market that properly understand the risks associated to this product. The Panel has always advocated for the implementation of mandatory appropriateness assessments before access as well as the prohibition on marketing high-risk products to consumers with low financial resilience or low financial literacy. With that in mind, the Panel urges the FCA to provide clear expectations to firms distributing such products.

C. Fair Value in Markets with No Intrinsic Asset Value

The guidance makes clear that firms must assess fair value even when manufacturers are unregulated or unknown. The Panel welcomes this, as well as the FCA’s expectation that distributors must not proceed where they cannot be satisfied that a product or service can deliver fair value. Overall, the Panel agrees that firms should take all reasonable steps to understand the benefits, risks, limitations and charges associated with cryptoassets. Distributors must form their own fair-value judgement, even in the absence of manufacturer data, and cannot rely on information gaps as a justification for proceeding.

From the Panel’s perspective, fair-value assessments in crypto markets must explicitly account for the absence of intrinsic value, extreme volatility, and pronounced information asymmetries. We believe the FCA should set minimum standards for fair-value assessments in this sector to ensure consistency, reduce ambiguity, and prevent firms from adopting overly permissive interpretations in a high-risk market.

D. Consumer Understanding and Behavioural Design

The Panel welcomes the FCA’s strong emphasis on the consumer understanding outcome and agrees that it is central to effective consumer protection in crypto markets. The section provides a clear and practical articulation of what good looks like, and we are particularly supportive of

the FCA's use of concrete examples, which will help firms translate principles into operational practice.

We agree with the FCA that consumers can only take responsibility for their decisions when firms' communications genuinely enable understanding of the product, its features, risks, and implications. This is especially important in crypto markets, where behavioural biases, hype cycles, and information asymmetries are more pronounced than in traditional financial services. The Panel is therefore pleased to see explicit references to avoiding communications that exploit these biases, and to the expectation that firms "put themselves in their customers' shoes" when designing disclosures.

We also support the FCA's focus on testing, monitoring, and adapting communications, including the use of analytics to assess the effectiveness of risk warnings and educational content. This aligns with the Panel's long-standing view that firms should evidence comprehension, not assume it. The examples of good practice—such as layered disclosures, comprehension checks, and simulations for complex products—are proportionate and appropriate for a high-risk market.

The Panel urges the FCA to consider imposing mandatory testing of consumer comprehension for high-risk products and restricting gamified interfaces, push notifications, or "nudge-to-trade" designs. The Panel believes that firms should be required to assess clients understanding of any contemplated products or services. A standardise approach is likely to provide the greatest protection for both the customer and the firms.

The Panel urges the FCA to consider that high frequency trading is not a valid measure of experience nor any indication that such clients are to be considered as sophisticated consumers. The Panel reiterates the need for prominent, standardised warnings on the lack of FSCS protection (assuming the FCA does not, as we would like to see, change its current stance), volatility, liquidity risks and custody risks. The Panel also stresses the need for clear rules on influencers, affiliates, and social-media-driven promotions.

The guidance on timely provision of critical information, including the absence of FSCS protection, potential losses, and fee changes, is also welcome. These are areas where misunderstanding is common and where poor communication can materially increase consumer harm.

The Panel particularly supports the expectations around custody and wallet structures, where misunderstandings can have severe

consequences. Clear explanations of withdrawal timelines, safeguarding arrangements, and trust structures are essential, and we welcome the FCA's explicit inclusion of these topics.

E. Custody, Withdrawal, and Operational Risks

The Panel encourages the FCA to consider providing clear guidance on the expectations for withdrawal timelines, including during stress events. It also leaves gaps on the requirements for firms to publish incident reporting, including wallet freezes, slashing events, or protocol failures. Guidance could be enhanced by providing stronger guidance on exit frictions, including prohibitions on hidden fees or complex withdrawal processes.

F. Reasonableness

The Duty is underpinned by the concept of reasonableness. The Panel recognises the FCA's intention to anchor the Duty in the concept of reasonableness, and we agree that firms cannot be expected to eliminate all harm in inherently volatile markets. However, the requirement for firms to hold a reasonable belief that customers understand and accept the relevant risks raises important questions about how such a belief is evidenced in practice.

The guidance states that firms are not expected to protect customers from risks they "reasonably believed the customer understood and accepted". While this principle is sensible, it places significant weight on firms' ability to demonstrate that understanding was both enabled and achieved.

From the Panel's perspective, firms cannot rely on assumptions about consumer understanding. Instead, they must be able to evidence it. This means going beyond simply providing disclosures and assuming comprehension. Firms should be expected to use tools such as comprehension checks, behavioural testing, analytics on customer interactions with risk warnings, and post-sale monitoring to substantiate that customers did understand, or should reasonably have been expected to understand, the risks at the point of decision-making.

We also note the FCA's reference to product design as a factor in assessing whether a belief is reasonable. The Panel strongly supports this. Where a product is so complex, opaque, or structurally unsuitable for retail customers—particularly where there is no identifiable manufacturer or where the manufacturer is outside the regulatory perimeter—it may be inherently unreasonable for a firm to conclude that a typical retail

customer can understand and accept the risks. In such cases, the Panel would expect firms to restrict distribution or reassess the target market.

We welcome the FCA's examples of proactive steps firms can take to avoid foreseeable harm, such as reaching out to customers during periods of volatility and revisiting target-market assessments. These are practical measures that align with the Duty's intent. However, the Panel believes that the FCA should go further in clarifying what constitutes sufficient evidence of consumer understanding in high-risk markets. Without clearer expectations, there is a risk that firms default to minimal compliance rather than robust assessment.

Overall, the Panel supports the FCA's framing but emphasises that reasonable belief must be grounded in demonstrable evidence, not assumptions. In a market characterised by complexity and behavioural vulnerability, firms must be held to a high standard in evidencing that customers genuinely understood the risks they were taking

Consumer Panel's Specific Comments on Consumer Duty Applicability and Consumer Impact

The following table summarises the Consumer Panel's assessment of how the Consumer Duty aim to apply across different areas of cryptoasset product manufacturing and distribution. It highlights where the Duty will provide meaningful protections for consumers and where significant gaps remain—particularly in cases involving unauthorised manufacturers, cryptoassets with no identifiable issuer, or distributors relying on limited information. The table provides a clear view of where we believe additional safeguards or regulatory clarification may be needed to ensure consumers are adequately protected in a high-risk and rapidly evolving market.

1. Product Manufacturing & Design

Area	Consumer Duty Applies?	Rationale	Consumer Impact & Consumer Panel Comments
<i>UK-authorized manufacturers designing cryptoassets for retail customers</i>	Yes	Manufacturers fall within PRIN 2A when designing products for UK retail customers.	Consumers benefit from structured product governance, fair-value assessments, and clearer articulation of risks. From a Consumer Panel perspective, this is essential because crypto products often embed complexity, volatility, and behavioural triggers that retail

			customers cannot reasonably assess alone.
<i>Manufacturers outside the UK or unauthorised issuers (e.g. bitcoin)</i>	No	Duty applies only to FCA-authorised firms.	The Panel considers this a significant gap in consumer protection. UK consumers engaging with manufacturers based outside the UK, or with unauthorised issuers, may be unaware of how to verify a manufacturer’s location of operation or an issuer’s authorisation status. As a result, they may be exposed to products with no governance, no fair value assessment, and unclear articulation of risks — leaving them vulnerable to weak disclosures and with no recourse.
<i>Cryptoassets with no issuer (e.g., Bitcoin)</i>	No (for manufacturer)	No identifiable manufacturer.	Consumers rely entirely on distributors for protections. The Consumer Panel would emphasize that this creates a “protection vacuum” where consumers may assume oversight for those cryptoassets that does not exist, increasing mis-perception of safety.

2. Distribution & Intermediaries

Area	Consumer Duty Applies?	Rationale	Consumer Impact & Consumer Panel Comments
<i>FCA-authorised distributors (including QCATPs acting as distributors)</i>	Yes	Duty applies even when manufacturer is unregulated or unknown.	Distributors become the primary line of defence for consumers. From the Consumer Panel perspective, they will be critical to test consumer understanding and prevent foreseeable harm for retail customers that may overestimate their knowledge.
<i>Distribution of products from unregulated or unknown issuers</i>	Yes to some extent	Duty applies, but firms must rely on limited information.	Distributors won’t be able to fully compensate for absent issuer information. Even with the Duty applying, consumers may still face risks and poor value.

3. UK Qualifying Cryptoasset Trading Platforms (QCATPs)

Area	Consumer Duty Applies?	Rationale	Consumer Impact & Consumer Panel Comments
<i>Customer onboarding, communications, disclosures, fees</i>	Yes	These are consumer-facing interactions.	The Panel is pleased to see that the Duty will apply for these activities and would emphasise that onboarding is where most harm crystallises: poor disclosures, gamified interfaces, and behavioural nudges can distort decision-making. Duty application here directly mitigates these risks and the Panel is happy to see it being applied.
<i>Transactions on UK QCATP</i>	No	UK QCATP operators to have their own non discretionary rules which provide for fair and transparent trading between participants.	While trading execution will be governed by UK QCATP's non-discretionary rules, the Panel would note that consumers may wrongly assume Duty applies. The Panel would have preferred 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 Duty outcomes in the cryptoasset context.
<i>Suspending trading based on Duty concerns</i>	Partial	FCA expects this only in exceptional cases.	The Panel would like to highlight that unnecessary suspensions can trap consumers in volatile markets, but failure to suspend when harm is foreseeable can also expose them to losses. Any suspensions must be evidence-based and transparent as this can potentially have negative effects if misused.

4. Financial Promotions

Area	Consumer Duty Applies?	Rationale	Consumer Impact & Consumer Panel Comments
<i>Authorised firms communicating or approving</i>	Yes	Duty applies to promotions likely to reach	The Panel is pleased to see that the Duty will apply for these activities and would emphasise that promotions are a major harm driver. The Panel would like

<i>cryptoasset promotions</i>		UK retail customers.	to stress that the Duty application here can curb out mis-selling, influencer-style messaging, and omission of key risks.
<i>MLR-exempt promotions</i>	No (no longer relevant)	Exemption removed under new regime.	The Panel welcomes the removal of the exemption, as this could create a loophole that exposes consumers to unregulated promotions.

5. Admissions & Disclosures (A&D) Regime

Area	Consumer Duty Applies?	Rationale	Consumer Impact & Consumer Panel Comments
<i>A&D for UK-issued qualifying stablecoins</i>	Yes	Duty applies due to retail exposure and payment-related risks.	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.
<i>A&D for non-stablecoin qualifying cryptoassets</i>	No	FCA excludes these designated activities from “retail market business.”	<p>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. As per our response to CP24/41, the Panel was not supportive of FCA’s proposal to replace the general Consumer Duty with bespoke A&D rules that are specifically designed for the cryptoasset context.</p> <p>While we recognise the need for crypto specific requirements, we consider that removing the overarching Duty risks creating unnecessary divergence and weakening the consistency of consumer protection across the regulatory perimeter. The Panel prefers 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. This model preserves the clarity and supervisory coherence of the Duty while still enabling proportionate, sector-specific requirements for QCDDs. Fully disapplying the Consumer Duty means that some general protections will not apply, including the overarching requirement to act in the consumer’s best interests. The FCA should closely monitor the</p>

effectiveness of the bespoke A&D rules in practice, and be prepared to revisit the application of the Consumer Duty if gaps in consumer protection emerge. The success of a bespoke regime depends heavily on CATPs and intermediaries fully implementing the bespoke rules and the FCA actively monitoring compliance.

6. Customer Trading Activity

Area	Consumer Duty Applies?	Rationale	Consumer Impact & Consumer Panel Comments
<i>Pre-trade and post-trade customer interactions</i>	Yes	Duty applies to support and clarity.	The Panel is pleased to see the Duty applying in these instances and would like to highlight that consumers often misunderstand slippage, gas fees, liquidity, and execution risk. Duty-driven clarity will help reduce panic-driven decisions.
<i>Execution of trades between participants</i>	No	Duty does not apply to trades themselves.	The Panel would like to warn that consumers may assume all executions are Duty-protected. This misunderstanding can lead to misplaced trust in platforms.

7. Territorial Scope

Area	Consumer Duty Applies?	Rationale	Consumer Impact (Expanded – Consumer Panel Lens)
<i>Retail customers in the UK</i>	Yes	Full Duty applies.	Strongly positive. Provides consistent protections across the retail journey.
<i>Retail customers outside the UK</i>	Partial	Duty follows underlying rule scope.	The Panel would like to highlight that consumers may not understand territorial limits, leading to false assumptions about protections when interacting cross-border.

Questions for the FCA

The Panel wishes to ask the Crypto Team whether the FCA will:

- require firms to test consumer understanding before allowing access to complex products

Current proposed rules include:

- an appropriateness test (for firms to assess whether the consumer has the knowledge/experience to understand the risks)
- personalised risk warnings
- a 24-hour cooling-off period for first-time crypto investors
- client categorisation

But none of these require firms to test comprehension of disclosures or risk explanations before allowing access.

There is no mandated comprehension test, no requirement to demonstrate that the consumer actually understood the risks, and no prohibition on proceeding if the consumer simply clicks through.

Therefore, the Panel recommends that the FCA:

- require firms to restrict access for consumers with low financial resilience
- assess and ensure firms do not exploit behavioural biases or use gamification
- monitor firms distributing products from unregulated or unknown manufacturers
- 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
- introduce a standardised set of consumer-outcome metrics that firms must publish annually as part of Consumer Duty reporting.

Recommendations for Strengthening the Guidance

In addition to the points outlined above, the Panel believes the Guidance could be further strengthened in the following areas to ensure that retail consumers receive consistent, evidence-based protections across all stages of the cryptoasset journey:

- **Strengthened Expectations Where No Manufacturer Exists**
The Panel encourages the FCA to set out minimum standards for due diligence where a cryptoasset has no identifiable issuer. Distributors should be required to obtain independent technical assessments, evaluate governance risks, and clearly explain to consumers the implications of the absence of a regulated manufacturer, including the limits this places on recourse and fair value analysis.

- **Clearer Escalation Pathways for Cross-Regime Risks**

Given the interconnected nature of crypto risks—spanning AML, fraud, market abuse, and consumer protection—the Panel recommends that firms maintain documented escalation pathways across regulatory regimes. Serious or emerging consumer-harm signals should be escalated promptly to senior management under the Senior Managers and Certification Regime (SMCR).
- **Minimum Evidence Standards for “Reasonable Belief”**

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.
- **Strengthened Controls for Influencer and Affiliate Promotions**

The Panel recommends that the Guidance include more explicit expectations for firms approving influencer or affiliate communications, including requirements for monitoring, pre-approval processes, and sanctions where unauthorised content is disseminated. The Panel also believes that firms could maintain a publicly accessible register of approved promotions to enhance transparency for consumers.
- **Standardised Transparency Metrics and Public 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

- **Governance of Emerging Technologies**

The Guidance should be expanded to cover risks arising from emerging technologies such as automated wallets, AI-driven recommendation tools, and integrations with decentralised finance (DeFi). The Panel believes that firms should be required to assess and document how these technologies impact consumer understanding, risk exposure, and decision-making, and that additional guidance should be developed to support this work.
- **Clear Expectations on Acting in Clients' Best Interests**

Disclosure requirements and reliance on the Consumer Duty should mean that firms act in their clients' best interests. To encourage the right behaviour, the Panel recommends that the FCA make clear in the Guidance that action—including enforcement—will be taken where firms fail to act in the best interests of their clients.
- **Future Revision of the Guidance**

A year after the Guidance becomes applicable, and following supervisory work, it would be valuable to revise the Guidance to include further scenarios of good and poor practice. This could include a random selection of firms, including those not actively supervised, to strengthen the evidence base.
- **Clarity on FCA Metrics and Monitoring**

The Panel would appreciate the addition of an explanation of the metrics the FCA has defined and will monitor to assess whether the implemented Guidance is achieving its intended outcomes, as well as to identify any negative unintended consequences.
- **Improved Clarity on Consumer Recourse**

Finally, the Panel recommends that firms be required to provide consumers with a standardised "Recourse Map" clearly setting out which protections apply (and do not apply), including FSCS coverage, dispute processes, and the responsibilities of distributors versus manufacturers. These explanations should be delivered prominently during onboarding and prior to any transactional activity.

Conclusion

The Panel strongly supports the FCA's intention to apply the Consumer Duty to cryptoasset firms. Strengthening the guidance in the areas outlined above will help ensure that consumers, particularly those most at risk, receive the protection that they need. The Panel appreciates FCA's

efforts to enhance consumer protection by providing a guidance on how Consumer Duty applies to cryptoasset firms.

Yours sincerely,

Chris Pond
Chair, Financial Services Consumer Panel