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Consultation Paper

CP26/13**

Cryptoasset Perimeter Guidance

April 2026

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Cryptoasset Policy Team
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Email:
cp26-13@fca.org.uk

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Contents

Chapter 1 Summary . . . . Page 4

Chapter 2 Proposed guidance . . . . Page 7

Annex 1 Questions in this paper . . . . Page 16

Annex 2 Cost Benefit Analysis . . . . Page 17

Annex 3 Compatibility Statement . . . . Page 18

Annex 4 Abbreviations used in this paper. . . . . Page 23

Appendix 1 Draft Handbook text

Chapter 1

Summary

Introduction

1.1 From 25 October 2027, the Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026 (Cryptoasset Regulations) will introduce new regulated activities for cryptoassets into our perimeter. Persons conducting regulated cryptoasset activities will need to apply for authorisation before carrying on these activities by way of business in the UK. Once authorised, they will also need to follow the rules and guidance set out in the FCA Handbook, once finalised.

1.2 To promote the understanding of the scope of the new regulated activities and when permissions will be required, we are proposing changes to the Perimeter Guidance Manual (PERG) within the FCA Handbook setting out guidance on how the perimeter and permissions apply. This consultation paper (CP) seeks views on our proposed guidance and whether any further clarification is needed.

1.3 We want to develop a competitive and sustainable cryptoasset sector where UK consumers are served by authorised cryptoasset firms and can make informed decisions. Our new perimeter gives us the tools to strengthen protections for consumers and support fair, transparent and orderly markets as the sector matures. We have also taken into account the feedback received through our consultations under the Crypto Roadmap when preparing this consultation.

Why we are consulting

1.4 This CP includes our proposals to clarify the scope of the new regulated cryptoasset activities and when permission is needed in PERG.

1.5 This CP should be considered alongside our other recent consultations on proposed rules for the new cryptoasset regime, CP25/14, CP25/15, CP25/25, CP25/40, CP25/41, CP25/42 and CP26/4.

1.6 In addition, it aims to provide clarity for firms transitioning from our current cryptoasset regime (ie under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017) (MLRs) to the new cryptoasset activities under FSMA.

1.7 The proposed guidance is prepared in a Q&A format in a new chapter in PERG. Should there be further legislative changes before the finalisation of this proposed guidance, we will reflect the changes, as appropriate.

What we want to achieve

1.8 We want this to support:

- **a clearer view for market participants:** they should clearly understand when authorisation will be required, which permissions apply to their activities, and whether any exclusions are relevant, so reducing uncertainty and the risk of inadvertent perimeter breaches
- **effective competition:** by helping firms correctly identify the permissions relevant to their business models, better ensuring the consistent regulatory treatment of firms
- **appropriate consumer protection:** by supporting timely and accurate applications for authorisation, UK clients conducting regulated cryptoasset activities and accessing cryptoasset services engage with firms which are appropriately authorised
- **fair, transparent, orderly and resilient markets:** by improving firms' understanding of their regulatory obligations and supporting consistent application of the regime across market participants.

Measuring success

1.9 Our proposed perimeter guidance will be successful if it helps firms to:

- Plan and prepare for authorisation.
- Determine how to effectively demonstrate they are offering regulated cryptoasset activities outlined in the regulatory perimeter and meeting our regulatory standards.

1.10 Similar to other consultations under the Crypto Roadmap, we will use a variety of metrics to assess whether the proposed guidance will achieve our objectives. We will consider our guidance successful if firms are clear about the regulatory perimeter, and can organise their businesses and apply for relevant permissions with confidence. As the intervention in this CP relates to guidance, we do not believe specific monitoring of outcomes is proportionate. We will however, continue to monitor trends within UK cryptoasset markets as discussed in previous publications.

1.11 We anticipate higher quality applications as a result, with more firms applying for the right permissions, and fewer inadvertently breaching the perimeter. We anticipate fewer firms operating under savings provisions, because they will understand earlier which permissions they need to apply for.

1.12 We will measure success through the quality of applications, and by firms submitting applications for the appropriate permission(s).

Next steps

1.13 We welcome feedback on our proposed guidance in Appendix 1 by 3 June 2026. The specific questions for feedback are in Annex 1.

1.14 You can submit your responses via the form on our website or by email to cp26-13@fca.org.uk.

1.15 We will publish our final guidance in September 2026, taking into account feedback received and any legislative amendments as appropriate.

1.16 Our application period for firms that want to undertake the new regulated cryptoasset activities will be open from 30 September 2026 to 28 February 2027. Firms that are already authorised under FSMA by us to undertake regulated activities who intend carrying on one or more of the new regulated cryptoasset activities will need to ensure they have the correct permissions. This may require them to apply to the FCA to vary their existing permission.

1.17 To help firms understand the new perimeter and the authorisation process, we have set out in our website various measures. For example, firms can request a pre-application meeting with us via our pre-application support service (PASS). We will expect to determine a firm's application (whether authorisation or variation) before the new regime commences on 25 October 2027. Firms who have applied during the application period (eg MLR14A registered firms) can continue to provide cryptoasset services until their application has been fully determined under the savings provisions as set out in the Cryptoasset Regulations. Dual regulated firms should engage the Prudential Regulation Authority as and when applicable.

Chapter 2

Proposed guidance

Guidance on the new regulated cryptoasset activities

2.1 We are proposing to introduce a new chapter into PERG. The new chapter will contain guidance on how to determine whether an activity is within the perimeter, and guidance on the new specified investments and new regulated cryptoasset activities, including which permissions may be required for certain business models and how certain exclusions operate and other related issues. The proposed guidance in full is set out in Appendix 1.

2.2 PERG 1 and PERG 2 set out the foundational principles for understanding the FSMA perimeter, including the FCA's general approach to regulated activities, specified investments, exclusions, exemptions and key concepts such as the general prohibition. PERG 1 and PERG 2 are relevant to persons carrying on regulated activities in relation to cryptoassets, and the proposed text of the new PERG chapter should be considered in conjunction with those chapters.

Legislative context

2.3 The Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026 extends the FCA's regulatory perimeter to certain cryptoasset activities. This determines when persons carrying on certain activities need to be authorised and what permissions they require. This consultation does not change that perimeter. Our proposed guidance explains our views on how the legislation applies.

2.4 FSMA sets out that no person may carry on a regulated activity in the UK by way of business unless they are authorised or an exemption applies. This is known as "the general prohibition". For these purposes, a 'person' can mean individuals, companies and bodies corporate, partnerships, and unincorporated associations. The Cryptoasset Regulations expand the framework by introducing new categories of investments, including 'qualifying cryptoassets' and 'qualifying stablecoins' (which are defined in the legislation and explained in the proposed guidance at Q4.1 to Q4.7), and introduces new regulated activities.

2.5 The regulated activities consist of operating a qualifying cryptoasset trading platform, dealing in qualifying cryptoassets as principal or agent, arranging deals in qualifying cryptoassets, safeguarding and arranging safeguarding of qualifying cryptoassets and relevant specified investment cryptoassets, issuing qualifying stablecoins in the UK and arranging qualifying cryptoasset staking. The Cryptoasset Regulations also provide a definition for cryptoassets that have always been within the perimeter, namely "specified investment cryptoassets", which are cryptoassets that are specified investments, like tokenised shares.

2.6 This means that depending on the asset and the activity in question, a person will need to consider both:

i. whether they are carrying on one of the new regulated cryptoasset activities in relation to a qualifying cryptoasset or qualifying stablecoin (or in the case of safeguarding, in relation to a specified investment cryptoasset that is a security or contractually based investment, now known as a "relevant specified investment cryptoasset"); and/or

ii. whether they are carrying on an existing regulated activity in relation to a cryptoasset that is a specified investment cryptoasset. The Cryptoasset Regulations did not replicate all existing regulated activities in traditional financial markets, such as managing investments or advising on investments. However, those existing regulated activities are relevant where the activity is carried on in relation to specified investments, including specified investment cryptoassets, but not qualifying cryptoassets.

2.7 The Cryptoasset Regulations contain activity-specific exclusions, territorial provisions and other modifications tailored to the new regulated cryptoasset activities. All exclusions should be checked. Do not assume that an exclusion that applies to an existing regulated activity will apply in the same way, or, at all, to a regulated cryptoasset activity. Whether authorisations will be needed will depend on the nature of the activity, the applicable territorial test, and on whether any exclusion or exemption is available.

2.8 Persons should consider the perimeter in relation to every activity they perform and should carry out an analysis on a case-by-case basis. Whether an activity is regulated will depend on the specifics of what a person is doing and their role in the relevant arrangements, whether the activity is carried on in the UK, whether it is carried on by way of business, and whether any exclusion or exemption applies.

2.9 Anyone carrying on activities in relation to cryptoassets must consider the legislation and guidance carefully, and ensure that they have the appropriate permission for any regulated activities they carry on, or an exclusion or exemption.

2.10 In cryptoasset markets, some terminology is used differently and business models do not necessarily map onto traditional financial services concepts. It might not be clear whether an arrangement is inside or outside the perimeter just from its name – what is important is the substance of the activity and the role performed by the person in question, not the terminology the market participants adopt.

2.11 Persons should also consider this proposed guidance carefully where a service includes automated, blockchain-based or decentralised features. The fact that an arrangement involves smart contracts, public blockchains or some elements of decentralisation does not determine the perimeter position or place the arrangement outside of regulation. The question remains whether there is an identifiable person whose business includes carrying on the relevant activity in the UK. In that context, depending on the activity, considerations should include whether a person operates or maintains the service, sets key parameters, controls important aspects of how it functions, and/or receives fees or some other commercial benefit from the activity. As with any perimeter question, the analysis will depend on the facts.

2.12 Carrying on a regulated activity in breach of the general prohibition has significant consequences. Contravention of section 19 of FSMA is a criminal offence that carries a term of imprisonment of up to 2 years, an unlimited fine, or both. A breach of the general prohibition means that agreements entered into by the unauthorised person carrying on regulated activity are unenforceable. There are also consequences for anyone who's already authorised but who does not have the correct permission for the regulated activities they intend to carry on.

2.13 This proposed guidance reflects the legislative framework as it stands at the time of consultation. That framework may itself evolve and there could be legislative changes in the future. For example, the Government is underway taking forward broader work to modernise payments assimilated law, including to ensure that the UK payments regime is fit for tokenised payments such as stablecoins. Persons carrying on activities relating to stablecoins should therefore consider the legislation as in force at the relevant time, and should not assume that the perimeter position will remain unchanged should further legislative amendments be made. We will take into account any further changes and update the final guidance as appropriate.

Overview of the proposed guidance in PERG

2.14 We are proposing to create a new chapter in PERG which is set out in Appendix 1. We have set out below an overview of the proposed guidance in the new PERG chapter, and its key parts.

Introduction section

2.15 The introduction section outlines the purpose of the proposed guidance which is to help persons determine if they are conducting activities for which they need to be authorised.

2.16 This section also outlines the assessment persons should do to determine whether their activities are regulated and what permissions they need.

2.17 The following key questions should be considered by all persons when considering whether they need authorisation/permission:

- **a.** Is the person carrying on a regulated activity?
- **b.** Is the activity carried on in the UK?
- **c.** Is the activity carried on by way of business?
- **d.** Does an exclusion apply?
- **e.** Does an exemption apply?

2.18 The proposed guidance in PERG 19 should be read alongside provisions of PERG 1 and PERG 2, when conducting this assessment. See Appendix 1 for a visual summary of the assessment persons should do to determine whether they need authorisation.

When activities are carried on 'by way of business'

2.19 The Cryptoasset Regulations apply a concept of the business element that also applies to some other investment business, such that unless a person carries on the business of engaging in one or more of the activities, they will not be seen as carrying them on 'by way of business'.

When activities are considered to be 'in the UK'

2.20 Persons also need to consider whether a regulated cryptoasset activity is being carried on 'in the UK'. The Cryptoasset Regulations expand the circumstances in which an activity would normally be treated as occurring in the UK, and includes where services are provided to UK consumers from persons based outside of the UK in certain circumstances. The definition of 'consumer' for these purposes is set out in the Cryptoasset Regulations. It is not the same as the client categories we use in our rules, and refers to any person who is an individual in the UK acting for purposes other than in the course of any trade, business or profession.

2.21 We are proposing to build on the existing guidance in PERG 2.4 and explain the provisions of FSMA that deem activities to be carried on in the UK even if some of the participants or elements of the activities are overseas. We have also set out our views on how the link between activities and the UK is established for the new regulated cryptoasset activities. The FCA has also issued guidance (Annex 4: Approach to International Cryptoasset Firms) about how we would assess authorisation applications and continuing supervision. This guidance sets out that our baseline expectation is for firms requiring FCA authorisation to carry out their regulated cryptoasset activities from a UK legal entity.

2.22 In many instances, it will be straightforward to identify where an activity is carried on in the UK, for example where all elements of the business and all participants are in the UK. Cross-border arrangements do not necessarily preclude some or all of the activity from being considered to be carried on in the UK. Persons carrying on activities that relate to cryptoassets that have at least some links to the UK should therefore carefully consider the proposed guidance to determine whether their activities are regulated cryptoasset activities that require permission.

2.23 See questions Q1.1 – Q3.6 of the proposed guidance in Appendix 1 for information on the purpose and application of the proposed guidance, assessments to determine whether activities are regulated and permissions needed.

Question 1: **Do you agree with our proposed guidance set out in the Introduction section? If not, please explain why.**

New specified investments (Qualifying cryptoassets and qualifying stablecoins)

2.24 We explain what qualifying cryptoassets and qualifying stablecoins are. A qualifying cryptoasset is a type of cryptoasset that is fungible and transferable cryptographically, and it must function as more than a mere record of value or rights. Qualifying stablecoins form a subset of this category. They are a type of qualifying cryptoasset that seeks or purports to maintain a stable value relative to a particular fiat currency and is supported by holdings of fiat or other backing assets. Certain assets are excluded from the definition of qualifying cryptoassets, including electronic money, fiat currency, central bank digital currencies, and cryptoassets that can only be redeemed with the issuer or used within a limited network. Cryptoassets that fall within other specified investment categories are also excluded. See Appendix 1 for a visual summary of how to identify a qualifying cryptoasset.

2.25 We explain what a specified investment cryptoasset is, namely, a qualifying cryptoasset that is also a specified investment. Certain activities carried on in relation to specified investment cryptoassets are regulated activities already within the perimeter. For example, where a person buys or sells a share or bond in tokenised form, that activity may amount to dealing in investments as principal and this remains the case following the Cryptoasset Regulations. Please consider PERG 2 when determining the type of specified investment in question and the regulated activities and related exclusions that may be involved.

2.26 See questions Q4.1 – Q4.7 of the proposed guidance in Appendix 1 for more information on new specified investments.

Question 2: **Do you agree with our proposed guidance set out in the New specified investments section? If not, please explain why.**

New regulated cryptoasset activities

2.27 The proposed guidance sets out our views on each of the new regulated activities introduced by the Cryptoasset Regulations.

2.28 These are:

a. Issuing qualifying stablecoins in the UK
b. Safeguarding, and arranging safeguarding of qualifying cryptoassets and relevant specified investment cryptoassets
c. Operating a qualifying cryptoasset trading platform
d. Dealing in qualifying cryptoassets as principal
e. Dealing in qualifying cryptoassets as agent
f. Arranging deals in qualifying cryptoassets
g. Arranging qualifying cryptoasset staking

2.29 Although not a separate new regulated cryptoasset activity, cryptoasset lending and borrowing is another activity popular in cryptoasset markets, which we discuss in the proposed guidance.

Issuing qualifying stablecoin in the UK

2.30 Issuing qualifying stablecoin in the UK means a person (A), established in the UK, is carrying on or arranging for another to: offer a stablecoin, undertake to redeem a stablecoin and maintain the value of the stablecoin. The activity requires a firm to carry on all limbs of the activity in the UK to be within the perimeter; this includes where the stablecoin has been created by or on behalf of A, or a member of A's group.

2.31 In the proposed guidance, we clarify when issuing a qualifying stablecoin is regarded as carried on in the UK and what it means to 'issue' for the purposes of this new regulated cryptoasset activity, including if you carry on just one element of the issuing activity. We have also clarified who would be authorised to issue a qualifying stablecoin, and how redemption forms part of the activity of issuing qualifying stablecoin (Article 9M of the Cryptoasset Regulations).

2.32 See questions Q5.1 – Q5.6 of the proposed guidance in Appendix 1 for more information on issuing qualifying stablecoin in the UK.

Safeguarding and arranging safeguarding of qualifying cryptoassets and relevant specified investment cryptoassets

2.33 In the proposed guidance we explain that the safeguarding activity includes two specified kinds of activity: a) the safeguarding of a qualifying cryptoasset or a relevant specified investment cryptoasset on behalf of another person and b) arranging for a person to carry on that activity. We set out that safeguarding cryptoassets may be carried on regardless of whether the cryptoasset is owned by the customer or the firm, provided it is done on behalf of another person and the firm has the requisite degree of control over the cryptoasset (see question 6.1 in our proposed PERG 19.6). This may be the case, for example, where a customer has a right against the firm for the return of the cryptoasset but does not own it themselves.

2.34 See questions Q6.1 to Q6.12 of the proposed guidance in Appendix 1 for more information on safeguarding and arranging safeguarding.

Operating a qualifying cryptoasset trading platform

2.35 The proposed guidance explains when and how an operator may be operating a qualifying cryptoasset trading platform (QCATP). It also includes examples of different types of operators and models, from different locations, outlining when authorisation is required, and the different permissions required, eg a permission to operate a UK QCATP, a safeguarding cryptoasset permission, a dealing in qualifying cryptoassets as principal permission, depending on the activities carried out by a firm.

2.36 See questions Q7.1 to Q7.6 of the proposed guidance in Appendix 1 for more information on operating a QCATP.

Intermediary activities of dealing as principal or agent, and arranging deals in qualifying cryptoassets

2.37 The proposed guidance sets out the perimeter considerations for dealing in qualifying cryptoassets, whether as principal or agent, and for arranging deals in qualifying cryptoassets, all of which are intermediary activities.

2.38 The new regulated cryptoasset activities of dealing and arranging mirror the existing RAO activities and operate in a similar way, although the crypto-specific exclusions differ. Dealing in qualifying cryptoassets as principal or agent covers a broad range of transactions relating to buying and selling qualifying cryptoassets, regardless of how they are described, but does not extend to specified investment cryptoassets or linked financial instruments. Arranging deals in qualifying cryptoassets includes both bringing about specific transactions and making ongoing arrangements that facilitate trading. A wide variety of models are included, such as trading apps and platforms that facilitate or enable users to buy and sell qualifying cryptoassets. The scope is broad and can apply even where a firm provides only part of the facilities for a transaction. Firms should assess the substance of their activities to determine whether they are arranging or dealing in qualifying cryptoassets. Some exclusions apply, but there is not a particular exclusion from arranging deals in qualifying cryptoassets for 'technical services' – this is only for arranging the qualifying cryptoasset staking activity.

2.39 See questions Q8.1 to Q8.21 of the proposed guidance in Appendix 1 for more information on intermediary activities.

Cryptoasset lending and cryptoasset borrowing

2.40 Cryptoasset lending and borrowing is not a standalone regulated cryptoasset activity, though we set out in the proposed guidance our views on the new regulated activities that may be involved.

2.41 We explain that where cryptoasset lending or borrowing involves buying, selling or subscribing for qualifying cryptoassets, it will generally fall within the dealing and/or arranging perimeter, and the safeguarding activity may also be engaged.

2.42 The precise permissions required will depend on the product structure and the parties' contractual arrangements.

2.43 See question Q9.1 of the proposed guidance in Appendix 1 for more information on cryptoasset lending and cryptoasset borrowing.

Arranging qualifying cryptoasset staking

2.44 The activity of arranging qualifying cryptoasset staking involves making arrangements on behalf of another person (whether as principal or agent) for blockchain validation using qualifying cryptoassets. The focus is on intermediation that enables staking to occur, rather than simple introductions or basic communications between parties.

2.45 The proposed guidance explains that activities which may fall within the perimeter include managing the end-to-end staking lifecycle, pooling customer assets to meet validator thresholds, and distributing staking rewards. Purely technical services are generally out of scope, for example, operating a validator node or offering solo staking tools without further involvement is unlikely, on its own, to amount to arranging qualifying cryptoasset staking.

2.46 See questions Q10.1 to Q10.8 of the proposed guidance in Appendix 1 for more information on cryptoasset staking.

Question 3: **Do you agree with our proposed guidance set out in the New regulated cryptoasset activities section? If not, please explain why.**

Exclusions relevant to the activities

2.47 There are exclusions in the Cryptoasset Regulations, specific to some of the new regulated cryptoasset activities. An exclusion removes an activity from a regulated cryptoasset activity, but it may still fall within another regulated activity. Whether an exclusion applies will depend on the facts. Only a small number of existing RAO exclusions apply to the new cryptoasset activities, and firms should not assume that exclusions used in traditional markets apply in the same way here. Some exclusions have been tailored in the legislation to recognise the specifics of cryptoassets.

2.48 The proposed guidance explains the two general exclusions that apply across all regulated cryptoasset activities: one for activities carried on for the sale of goods or supply of services, and another for activities that are incidental to a regulated profession or business.

2.49 It also explains the key exclusions that apply across specific activities, including issuing qualifying stablecoin in the UK, dealing in qualifying cryptoassets as principal and as agent, arranging deals in qualifying cryptoassets, and arranging qualifying cryptoasset staking.

2.50 See questions Q11.1 to Q11.6 of the proposed guidance in Appendix 1 for more information on exclusions to the new regulated cryptoasset activities.

Question 4: **Do you agree with our proposed guidance set out in the Exclusions relevant to the activities section? If not, please explain why.**

Interaction with the current cryptoasset framework for Money Laundering Regulations (MLRs)

2.51 At present, cryptoasset businesses carrying on business in the UK (defined in the Money Laundering Regulations (MLRs) as cryptoasset exchange providers or custodian wallet providers) are required to register with us. This is solely for anti-money laundering, counter terrorist financing and counter proliferation financing purposes, and does not constitute authorisation under FSMA.

2.52 With the introduction of the new regulated cryptoasset activities in the Cryptoasset Regulations, UK firms with an MLR registration will now be required to obtain a permission under the FSMA regime, if they are within the scope of the regulations. Firms outside the scope of the FSMA regime (such as due to exclusions in Cryptoasset Regulations) should consider carefully if they will need MLR registration. Although the proposed guidance focuses predominantly on the new regulated cryptoasset activities under the FSMA regime, it will also explain how the RAO perimeter interacts with the MLRs.

2.53 As outlined by the Treasury in the Explanatory Memorandum accompanying the Cryptoasset Regulations, all cryptoasset RAO firms will need to follow the obligations under the MLRs and to be authorised under FSMA but will no longer need to separately register under the MLRs. The activities under the Cryptoasset Regulations and consequential amendments will operate concurrently with the scope of the MLRs – and firms will need to consider both regimes, although they will only need to be authorised under FSMA.

2.54 See questions Q12.1 to Q12.11 of the proposed guidance in Appendix 1 for more information on interaction with the MLRs.

Question 5: **Do you agree with our proposed guidance set out in the Interaction with the current cryptoasset framework for Money Laundering Regulations (MLRs) section? If not, please explain why.**

Consequential amendments

2.55 The Cryptoasset Regulations also necessitate changes to other parts of PERG. We are proposing amendments needed to PERG 1, PERG 2 and PERG 8 (which provides guidance on the financial promotion perimeter).

Question 6: **Do you agree with our proposed guidance set out in PERG 1, PERG 2 and PERG 8? If not, please explain why.**

Annex 1

Questions in this paper

Question 1: Do you agree with our proposed guidance set out in the Introduction section? If not, please explain why.

Question 2: Do you agree with our proposed guidance set out in the New specified investments section? If not, please explain why.

Question 3: Do you agree with our proposed guidance set out in the New regulated cryptoasset activities section? If not, please explain why.

Question 4: Do you agree with our proposed guidance set out in the Exclusions relevant to the activities section? If not, please explain why.

Question 5: Do you agree with our proposed guidance set out in the Interaction with the current cryptoasset framework for Money Laundering Regulations (MLRs) section? If not, please explain why.

Question 6: Do you agree with our proposed guidance set out in PERG 1, PERG 2 and PERG 8? If not, please explain why.

Annex 2

Cost Benefit Analysis

1. The Financial Services and Markets Act (2000) requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.

2. However, FSMA does not require us to produce and publish a CBA when proposing guidance (see section 139A of FSMA on power of the FCA to give guidance and section 139B of FSMA on the meaning of general guidance). As set out in our Statement of Policy on CBAs we may produce a CBA for general guidance if a high-level assessment of the impact of the proposal identifies an element of novelty, which may be in effect prescriptive or prohibitive, that may result in significant costs being incurred.

3. For the proposals presented here, we do not think that there will be costs of more than minimal significance, as they relate only to familiarisation costs associated with reading the guidance. In addition, the proposals within this CP relate to perimeter guidance and not to guidance on FCA rules. Therefore, we have not undertaken a CBA.

Annex 3

Compatibility Statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).

2. Section 1B(1) of FSMA requires that the FCA, when discharging its general functions, as far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and its general duty under section 1B(5)(a) of FSMA to have regard to the regulatory principles in section 3B of FSMA. The FCA also needs, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, to carry out its general functions in a way that promotes effective competition in the interests of consumers.

3. This Annex also sets out the FCA's view of how the proposed guidance is compatible with the duty on the FCA to discharge its general functions (which include the giving of general guidance) in a way which promotes effective competition in the interests of consumers (section 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

4. In addition, we have considered the recommendations made by the Treasury under section 1JA of FSMA about aspects of the economic policy of His Majesty's Government to which we should have regard in connection with our general duties.

5. This Annex includes our assessment of the equality and diversity implications of these proposals.

6. Under the Legislative and Regulatory Reform Act 2006 (LRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRA.

The FCA's objectives and regulatory principles: Compatibility Statement

7. The proposals set out in this consultation paper are primarily intended to advance the FCA's strategic objective to make sure markets function well, and our operational objectives of:

- Delivering consumer protection- securing an appropriate degree of protection for consumers.
- Enhancing market integrity – protecting and enhancing the integrity of the UK financial system.
- Building competitive markets – promoting effective competition in the interests of consumers.

8. The proposals intend to contribute towards this through clarifying the regulatory perimeter for the new cryptoasset activities, helping firms understand when authorisation is required and what permissions apply.

9. We consider that, so far as possible, these proposals advance the FCA's secondary international competitiveness and growth objective by improving confidence in the UK as a place where cryptoasset activities can be carried out in a trusted market with clear and proportionate requirements.

10. In preparing the proposed guidance set out in this consultation, the FCA has had regard to the regulatory principles set out in section 3B of FSMA.

The need to use our resources in the most efficient and economic way

11. The proposals set out in this consultation are consistent with an efficient and economic use of our resources. Our supervisory resources will be used effectively as our approach seeks to ensure that firms have greater certainty about the regulatory permissions they require.

The principle that a burden or restriction should be proportionate to the benefits

12. Annex 2 sets out the costs and benefits of the proposals in this CP. We believe that the benefits of these proposals outweigh the costs.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

13. We have had regard to this principle including the government's aim of seeing more competition and innovation in the UK's financial industry.

The need to contribute towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets)

14. We have considered the environmental, social and governance (ESG) implications of our proposals, including our duty under sections 1B(5) and 3B(c) of FSMA to have regard to contributing towards the Secretary of State achieving compliance with the net-zero emissions target under section 1 of the Climate Change Act 2008 and environmental targets under section 5 of the Environment Act 2021. While we do not consider these proposals to be relevant to those targets, we welcome consultation feedback on any ESG implications.

The general principle that consumers should take responsibility for their decisions

15. The proposals do not depart from the general principle that consumers take responsibility for their decisions.

The responsibilities of senior management

16. We have had regard to this principle and do not consider that our proposals are relevant to it given this is perimeter guidance.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

17. We have had regard to this principle and do not consider that our proposals are relevant to it given this is perimeter guidance.

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

18. We have had regard to this principle and do not consider that our proposals are relevant to it given this is perimeter guidance.

The principle that we should exercise of our functions as transparently as possible

19. We consider that by consulting on our proposals we are acting in accordance with this principle. We have considered stakeholder feedback gained through publications, as set out in the Crypto Roadmap, in developing our proposed guidance.

In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by section 1B(5)(b) of FSMA)

20. Our CP proposals are intended to support firms to act as a strong line of defence against financial crime. We consulted on our approach to financial crime in CP25/25.

Expected effect on mutual societies

21. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies.

Compatibility with the duty to promote effective competition in the interests of consumers

22. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers. This is set out in paragraphs 1.8, 7 and 8 of the consultation paper.

Equality and diversity considerations

23. We do not consider our proposals will materially disadvantage the groups with protected characteristics under the Equality Act 2010 (the Equality Act for the most part does not extend to Northern Ireland but other antidiscrimination legislation applies). Based on analysis from Wave 6 of the Cryptoasset Research series, cryptoasset owners are more likely to be below 34, male and live in households with above-average incomes.

24. While these groups are currently overrepresented in ownership of cryptoassets, we expect all consumers who use cryptoasset-related services will benefit from a regulatory regime for cryptoasset firms.

Digitally excluded customers

25. Our proposed guidance is unlikely to have an impact on digitally excluded consumers, as they do not interact with the digital services needed to buy cryptoassets, and is also unlikely to have an impact on levels of cash use.

Legislative and Regulatory Reform Act (2006) (LRRA)

26. We have had regard to the principles in the LRRA and Regulators' Code (together the 'Principles') for those proposals that consist of general policies, principles, or guidance. We consider that these proposals are compliant with the five LRRA principles – that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed.

- **Transparent** – We are consulting on our policy proposals with industry to articulate changes. Through consultation and pro-active engagement, we are being transparent and providing a simple and straightforward way to engage with the regulated community.

- **Accountable** – We will publish final guidance after considering all feedback received to our consultation. We are acting within our statutory powers, rules, and processes.
- **Proportionate** – For the proposals presented here, we do not think that there will be costs of more than minimal significance. The proposals within this CP relate to perimeter guidance and not to guidance on rules.
- **Consistent** – Helping firms correctly identify the permissions relevant to their business models will better ensure consistent regulatory treatment of firms. By improving firms' understanding of their regulatory obligations, we are supporting consistent application of the regime across market participants.
- **Targeted** – Our proposals will strengthen our ability to provide targeted firm engagement and how to best deploy our resources.
- **Regulators' Code** – Our CP, draft Handbook text, accompanying annexes, public communications and communications with firms are provided in a straightforward and transparent way to help firms meet their responsibilities.

Annex 4

Abbreviations used in this paper

Abbreviation	Description
CATP	Cryptoasset Trading Platform
CBA	Cost Benefit Analysis
Cryptoasset Regulations	Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026
CP	Consultation Paper
ESG	Environmental, Social and Governance
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
LRRA	Legislative and Regulatory Reform Act 2006
MLRs	Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
PASS	Pre-application Support Service
PERG	The Perimeter Guidance Manual
QCATP	Qualifying Cryptoasset Trading Platform
RAO	Regulated Activities Order
SI	Statutory Instrument
SIC	Specified Investment Cryptoasset
The Treasury	His Majesty's Treasury

Appendix 1

Draft Handbook text

PERIMETER GUIDANCE (REGULATED CRYPTOASSET ACTIVITIES) INSTRUMENT 2026

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the powers in section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000 ("the Act").

Commencement

B. This instrument comes into force on [*date*].

Amendments to the Handbook

C. The Glossary of definitions is amended in accordance with Annex A to this instrument.

Amendments to material outside the Handbook

D. The Perimeter Guidance manual (PERG) is amended in accordance with Annex B to this instrument.

[*Editor's note*: The Annexes to this instrument take into account the proposals and legislative changes set out in the following consultation papers as if they were made final:

(1) 'Updating the regime for Money Market Funds' (CP23/28);
(2) 'Stablecoin Issuance and Cryptoasset Custody' (CP25/14);
(3) 'Application of FCA Handbook for Regulated Cryptoasset Activities' (CP25/25);
(4) 'ESG (Environmental, Social, Governance) ratings: Proposed approach to regulation' (CP25/34);
(5) 'Regulating Cryptoasset Activities' (CP25/40);
(6) 'Regulating Cryptoassets: Admissions & Disclosures and Market Abuse Regime for Cryptoassets' (CP25/41);
(7) 'A prudential regime for cryptoasset firms' (CP25/42); and
(8) 'Application of FCA Handbook for Regulated Cryptoasset Activities II' (CP26/4).]

Notes

E. In this instrument, the notes (indicated by "*Editor's note:*") are included for the convenience of the reader but do not form part of the legislative text.

Citation

F. This instrument may be cited as the Perimeter Guidance (Regulated Cryptoasset Activities) Instrument 2026.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

arranging (bringing about) deals in qualifying cryptoassets	the *regulated activity* specified in article 9Y(1) of the *Regulated Activities Order* (*arranging deals in qualifying cryptoassets*), which is, in summary, making arrangements for another *person* (whether as *principal* or agent) to buy, sell, subscribe for or underwrite a *qualifying cryptoasset*.
authorised cryptoasset firm	an *authorised person* who has *Part 4A permission* to carry on a *regulated cryptoasset activity*.
CRYPTO	the Cryptoasset sourcebook.
dealing in qualifying cryptoassets (as principal or agent)	means one or both of the services of *dealing in qualifying cryptoassets as principal* and/or *dealing in qualifying cryptoassets as agent*.
making arrangements with a view to transactions in qualifying cryptoassets	the *regulated activity* specified in article 9Y(2) of the *Regulated Activities Order* (*arranging deals in qualifying cryptoassets*), which is, in summary, making arrangements with a view to a *person* who participates in the arrangements for the buying, selling, subscribing for or underwriting a *qualifying cryptoasset*, whether as principal or agent.
QCATP	a *qualifying cryptoasset trading platform*.
regulated cryptoasset activity	the *regulated activities* in Chapter 2B of Part II of the *Regulated Activities Order*: (a) *issuing qualifying stablecoin*; (b) *safeguarding cryptoassets*; (c) *arranging cryptoasset safeguarding*; (d) *operating a qualifying CATP*; (e) *dealing in qualifying cryptoassets as principal*; (f) *dealing in qualifying cryptoassets as agent*; (g) *arranging (bringing about) deals in qualifying cryptoassets*; (h) *making arrangements with a view to transactions in qualifying cryptoassets*; and

	(i) *arranging qualifying cryptoasset staking*.
specified investment cryptoasset firm	an *authorised person* who: (a) has a *Part 4A permission* to carry on a *regulated activity* other than a *regulated cryptoasset activity*; and (b) carries on activity under that *permission* in relation to *specified investment cryptoassets*.

Annex B

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless stated otherwise.

1 Introduction to the Perimeter Guidance manual

…

1.2 Introduction

1.2.1 G …

(2) The activities which are *regulated activities* are specified in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the *Regulated Activities Order*): for example, *accepting deposits*, *managing investments*, *effecting contracts of insurance*, *dealing in investments as agent*. In general terms, a *regulated activity* is an activity, specified in the *Regulated Activities Order*, carried on by way of business in relation to one or more of the *investments* specified in the *Regulated Activities Order*. *PERG* 2 gives further general *guidance* on *regulated activities* and *specified investments*. *PERG* 19 provides *guidance* on *regulated cryptoasset activities*, *qualifying cryptoassets*, *qualifying stablecoin* and *specified investment cryptoassets*.

…

1.4 General guidance to be found in PERG

1.4.1 G *PERG* 1.4.2G has a table setting out the general *guidance* to be found in *PERG*.

1.4.2 G Table: list of general guidance to be found in *PERG*.

Chapter	Applicable to:	About:
…		
PERG 18: Guidance on the scope of the environmental, social and governance ratings regime	…	…

PERG 19: Guidance on regulated cryptoasset activities	Any *person* who needs to know whether their activities in relation to *cryptoassets* will amount to *regulated activities*.	The scope of the *regulated cryptoasset activities* and related exclusions.

…

2 Authorisation and regulated activities

…

2.2 Introduction

…

2.2.4 G The rest of this chapter provides a high level guide through the questions set out in *PERG* 2.2.3G. It aims to give an overall picture but in doing so it necessarily relies on the reader referring to *UK* statutory provisions to fill in the detail (which can be extensive).

2.2.4A G In addition to the *regulated activities* referred to in *PERG* 1.2.1G(2), there are also several *regulated cryptoasset activities* in respect of which *authorisation* or exemption may be needed. These are set out in *PERG* 2 Annex 2G.

2.2.4B G Any *person* who is concerned that their proposed activities may require *authorisation* for *regulated cryptoasset activities* will need to consider the questions set out in *PERG* 19.1.7, which is summarised in the decision tree in *PERG* 19 Annex 1. *Guidance* on these *regulated cryptoasset activities*, the *specified investments* to which they relate and the associated exclusions is set out in *PERG* 19.

…

2.3 The business element

…

2.3.2 G There is power in the *Act* for the Treasury to change the meaning of the business element by including or excluding certain things. They have exercised this power (see the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (SI 2001/1177), as amended from time to time). The result is that the business element differs depending on the activity in question. This in part reflects certain differences in the nature of the activities:

…

(2) Except as stated in *PERG* 2.3.2G(2A) and *PERG* 2.3.2G(3), the business element is not to be regarded as satisfied for any of the following *regulated activities* unless a *person* carries on the business of engaging in one or more of them:

…

(d) the *regulated activities* of advising on *P2P agreements*, *advising on a home finance transaction* and *arranging a home finance transaction*.; and

(e) all the *regulated cryptoasset activities*.

…

2.3.4B G …

2.3.4C G For a *person* carrying on one or more *regulated cryptoasset activities*, the business element is not to be regarded as satisfied unless a *person* carries on the business of engaging in one or more of them. Further *guidance* on what this means for the *regulated cryptoasset activities* is set out in *PERG* 19.2.

…

2.4 Link between activities and the United Kingdom

…

2.4.3 G Section 418 of the *Act* (Carrying on regulated activities in the United Kingdom) takes this one step further. It extends the meaning that 'in the *United Kingdom*' would ordinarily have by setting out additional cases. The *Act* states that, in these cases, – as set out in (3) to (8) below – a *person* who is carrying on a *regulated activity* but who would not otherwise be regarded as carrying on the activity in the *United Kingdom* is, for the purposes of the *Act*, to be regarded as carrying on the activity in the *United Kingdom*.

…

(5) …

(6) The case is where the *regulated activity* being carried on by a *person* ('A') is that of *issuing qualifying stablecoin* (article 9M of the *Regulated Activities Order*), and all of the activities specified in the conditions set out in paragraph (2)(a) to (c) of that article are carried on by A, or on behalf of A, in the *United Kingdom*.

(7) (a) The case is where:

(i) the *regulated activity* being carried on by a *person* ('A') is that of:

(A) *operating a qualifying CATP* (article 9S of the *Regulated Activities Order*);

(B) *dealing in qualifying cryptoassets as principal* (article 9T of the *Regulated Activities Order*);

(C) *dealing in qualifying cryptoassets as agent* (article 9W of the *Regulated Activities Order*); or

(D) *arranging deals in qualifying cryptoassets* (article 9Y of the *Regulated Activities Order*); and

(ii) A is involved in the sale or subscription of a *qualifying cryptoasset* to, or by, a consumer ('C').

(b) For this to be the case, there must be no *person* who:

(i) is an *authorised person* with a *Part 4A permission* to carry on the activity of *operating a qualifying CATP* (article 9S of the *Regulated Activities Order*), or *dealing in qualifying cryptoassets as principal* (article 9T of the *Regulated Activities Order*);

(ii) is carrying on that activity in relation to the sale or subscription of a *qualifying cryptoasset* to, or by, a consumer; and

(iii) in doing so, is acting as an intermediary between A and C.

(8) The case is where the *regulated activity* being carried on by a *person* ('A') is that of *safeguarding cryptoassets* (article 9N of the *Regulated Activities Order*) or *arranging qualifying cryptoasset staking* (article 9Z6 of the *Regulated Activities Order*). In this case:

(a) A must be carrying on that activity on behalf of a consumer; and

(b) A must not be carrying on that activity at the direction of another person authorised under Part 4A of the *Act* to carry on that *regulated activity*.

2.4.4 G …

2.4.4A G *Guidance* on the sixth, seventh and eighth cases, which relate to various *regulated cryptoasset activities*, is set out in *PERG* 19.3.

…

2.5 Investments and activities: general

2.5.1 G In addition to the requirements as to the business test and the link to the *United Kingdom*, two other essential elements must be present before a *person* needs *authorisation* under the *Act*. The first is that the *investments* must come within the scope of the system of regulation under the *Act* (see *PERG* 2.6). The second is that the activities, carried on in relation to those *specified investments*, are regulated under the *Act* (see *PERG* 2.7). Both *investments* and activities are defined in the *Regulated Activities Order* made by the Treasury under section 22 of the *Act*.

2.5.1-B G Note that for *regulated cryptoasset activities*, the two essential elements set out in *PERG* 2.5.1G also hold true in that the *cryptoassets* must come within the scope of the *specified investments* introduced by the *Cryptoassets Regulations*, and the activity or activities carried on in relation to them constitute one or more *regulated cryptoasset activities*. See *PERG* 19.4 and *PERG* 19.5 to *PERG* 19.11 for *guidance* on the *specified investments* and *regulated cryptoasset activities* (and associated exclusions), respectively.

…

2.6 Specified investments: a broad outline

2.6.1 G The following paragraphs describe the various *specified investments*, taking due account of any exclusion that applies.

2.6.1A G Certain kinds of *cryptoassets* may also constitute *specified investments* in respect of which activities carried on may be *regulated activities*. Where the *specified investments* are *qualifying cryptoassets* (including *qualifying stablecoin*), or *specified investment cryptoassets*, see the *guidance* set out in *PERG* 19.4. However, *guidance* in this section concerning *specified investments* is also relevant for determining whether a particular *cryptoasset* is a *specified investment cryptoasset* to which this section relates.

…

2.7 Activities: a broad outline

2.7.1 G The following paragraphs describe the various specified activities. The exclusions relating to activities are dealt with in *PERG* 2.8 and *PERG* 2.9.

2.7.1A G Note that where activities are carried on in relation to certain kinds of cryptoassets, those activities may constitute the *regulated activities* outlined below or *regulated cryptoasset activities*, depending on the nature of the cryptoassets. These *regulated cryptoasset activities* constitute *regulated activities* in respect of which *authorisation* or exemption may be required that are separate and additional to the *regulated activities* explained in this section. *Guidance* on these *regulated cryptoasset activities* and the exclusions relating to them is set out in *PERG* 19.5 to *PERG* 19.11.

2.7.1B G Where the *cryptoasset* in question is a *specified investment cryptoasset*, the relevant *regulated activities* that may be carried on in relation to them include *dealing in investments as principal*, *dealing in investments as agent* and *arranging (bringing about) deals in investments*. However, the activity of *safeguarding and administering investments* is not a relevant *regulated activity* in relation to a *specified investment cryptoasset*. Instead, the relevant *regulated activity* would be *safeguarding cryptoassets* (article 9N of the *Regulated Activities Order*) (provided the *specified investment cryptoasset* is a *relevant specified investment cryptoasset*). See *PERG* 19.6 for *guidance* on this activity.

…

Arranging deals in investments and arranging a home finance transaction

2.7.7A G There are ~~ten~~ 13 arranging activities that are *regulated activities* under the *Regulated Activities Order*. These are:

…

(9) *arranging (bringing about) a regulated sale and rent back agreement*, which includes arranging for another *person* (A) to vary the terms of a *regulated sale and rent back agreement* entered into on or after 1 July 2009 by A as agreement seller or agreement provider, in such a way as to vary As obligations under that agreement (article 25E(1)); ~~and~~

(10) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2))~~.~~;

(11) *arranging (bringing about) deals in qualifying cryptoassets* (article 9Y(1));

(12) *making arrangements with a view to transactions in qualifying cryptoassets* (article 9Y(2)); and

(13) *arranging qualifying cryptoasset staking* (article 9Z6).

…

2.7.7BC G …

2.7.7BCA G Detailed *guidance* on *arranging deals in qualifying cryptoassets* and *arranging qualifying cryptoasset staking* is set out in *PERG* 19.8 and *PERG* 19.10 respectively.

…

Safeguarding and administering investments

…

2.7.10 G …

2.7.10A G The activity of *safeguarding and administering investments* is not a *regulated activity* for which authorisation or exemption is needed when carried on in relation to *specified investment cryptoassets*. The relevant *regulated activity* relating to safeguarding when carried on in relation to *specified investment cryptoassets* (to the extent that they are *relevant specified investment cryptoassets*) would be the *safeguarding cryptoassets* (article 9N) activity. Detailed *guidance* on this activity is set out in *PERG* 19.6.

…

Providing ESG ratings

2.7.20O G …

Regulated cryptoasset activities

2.7.20P G There are several *regulated cryptoasset activities*. These include:

(1) *issuing qualifying stablecoin* (article 9M);

(2) *safeguarding cryptoassets* (article 9N(1)(a));

(3) *arranging cryptoasset safeguarding* (article 9N(1)(b));

(4) *operating a qualifying CATP* (article 9S);

(5) *dealing in qualifying cryptoassets as principal* (article 9T);

(6) *dealing in qualifying cryptoassets as agent* (article 9W);

(7) *arranging deals in qualifying cryptoassets* (article 9Y); and

(8) *arranging qualifying cryptoasset staking* (article 9Z6).

Detailed *guidance* on these activities is set out in *PERG* 19 (Guidance on regulated cryptoasset activities).

…

Agreeing

2.7.21 G Agreeing to carry on most *regulated activities* is itself a *regulated activity*. But this is not the case if the underlying activities to which the agreement relates are those of *accepting deposits*, *issuing electronic money*, *issuing qualifying stablecoin*, *operating a qualifying CATP*, *effecting* or *carrying out contracts of insurance*, *operating a multilateral trading facility*, *operating an organised trading facility*, *managing dormant asset funds*, the *meeting of*

repayment claims, *dealing with unwanted asset money*, *managing a UK UCITS*, *acting as trustee or depositary of a UK UCITS*, *managing an AIF*, *acting as trustee or depositary of an AIF*, *establishing, operating or winding up a collective investment scheme*, *establishing, operating or winding up a stakeholder pension scheme* or *establishing, operating or winding up a personal pension scheme*. A *person* will need to make sure that it has appropriate *authorisation* at the stage of agreement and before it actually carries on the underlying activity (such as the *dealing* or *arranging*).

2.8 Exclusions applicable to particular regulated activities

2.8.1 Most *regulated activities* are subject to exclusions that are set out in the *Regulated Activities Order* directly following each activity. *PERG* 19 sets out *guidance* in relation to exclusions from *regulated cryptoasset activities*.

…

Providing ESG ratings

…

2.8.14F G …

Regulated cryptoasset activities

2.8.14G G The *regulated cryptoasset activities* are cut back by various exclusions. These are explained in *PERG* 19 (Guidance on regulated cryptoasset activities).

…

2.9 Regulated activities: exclusions applicable in certain circumstances

…

Overseas persons

…

2.9.17B G …

(8) …

(9) The exclusion for *overseas persons* described in *PERG* 2.9.17G does not apply to *regulated cryptoasset activities*. A *person* will not be able to rely on that exclusion and should instead consider whether, and if so on what basis, the activity is carried on in the *United Kingdom*, including any applicable provisions in section 418 of the *Act*. Further *guidance* on the territorial scope of *regulated cryptoasset activities* is set out in *PERG* 19.

…

Managers of UCITS and AIFs

2.9.22 G This exclusion applies to a *person* with a *Part 4A permission* to carry on the activity of *managing an AIF* or *managing a UK UCITS*. The exclusion means that activities carried on by the *person* in connection with, or for the purposes of, *managing a UK UCITS* or (as the case may be) *managing an AIF*, are excluded from being *regulated activities* (except the activities of *managing an AIF* and *managing a UK UCITS* themselves). In the *FCA's* view this is particularly likely to affect the following *regulated activities*:

…

(6) *advising on investments (except pension transfers and pension opt-outs)*; ~~and~~

(7) agreeing to carry on specified kinds of activity~~.~~; and

(8) *regulated cryptoasset activities*.

…

Insolvency practitioners

2.9.25 G This group of exclusions applies, in specified circumstances, to the *regulated activities* of:

…

(22) *providing credit information services*; and

(23) *regulated cryptoasset activities*.

…

2.10 Persons carrying on regulated activities who do not need authorisation

…

Members of the professions

2.10.12 The *general prohibition* does not in certain circumstances apply to a *person* providing professional services that are supervised and regulated by a professional body designated by the Treasury under section 326 of the *Act* (Designation of professional bodies) (see *PROF*). Certain of the exclusions from *regulated activities* outlined in *PERG* 2.8 ~~and~~, *PERG* 2.9 and *PERG* 19 will be relevant to members of *designated professional bodies*. The regime outlined below applies only where no exclusion applies and a *person* will be carrying on a *regulated activity*.

…

2.10.14 G The *regulated activities* that may be carried on in this way are restricted by an Order made by the Treasury under section 327(6) of the *Act* (Exemption from the general prohibition) (the *Non-Exempt Activities Order*). Accordingly, under that section, a *person* may not by way of business carry on any of the following activities without *authorisation*:

(1) …

(1A) *issuing qualifying stablecoin*;

(1B) *dealing in qualifying cryptoassets as principal*;

(1C) *arranging qualifying cryptoasset staking*;

…

…

2 Annex 1 Authorisation and regulated activities

Do you need authorisation?

…

PERG 19 Annex 1 sets out a list of questions for *persons* to consider in determining whether they are carrying on any *regulated cryptoasset activities*.

[*Editor's note*: the new text underlined above is to be inserted beneath the flow diagram in *PERG* 2 Annex 1.]

2 Annex 2 Regulated activities and the permission regime

…

2 Table

Table 1: Regulated Activities (excluding PRA-only activities) [See note 1 to Table 1]	
Regulated activity	**Specified investment in relation to which the regulated activity (in the corresponding section of column one) may be carried on**
…	

Designated investment business [see notes 1A, 1B and 1C to Table 1]	
…	
(pa) *providing basic advice* on a *stakeholder product* (article 52B) (p-a) *establishing, operating or winding up a personal pension scheme* (article 52(b))	those *specified investments* that are also a *stakeholder product* [see note 7]
(paa) *issuing qualifying stablecoin* (article 9M) (pab) *safeguarding cryptoassets* (article 9N(1)(a)) (pac) *arranging cryptoasset safeguarding* (article 9N(1)(b)) (pad) *operating a qualifying CATP* (article 9S) (pae) *dealing in qualifying cryptoassets as principal* (article 9T), but disregarding the exclusion in article 9U (Absence of holding out etc) (paf) *dealing in qualifying cryptoassets as agent* (article 9W) (pag) *arranging (bringing about) deals in qualifying cryptoassets* (article 9Y(1)) (pah) *making arrangements with a view to transactions in qualifying cryptoassets* (article 9Y(2)) (pai) *arranging qualifying cryptoasset staking* (article 9Z6)	(in relation to (paa)) *qualifying stablecoin* (in relation to (pab) and (pac)) *qualifying cryptoassets* and *relevant specified investment cryptoassets* [see note 7A] (in relation to (pad) to (pai)) *qualifying cryptoassets*
…	

3 Table

Notes to Table 1
Note 1: In addition to the *regulated activities* listed in Table 1, article 64 of the *Regulated Activities Order* specifies that *agreeing to carry on a regulated*

activity is itself a *regulated activity* in certain cases. This applies in relation to all the *regulated activities* listed in Table 1 apart from: *issuing electronic money* (article 9B); *issuing qualifying stablecoin* (article 9M); *operating a qualifying CATP* (article 9S); *operating a multilateral trading facility* (article 25D) *operating an organised trading facility* (article 25DA) *managing a UK UCITS* (article 51ZA); *acting as trustee or depositary of a UK UCITS* (article 51ZB); *managing an AIF* (article 51ZC); *acting as trustee or depositary of an AIF* (article 51ZD); *establishing, operating or winding up a collective investment scheme* (article 51ZE); *establishing, operating or winding up a stakeholder pension scheme* or *establishing, operating or winding up a personal pension scheme* (article 52)~~.~~; and the *meeting of repayment claims* and/or *managing dormant* ~~*account*~~ *asset funds (including the investment of such funds)* (article 63N).
Permission to carry on the activity of *agreeing to carry on a regulated activity* will be given automatically by the *FCA* in relation to those other *regulated activities* for which an applicant is given *permission* (other than those activities ~~in articles 9B, 51 and 52 detailed above~~ listed in Note 1).
…
Note 7: …
Note 7A: A *relevant specified investment cryptoasset* is a *specified investment cryptoasset* that is a *security* or a *contractually based investment.*
…

…

8 Financial promotion and related activities

…

8.7 Engage in investment activity

…

8.7.3 G The overall effect is that a *financial promotion* must relate in some way to a *controlled investment* and may be summarised as the *communication*, in the course of business, of an invitation or inducement to:

(1) acquire, dispose of or underwrite certain *investments* or exercise rights conferred by such an *investment* for such purpose or for the purpose of converting it; or

(2) receive or undertake investment services such as *dealing in investments as principal* or as agent, *managing investments*, *advising on investments* ~~or~~, *safeguarding and administering investments*, *safeguarding cryptoassets*, *operating a qualifying CATP* or *arranging qualifying cryptoasset staking*.

…

8.14 Other financial promotions

…

Promotions of qualifying cryptoassets by registered persons (article 73ZA)

8.14.40D G (1) …

(1A) The exemption is only available to a *person* within scope of article 53 of the *Cryptoassets Regulations*.

…

…

8.21 Company statements, announcements and briefings

…

Article 70: Promotions included in listing particulars, etc

8.21.20 G Article 70 applies to a *non-real time financial promotion* included in:

…

(4) any other document required or permitted to be published by *listing rules* or the *rules* in *PRM* (except an *advertisement*)~~.~~; or

(5) a *QCDD* or a *supplementary disclosure document*.

…

8.23 Regulated activities

…

8.23.3 G The *regulated activities* which are likely to be conducted in the circumstances referred to in *PERG* 8.23.2G are:

…

(2D) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2) of the *Regulated Activities Order* (Arranging regulated sale and rent back agreements)); ~~and~~

(3) agreeing to carry on either (1) or (2) (article 64 of the *Regulated Activities Order* (Agreeing to carry on specified kinds of activity))~~.~~;

(4) *making arrangements with a view to transactions in qualifying cryptoassets* (article 9Y(2) of the *Regulated Activities Order* (Arranging deals in qualifying cryptoassets)); and

(5) *arranging qualifying cryptoasset staking* (article 9Z(6) of the *Regulated Activities Order* (qualifying cryptoasset staking)).

…

8.32 Arranging deals in investments

…

8.32.12 G …

8.32.13 G Further *guidance* on the activity of *arranging deals in qualifying cryptoassets* and relevant exclusions is set out in *PERG* 19.8.

8.33 Introducing

…

8.33.7 G …

8.33.8 G Further *guidance* on the introducing exclusion for *arranging deals in qualifying cryptoassets* is set out in *PERG* 19.8.20.

8.34 The business test

…

8.34.3 G …

8.34.4 G The ‘by way of business’ test for *regulated cryptoasset activities* is explained in detail in *PERG* 19.2.

…

8.36 Illustrative tables

…

Controlled activities and controlled investments

…

8.36.3 G Table Controlled activities

…	
7.	…
7A.	Safeguarding cryptoassets and arranging cryptoasset safeguarding
7B.	Operating a qualifying cryptoasset trading platform
7C.	Arranging qualifying cryptoasset staking
…	

…

Insert the following new chapter, PERG 19, after PERG 18 (Guidance on the scope of the environmental, social and governance ratings regime). All the text is new and is not underlined.

[*Editor's note*: PERG 18 is proposed to be introduced by the consultation paper 'ESG (Environmental, Social, Governance) ratings: Proposed approach to regulation' (CP25/34).]

19 Guidance on cryptoasset activities

19.1 Introduction

Q1.1 Who does this chapter apply to?

19.1.1 This chapter is relevant to:

(1) a person who is considering carrying on activities in relation to *cryptoassets* in the *United Kingdom* which may constitute one or more *regulated cryptoasset activities* and is seeking guidance on whether authorisation may be required;

(2) a person who seeks to become an *authorised person* under the *Act* and who is, or is considering, applying for *Part 4A permission* to carry on

regulated cryptoasset activities or other *regulated activities* relating to *cryptoassets* in the *United Kingdom*;

(3) a person who is already an *authorised person* (or otherwise regulated) and who may have questions about the scope of their existing *permissions* and whether they require additional *permissions*; and

(4) persons generally.

References in this chapter to a 'person' include bodies corporate, partnerships, individuals and unincorporated associations.

This chapter is intended to be accessible to persons who are unfamiliar with financial services regulation, as well as those with experience of the perimeter. It therefore includes introductory material explaining how the perimeter analysis is approached, before setting out guidance on particular cryptoasset investments and activities.

Q1.2 What is the purpose of this guidance?

19.1.2 The purpose of this chapter is to give guidance about the circumstances in which authorisation may be required in relation to cryptoasset activities, including guidance on the new *regulated cryptoasset activities* that have been brought into the perimeter by the *Cryptoassets Regulations* and on the exclusions that may apply.

This chapter is intended to help readers navigate the perimeter by explaining, at a general level, how the authorisation requirement under the *Act* is approached and how the cryptoasset perimeter fits within that overall framework. It does this by:

(1) describing certain cryptoasset investments and concepts used in the *Cryptoassets Regulations*;

(2) describing the scope of the *regulated cryptoasset activities* and exclusions and how these interact with the wider perimeter; and

(3) signposting where other parts of *PERG* (in particular *PERG* 1 and *PERG* 2) may be relevant.

PERG is issued as guidance. It represents the *FCA's* views and does not bind the courts. Readers should refer to the *Act* and the relevant secondary legislation for the precise scope and effect of any particular provision referred to in this chapter.

This chapter does not aim to, and cannot, be exhaustive. Cryptoasset business models vary significantly, and perimeter outcomes can depend on individual facts. This chapter is therefore intended to assist readers in identifying the relevant statutory questions and applying them to their own arrangements.

In particular, terminology in the cryptoasset sector can be used inconsistently. Whether an activity is regulated will generally depend on what a person does in substance and the role it performs in the relevant arrangements, rather than on the label used to describe the service. Contractual terms and other documentation

may be relevant evidence of what a person undertakes to do, but labels will not of themselves be determinative.

Q1.3 Is there anything else we should read?

19.1.3 Perimeter guidance is guidance on the perimeter set by Parliament as contained in legislation. Readers are therefore encouraged to read and familiarise themselves with the *Cryptoassets Regulations*, the *Act* and the *Regulated Activities Order*, in addition to reading this chapter of *PERG*.

Readers should also refer to the general perimeter material in *PERG* 1 and *PERG* 2. *PERG* 1 explains (among other things) the status of *FCA* perimeter guidance. *PERG* 2 provides a high-level route-map through the main factors that determine whether authorisation is needed (including the 'by way of business' test, the link to the *United Kingdom* and the role of exclusions. Guidance specific to cryptoassets and cryptoasset-specific activities relevant to these considerations is set out in this chapter, but to understand the broader context in which these considerations operate, reading *PERG* 1 and *PERG* 2 is helpful and necessary.

Where a cryptoasset is also a *specified investment* (a '*specified investment cryptoasset*'), the guidance in *PERG* 2 on *specified investments* and other *regulated activities* will often be relevant, because activities carried on in relation to *specified investments* can amount to *regulated activities* even where the asset is represented or recorded using cryptoasset technology.

Cryptoassets are also captured in other regimes, such as the *Money Laundering Regulations* and the *Financial Promotions Order*. While the perimeters of these different regimes may be similar, they are not identical, and so persons carrying on activities relating to cryptoassets should also consider whether their activities fall within the scope of these regimes. *PERG* 19.12 provides guidance on the *Money Laundering Regulations*. *PERG* 8 provides guidance on the *financial promotions* regime.

Q1.4 What is the cryptoasset regulatory perimeter?

19.1.4 The regulatory perimeter is set by Parliament as contained in legislation. It determines which activities require authorisation under the *Act* and which do not.

In general terms, a person will usually need to be authorised under Part 4A of the *Act* if they are carrying on a *regulated activity* in the *United Kingdom* by way of business and no exclusion or exemption applies.

The *Cryptoassets Regulations* expand the perimeter by introducing new *regulated activities* relating to cryptoassets and by introducing new statutory concepts relevant to those activities, including '*qualifying cryptoassets*' and '*qualifying stablecoin*'. As a result, some cryptoasset activities which previously fell outside the perimeter may now require authorisation (unless an exclusion applies).

The *Cryptoassets Regulations* also use the term '*specified investment cryptoasset*' for a *cryptoasset* that is also a *specified investment*. Where a *cryptoasset* is a *specified investment*, activities carried on in relation to it may fall within the

existing perimeter (as explained in *PERG* 2), as well as within any crypto-specific provisions where relevant.

The guidance in this chapter is intended to provide views on the new *regulated cryptoasset activities* introduced by the *Cryptoassets Regulations*. However, cryptoassets may also fall within other perimeters, such as the scope of the *Money Laundering Regulations* and/or the *financial promotions* regime. It is not necessarily the case that because activities carried on in relation to cryptoassets are within the scope of one of these perimeters they will necessarily also be within the scope of any other perimeter(s) that include activities carried on in relation to cryptoassets. See also *PERG* 19.12 for guidance relating to the *Money Laundering Regulations*.

Q1.5 Why does it matter if a person is carrying on activities within the perimeter?

19.1.5 Whether a person's activities fall within the perimeter matters because the *Act* contains a *general prohibition* on carrying on *regulated activities* in the *United Kingdom* by way of business unless the person is an *authorised person* or an *exempt person*. In other words, if a person is carrying on a *regulated activity* in the *United Kingdom* by way of business and is not authorised (and no exemption applies), it may be acting unlawfully.

Contravention of the *general prohibition* is a criminal offence. In addition, a person may face other legal consequences arising from carrying on *regulated activities* without the required authorisation. The *FCA* has a broad range of powers at its disposal to address perimeter breaches and utilises them to address the harms caused by persons acting without the required *permission(s)*.

Another consequence of a breach of the *general prohibition* is that certain agreements may be unenforceable. This can apply to agreements entered into by persons who are in breach of the *general prohibition*. In some circumstances, it can also apply to agreements entered into by an *authorised person* where the agreement is made as a result of the activities of a person who was in breach of the *general prohibition*.

For these reasons, persons who are considering carrying on cryptoasset activities should consider at an early stage whether:

(1) their intended business model involves *regulated activities*;

(2) those activities are carried on in the *UK* or deemed to be carried on in the *UK*;

(3) they are carried on by way of business;

(4) any exclusions apply; and

(5) any exemptions apply.

This chapter (together with *PERG* 1 and *PERG* 2) is intended to help readers identify and work through those questions.

Q1.6 How are cryptoasset activities different from, and how do they relate to, other regulated activities?

19.1.6 (1) The *Cryptoassets Regulations* introduce a set of new *regulated activities* that are distinct from, and additional to, the *regulated activities* that already exist under the *Regulated Activities Order*.

(2) The *regulated cryptoasset activities* include (among other things):

(a) *issuing qualifying stablecoin*;

(b) *safeguarding cryptoassets*;

(c) *arranging cryptoasset safeguarding*;

(d) *operating a qualifying CATP*;

(e) *dealing in qualifying cryptoassets as principal*;

(f) *dealing in qualifying cryptoassets as agent*;

(g) *arranging deals in qualifying cryptoassets*; and

(h) *arranging qualifying cryptoasset staking*.

(3) These activities reflect features of cryptoasset markets and business models which may differ from traditional financial markets.

(4) The *Cryptoassets Regulations* also introduce a new type of *specified investment* – namely, *qualifying cryptoassets* (which includes, as a subset, *qualifying stablecoin*. A cryptoasset that is itself a *specified investment* (a '*specified investment cryptoasset*') is not a *qualifying cryptoasset*. References to a *qualifying cryptoasset* also include a *qualifying stablecoin*, unless stated otherwise or the context clearly indicates otherwise.

(5) This means that, depending on the asset and the activity, a person may need to consider:

(a) whether it is carrying on a *regulated cryptoasset activity* in relation to *qualifying cryptoassets*, *qualifying stablecoin* or *relevant specified investment cryptoassets* (as explained in this chapter); and

(b) whether it is carrying on an existing *regulated activity* (as explained in *PERG* 2) in relation to a *cryptoasset* that is also a *specified investment* (a *specified investment cryptoasset*).

(6) Some *regulated activities* which are commonly associated with traditional financial markets (for example, *managing investments* or *advising on investments*) are not introduced as new *regulated cryptoasset activities* by the *Cryptoassets Regulations*. However, those existing regulated activities

may still be relevant where the activity is carried on in relation to *specified investments* (including *specified investment cryptoassets*). See *PERG* 19.8.7 in relation to whether a VoP is needed.

(7) The *Cryptoassets Regulations* also introduce a number of activity-specific exclusions and other modifications which are tailored to the *regulated cryptoasset activities*. Persons should therefore not assume that a similar exclusion which applies to an existing *regulated activity* will apply in the same way to a *regulated cryptoasset activity*. This chapter addresses the exclusions relevant to each *regulated cryptoasset activity*.

(8) In addition, the *Cryptoassets Regulations* include provisions which affect the territorial analysis for certain *regulated cryptoasset activities*, including amendments to section 418 of the *Act*. Persons should therefore consider the territorial position for the particular activity in question, having regard to the guidance and activity-specific provisions set out in this chapter.

(9) In many cases it will be straightforward to identify when a person established in the *United Kingdom* is carrying on a *regulated cryptoasset activity* (for example, where a person operates a platform from premises in the *United Kingdom* and offers its users the ability to buy and sell *qualifying cryptoassets* on its platform). By contrast, individuals who trade periodically on their own account as customers of such services would not generally be expected to require authorisation solely by reason of making such trades. This will always depend on the facts and the perimeter tests described in this chapter. (See *PERG* 19.8.17and *PERG* 19.11.1 in relation to absence of holding out exclusion.)

Q1.7 How do I know if I should be authorised?

19.1.7 Whether a person needs to be authorised generally depends on a number of factors that must be considered together. A helpful way to approach the perimeter is to ask the following questions:

(1) Is the person carrying on a *regulated activity*?

(2) Is the activity carried on, or deemed to be carried on, in the *United Kingdom*?

(3) Is it carried on by way of business?

(4) Does an exclusion apply?

(5) Does an exemption apply?

PERG 19 Annex 1 sets out a decision tree of these questions.

These questions are reflected in the general route-map in *PERG* 2.2.3G and are also relevant when considering the *regulated cryptoasset activities* introduced by the *Cryptoassets Regulations*. What these concepts mean can vary depending on

the activity in question. Reference to the guidance in *PERG* 2 as well as in this chapter will therefore be instructive.

In applying these questions, it is important to focus on the substance of what the person does and the role it performs in the arrangements.

Perimeter analysis is always fact-specific, and the outcome of that analysis can turn on relatively small factual differences in a business model. For example, who contracts with the customer and how the model operates in practice can both be relevant to whether a *regulated activity* is being carried on and whether any exclusion applies.

This chapter therefore gives guidance at a general level. The specific features of arrangements should be considered, and it should not be assumed that a model or arrangement is outside the perimeter simply because it uses common crypto terminology or resembles a model or arrangement used elsewhere.

Q1.8 Do labels and terminology matter for perimeter purposes?

19.1.8 Cryptoasset sector terminology (for example, 'exchange', 'custody', 'wallet', 'broker', 'issuer' or 'platform') may be used inconsistently and may not map neatly onto statutory concepts. Whether an activity is regulated will depend on what a person does in substance and the role it performs in the relevant arrangements, rather than on the label used.

For that reason, a functional assessment will often be required. Factors that may be relevant include the rights and obligations created by the arrangements, who contracts with the customer and how transactions are in fact executed or facilitated.

In this chapter (and in the *Cryptoassets Regulations*), terminology may be used for different purposes. In particular, in considering whether certain *regulated cryptoasset activities* are carried on 'in the United Kingdom', the legislation refers in places to a 'UK consumer'. That term is used for the territorial analysis under section 418 of the *Act* and is not intended to map directly onto the client categorisation terminology used in the *FCA Handbook*.

Q1.9 What does 'consumer' mean?

19.1.9 For the purposes of the relevant section 418 provisions, 'consumer' is a statutory concept. It focuses on whether the person is an individual in the *United Kingdom* acting for purposes other than in the course of a trade, business or profession. This is therefore a test concerned with the nature of the person and the capacity in which they are acting, for the specific purpose of determining whether a *regulated activity* is treated as carried on in the *United Kingdom*.

By contrast, the *FCA Handbook* uses several terms in relation to consumer, client and customer for different sourcebooks. These are distinct from the term used in the *Act*, the *Regulated Activities Order* and the *Cryptoassets Regulations* in relation to *regulated cryptoasset activities*. The *FCA Handbook* uses client categorisation concepts such as 'client', 'retail client', 'professional client' and

'eligible counterparty' for the purpose of applying conduct and organisational requirements in the *FCA Handbook*. Those categories can apply to both individuals and non-individuals and are used for different regulatory purposes from the territorial concept of a 'UK consumer'.

As a result, the same individual may be a 'consumer' for the purposes of the territorial analysis under section 418 (for example, because they are acting outside any trade, business or profession), even though they may be categorised differently for other regulatory purposes under the *FCA Handbook* (for example, where an individual is treated as a professional client under the client categorisation rules). The section 418 'consumer' concept should therefore be applied for what it is: a statutory territorial concept, used to determine when certain *regulated cryptoasset activities* are treated as carried on in the *United Kingdom*.

Q1.10 I intend to carry on regulated cryptoasset activities in the UK. How does the authorisation and registration process apply to me?

19.1.10 The process of applying for *Part 4A permission* is available on the *FCA* webpage Apply for authorisation. A list of the activities for which *permission* may be given can be found in *PERG* 2 Annex 2G. Persons may find this helpful in providing an overview of the *regulated activities* for which *permission* may be needed. See also *PERG* 19.12 for guidance relating to *Money Laundering Regulations* registration.

Q1.11 I am already an authorised firm/payment institution/credit institution and I intend to carry on regulated cryptoasset activities. What should I do?

19.1.11 An *authorised person*, *authorised payment institution* or *credit institution* that wishes to conduct any *regulated cryptoasset activities* should consider the guidance in this chapter to determine what *permission(s)* it may need. Once determined, it will need to apply for authorisation under Part 4A of the *Act* or a Variation of Permission (VoP) to add any *permission* to carry on one or more of the *regulated cryptoasset activities*. It is not the case that simply by virtue of already being an *authorised person* a firm will be able to carry on one or more of the *regulated cryptoasset activities* without seeking and obtaining the appropriate *permission(s)* for the specific activity or activities it intends to carry on.

Likewise, a firm with an existing *permission* that wishes to conduct any new activities in relation to *specified investment cryptoassets* should consider the guidance in this chapter and elsewhere in *PERG* to ensure it has the correct *permissions* for the *regulated activities* it intends to carry on.

Which *permissions* a firm requires will require a case-by-case assessment with reference to the particular facts. Ultimately it is a firm's responsibility to ensure it has the correct permissions for the activities it intends to carry on.

Q1.12 I am registered under the Money Laundering Regulations for cryptoasset-related activities. What should I do?

19.1.12 A firm with existing registration under the *Money Laundering Regulations* as a *cryptoasset exchange provider* or *custodian wallet provider* should consider the guidance in this chapter to determine what *permission(s)* it may need. Once determined, the firm will need to apply for authorisation under Part 4A of the *Act* in order to carry on one or more of the *regulated cryptoasset activities*. The firm will also need to notify the *FCA* within 30 days of the regime commencing if it intends to continue acting as a *cryptoasset exchange provider* or *custodian wallet provider*.

A firm that is registered as an Annex 1 Financial Institution under the *Money Laundering Regulations* and that proposes to undertake one or more *regulated cryptoasset activities* in the *UK* will be required to be authorised under Part 4A in order to carry on one or more of those *regulated cryptoasset activities*. The firm must also notify the *FCA* if it intends, or begins, to act as a *cryptoasset exchange provider* or *custodian wallet* provider either before or within 28 days of doing so. A firm cannot be both an Annex 1 firm and an *authorised person* (see Regulation 55(2) *Money Laundering Regulations*).

19.2 What does it mean to carry on regulated activities 'by way of business'?

19.2.1 The consequence of the *general prohibition* is that only persons who carry on *regulated activity* in the *UK* by way of business need to be authorised or exempt. *PERG* 2.3.3G provides guidance on factors that are relevant to the meaning of 'by way of business' in section 22 of the *Act*. These will be especially relevant for considering when a *regulated activity* carried on in relation to *specified investment cryptoassets* will be carried on by way of business. These include the degree of continuity of the activity, the existence of a commercial element, the scale of the activity and the proportion which the activity bears to other activities carried on by the same person but which are not regulated. The nature of the particular activity in question will also be relevant.

What 'by way of business' means can vary depending on the activity in question. For the new *regulated cryptoasset activities*, the *Cryptoassets Regulations* apply a narrower concept of what 'by way of business' means (see *PERG* 2.3.2G), such that a person will only be regarded as carrying on a *regulated activity* by way of business if they carry on the business of engaging in one or more such activities. In the *FCA's* view, this is a deliberately narrower test than the business test that would otherwise apply under the *Act*, reflecting the nature of cryptoasset markets and the identity and status of most of its participants, many of whom may be retail investors.

In practical terms, the 'business of engaging in' formulation is intended to focus the perimeter on persons whose business model involves providing, performing, operating or otherwise being engaged in the relevant activity as an activity of their business (for example, as a service to paying customers), as opposed to persons who are merely using such services as a customer, or who participate in those *cryptoasset* activities on their own account as an occasional or private activity. As with the business element generally, the outcome will depend on the facts and on the substance of what the person does.

In assessing whether a person is carrying on the business of engaging in a *regulated cryptoasset activity*, relevant considerations are likely to include the same kinds of factors that are relevant to the 'by way of business' assessment generally (for example, continuity, commerciality and scale), but applied to the question of whether the person's business involves engaging in the relevant activity as part of its business model, rather than (for example) merely participating in the activity as an end-user.

Persons should therefore consider carefully the extent to which they may be carrying on the business of engaging in *regulated cryptoasset activities*, with reference to the specifics of their business model, to ensure they seek and obtain the correct *permissions* before carrying on any regulated activities.

19.3 What does 'in the UK' mean?

19.3.-1 As set out in *PERG* 2.4.1G and *PERG* 2.4.2G, in many instances it will be straightforward to identify that an activity is carried on in the *UK*, such as where all participants and all elements of the activity are in the *UK*. However, cross-border arrangements do not necessarily preclude a person from being considered to be carrying on an activity in the *UK*. Section 418 of the *Act* sets out scenarios in which activities are deemed to be carried on in the *UK* even if not all participants and/or not all elements of the activities are carried on in the *UK*.

This section explains when a person is regarded as carrying on the new *regulated cryptoasset activities* 'in the United Kingdom' for the purposes of the *general prohibition* in section 19 of the *Act*. What 'in the UK' means in the context of the *regulated activity* of *issuing qualifying stablecoin* is addressed separately in *PERG* 19.3.4.

The guidance in this section builds on the guidance in *PERG* 2.4 and the new cryptoasset activity specific deeming provisions in section 418 of the *Act*, which set out the cryptoasset-specific territorial principles introduced by the *Cryptoassets Regulations*. The approach in the *Cryptoassets Regulations* serves to ensure that persons offering services to *UK* consumers are within scope of the perimeter regardless of whether they are based in the *UK* or *overseas*. This expands the scope of what is considered 'in the UK' for certain activities (subject to certain exclusions). *PERG* 19.3.1 to *PERG* 19.3.5 explain how this operates for *regulated cryptoasset activities*.

Note that for the purposes of the *Money Laundering Regulations*, the meaning of 'by way of business' may not be the same as that introduced by the *Cryptoassets Regulations*. See *PERG* 19.12.11.

Q3.1 When is operating a qualifying cryptoasset trading platform (QCATP), dealing (as principal/agent), or arranging deals regarded as carried on 'in the UK'?

19.3.1 (1) A person who is dealing (as principal or agent) in *qualifying cryptoassets*, *arranging deals in qualifying cryptoassets* or *operating a qualifying CATP* in the *UK* will be carrying out these activities in the *UK*.

(2) Where persons are carrying out these activities outside the *UK*, the *Act* sets out when this is considered to be in the *UK*. Section 418(6C) of the *Act* sets out that a person will be deemed to be carrying out *regulated activity* in the *UK* where they are involved in the sale or subscription of a *qualifying cryptoasset* to or by a consumer in the *UK*. In this context a consumer means an individual in the *UK* who is acting for a purpose other than for any trade, business or profession carried on by that individual.

(3) This means such persons will need to be authorised in the *UK* (assuming all other criteria are met) regardless of whether the person offering the service is based in the *UK* or *overseas*. The relevant activities for these purposes are:

(a) *operating a qualifying CATP*;

(b) *dealing in qualifying cryptoassets as principal*;

(c) *dealing in qualifying cryptoassets as agent*; and

(d) *arranging deals in qualifying cryptoassets*.

(4) Section 418 (6C) of the *Act* sets out that this deeming provision only applies to a person (A) where:

(a) A is involved in the sale or subscription of a *qualifying cryptoasset* to or by a consumer; and

(b) there is no person interposed between A and the consumer who:

(i) is authorised to carry on the *regulated activity* of *dealing in qualifying cryptoassets as principal* or *operating a qualifying CATP*; and

(ii) is acting as such as an intermediary between A and the consumer.

(5) This means that where an overseas person (A) is only involved in the sale or purchase of *qualifying cryptoassets* with *UK* consumers via a person who is authorised to *deal* in *qualifying cryptoassets as principal* or for *operating a qualifying CATP*, the overseas person is not brought within the perimeter. For example, where A trades with any counterparty on a *UK QCATP* operated by an *authorised person*, A does not, when doing so, carry on *regulated activity* in the *UK*. The *QCATP operator* is acting as an intermediary between A and the trading party they are trading with on the *QCATP*.

(6) If, however, the person interposed between A and the *UK* consumer is only authorised to *arrange deals in qualifying cryptoassets* or to *deal in qualifying cryptoassets as agent*, A will be deemed to be carrying out *regulated activity* in the *UK* and will also need to be authorised.

(7) Where there are multiple persons in a chain who are dealing or arranging for a *UK* consumer, this may require all persons to be authorised (subject to relevant exclusions). Where all persons in the chain of services are established in the *UK*, the interposition of a person *dealing in qualifying cryptoassets as principal* or *operating a qualifying CATP* does not impact the perimeter assessment. It is only in respect of overseas firms and section 418 of the *Act* that this is a relevant consideration.

(8) In summary, overseas firms carrying on these activities from outside the *UK* and involved only in dealing in *qualifying cryptoassets* with *UK* institutional clients should not therefore be required to be authorised, unless those institutional clients are acting as intermediaries between the overseas cryptoasset firm and *UK* consumers. If they are, provided those institutional clients are acting as intermediaries by trading on a *UK QCATP* or by dealing in qualifying cryptoassets as principal, transactions by the overseas persons with their institutional clients do not amount to activity carried on in the *UK*, requiring authorisation. Alternatively, if an overseas firm trades with a *UK* institutional client or counterparty acting as an agency broker on behalf of consumers and outside a *UK QCATP*, the overseas firm is deemed to be carrying on regulated activity in the *UK*. This framework provides investor protection to *UK* consumers, in turn, by requiring that those involved in the sale of *qualifying cryptoassets* to them are authorised, as appropriate, where the sale contains an overseas element.

Q3.2 When is cryptoasset safeguarding considered to be carried on in the UK?

19.3.2 In the *FCA's* view, the 'place of supply' of the *safeguarding cryptoassets* activity is assumed to be the location of the safeguarding operations. Because the concept of control is crucial to the way the safeguarding cryptoassets activity is specified, the relevant questions of fact will focus on where the requisite degree of control to bring about a transfer of the benefit of the cryptoasset is being or could be exercised. Therefore, if the mechanisms and protections around that control are situated in the *UK*, the activity is seen as being carried on in the *UK*. This is regardless of the location of the customer or of the cryptoasset.

The section 418 provisions of the *Act* (the eleventh case) sets out that overseas firms will be deemed to be *safeguarding cryptoassets* or *arranging cryptoasset safeguarding* in the *UK* where this is carried out on behalf of a *UK* consumer and they are not carrying on this activity at the direction of another person who is authorised to carry on those activities. In the *FCA's* view, this last condition contemplates a situation in which, for example, an *authorised firm*, in the course of *safeguarding cryptoassets* itself on behalf of a consumer, arranges for an *overseas person* to safeguard the *qualifying cryptoassets*, and that *overseas person* is required to comply with the *authorised firm's* instructions. In that situation, the consumer is dealing with the *authorised person* who would be expected to take regulatory responsibility for the arrangements with the *overseas person*.

The temporary settlement exclusion may be of relevance in respect of overseas firms which are temporarily safeguarding client cryptoassets to facilitate the settlement of a transaction (see *PERG* 19.6.6).

Q3.3 When is arranging qualifying cryptoasset staking considered to be carried on in the UK?

19.3.3 Arrangements made by or for persons in the *UK* for *arranging qualifying cryptoasset staking*, which occur in the *UK*, are seen as being carried on in the *UK*.

The section 418 provisions of the *Act* (the eleventh case) sets out when a person is deemed to be carrying on *arranging qualifying cryptoasset staking* in the *UK* where they would not otherwise be considered as such. Under these provisions, a person is deemed to be carrying on *arranging qualifying cryptoasset staking* in the *UK*, regardless of where they are physically located or legally registered, provided that this for a consumer who is in *UK*.

However, where a person outside the *UK* is operating at the direction of a person who is authorised to conduct *arranging qualifying cryptoasset staking*, the person outside the *UK* is not considered to be carrying out the *regulated activity*. In the *FCA's* view, this contemplates a situation in which, for example, an *authorised person*, in the course of *arranging qualifying cryptoasset staking* on behalf of a consumer, arranges for an *overseas person* to stake the cryptoassets, and that *overseas person* is required to comply with the authorised *person's* instructions. In that situation, the consumer is dealing with the *authorised person* who would be expected to take regulatory responsibility for the arrangements with the *overseas person*.

Q3.4 When is issuing qualifying stablecoin considered to be carried on in the UK?

19.3.4 *Issuing qualifying stablecoin* is considered to be carried on in the *UK* where the component elements of issuing the *qualifying stablecoin* – the offering, redemption, and maintaining value – are carried on from, or arranged to be carried on from, an establishment in the *UK*. An issuer is a person who carries out these activities, or arranges for another to carry these activities, from an establishment in the *UK*.

The effect of section 418(6B) of the *Act* (the ninth case) is that a person who is not themselves acting from an establishment in the *UK* is deemed to be carrying out activity in the *UK* where all the elements of the issuing activity are being carried out in the *UK* on their behalf. This means that a person outside the *UK* who is arranging for the all the elements of *issuing qualifying stablecoin* to be undertaken in the *UK* will themselves require authorisation under article 9M of the *Regulated Activities Order*.

Under article 9M(4)(b), a person operating from an establishment outside the *UK* could also be regarded as carrying out *issuing qualifying stablecoin* in the *UK* where they assume (by assignment, variation, operation of law or by any other similar mechanisms) an undertaking to redeem a *qualifying stablecoin* from a

person that is carrying out the *issuing* of *qualifying stablecoin* under article 9M in the *UK*. See *PERG* 19.5.6.

Where a person issues *qualifying stablecoin* but does not meet the conditions necessary to be *issuing qualifying stablecoin* under article 9M, their activities may constitute other *regulated activities*. See *PERG* 19.5.1 to *PERG* 19.5.3.

Q3.5 How does the overseas persons exclusion (OPE) work in respect of the new regulated cryptoasset activities?

19.3.5 The *Cryptoassets Regulations* do not apply the OPE to the new *regulated cryptoasset activities*. The OPE (see *PERG* 2.9.17G) will therefore not be relevant to exclude persons when carrying on *regulated cryptoasset activities* with a *UK* nexus. Rather, persons will need to consider whether the provision of services is considered to be in the *UK* as set out in *PERG* 2.4 and *PERG* 19.3.1 to *PERG* 19.3.6.

More generally, we note that the effect of section 418(1) of the *Act* is that, in the cases it describes, a person who would not otherwise be regarded as carrying on *regulated activity* in the *UK*, is, for the purposes of the perimeter, to be regarded as carrying on such activity in the *UK* (*PERG* 2.4.3G). Having regard to this, in our view, the effect of the tenth case in section 418, outlined in *PERG* 19.3.1 above, is to bring within the perimeter an overseas person *dealing in qualifying cryptoassets as principal*, when it is involved in the sale of a *qualifying cryptoasset* to a consumer in the *UK*, in scenarios when this would not otherwise have been the case.

As noted above, though, it will not always be the case that such an overseas person will be deemed to be carrying on *regulated activity* in the *UK* – for example, when it deals as principal with a *UK authorised* person with a *permission* for *dealing in qualifying cryptoassets as principal* and acting as such as an intermediary between the person and *UK* consumer.

In our view, consistent with the section 418 of the *Act* framework and its intended purpose, it follows that where an overseas person enters into a transaction with a *UK authorised person* with a *dealing in qualifying cryptoassets as principal permission*, acting on its own account or on behalf of persons other than consumers, the overseas person will not be carrying on the activity of *dealing in qualifying cryptoassets (as principal or agent)* in the *UK*. However, where a person carries out regulated activities in relation to *specified investment cryptoassets*, the OPE may apply, depending on the activity.

Q3.6 Does a particular structure (eg, branch versus subsidiary) impact whether an activity is in the UK?

19.3.6 No. Whether a person is carrying on a *regulated activity* in the *UK* by way of business is a question of fact, with reference to the specific features of the person's business and activities. The scope of the activities that constitute *regulated activities* for which authorisation or exemption is required is set in legislation, although *PERG* provides guidance on this. A person's particular business structure does not necessarily determine whether they need to be

authorised or exempt in respect of the activities they carry on. The *FCA* has issued guidance about how we would assess authorisation applications and continuing supervision, including effective supervision, SMCR accountability, and potential insolvency outcomes (notably for client assets).

19.4 New specified investments

Q4.1 What is a qualifying cryptoasset? (article 88F)

19.4.1 (1) A *qualifying cryptoasset* is *cryptoasset* that meets both the definition of a *cryptoasset* in section 417 of the *Act* and certain other conditions of the *qualifying cryptoasset* definition in the *Regulated Activities Order* (as amended by the *Cryptoassets Regulations*). A *qualifying cryptoasset* is a *specified investment*. Section 417 of the *Act* defines a *cryptoasset* as 'any cryptographically secured digital representation of value or contractual rights that—

(a) can be transferred, stored or traded electronically, and

(b) that uses technology supporting the recording or storage of data (which may include distributed ledger technology).'

(2) In addition to being a *cryptoasset* under section 417, to be a *qualifying cryptoasset* a *cryptoasset* must also be:

(a) fungible;

(b) transferable; and

(c) not solely record of value or contractual rights (including rights in another *cryptoasset*).

(3) Excluded from the category of a *qualifying cryptoasset* are:

(a) *qualifying cryptoassets* which fall within the scope of other *specified investments* (see *PERG* 19.4.6 regarding *specified investment cryptoassets*);

(b) *electronic money*;

(c) currency of the *UK* or any other territory, including a central bank digital currency;

(d) *qualifying cryptoassets* which cannot be transferred or sold in exchange for money or other *cryptoassets*, except by way of redemption with the issuer; and

(e) *cryptoassets* that can only be used in the following ways:

(i) they allow the *holder* to acquire goods or services from the issuer; or

(ii) they allow the *holder* to acquire goods or services within a limited network of service providers which have direct commercial agreements with the issuer.

(4) The decision tree in [*PERG* 19 Annex 2] summarises these considerations to assist in determining whether a cryptoasset is a *qualifying cryptoasset*.

(5) A *qualifying stablecoin* is a subset of a *qualifying cryptoasset*. See *PERG* 19.4.5 for guidance on *qualifying stablecoin* specifically.

(6) Note that the definition of a *qualifying cryptoasset* for the purposes of the *Financial Promotions Order* differs slightly on the basis of the meaning of transferability. See *ERG* 19.4.3 for more on what transferability means for the purposes of the definition of a *qualifying cryptoasset* under the *Regulated Activities Order*.

(7) See also *PERG* 19.12 for guidance on similar terms used in the *Money Laundering Regulations*.

Q4.2 What does 'fungible' mean? Are non-fungible tokens (NFTs) qualifying cryptoassets?

19.4.2 When a cryptoasset is fungible, it means that it is freely replaceable by another cryptoasset of a similar nature or kind. This means that a cryptoasset will generally be fungible where each unit of that cryptoasset is interchangeable with any other unit of the same cryptoasset, such that one unit can be substituted for another to satisfy an obligation without regard to any unique attributes of the particular unit. If a cryptoasset is not fungible, it will not meet the definition of a *qualifying cryptoasset* irrespective of its other features. However, each cryptoasset token should be assessed in relation to its unique features on a case-by-case basis. Fungibility is a question of fact rather than how a cryptoasset is labelled or marketed, therefore the fact that a cryptoasset might be described as an NFT won't on its own necessarily determine whether it is a *qualifying cryptoasset*.

A cryptoasset whose units are ordinarily treated by market participants as equivalent, freely replaceable and interchangeable will ordinarily be fungible. A cryptoasset whose units are treated as unique because they carry unit-specific attributes that market participants treat as relevant – for example, collectible or unique artistic characteristics – are less likely to be considered fungible.

Q4.3 What does 'transferable' mean?

19.4.3 The definition of *qualifying cryptoassets* in article 88F of the *Regulated Activities Order* requires that the cryptoasset be 'transferable'. Article 88F(3) expressly provides that, for these purposes, 'transferable' can include circumstances where the cryptoasset confers transferable rights.

Transferability therefore refers to the capability of the cryptoasset (or rights it confers) to be transferred from one person or address to another, whether on-chain or off-chain and whether for consideration or gratuitously. This is

irrespective of any contractual restrictions in respect of a particular cryptoasset that might have the effect of contractually restricting a *holder* from transferring the cryptoasset to a third party for a period of time or until certain conditions are met (eg, under a token lock-up provision that precludes the ability of certain token *holder*s from selling, trading or transferring the tokens for a specified period).

One indicator that a cryptoasset is transferable may include that the cryptoasset is capable of being traded on cryptoasset markets, but the absence of this capability does not necessarily mean the cryptoasset is not transferable.

Transferability is not confined to the technical ability to move the cryptoasset token on a ledger. It can also be satisfied where the cryptoasset functions as a vehicle for rights that are capable of being assigned or otherwise transferred between persons or addresses (eg, where the relevant legal relationship permits a change of the rights-*holder* even if reflected off-chain).

As such, where the cryptoasset represents or confers transferable rights, the cryptoasset would be regarded as transferable for the purposes of the definition in article 88F even if that specific cryptoasset in question cannot be transferred on-chain. Therefore, the fact that a cryptoasset arrangement gives effect to a transfer by cancelling or burning one token and *minting* or issuing another does not necessarily prevent the cryptoasset from being transferable, where the rights it confers are capable of being transferred to another person and that mechanism is how the transfer is effected.

A cryptoasset may be transferable even if transfers require the use of particular infrastructure or compliance processes, provided that the cryptoasset (or rights it confers) is capable of being transferred between persons or addresses in at least some circumstances.

The definition of *qualifying cryptoasset* for the *Financial Promotion Order* slightly differs in respect of the transferability requirement. For the purpose of the *Financial Promotion Order*, transferability includes where a communication made in relation to the cryptoasset describes it as being transferable or conferring transferable rights

Q4.4 What sort of cryptoassets would be 'solely a record' in article 88F(2)(c)?

19.4.4 A cryptoasset will be excluded by article 88F(2)(c) where, notwithstanding that it may be cryptographically secured and electronically transferable or storable, it is solely a record of value or contractual rights (including rights in another cryptoasset) and does not function in practice as an asset in its own right.

In assessing whether a cryptoasset is solely a record, it is helpful to take a functional approach to assessing the nature of the cryptoasset. Relevant considerations that would suggest it is not solely a record may include whether it is used and traded as the object of exchange in markets, whether market participants rely on it as the authoritative basis for taking commercial risk, and whether transferring control of the cryptoasset is, in practice, the mechanism by which value or contractual rights are transferred (as opposed to the cryptoasset

being merely evidential of rights that are transferred or constituted by other means).

Mere informational records, such as a cryptographically secured or encrypted spreadsheet, database or ledger (or an entry within them), on the other hand, do not function as an asset in their own right. Even though these cryptoassets are cryptographically secured, electronically transferable or storable, and possibly fungible, they are only a record of value or rights that exist independently elsewhere, rather than representing or being treated as the asset that holds itself.

Factors that might suggest a cryptoasset is solely a record might include that the cryptoasset has no observable price or pricing mechanism, or that there is no expectation amongst *holders* of that cryptoasset that it can be used to generate value.

It does not necessarily matter what information, rights or value are represented by these cryptoassets. Instead, the analysis depends on whether that record functions solely as a record. Therefore, even if the cryptoasset represents a record of rights in another cryptoasset, this does not on its own determine whether that record is solely a record.

So-called liquid staking tokens and some *wrapped tokens*, which are issued in exchange for a *qualifying cryptoasset* that is staked or otherwise held by another with a corresponding ability to exchange that *qualifying cryptoasset* for the staked *qualifying cryptoasset* in the future, could be described, at a high level, as cryptoassets that record or represent rights in another cryptoasset. Despite this, these tokens tend to be widely traded and often function as a liquid investment in their own right, unlike encrypted spreadsheets and databases. These tokens are therefore unlikely to constitute mere records such that they are excluded from the definition of a *qualifying cryptoasset*.

Q4.5 What is a qualifying stablecoin? (article 88G)

19.4.5 A *qualifying stablecoin* (article 88G of the *Regulated Activities Order*) is a *qualifying cryptoasset* that seeks or purports to maintain a stable value by reference to a single fiat currency and involves the holding of fiat currency and/or other assets (often referred to as 'backing assets') for the purpose of maintaining that stable value.

A *qualifying stablecoin* is a subset of *qualifying cryptoasset*. It does not need to be issued in the *UK* or by a person authorised to *issue qualifying stablecoin* in the *UK* to constitute a *qualifying stablecoin*.

The requirement to hold backing assets to maintain a stable value means that *qualifying cryptoassets* which maintain their value through algorithmic methods or other means without underlying backing assets do not constitute *qualifying stablecoin*.

Q4.6 What is a specified investment cryptoasset?

19.4.6 A *specified investment cryptoasset* is defined in article 3 of the *Regulated Activities Order*. It is a *cryptoasset* that:

(1) meets the definition of a *cryptoasset* in section 417 of the *Act*;

(2) would be a *qualifying cryptoasset* if sub-paragraphs (a) to (c) of article 88F(4) of the *Regulated Activities Order* were disregarded; and

(3) is a *specified investment* as a result of Part 3 of the *Regulated Activities Order*:

(a) excluding *qualifying cryptoassets* (which are now their own type of *specified investment*); but

(b) including where it is a right to or interest in a *specified investment* by operation of Article 89 of the *Regulated Activities Order*.

In PS19/22, we set out a taxonomy of cryptoassets, identifying exchange tokens, utility tokens and security tokens. Exchange tokens and utility tokens are generally not *specified investments* because they do not grant *holders* the rights associated with *specified investments*. Utility tokens may benefit from the limited network exclusion (article 88F(4)(d)(ii)(bb) of the *Regulated Activities Order*), depending on the model. Some tokens might combine multiple characteristics (eg, some utility and some economic return). Ultimately, the appropriate characterisation of the token will depend on its substance rather than any labels used to describe it.

'Security token' was a term we introduced previously to refer to cryptoassets that are *specified investments* (notably, those tokens that constitute *securities*, although the terminology was a shorthand for any token that is a *specified investment* of any kind). That concept has been given new terminology in the *Cryptoassets Regulations*, and we would now call them *specified investment cryptoassets*.

To determine whether a cryptoasset is a *specified investment* and therefore a *specified investment cryptoasset*, the starting point is Part III of the *Regulated Activities Order*. See also *PERG* 2.6. In the context of safeguarding, where the *specified investments* represented by these cryptoassets are *securities or contractually based investments*, these *specified investment cryptoassets* would be called '*relevant specified investment cryptoassets*'.

A *cryptoasset* will be a *specified investment cryptoasset* where, applying the approach in *PERG* 2.6, its legal and economic substance means it falls within one of the *specified investment* categories in the *Regulated Activities Order* (such as *shares*, *debt instruments*, *units*, *derivatives* and *deposits*), rather than being characterised by its label or technology.

This involves assessing, among other things, the rights and obligations it confers, how *holders* obtain value or returns (for example, ownership rights, repayment

and interest, or exposure to price or index movements), and whether it functions as an investment rather than a payment, utility or purely commercial arrangement. *Specified investment cryptoassets* may be non-digitally native, meaning they are backed by or represent traditional finance *specified investments*, or they can be digitally native, meaning they are issued initially and solely on a blockchain/distributed ledger technology network and are not backed by nor represent traditional finance *specified investments*.

An example of a *specified investment cryptoasset* would be a tokenised *debt security*. This would be a *specified investment cryptoasset*, regardless of whether the asset represents a *specified investment* that exists off-chain or is a *specified investment* that is native to a blockchain. This is the effect of article 89 of the *Regulated Activities Order*, which provides that rights to or interests in a *specified investment* are themselves treated as a *specified investment* for perimeter purposes. Accordingly, where a cryptoasset confers rights that represent a *debt security* (or other *specified investment*), the cryptoasset can fall within the relevant *specified investment* definitions, regardless of whether the relevant rights arise in relation to an off-chain instrument or are constituted and recorded on-chain.

Another example of a *specified investment cryptoasset* is a tokenised *share*. Both tokenised *debt securities* and tokenised *shares* (among some other tokenised *specified investments*) would once have been called 'security tokens'. Where these cryptoassets meet the definition of both a *qualifying cryptoasset* (disregarding article 88F(4)(a) to (c)) and a *specified investment*, they would constitute *specified investment cryptoassets*.

Q4.7 Why does it matter if a cryptoasset is a specified investment cryptoasset or relevant specified investment cryptoasset?

19.4.7 Activities involving *specified investment cryptoassets* may constitute *regulated activities* for which authorisation (or exemption) is required. For example, selling *specified investment cryptoassets* in the *UK* by way of business may constitute dealing as principal or agent under article 14 or article 21 of the *Regulated Activities Order*. *PERG* 2 sets out guidance on the different regulated activities and related exclusions.

Note, however, that in respect of the activity of *safeguarding and administering investments* in article 40 of the *Regulated Activities Order*, this is not a relevant *regulated activity* when carried on in relation to *specified investment cryptoassets* that are *relevant specified investment cryptoassets* (ie, those *specified investment cryptoassets* that are *securities* or *contractually based investments*, as per article 9N(5)(b)). Where the *specified investment cryptoasset* is a *relevant specified investment cryptoasset*, the relevant custody-related regulated activities that might be carried on in relation to these *cryptoassets* would be the activities under article 9N of the *Regulated Activities Order* (ie, *safeguarding cryptoassets* and *arranging cryptoasset safeguarding*).

19.5 Activity: issuing qualifying stablecoin

Q5.1 What does it mean to 'issue' a stablecoin under article 9M of the Regulated Activities Order?

19.5.1 Article 9M provides that 'issuing a qualifying stablecoin' is a specified kind of activity. Article 9M identifies several elements that together constitute the *regulated activity*. The person doing the activities which follow must be the person who created the *qualifying stablecoin* or on whose behalf it was created (or must be a member of a group for whom it was created). The person must:

(1) offer or arrange for another to offer a *qualifying stablecoin* for sale or subscription from an establishment in the *UK*;

(2) from an establishment in the *UK*, undertake, or arrange for another to undertake to redeem the *qualifying stablecoin*; and

(3) from an establishment in the *UK*, hold or arrange for another to hold fiat currency or other assets for the purpose of maintaining the stable value of the *qualifying stablecoin*.

Whether a person is *issuing qualifying stablecoin* for the purposes of article 9M depends on the facts and the substance of the role they perform in the issuance arrangements. Article 9M provides that *issuing qualifying stablecoin* is a specified kind of activity.

A person is generally not regarded as *issuing qualifying stablecoin* where they only perform one of the activities in article 9M 2(a) or 2(c)(i) or (ii) or otherwise fall under one of the exclusions. See *PERG* 19.5.2.

There are a number of exclusions to the parts of the issuing activity. For example, article 9M(3) provides that offering or arranging to offer a *qualifying stablecoin* as required by article 9M(2)(a) does not include the *minting* of a *qualifying stablecoin* such that it first exists as an identifiable asset on the blockchain and in a transferable form. See also *PERG* 19.8.11.

Q5.2 Does carrying out only one of the limbs in article 9M amount to 'issuing a qualifying stablecoin'?

19.5.2 Article 9M should be considered as a whole; carrying on only one element of article 9M does not amount to *issuing qualifying stablecoin*. For example, a person who only performs the redemption activity will not be *issuing qualifying stablecoin*. However, they could be *issuing qualifying stablecoin* where they both carry out one element of the 9M activity and arrange for another person or persons to carry out the remaining elements.

A person may be considered the issuer even where they do not undertake or arrange for another to undertake all three limbs of *issuing qualifying stablecoin*. See *PERG* 19.5.5.

Q5.3 How does redemption form part of the article 9M issuance activity?

19.5.3 Redemption is identified in article 9M as an element of *issuing qualifying stablecoin* (in article 9M(2)(c)(i)). Redemption on its own, or arranging for another to redeem, does not constitute *issuing qualifying stablecoin*.

Q5.4 Does providing only technology, infrastructure, or software in relation to issuing qualifying stablecoinamount to the regulated activity?

19.5.4 A person whose role is limited to providing technology, software, infrastructure, connectivity or *minting* capability used by another person in that person's issuance arrangements, without undertaking activities described in article 9M(2)(a) or (c)(i) and (ii), would not normally be carrying on the *regulated activity* of *issuing qualifying stablecoin*. This would generally include a person acting in a white-labelling arrangement whose role is limited to technical provision and does not involve arranging for the offer, redemption or holding of backing assets by another person. Whether a person is the issuer depends on the substance of the arrangements and whether that person satisfies article 9M as a whole. This is fact dependent, and a person should also consider whether it is carrying on any other *regulated activity*.

Q5.5 What authorisation is needed by a firm to carry out one or more limbs of Article 9M on behalf of an issuer?

19.5.5 Article 9M contemplates a single issuer for the *regulated activity*. A person that carries out outsourced functions in relation to a stablecoin is not necessarily *issuing qualifying stablecoin*. Where all of the relevant offer, redemption and reserve-holding limbs are carried on by person B under arrangements made by A, article 9M(4)(c) provides that only A, and not B, is treated as carrying on the issuing activity. If only some, but not all, of those activities are carried on by another person under arrangements made by A, persons should consider the arrangements as a whole to determine who is carrying on the issuing activity. Whether a third party carrying out functions for a stablecoin issuer requires authorisation for other activities would depend on exactly what it is doing (for example, a person providing services in relation to the backing assets may be carrying out *regulated activity*).

Q5.6 If a stablecoin issuer sells its business book to an overseas firm, does the overseas firm need article 9M authorisation to continue issuance?

19.5.6 Yes, it is likely that the purchaser of a *UK* issued *qualifying stablecoin* business would require authorisation under article 9M due to 9M(4)(b).

19.6 Activity: safeguarding qualifying cryptoassets and relevant specific investment cryptoassets

Q6.1 To what extent does the carrying on of the activity of safeguarding cryptoassets depend on who owns the cryptoasset?

19.6.1 *PERG* 2.7.10G explains that, for the *regulated activity* of *safeguarding and administering investments*, the safeguarded property must belong beneficially to another person.

This requirement does not apply to the *regulated activity* of *safeguarding cryptoassets*. *Safeguarding cryptoassets* may be carried on regardless of whether the cryptoasset is owned by the *client* or the firm, provided the activity is carried out on behalf of another person and the firm has the requisite degree of control over the cryptoasset.

As a result, determining whether a person is carrying on the activity of *safeguarding cryptoassets* involves less emphasis on establishing ownership. This is particularly relevant where anonymous transaction ledgers are not designed to identify ownership of a cryptoasset.

Where a firm acting on behalf of another has sufficient control and the customer has a right against the firm for the return of the cryptoasset (but does not own it themselves), the arrangement can still be within scope of *safeguarding cryptoassets*. (This is not the case where the right arises from a title transfer collateral arrangement or a repurchase transaction which does not involve a consumer – see *PERG* 19.6.4.)

In the *FCA's* view, because the definition of *qualifying cryptoasset* includes the quality of being fungible, and this is also therefore a component of the definition of *specified investment cryptoasset*, it will be immaterial if the right for the return is for the particular cryptoasset that was given by the customer, or for a fungible substitute. However, the concept of a right for return does not include a debt owed by the firm to the customer where the customer had not placed a cryptoasset in the firm's control in the first place.

Q6.2 How does the concept of 'control' relate to the regulated activity of safeguarding cryptoassets?

19.6.2 A firm will only be *safeguarding cryptoassets* if it has the requisite degree of control, which is the ability (through any means) to bring about the transfer of the benefit of the cryptoasset to another person, including to the firm itself. The requisite degree of control will not be satisfied if the firm merely has the ability to prevent a transfer of the benefit of the cryptoasset to another person (sometimes referred to as 'negative control').

This requisite degree of control may arise in various ways and the words 'through any means' signify a broad scope. Article 9N(4) of the *Regulated Activities Order* highlights 2 common examples: holding or storing the *means of access* to the cryptoasset (often the private cryptographic key) and operating an arrangement in which others are appointed to hold or store the *means of access* or any part of it. The latter includes arrangements where the firm engages other persons to hold 'shards' (or sections) of a private cryptographic key.

As technology evolves, new methods of obtaining such control will likely emerge. It seems unlikely that the facts of whether a service has an 'online' element, or is entirely 'offline' will, purely of itself, be conclusive to the question of whether there is the requisite degree of control. However, the central question will remain whether the firm is, or could put itself, in a position to initiate a

transfer that could prejudice a person with a claim to the cryptoasset. Addressing this potential harm is the core purpose of regulating the activity.

Q6.3 What about 'self-custody' arrangements?

19.6.3 Two of the key components of carrying on the *regulated activity* of *safeguarding cryptoassets* are that the firm's safeguarding is on behalf of another person and the firm has the requisite degree of control. This means that where a firm supplies a customer with a solution for the customer to keep their own cryptoasset secure by exercising control themselves, and the firm itself has no means to bring about the transfer of the benefit of the cryptoasset to another person, the firm will not be carrying on the activity of *safeguarding cryptoassets*.

But in cases where the firm promises (eg, under a contract) not to exercise control but does actually have the requisite control (eg, because it can override a client's authority through its own systems, including by devising a way to do that), the control element of the activity is likely to be met, because of the broad scope signified by the words 'through any means'.

Q6.4 What about title transfer collateral arrangements and repurchase transactions?

19.6.4 Where a firm acting on behalf of another has the requisite degree of control over a cryptoasset, and that other person – who is not a 'consumer' (meaning an individual who is acting for a purpose other than for any trade, business or profession carried on by that individual) – has a right against the firm for the return of the cryptoasset, the firm will not be *safeguarding cryptoassets* if the other person's right arises in either one of the following ways:

(1) from a title transfer collateral arrangement (as defined at article 9N(5)(c) of the *Regulated Activities Order*); or

(2) from a repurchase transaction as described at article 9N(2)(c)(ii) of the *Regulated Activities Order* (ie, a transaction under which the other person is contracted to buy the cryptoasset back from the firm).

Q6.5 Are the activities of group companies excluded?

19.6.5 The group activity exclusion at article 9O of the *Regulated Activities Order* excludes any safeguarding conducted for a customer under arrangements operated by another group entity that is authorised to *safeguard* cryptoassets and has accepted responsibility towards that customer for meeting the safeguarding requirements. For example, a bare nominee company owned by an authorised cryptoasset safeguarding firm could benefit from this exclusion.

Q6.6 What if the safeguarding is merely temporary and only to facilitate the settlement of a transaction?

19.6.6 The exclusion for temporary settlement arrangements at article 9Q of the *Regulated Activities Order* broadly removes from scope any *safeguarding* of cryptoassets carried out temporarily to facilitate the settlement of a transaction. It does not, however, exclude any other activities, such as *dealing in qualifying*

cryptoassets as principal or *operating a qualifying CATP* which may also be relevant for the settlement of transactions. But, depending on whether the conditions are met, it may be relied on by firms carrying on those other activities who might otherwise be *safeguarding cryptoassets*.

Although not defined, 'settlement' is likely to cover actions required for the parties to fulfil their obligations under a transaction, such as delivering cryptoassets to a designated party or wallet. 'Facilitate' is intended to link the *safeguarding cryptoassets* activity directly to the settlement process.

'Temporarily' is also undefined but is likely to mean that the safeguarding lasts only as long as necessary to facilitate settlement. In practice, the *FCA* considers that this is unlikely to require longer than 24 hours from the point at which the requisite degree of control exists.

The term 'transaction' is similarly undefined, though the exclusion is aimed at transactions involving one or more cryptoassets as part of their settlement obligations. This may include, for example, cryptoassets being transferred as collateral security for a loan, as well as cryptoassets being exchanged for other cryptoassets or for money. The way in which the transaction to be settled is brought about is immaterial (for example, it may have been executed on a *QCATP* or entered into 'over the counter' between investors).

Q6.7 What about having a power of attorney or investment management mandate over another person's cryptoasset?

19.6.7 The exclusion at article 9R(1) of the *Regulated Activities Order* applies where a person who would otherwise have the requisite degree of control is acting solely as an agent, appointed to give instructions on the principal's behalf to a person who has undertaken to safeguard the cryptoasset for that principal. This exclusion may, for example, apply to an investment manager appointed under a power of attorney. The effect of the exclusion is that although such a person would otherwise have the requisite 'control' by having the means to bring about a transfer, that control would be excluded from safeguarding provided the conditions of the exclusion are met.

Q6.8 Is it a necessary element of safeguarding cryptoassets to be 'holding out' as providing that service?

19.6.8 No, in the sense that there is no exclusion for *safeguarding cryptoassets* which is available where there simply is an absence of holding out. But see *PERG* 19.6.9 regarding the exclusion at article 9R(2) of the *Regulated Activities Order*.

Q6.9 So what does the holding out exclusion at article 9R(2) of the Regulated Activities Order achieve?

19.6.9 This exclusion applies where a person does not hold themselves out as engaging in the business of providing a service that is in relation to *qualifying cryptoassets* or *relevant specified investment cryptoassets*.

For example, a safety deposit box provider or a generic data storage provider may, in the ordinary course of business, have the requisite degree of control to be *safeguarding* cryptoassets on behalf of a customer. In those scenarios, the customer may place a device which contains a private cryptographic key into the safety deposit box or may upload data consisting of a private cryptographic key onto the provider's cloud storage facility. If the safety-deposit box provider or data storage provider can access and is in a position to use the relevant device or data, they would have the requisite degree of control. However, if they do not hold themselves out as engaging in the business of providing a service in relation to cryptoassets, they would be able to rely on this exclusion.

Q6.10 Is arranging cryptoasset safeguarding a regulated activity?

19.6.10 Yes. *Arranging cryptoasset safeguarding* is specified at article 9N(1)(b) of the *Regulated Activities Order*.

It is possible for a firm to carry on both the activities of *safeguarding cryptoassets* and *arranging cryptoasset safeguarding* in relation to the same cryptoasset. This can occur where the firm undertakes a responsibility for *safeguarding cryptoassets* but, in the course of safeguarding, arranges for a third party to carry on day-to-day safeguarding. Such a situation can arise where a firm appoints another person to securely store 'shards' of a private cryptographic key, and where the other person has the requisite degree of control by virtue of the number of 'shards' that they are storing.

Q6.11 What about introducing a person to a firm who is authorised to carry on safeguarding cryptoassets?

19.6.11 Mere introductions are excluded from the *regulated activity* of *arranging cryptoasset safeguarding* under article 9P of the *Regulated Activities Order*, provided the introducer and the safeguarding firm are not in the same group and the introducer is not remunerated by that firm.

Q6.12 Can firms acting as depositaries of UK UCITS or AIFs carry on the safeguarding cryptoassets or arranging cryptoasset safeguarding regulated activities?

19.6.12 No. The exclusion at article 42A of the *Regulated Activities Order* covers the carrying on of these regulated activities in the same way that it does for the *regulated activity* of *safeguarding and administering investments*.

19.7 Activity: operating a qualifying cryptoasset trading platform

Q7.1 What is a qualifying cryptoasset trading platform (QCATP)?

19.7.1 (1) A *QCATP* is a system which brings together or facilitates the bringing together of multiple third-party buying and selling interests in *qualifying cryptoassets* in a way that results in a contract for the exchange of *qualifying cryptoassets* for money (including electronic money) or other *qualifying cryptoassets*.

(2) As such, a *QCATP* comprises each of the following elements:

(a) it is a trading system;

(b) multiple third-party buying and selling interests interact within the system;

(c) the system brings together these multiple interests in a way that results in a contract; and

(d) the contract is for the exchange of *qualifying cryptoassets* for either money (including e-money) or other *qualifying cryptoassets*.

We provide guidance on each of these elements in (3) to (6).

(3) Characteristics of a trading system:

(a) A trading system is one functioning on the basis of a set of rules. The rules relate to how multiple third-party buying and selling interests are brought together in the system (see below). A system is technology neutral for these purposes.

(b) General purpose communications systems do not in and of themselves amount to operating a system for the purposes of the definition of a *QCATP*, which therefore does not include simply:

(i) acting as an internet services provider;

(ii) providing a telephone network;

(iii) providing a website; or

(iv) providing chatroom facilities.

(c) Conversely, a person using that system to operate a trading system will operate a *QCATP* if the other elements of the definition in *PERG* 19.7.1(2)(a) to (d) are met.

(d) If a system has features specifically designed to enable the interaction of trading interests in *qualifying cryptoassets*, this would indicate that it is a trading system. More generally, we will consider the role of the operator and its monitoring of the use of the system. Operating the platform requires more than simply providing technology or software. Our assessment of whether there is a trading system or facility will also take into consideration a wider range of factors, including for example:

(i) its target users and the actual use of a system by its users;

(ii) any relevant restrictions on how the system may be used and their practical effect;

(iii) whether the system is designed to enable trading of any kind among users and how; and

(iv) the determinants of the remuneration of the operator and the extent to which these are linked to the trading of interests in *qualifying cryptoassets* in the system.

(e) Accordingly, while general communications systems, for example, are used for the purposes of trading *qualifying cryptoassets*, they will not amount to a trading system unless they were ever operated by a person for these purposes and then subject to these criteria.

(f) It is possible for a person to operate more than one piece of technology which, when taken together, have the characteristics of a trading system operated by the same person.

(4) Multiple third-party buying and selling interests interacting within the system:

(a) The inclusion of the words 'third-party' in the definition makes it clear that the interests in question are not the interests of the *QCATP operator*, although *CRYPTO* 6 permits a firm operating a *UK QCATP* to execute trades on a matched principal basis on its *QCATP*.

(b) The fact that when any 2 persons negotiate within the system, they do so between themselves does not mean that there are not multiple third-party buying and selling interests interacting within the system. Instead, what matters is whether the system, at the point of entry, enables 1 person to interact potentially with multiple others other than the operator itself. This is the service a person receives as a user of the system.

(c) A system which enables information to be inputted and then responded to in the system is one in which multiple third-party buying and selling interests interact and includes:

(i) the matching of buying and selling interests within its system; or

(ii) allowing users to respond within the system to other users' interests, including by bids or offers or communicating in relation to, negotiating or accepting essential terms of a transaction.

(5) Multiple interests brought together in a way that results in a contract:

The system is one which brings together the multiple interests in the system in a way resulting in a contract. It follows that where there is no trade execution, brought about by the system, such as in the case of

bulletin boards used for advertising buying and selling interests, the system will not amount to a *QCATP*.

(6) Exchange of qualifying crypto assets for money or other qualifying cryptoassets:

(a) The contracts arising must be for the exchange of *qualifying cryptoassets* for money (including e-money) or other *qualifying cryptoassets*. It follows that *financial instruments*, such as derivatives of a *qualifying cryptoasset* falling within paragraph 10 of Part 1 of Schedule 2 to the *Regulated Activities Order* (see *PERG* 13 Q34) or a cryptoasset exchange traded note, cannot be traded on a *QCATP*. As regards the trading of *financial instruments* on multilateral systems, see *MAR* 5AA.1.1R and *PERG* 13 Q24C and the need for these to be traded on a trading venue and not a *QCATP*.

(b) A firm may operate both a *UK QCATP* and a trading venue, in the *UK*, but it cannot offer the instruments traded on a *UK QCATP* on a trading venue and vice versa.

Q7.2 We operate a cryptoasset trading platform with multiple buyers and sellers and we offer an execution facility on the platform and a crypto wallet for our users. What permissions are we likely to require?

19.7.2 The activity of *operating a qualifying CATP* does not extend to the provision of safeguarding services before or after a transaction has been entered into between a buyer and seller on that platform. As such, you require an *operating a qualifying CATP permission* and a *safeguarding cryptoassets permission* (and one for agreeing to carry on these *regulated activities*).

You will not require *permission* for *arranging deals in qualifying cryptoassets* to the extent that the only arranging you undertake with users of the platform all forms part of the activity of *operating a qualifying CATP*. This is the effect of article 9Z5(2) of the *Regulated Activities Order*.

Where you engage in matched principal trading for the purpose of executing client orders on a *QCATP* you operate, you will also require *permission* to deal in *qualifying cryptoassets as principal* to carry on such trading.

Q7.3 We operate a cryptoasset trading platform offering an execution facility on the platform. We operate a float model for our UK users, where cryptoassets are moved from the client wallet to a global settlement wallet to settle transactions off-chain with an internal ledger. What permissions are we likely to require?

19.7.3 You require *permission* to *operate a qualifying CATP* and *safeguard cryptoassets* (and one for agreeing to carry on these regulated activities). For our location policy regarding authorisation of an operator of a *QCATP*, including one which offers access to a global liquidity pool, see Approach to International Cryptoasset Firms (AICF).

Where your safeguarding activities are restricted to the activities above, you may wish to apply for a requirement on your *permission* which reflects your business model – for example, if you wish to take advantage of the exception from acting as a trustee for *QCATP*s in *ASS* 17.3.5R.

Q7.4 We operate a cryptoasset trading platform from overseas offering an execution facility on the platform to UK users but only when these are authorised persons. Do we require FCA authorisation to offer this service and do overseas users require FCA authorisation to use our platform?

19.7.4 No. If your platform is not made available for use by *UK* consumers – that is, individuals in the *UK* acting for a purpose other than for any trade, business or profession carried on by the individual – you will not be carrying on regulated activities in the *UK*. This is the effect of section 418 of the *Act* (Carrying on regulated activities in the United Kingdom).

Your overseas members will not require authorisation in relation to their use of your platform.

Q7.5 What about interfaces connecting users to automated protocols that enable the exchange of qualifying cryptoassets? Do such interfaces require authorisation?

19.7.5 Whether or not an interface is in scope of the regulatory perimeter will depend on whether a *regulated activity* is carried on by way of business in the *UK* by an identifiable person. This will depend on the facts and circumstances of the case, and needs to be assessed on a case-by-case basis. Persons who provide arrangements which allow for trading in *qualifying cryptoassets* should consider the guidance at *PERG* 19.8.3 in relation to *arranging deals in qualifying cryptoassets*. Persons who provide arrangements in relation to *arranging qualifying cryptoasset staking* should see the guidance at *PERG* 19.10.1.

Q7.6 I am involved in post-transaction settlement of cryptoasset trades. What permissions do I need?

19.7.6 As set out in *PERG* 19.6.6, 'settlement' is likely to cover actions required for the parties to fulfil their obligations under a transaction. This may involve a number of *regulated cryptoasset activities*, depending on the business model and subject to any exclusions. Persons who are involved in settlement of transactions of *qualifying cryptoasset* trades should consider the guidance at *PERG* 19.6 and *PERG* 19.8 in relation to *safeguarding cryptoassets*, *arranging cryptoasset safeguarding*, *dealing in qualifying cryptoassets (as principal or agent)* and in particular *arranging deals in qualifying cryptoassets*.

19.8 Activity: intermediary activities

19.8.-1 This section sets out perimeter considerations in relation to the *regulated activities* of *dealing in qualifying cryptoassets (as principal or agent)* or *arranging deals in qualifying cryptoassets*. This relates to persons acting on behalf of clients as well as persons dealing on own account.

As set out in the guidance in this section, dealing and arranging deals is broadly prescribed in legislation. Whether a person who is dealing or arranging requires authorisation is contingent on the factors set out in *PERG* 19.1.7 and *PERG* 2. For example, a person may be *dealing in qualifying cryptoassets (as principal or agent)* when buying and selling *qualifying cryptoassets* on a *QCATP*. If they do so in a capacity which does not meet the by way of business test, such persons would not require authorisation. It is therefore important for persons to consider all factors in determining whether they require authorisation.

Q8.1 What are the dealing and arranging activities for qualifying cryptoassets?

19.8.1 The new cryptoasset activities of *dealing in qualifying cryptoassets as principal*, *dealing in qualifying cryptoassets as agent* and *arranging deals in qualifying cryptoassets* mirror the existing *regulated activities* of *dealing in investments as principal* (article 14), *dealing in investments as agent* (article 21), *arranging (bringing about) deals in investments* (article 25(1)) and *making arrangements with a view to transactions in investments* (article 25(2)). As such, the new *qualifying cryptoasset* activities are expected to operate similarly to articles 14, 21 and 25, albeit the effect of related exclusions, as discussed in *PERG* 19.8.2 and *PERG* 19.8.3, differs. Perimeter guidance on the article 14, 21 and 25 activities can be found in *PERG* 2.7.

Q8.2 What is dealing in cryptoassets (as principal or agent)?

19.8.2 Both the activities of *dealing in qualifying cryptoassets as principal* and *dealing in qualifying cryptoassets as agent* (articles 9T and 9W) are defined in terms of 'buying, selling, subscribing for or underwriting' *qualifying cryptoassets*.

As set out in *PERG* 2.7.6A, to deal with the possible range of circumstances, 'buying' is defined in the *Regulated Activities Order* to include acquiring for valuable consideration. 'Selling' is defined to include disposing for valuable consideration and 'disposing' is itself given a specified meaning that covers a range of possible transactions. Buying and selling *qualifying cryptoassets* therefore captures a broad range of transactions and business models involving *qualifying cryptoassets*. This is regardless of how such transactions may be marketed or described. For example, a person may be engaged in the activity of *dealing in qualifying cryptoassets (as principal or agent)* when dealing on own account, acting as a single dealer platform or engaged in matched principal trading or engaged in *qualifying cryptoasset lending or borrowing*. See *PERG* 19.7.2 and *PERG* 19.9.1.

The *Regulated Activities Order* is not prescriptive in setting out what the *qualifying cryptoasset* is exchanged for. This, however, is subject to the goods and services exclusion described in *PERG* 19.11.4 and *PERG* 19.11.5.

The scope of dealing in *qualifying cryptoassets* does not extend to *specified investment cryptoassets*. Nor does it extend to *specified investments* or *financial instruments* which may be linked to *qualifying cryptoassets* such as *qualifying cryptoasset derivatives* or *qualifying cryptoasset* exchange traded notes. Buying

and selling activities involving such products fall within scope of *dealing in investments* as principal or agent.

Exclusions to the dealing activities are set out in *PERG* 19.8.10 to *PERG* 19.8.18.

Q8.3 What is arranging deals in qualifying cryptoassets?

19.8.3 (1) As with 'Arranging deals in investments' (article 25), *arranging deals in qualifying cryptoassets* has 2 limbs. The activity is divided into 'arranging (bringing about) deals in qualifying cryptoassets' and 'making arrangements with a view to transactions in qualifying cryptoassets'. As set out in *PERG* 2.7.7BG, the former is aimed at arrangements that would have the direct effect that a particular transaction is concluded (that is, arrangements that bring it about). The latter is concerned with arrangements of an ongoing nature whose purpose is to facilitate the entering into of transactions by other parties.

(2) *Making arrangements with a view to transactions in qualifying cryptoassets* has a potentially broad scope. It can capture scenarios such as arrangements of some kind to:

(a) enable or assist investors to deal with or through a particular firm (such as the arrangements made by introducers); or

(b) facilitate the entering into of transactions directly by the parties such as through a platform (except where it forms part of the activity of *operating a qualifying CATP*).

(3) Arranging transactions may also capture a range of services such as a platform which arranges *qualifying cryptoasset lending or borrowing* or other platforms that provide a mean to trade which is not captured as a *QCATP*. This includes but is not limited to arrangements such as trading apps, providing access to *QCATPs* or dealers or other *qualifying cryptoasset execution venues*, or facilitating transactions between parties on a *qualifying cryptoasset lending or borrowing* platform.

(4) Guidance on exclusions to the arranging activity are set out in *PERG* 19.8.19 to *PERG* 19.8.22.

(5) The guidance in *PERG* 2.7.7G to *PERG* 2.7.7CG (including the other areas of *PERG* referred to in those sections) should also be considered by persons when considering whether they are *arranging deals in qualifying cryptoassets*. In short, this guidance sets outs that:

(a) making arrangements with a view to transactions is not limited to arrangements that are participated in by investors. A person may be carrying on this *regulated activity* even if they are only providing part of the facilities for bringing about a transaction. *Making arrangements with a view to transactions in qualifying cryptoassets* does not need to be causative of the transaction in the sense that it brings it about, but nonetheless helps it to happen;

(b) certain arrangements may come within the activity even though the parties may have already committed to the transaction using other arrangements. For example, persons providing arrangements to facilitate the conclusion of a transaction such as settlement services or other services offered to complete the transaction akin to clearing houses can be within scope of the *arranging deals in qualifying cryptoassets* activity;

(c) back-office administration does not typically amount to arranging as it is concerned with the aftermath of the transaction rather than with a view to the transaction (see *PERG* 2.7.7BC); and

(d) passive display of literature does not amount to making arrangements with a view to transactions. However, the guidance in *PERG* 8.32 should be considered in relation to arranging and the *financial promotions* regime.

(6) The *Regulated Activities Order* does not have any particular exclusion from *arranging deals in qualifying cryptoassets* for 'technical services'. More generally, the activity of *making arrangements with a view to transactions in qualifying cryptoassets* is of relevance to software-based or connectivity services, which can take various forms.

(7) On the one hand, where software is provided to *authorised persons* to do things such as managing records of investment transactions or providing services peripheral to the *regulated activities* undertaken by those *authorised persons*, this should not generally be caught by article 9Y of the *Regulated Activities Order*.

(8) On the other hand, where a website hosting firm or app provider is providing users with the means by which a user can place orders, this is likely to amount to the activity of *making arrangements with a view to transactions in qualifying cryptoassets*. Where the firm provides users with the means to make, place or otherwise send orders and receive confirmation that a transaction has been completed, this may amount to both forms of *arranging deals in qualifying cryptoassets*. In determining the status of the website hosting firm, it is necessary to look at the provision of services as a whole, including the features available to users, and whether and how they enable users to place orders or deal directly in *qualifying cryptoassets*.

(9) Persons should consider the substance of the service they provide and whether they are providing arrangements for persons to buy and sell *qualifying cryptoassets*. As noted in *PERG* 19.8.2, buying and selling has a broad scope and *arranging deals in qualifying cryptoassets* therefore also covers a broad range of business models and transactions. Persons should also consider the guidance and examples in *PERG* 19.8.18.

Q8.4 Does a person issuing qualifying stablecoin need dealing permission?

19.8.4 (1) The new activities of *dealing (as principal or agent)*, *arranging deals in qualifying cryptoassets* and *making arrangements with a view to transactions in qualifying cryptoassets* have an exclusion for the activity of *issuing qualifying stablecoin*. The scope of the *issuing qualifying stablecoin* activity is set out in *PERG* 19.5.

(2) As noted in *PERG* 19.5.1, the *issuing qualifying stablecoin* activity has 3 limbs. It is only where a person (who has created the *qualifying stablecoin* or on whose behalf it was created) undertakes or arranges for another to undertake all 3 limbs that they are undertaking the *issuing qualifying stablecoin* activity and are excluded from *dealing in qualifying cryptoassets (as principal or agent)* or *arranging deals in qualifying cryptoassets*. If they are not undertaking the issuing activity under article 9M, they will not benefit from the exclusion from dealing.

(3) Where a person undertakes issuance or redemption for a *qualifying stablecoin* but does not fall within scope of the *issuing qualifying stablecoin* activity, they may require a dealing *permission*. This could be due to a number of different circumstances, including where:

(a) they do not fulfil the territorial criteria for issuing a *qualifying stablecoin* in that they are not carrying out activity from an establishment in the *UK*. See *PERG* 19.8.4;

(b) they do not fulfil all the criteria of the *issuing qualifying stablecoin* activity – for example, by only undertaking 1 limb of the activity; and/or

(c) the *qualifying cryptoasset* that they issue does not meet the criteria of a *qualifying stablecoin*.

(4) Therefore, where a person is not carrying out *issuing qualifying stablecoin*, for example:

(a) an overseas issuer who is not considered to be *issuing qualifying stablecoin* in the *UK*; or

(b) a person who is appointed by an overseas *issuer* to undertake redemption on their behalf (as a third-party appointee),

the exclusion from dealing (as principal or agent) or arranging for *issuing qualifying stablecoin* will likely not be available.

(5) Persons should consider whether a *permission* for dealing in *qualifying cryptoasset*s is needed. A person who arranges issuance or redemption may require an arranging *permission*.

Q8.5 Does a person issuing qualifying cryptoassets need a dealing permission?

19.8.5 Where a person issues *qualifying cryptoassets* by offering *qualifying cryptoassets* for sale (or offers for persons to subscribe for or underwrite them) this may fall

within scope of dealing. Issuers should consider whether they are excluded from the dealing activity. See *PERG* 19.8.14 and *PERG* 19.8.16.

Where an overseas person issues *qualifying cryptoasset*s to consumers in the *UK*, the section 418 provisions in relation to territorial scope for dealing will be relevant. See *PERG* 19.3.1.

Persons who arrange transactions between a client and an issuer may require an arranging *permission*.

Exclusions may apply to a person issuing their own cryptoassets, such as where they are issued to employees for raising capital or the distribution of rewards for *arranging qualifying cryptoasset staking*. See the guidance at *PERG* 19.8.10, *PERG* 19.8.13 - *PERG* 19.8.14.

Q8.6 Does a person providing or arranging wrapping or bridging services need dealing/arranging permission?

19.8.6 Wrapping or bridging services can involve the transfer of one *qualifying cryptoasset* in exchange for another *qualifying cryptoasset*. The issued 'wrapped' *qualifying cryptoasset* can be traded on secondary markets and be redeemed for the cryptoasset which is held as the underlying. There are a number of different ways that such a service can be structured and offered.

As noted in *PERG* 19.8.2, dealing involves buying or selling, both of which are broadly defined. Where a person offers or facilitates another person to sell their *qualifying cryptoasset* in exchange for another *qualifying cryptoasset*, this may fall within dealing or arranging. As such, wrapping or bridging services may fall within dealing because they involve the sale and purchase of *qualifying cryptoasset*.

Persons facilitating wrapping or bridging for another may fall within scope of arranging.

Q8.7 I manage investments for clients, including cryptoassets. What permissions do I need?

19.8.7 The regulated activity of *managing investments* does not include *qualifying cryptoassets*. Persons whose mandate includes the trading of *qualifying cryptoassets* for clients should consider whether they also need *permission* for *regulated cryptoasset activities* such as *dealing in qualifying cryptoassets (as principal or agent)*, *arranging deals in qualifying cryptoassets*, *safeguarding cryptoassets* or *arranging cryptoasset safeguarding*.

Persons who have a *permission* for managing investments will need to apply for a variation of *permission* to undertake any *regulated cryptoasset activities*. However, managers of an *AIF* or a UK UCITS may benefit from the exclusion in article 72AA of the *Regulated Activities Order*. See *PERG* 19.11.2.

Q8.8 What exclusions apply across intermediary activities?

19.8.8 The activities of *dealing in qualifying cryptoassets (as principal or agent)* and *arranging deals in qualifying cryptoassets* have a number of shared exclusions. These are:

(1) the creation, including the design, of a *qualifying stablecoin*;

(2) the *minting* of a *qualifying stablecoin*;

(3) the acquisition or transfer of a *qualifying cryptoasset* for no consideration;

(4) the distribution of a *qualifying cryptoasset* that was automatically created as a reward for the maintenance of the distributed ledger or the validation of transactions;

(5) sale to employees;

(6) intra-group transactions (not applicable to dealing as agent); and

(7) exclusion from the *issuing qualifying stablecoin*, *arranging qualifying cryptoasset staking* and *operating a qualifying CATP* activities.

Q8.9 What is the creating and minting exclusion?

19.8.9 The creation (including design) and *minting* (ie, undertaking the technical process to create a *qualifying stablecoin*) is unlikely to be captured as dealing or arranging unless it involves the buying and selling of a *qualifying stablecoin*.

The exclusions for creating (including design) and *minting* of a *qualifying stablecoin* are intended to close a gap between the issuing activity and the dealing activity. If a person is undertaking a technical activity of creating a coin or *minting* it distinct from a transaction, it will likely fall outside the scope of dealing and arranging. A person who is *issuing qualifying stablecoin* does not require *permission* for *dealing in qualifying cryptoassets (as principal or agent)* or *arranging deals in qualifying cryptoassets*.

If a person engages in transactions where they *mint* and offer *qualifying stablecoin* as part of a transaction, parts of this process (the offer and sale, etc) may be part of a *regulated activity* which does not benefit from this exclusion. See the guidance at *PERG* 19.5.1, *PERG* 19.8.4 and *PERG* 19.8.5.

Q8.10 I receive or provide qualifying cryptoassets through ‘airdrops’. Do I require authorisation?

19.8.10 Where a person ‘airdrops’ a *qualifying cryptoasset* or receives an airdropped *qualifying cryptoasset*, this may be excluded from dealing and arranging where there is no consideration is provided. Airdrops are a non-technical industry term and can cover a range of ways *qualifying cryptoassets* are distributed. The labelling of such transfers is not a relevant factor in determining if this exclusion applies.

This exclusion provides certainty that persons who provide *qualifying cryptoassets* for no consideration are not dealing, nor are those who receive the *qualifying cryptoassets*. Persons arranging such transfers may also benefit from the exclusion. Where there is some form of consideration provided, then this exclusion will not apply. The 'by way of business' requirement as well as the holding out exclusion (see *PERG* 19.2 and *PERG* 19.8.15 may also be relevant here.

Q8.11 What is the scope of the reward distribution exclusion?

19.8.11 The reward distribution exclusion for *dealing in qualifying cryptoassets (as principal or agent)* and *arranging deals in qualifying cryptoassets* only applies in respect of the distribution of *qualifying cryptoassets* which were automatically created as a reward for maintenance of the distributed ledger or the validation of transactions.

This is a limited exclusion intended to capture the distribution of *qualifying cryptoassets* created through *blockchain validation* processes such as *qualifying cryptoasset staking*. It is also limited to the initial distribution to the person who automatically receives the *qualifying cryptoasset*. It does not extend to subsequent distribution of the *qualifying cryptoasset*.

In practice, this exclusion will be of limited effect as the distribution of rewards is part of the activity of *arranging qualifying cryptoasset staking*, which is itself carved out of dealing and arranging activities.

Q8.12 I issue qualifying cryptoassets to employees as a reward scheme. Do I need authorisation?

19.8.12 It is unlikely that this activity will require authorisation. There is an exclusion from *dealing in qualifying cryptoassets (as principal or agent)* and *arranging deals in qualifying cryptoassets* where a *qualifying cryptoasset* is issued by or on behalf of a person and sold to or subscribed to by an employee or partner of the person carrying on the activity.

This activity only applies to the person who issues the *qualifying cryptoasset* or another who does so on behalf of that person. It would not apply to a third party who is neither such person.

Q8.13 What is the exclusion for group companies?

19.8.13 There are 2 intra-group transaction exclusions which apply to *dealing in qualifying cryptoassets as principal* and *arranging deals in qualifying cryptoassets*, respectively. The general principle here is that as long as activities that would otherwise be *regulated activities* take place wholly within a group of companies, they are excluded:

(1) The exclusion from *dealing in qualifying cryptoassets as principal* applies where a person only enters into transactions as principal with other members of the same group.

(2) The exclusion from *arranging deals in qualifying cryptoassets* applies where:

(a) the person only makes arrangements for, or with a view, to a transaction which is or is to be entered into as principal by another member of the same group; and

(b) the person makes such arrangements where it is not otherwise required to be authorised to carry on *regulated cryptoasset activities*.

If the conditions in (a) and (b) are met and persons relying on this exclusion do not otherwise deal with or arrange deals for non-group companies, there is no need for authorisation.

Q8.14 What does it mean for issuing qualifying stablecoin, operating a qualifying CATP and arranging qualifying cryptoasset staking to be excluded from dealing and arranging?

19.8.14 These exclusions carve out any activity from *dealing in qualifying cryptoassets (as principal or agent)* or *arranging deals in qualifying cryptoassets* which is specified by the issuing, *operating a qualifying CATP* or *arranging qualifying cryptoasset staking* activity.

Where a person is *issuing qualifying stablecoin*, this exclusion will only apply where they undertake (including by arranging for others to undertake parts of) the *issuing qualifying stablecoin* activity such that they are required to be authorised as a *qualifying stablecoin* issuer. The implications of this exclusion and issuing are addressed in *PERG* 19.8.4 and *PERG* 19.8.6.

Similarly, the exclusion for *operating a qualifying CATP* is only in reference to the activities the operator undertakes which requires it to be authorised for *operating a qualifying CATP*. For example, a *QCATP operator* that also offers brokerage services will not have those services excluded by this provision.

As arranging staking may involve the transaction of *qualifying cryptoassets* to be staked as well as rewards, a person undertaking this activity could, if not otherwise specified, fall within scope of *arranging deals in qualifying cryptoassets* or *dealing in qualifying cryptoassets (as principal or agent)*. This exclusion provides that those activities which are within scope of the *arranging qualifying cryptoasset staking* are not within scope of dealing or arranging.

Q8.15 What are the exclusions for the activity of dealing in qualifying cryptoassets as principal?

19.8.15 Of particular significance is the exclusion in article 9U of the *Regulated Activities Order* (Absence of holding out etc). This exclusion applies where a person does not hold themselves out as:

(1) willing as principal to buy and sell *qualifying cryptoassets* generally and continuously;

(2) engaged in the business of dealing in them; or

(3) regularly soliciting members of the public with the purpose of inducing them to deal.

Holding out is to be considered in light of all the circumstances, and includes but is not limited to statements a person makes by mean of advertisements or otherwise, as well as a person's conduct. For example, in our view, the mere fact of a private individual being a user of a *QCATP* does not mean that the individual holds themselves out as engaging in the business of buying *qualifying cryptoassets* of the kind to which the transaction relates, with a view to selling them.

A person will not be treated as carrying on the activity of *dealing in qualifying cryptoassets as principal* if they enter into a transaction as principal while acting as bare trustee (or, in Scotland, as nominee).

Q8.16 What is the raising capital exclusion for dealing in qualifying cryptoassets?

19.8.16 This exclusion refers to a limited circumstance where a person (A) or someone on their behalf creates and mints *qualifying cryptoassets* and deals in them with the sole purpose of raising capital for A.

Q8.17 What about arrangements that do not cause a deal?

19.8.17 *Arranging (bringing about) deals in qualifying cryptoassets* applies only where the arrangements bring about or would bring about a particular transaction in *qualifying cryptoassets*. In the *FCA's* view, arrangements that do not or would not bring about the transaction to which the arrangements relate are excluded from the arranging activities that relate to a particular transaction. A person will bring about a transaction only if its involvement in the chain of events leading to a transaction is of sufficient importance that, without that involvement, it would not take place.

This exclusion is not available for *making arrangements with a view to transactions in qualifying cryptoassets*, which is a much broader activity.

Q8.18 What about introducing a firm to an authorised person with a Part 4A permission to carry on qualifying cryptoasset activities?

19.8.18 Arrangements under which persons will be introduced to an *authorised person* with a *Part 4A permission* to carry on *qualifying cryptoasset* activities is excluded from the activity of *making arrangements with a view to transactions in qualifying cryptoassets*.

Making arrangements with a view to transactions in qualifying cryptoassets applies to ongoing arrangements made with a view to transactions taking place from time to time as a result of persons having taken part in the arrangements. So, they will not apply to one-off introductions or introductions that are not part of an ongoing pre-existing arrangement between introducer and introduce.

In the *FCA's* view, this means that any arrangements which go beyond a sole introduction to an *authorised person* could be captured as arrangements with a view to transactions.

Q8.19 What about simply providing the means by which the parties to a transaction are able to communicate with each other?

19.8.19 Merely providing the means by which one party to a transaction, or potential transaction, is able to communicate with other such parties is excluded from *making arrangements with a view to transactions in qualifying cryptoassets*.

In the *FCA's* view, the crucial element of the exclusion is the inclusion of the word 'merely'. This is aligned with the *FCA's* approach to the article 27 activity of enabling parties to communicate for the activity of *making arrangements with a view to transactions in investments*, as set out in *PERG* 8.32. If a person makes arrangements that go beyond providing the means of communication, and adds value to what is provided, they will lose the benefit of this exclusion.

As set out in *PERG* 8.32, where a publisher, broadcaster or internet website operator goes beyond what is necessary for them to provide their service of publishing, broadcasting or otherwise facilitating the issue of promotions, they may well bring themselves within the scope of *making arrangements with a view to transactions in qualifying cryptoassets*.

Similarly, examples of where, in the *FCA's* view, a publisher or broadcaster is likely to be making arrangements within the meaning of *making arrangements with a view to transactions in qualifying cryptoassets* and therefore unable to make use of the exclusion for mere communication include if:

(1) they enter into an agreement with a provider of investment services, such as a broker or product provider, for the purpose of carrying their financial promotion; and

(2) as part of the arrangements, the publisher or broadcaster does one or more of the following:

(a) brands the investment service or product in their name or joint name with the broker or product provider;

(b) endorses the service, or otherwise encourages readers or viewers to respond to the *financial promotion*;

(c) negotiates special rates for their readers or viewers if they take up the offer; and/or

(d) holds out the service as something they have arranged for the benefit of their readers or viewers.

Where a person receives commission or other form of reward based on the amount of regulated business done as a result of their carrying the *financial promotion*, this can also indicate that a person is *making arrangements with a*

view to transactions in qualifying cryptoassets. However, the mere communication exclusion will apply in cases where there is such a reward, provided the arrangements are made merely to allow the communication to be made.

Other persons who may benefit from the exclusion because they are merely enabling parties to communicate include persons who provide the means for someone to route an order to another person. A person providing such order routing services would not, in the *FCA's* view, be merely facilitating communication (of the orders) if they provide added value. This added value could be in the form, for example, of such things as formatted screens, audit trails, checking completeness of orders or matching orders or reconciling trades. Persons which provide the means to making trading simpler – through finding prices, venues or assisting clients in making orders on those venues, for example, through facilities which pre-fill information for the client to make the order – will likely be *making arrangements with a view to transactions in qualifying cryptoassets*. This is in contrast to the passive display of literature or information. Persons will also need to consider whether they are making *financial promotions*.

The mere provision by a website operator of a bulletin board or chat room ought not to amount to *making arrangements with a view to transactions in qualifying cryptoassets* unless making such arrangements is the specific purpose of the facility. However, operators of websites with such facilities will clearly need to be aware of potential implications (such as the service being used by *unauthorised persons* to give advice or make *financial promotions* or to make misleading statements with a view to manipulating market prices). They may wish to consider drawing such matters to the attention of persons who use the facility.

Q8.20 What if the arranger is a party to the transaction?

19.8.20 Arranging transactions to which the arranger is a party is excluded from *arranging deals in qualifying cryptoassets*.

The main purpose of this exclusion is to ensure that a person is not regarded as arranging deals for another when the transaction in question is one to which they intend to be a party. As a result, a person cannot both be engaging in *dealing in qualifying cryptoassets (as principal or agent)* and *arranging deals in qualifying cryptoassets* for another as regards any particular *qualifying cryptoasset* transaction. Where the person is a party to the transaction, this is captured by the dealing activity (unless an exclusion applies).

Where a person is *making arrangements with a view to transactions in qualifying cryptoassets* with a view to a transaction they are entering in themselves, this will also be excluded from *making arrangements with a view to transactions in qualifying cryptoassets*.

Q8.21 What exclusions apply to trustees, nominees and personal representatives?

19.8.21 Arrangements made by a person acting as trustee, nominee or personal representative are excluded where these are with a view to a transaction between:

(1) that person and a fellow trustee, nominee or personal representative, acting in their capacity as such; or

(2) a beneficiary under the trust, will or intestacy.

A person will not benefit from this exclusion where they receive remuneration that is additional to any they receive for acting in the representative capacity (although a person is not to be regarded as receiving additional remuneration merely because their remuneration as trustee or representative is calculated by reference to time spent).

19.9 Activity: cryptoasset lending and borrowing

Q9.1 What is cryptoasset lending and borrowing and what regulated activities might be involved?

19.9.1 *Qualifying cryptoasset lending or borrowing* are not distinct *regulated activities* but examples of transactions in *qualifying cryptoassets* that are likely captured by other *regulated cryptoasset activities*.

Qualifying cryptoasset lending describes the disposal of a *qualifying cryptoasset* from a person (A) to or via another person (B), subject to an obligation or right to reacquire the same or equivalent *qualifying cryptoasset* from B, typically with compensation paid to A in the form of yield.

Qualifying cryptoasset borrowing is similar but operates with *qualifying cryptoassets* moving in the opposite direction. It describes the disposal of a *qualifying cryptoasset* from or via person B to person A, subject to an obligation or right to reacquire the same or equivalent *qualifying cryptoasset* from A, which may include the provision of collateral and/or payment of interest from A.

Viewed holistically, these transactions may resemble 'loans', but the legal implications of the precise arrangements matter more than the terminology used. In many instances, the various transactions that constitute *qualifying cryptoasset lending or borrowing* will amount to deals, not loans. This is because the disposal of a *qualifying cryptoasset* from person A to person B and/or the disposal of a *qualifying cryptoasset* from person B to person A would constitute a deal on the basis that 'dealing' includes buying, selling, subscribing for or underwriting a *qualifying cryptoasset*, and 'buying'/'selling' are defined in article 3 of the *Regulated Activities Order* as including acquisition/disposal for valuable consideration. The reacquisition of the same or equivalent *qualifying cryptoasset* would also constitute a deal. Further, where yield is provided to person A and that yield is in *qualifying cryptoassets*, or where A provides *qualifying cryptoassets* as interest payments, this would also constitute dealing.

Whether person A and/or person B require *permission* in order to carry on these activities will depend on the role they play in these arrangements. It will also depend on whether they are engaging in these deals themselves as principal or agent, or whether they are arranging these deals or making arrangements with a view to these deals in *qualifying cryptoassets*. If, for example, person A is a consumer, they are less likely to be carrying on these activities by way of

business and/or they may not be holding themselves out as carrying on these activities by way of business and so may be less likely to need to be authorised or exempt.

These arrangements may also involve the *regulated activity* of *safeguarding cryptoassets* or *arranging cryptoasset safeguarding* – for example, where person B safeguards the *qualifying cryptoassets* 'lent' to them or the collateral held, where the collateral is made up of *qualifying cryptoassets* or *relevant specified investment cryptoassets*.

Where the activity is within the scope of the *dealing in qualifying cryptoasset (as principal or agent)* activity or *arranging deals in qualifying cryptoassets* activity, the exclusions applicable to those activities may be relevant. This is also true for the *safeguarding cryptoassets* and *arranging cryptoasset safeguarding* activity, in respect of which certain exclusions may be available.

There may be other models, however, that operate differently and so would have different implications as far as the perimeter is concerned, as they engage additional or other *regulated activities*. A case-by-case assessment is always required.

For example, there may be arrangements that are described as lending and involve forms of margin trading. Those offering such types of arrangement should consider *PERG* 2.6 and *PERG* 13.4 and whether the arrangements could involve another type of *specified investment*, like a *derivative*, and may therefore engage other *regulated activities* for which *permission* may be required.

19.10 Activity: arranging qualifying cryptoasset staking

Q10.1 What does the arranging qualifying cryptoasset staking activity include?

19.10.1 *Arranging qualifying cryptoasset staking* means the use of a *qualifying cryptoasset* in *blockchain validation*. *Blockchain validation* refers to the validation of transactions on a blockchain or a network that uses distributed ledger technology or other similar technology, and includes proof of stake distributed ledger technology consensus mechanisms. The activity specified in article 9Z6 of the *Regulated Activities Order* defines *arranging qualifying cryptoasset staking* as the activity of 'making arrangements on behalf of another person (whether as principal or agent) for qualifying cryptoasset staking'.

Therefore, this is only a *regulated activity* if the arrangement relates to the use of *qualifying cryptoassets* in *blockchain validation*.

In the *FCA's* view, a person 'makes arrangements on behalf of another person' for *arranging qualifying cryptoasset staking* where they perform an intermediation role enabling *qualifying cryptoassets* to be staked. Arranging is a broad activity. However, the involvement must go beyond merely introducing a person to an *authorised person* or enabling one party to communicate with others (both introducing and enabling communication are excluded).

Arranging qualifying cryptoasset staking can include a range of different models where one person arranges *qualifying cryptoasset staking* for another. This can include models such as 'pooled custodial staking' where a client transfers control of their *qualifying cryptoassets* to a staking provider who pools staked assets together from multiple clients to be used in *blockchain validation*. It can also include arrangements where a person provides services such as an interface to stake *qualifying cryptoassets*. This is subject to exclusions (see *PERG* 19.10.2, *PERG* 19.10.4 and *PERG* 19.10.5).

Examples of making arrangements in relation to staking that may fall within scope of the *arranging qualifying cryptoasset staking* activity include:

(1) managing the end-to-end staking lifecycle – where a *person* oversees or enables a process through which *qualifying cryptoassets* are staked, rewards are generated, and rewards are distributed or reinvested;

(2) pooling of assets for staking – where a person aggregates, or organises the aggregation of, *qualifying cryptoassets* from multiple customers to facilitate participation in staking activities (eg, pooling assets to meet validator thresholds); and

(3) distribution of staking rewards – where a person is responsible for allocating and delivering staking rewards to the customer, whether periodically or upon completion of the staking period.

Although these are examples of arrangements that would likely be in scope, they are not necessarily indicative of all types of arrangements that would constitute *arranging qualifying cryptoasset staking*. The activity is a broad one and can encompass many different *qualifying cryptoasset staking* models. Reference to the specific features of the arrangements in question on a case-by-case basis is therefore necessary to determine whether the activity is in scope.

Q10.2 Is the operation of a staking validator node captured in the arranging qualifying cryptoasset staking activity?

19.10.2 Article 9Z9 provides an exclusion to the *arranging qualifying cryptoasset staking* activity, such that a technical service provided by a person (P) will not constitute the *regulated activity* of *arranging qualifying cryptoasset staking*, provided:

(1) the service allows another person to participate in *arranging qualifying cryptoasset staking* including by operation of a validator node for that staking; and

(2) P does not hold itself out as offering to *arrange qualifying cryptoasset staking* to the public.

However, a person performing a technical service, such as operating a validator node, may nevertheless still fall within scope of *arranging qualifying cryptoasset staking* if their service or activities go beyond purely technical services. This could be, for example, by providing a platform that enables other persons to participate in staking which goes beyond what is necessary in order to offer and

perform merely the technical service of operating a validator node in order to validate transactions on the blockchain.

If the provision of the service includes added value, this is unlikely to be excluded as providing a pure technical service. Added value could be in the form of, for example, a dashboard or other interface that provides easy access to staked assets and rewards, the compounding of rewards, identifying and recommending validators based on past performance or fees, and the offer of other additional benefits and services.

A person *arranging qualifying cryptoasset staking* or operating a validator node may also be engaged in other *regulated cryptoasset activities* such as *safeguarding cryptoassets* in respect of the staked *qualifying cryptoassets* or *qualifying cryptoassets* generated as rewards, and so might be within scope of the activity of *safeguarding cryptoassets* or *arranging cryptoasset safeguarding* for which *permission* may be required.

Q10.3 Is offering clients the ability to operate their own validator node for solo staking captured in the staking activity?

19.10.3 In the *FCA's* view, a person (P) solely performing the function of providing clients with the technical means to stake their *qualifying cryptoassets* on a blockchain themselves (eg, by providing the software necessary to do this), without any further involvement or input from person P, would not fall within scope of making an arrangement for *arranging qualifying cryptoasset staking*.

However, as above, if the person went beyond this and also engaged in other activities with respect to *arranging qualifying cryptoasset staking*, such as those mentioned in *ERG* 19.10.2, this may fall within the scope of the *arranging qualifying cryptoasset staking* activity. Further, if the person provided other services, such as safeguarding cryptoassets in respect of the staked *qualifying cryptoassets* or *qualifying cryptoassets* generated as rewards, this may fall within scope of *safeguarding cryptoassets* or *arranging cryptoasset safeguarding* for which *permission* may be required.

Q10.4 Is introducing clients to persons offering to arrange qualifying cryptoasset staking captured in the staking activity?

19.10.4 Article 9Z7 excludes from the *regulated activity* of *arranging qualifying cryptoasset staking* the provision of services solely for the purpose of introducing a person to an *authorised person* with *Part 4A permission* to carry on the *regulated activity* of *arranging qualifying cryptoasset staking*. Therefore, if the persons offering to *arrange qualifying cryptoasset staking* are *authorised persons* and all one does is introduce clients to them, this is not a *regulated activity* that would require authorisation in its own right.

Q10.5 Is enabling parties to communicate with each other captured in the staking activity?

19.10.5 Article 9Z8 provides that a person does not carry on the *regulated activity* of *arranging qualifying cryptoasset staking* merely by providing means by which

one party to an arrangement, or potential arrangement, is able to communicate with other parties. If they do more than merely provide the means of communication, however, this would not be excluded.

Q10.6 Does a person offering liquid staking services require authorisation?

19.10.6 The provision of a liquid staking token for a staked *qualifying cryptoasset* and subsequent exchange for the staked asset is not within the scope of the *arranging qualifying cryptoasset staking* activity. This is more likely to constitute *dealing in qualifying cryptoassets (as principal or agent)* (see *PERG* 19.8.2) The person arranging for a liquid staking token to be issued and/or arranging the exchange of a liquid staking token for the staked *qualifying cryptoasset* may be *arranging deals in qualifying cryptoassets*. (See *PERG* 19.8.3 on arranging activity.)

Where the person also arranges *qualifying cryptoasset staking* as part of their service, whether or not related to the provision of any liquid staking tokens, this would exceed the scope of dealing or arranging activities and likely require an *arranging qualifying cryptoasset staking permission*.

Q10.7 Does a person arranging qualifying cryptoasset staking also require safeguarding permission?

19.10.7 In the course of their business, persons carrying on the activity of *arranging qualifying cryptoasset* staking may also safeguard clients' staked *qualifying cryptoassets* or their *qualifying cryptoassets* earned as rewards through *blockchain validation* (or arrange for another person to do this). As such, they may also require *permission* for *safeguarding cryptoassets* or *arranging cryptoasset safeguarding* (see *PERG* 19.10.2 and *PERG* 19.10.3).

Q10.8 Does a person offering a return generated through the use of qualifying cryptoassets without engaging in blockchain validation require authorisation?

19.10.8 A person would only be carrying on the *regulated activity* of *arranging qualifying cryptoasset staking* if their arrangements relates to the use of a *qualifying cryptoasset* in *blockchain validation* or a network that uses distributed ledger technology or other similar technology. In the *FCA's* view, a service which generates returns through the use of *qualifying cryptoassets*, but does not involve *blockchain validation*, would not fall within scope of the *arranging qualifying cryptoasset staking* activity, though it may constitute one or more other *regulated cryptoasset activities*.

19.11 Exclusions

Q11.1 What is the effect of exclusions for regulated cryptoasset activities?

19.11.1 Where an exclusion applies, an activity that would otherwise fall within a *regulated cryptoasset activity* is treated as not forming part of that *regulated activity*. It may fall within another *regulated activity*. Whether an exclusion applies will be fact specific.

Not all of the general exclusions set out elsewhere in the *Regulated Activities Order* have been replicated for the *regulated cryptoasset activities*. A person

should therefore not assume that an exclusion which applies to a traditional *regulated activity* will apply in the same way, or at all, to a *regulated cryptoasset activity*. In a number of cases, HM Treasury has instead applied tailored exclusions within the cryptoasset provisions themselves.

More generally, none of these tailored exclusions are subject to article 4(4) of the *Regulated Activities Order*, which limits the scope of various exclusions in the *Regulated Activities Order* when a person is engaged in investment services or activities. For example, unlike the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc), the exclusion in article 9U (article 9T exclusion: absence of holding out etc.) is not limited by the override in article 4(4) of the *Regulated Activities Order*. A person only has to consider the content of article 9U to see whether it is holding itself as buying and selling *qualifying cryptoassets* and not the MiFID overlay arising as a result of article 4(4).

Q11.2 Are any existing Regulated Activities Order general exclusions relevant to the new regulated cryptoasset activities?

19.11.2 Only a limited number of existing general exclusions have been applied to the new *regulated cryptoasset activities*. These exclusions include:

(1) activities carried on by *firms* with a *Part 4A permission* to *manage an AIF* or *manage a UK UCITS* where those activities are in connection with, or for the purposes of managing the *AIF* or *UK UCITS*; and

(2) activities carried on by a person acting as an insolvency practitioner (article 72H).

A person who considers either of these exclusions to be relevant should refer to the statutory provisions themselves, as well as to any applicable *PERG* guidance given on those exclusions (notably *PERG* 2.9.22G and *PERG* 2.9.25G to *PERG* 2.9.27G, respectively).

See *PERG* 19.6.12 in respect of persons acting as depositaries of *UK UCITS* or *AIFs*.

Q11.3 Are there any new general exclusions relevant to the new regulated cryptoasset activities?

19.11.3 The following 2 exclusions apply to all *regulated cryptoasset activities*:

(1) activities carried on for the sale of goods or supply of services (Article 9Z10); and

(2) activities incidental to the carrying on of a profession or business (Article 9Z11).

These exclusions are relevant for all the *regulated cryptoasset activities*.

Q11.4 When does the exclusion for the sale of goods and services (article 9Z10) apply?

19.11.4 Article 9Z10 provides a general exclusion for certain activities carried on for the purpose of, and, where applicable, in connection with, the sale of goods or supply of services.

Broadly speaking, the exclusions focus on cases where the main business of a person is to sell goods or supply services, but where certain activities may have to be carried on for the purposes of that business which would otherwise be regulated activities.

This exclusion is structured in a way that makes it important to consider which limb (Article 9Z10(1) or Article 9Z10(3)) applies on the facts:

(1) Article 9Z10(1)) (the 'supplier to customer' limb) excludes an activity carried on for the purpose of the sale of goods or supply of services by a supplier to a customer. This exclusion does not apply to the *safeguarding cryptoassets* activity or the *arranging cryptoasset safeguarding* activity to the extent that it applies to *relevant specified investment cryptoassets*.

(2) Article 9Z10(3) (the 'related sale or supply' limb) is distinct from, and narrower than, the supplier to customer exclusion. It excludes activity carried on for the purpose of a related sale of goods or supply of services, but only for the activities of *dealing in qualifying cryptoassets as principal*, *dealing in qualifying cryptoassets as agent* and *arranging deals in qualifying cryptoassets*.

A 'related sale of goods or supply of services' is a sale of goods or supply of services to the customer otherwise than by the supplier, but for the same purpose as the supplier's own sale or supply described in article 9Z10(1). This may be, for example, where a transaction for goods and services is made indirectly through an agent. A practical example of this is given at *PERG* 19.11.5.

Q11.5 We are a non-financial services firm supplying goods and services both directly and through a network of agents to our retail customers and accept settlement for our goods and services in the form of qualifying cryptoassets. We do not hold the qualifying cryptoassets of our customers and only receive these upon settlement of the customer transaction. Do we require FCA authorisation?

19.11.5 No, though you may be undertaking a *regulated cryptoasset activity* by accepting settlement in *qualifying cryptoasset* you can rely on the exclusion in article 9Z10 (Activities carried on for the sale of goods or supply of services), provided that your main business is to sell goods or supply services to your customers. Various factors are likely to be relevant for the purposes of determining your main business, including turnover, profit, capital employed, numbers of employees and time spent by your employees. The network of agents used to supply goods and services may benefit from this exclusion as well via the related sale or supply.

Supplying services for the purposes of this exclusion does not include *regulated cryptoasset activities*.

Q11.6 Activities incidental to the carrying on of a profession or business (Article 9Z11)

19.11.6 Article 9Z11 excludes activities that are carried out by a person on an incidental basis in the course of that person's profession or business that does not otherwise consist of regulated activities, and where the profession or business is supervised and regulated by a designated professional body listed in article 2 of the Financial Services and Markets Act 2000 (Designated Professional Bodies) Order 2001.

Article 9Z11(2) sets out factors relevant to whether an activity is carried on in an incidental manner. These include:

(1) a close factual connection between the carrying on of the professional activity and the incidental activity to the same client, such that the incidental activity may reasonably be regarded as a necessary ancillary to the professional activity;

(2) that the incidental activity does not provide a systematic source of income to the person providing the professional activity; and

(3) that the person does not market or otherwise promote their ability to provide the incidental activity, except to the extent that it is disclosed to clients as a necessary ancillary to the carrying on of the profession or business.

In the *FCA's* view, the criteria set out in *PROF* 2.1.14G in relation to section 327(4) of the *Act* are also relevant when considering whether a person can rely on this exclusion. However, there are certain *regulated cryptoasset activities* that do not fall within the exemption of the *Act* from the *general prohibition* under section 327. These are: *issuing qualifying stablecoin*, *dealing in qualifying cryptoassets as principal* and *arranging qualifying cryptoasset staking*. See *PERG* 2.10.12G to *PERG* 2.10.16G for.

19.12 Interaction with the Money Laundering Regulations

Q12.1 Does the definition of 'cryptoassets' in the Money Laundering Regulations capture the same types of assets as the Act and the Regulated Activities Order?

19.12.1
1 The *Money Laundering Regulations* and the *Act* regimes will continue to operate concurrently as the regimes do already. A person undertaking an activity involving '*cryptoassets*' will need to determine whether those activities fall within the scope of one or both of the *Money Laundering Regulations*, and the *Act* and the *Regulated Activities Order*.

Under the *Money Laundering Regulations*, 'cryptoassets' are defined as a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically. In practice, this may be expected to capture a range of *cryptoassets*, including exchange tokens, stablecoin tokenised e-money, non-fungible tokens (NFTs), limited network tokens (LNTs – ie, cryptoassets that can

only be redeemed with the issuer or used to acquire goods or services within a limited network), and some distributed ledger technology (DLT) records.

Q12.2 If I am exchanging limited network tokens, do l need to register under the Money Laundering Regulations if this type of asset is not a 'qualifying cryptoasset' under the Regulated Activities Order?

19.12.2 Limited network tokens are excluded from the definition of '*qualifying cryptoasset*' (see *PERG* 19.4) and, as a result, activities carried on in relation to these tokens would not constitute one of the new *regulated cryptoasset activities*, meaning *permission* under Part 4A of the *Act* would not be needed. However, *Money Laundering Regulations* registration may be required, because the regimes are not identical in scope even if they both broadly relate to cryptoassets.

A person will need to assess the registration requirements under the *Money Laundering Regulations* separately from the requirements for authorisation under the *Act* and the *Regulated Activities Order*.

Q12.3 Will cryptoasset firms still need to comply with the Money Laundering Regulations if they are authorised under the Act?

19.12.3 Yes. Similar to many other *authorised persons* under Part 4A of the *Act* and firms registered under the *Money Laundering Regulations*, an *authorised cryptoasset firm* or *specified investment cryptoasset firm* (as defined in the *Money Laundering Regulations*) will need to comply with the *Money Laundering Regulations* where that *authorised cryptoasset firm* or *specified investment cryptoasset firm* will act or will continue to act as a *cryptoasset exchange provider* or *custodian wallet provider* under the *Money Laundering Regulations*.

Q12.4 If I am currently registered as a cryptoasset exchange provider under the Money Laundering Regulations, what permissions under the Act will I need?

19.12.4 Each registered *cryptoasset exchange provider* will need to assess their current and proposed operating models against the requirements for authorisation under the *Act* and the *Regulated Activities Order*.

The types of activities that may be relevant for a *cryptoasset exchange provider* include, but are not limited to: *operating a qualifying CATP*, *dealing in qualifying cryptoassets as principal*, *dealing in qualifying cryptoassets as agent*, *arranging deals in qualifying cryptoassets*, *arranging qualifying cryptoasset staking* or *issuing qualifying stablecoin*.

Q12.5 If I am currently registered as a custodian wallet provider under the Money Laundering Regulations, what permissions under the Act will I need?

19.12.5 Each registered *custodian wallet provider* will need to assess their current and proposed operating models against the requirements for authorisation under the *Act* and the *Regulated Activities Order*. The type of activity that may be relevant for *custodian wallet providers* is *safeguarding cryptoassets*.

Q12.6 If I am authorised for regulated cryptoasset activities under the Act do I also need to register under the Money Laundering Regulations?

19.12.6 Where an *authorised cryptoasset firm* or *specified investment cryptoasset firm* will also act as a *cryptoasset exchange provider* and/or *custodian wallet provider* under the *Money Laundering Regulations*, that person will not need to separately undertake registration with the *Money Laundering Regulations*. However, they must notify the *FCA* that they intend, or have begun, to act as a *cryptoasset exchange provider* or *custodian wallet provider* either before or within 28 days of doing so. *Cryptoasset exchange providers* and *custodian wallet providers* that are exempt from separate registration under the *Money Laundering Regulations* must comply with the remaining provisions in the *Money Laundering Regulations*.

Q12.7 If I am not authorised for regulated cryptoasset activities under the Act but will act as a cryptoasset exchange provider or custodian wallet provider, do I need to register under the Money Laundering Regulations?

19.12.7 *Cryptoasset exchange providers* and *custodian wallet providers* that are not *authorised cryptoasset firms* or *specified investment cryptoasset firms* are required to be registered with the *FCA* under the *Money Laundering Regulations*.

Q12.8 If I am a person authorised to carry on one or more regulated cryptoasset activity or a person authorised to carry on regulated activity (other than a regulated cryptoasset activity) and I carry on activity under that permission in relation to specified investment cryptoassets but will cease to act as a cryptoasset exchange provider or custodian wallet provider, what do I do?

19.12.8 Where an *authorised cryptoasset firm* or *specified investment cryptoasset firm* ceases to act as a *cryptoasset exchange provider* or a *custodian wallet provider* it must inform the *FCA* within 28 days beginning with the day of ceasing to act as such.

Q12.9 If I benefit from an exclusion in the Regulated Activities Order, how does that affect my position under the Money Laundering Regulations?

19.12.9 There are various exclusions from the new *regulated cryptoasset activities* in the *Regulated Activities Order*. These include the exclusions that apply to each of the new *regulated cryptoasset activities* (such as article 9Z (arrangements not causing a deal) and article 9Z1 (introducing)), as well as the exclusions at article 72AA (Manager of UK UCITS and AIFs) and article 42A (Depositaries of UK UCITs and AIFs). The *Money Laundering Regulations* do not include equivalent exclusions from the *cryptoasset exchange provider* and *custodian wallet provider* activities. A person who benefits from an exclusion under the *Regulated Activities Order* will need to separately consider whether they are required to apply to the *FCA* for registration under the *Money Laundering Regulations* as a *cryptoasset exchange provider* or *custodian wallet provider*.

Q12.10 If I am conducting regulated cryptoasset activities from overseas, but serve UK customers, do I need to follow the Money Laundering Regulations obligations, and will I be within scope of the Act?

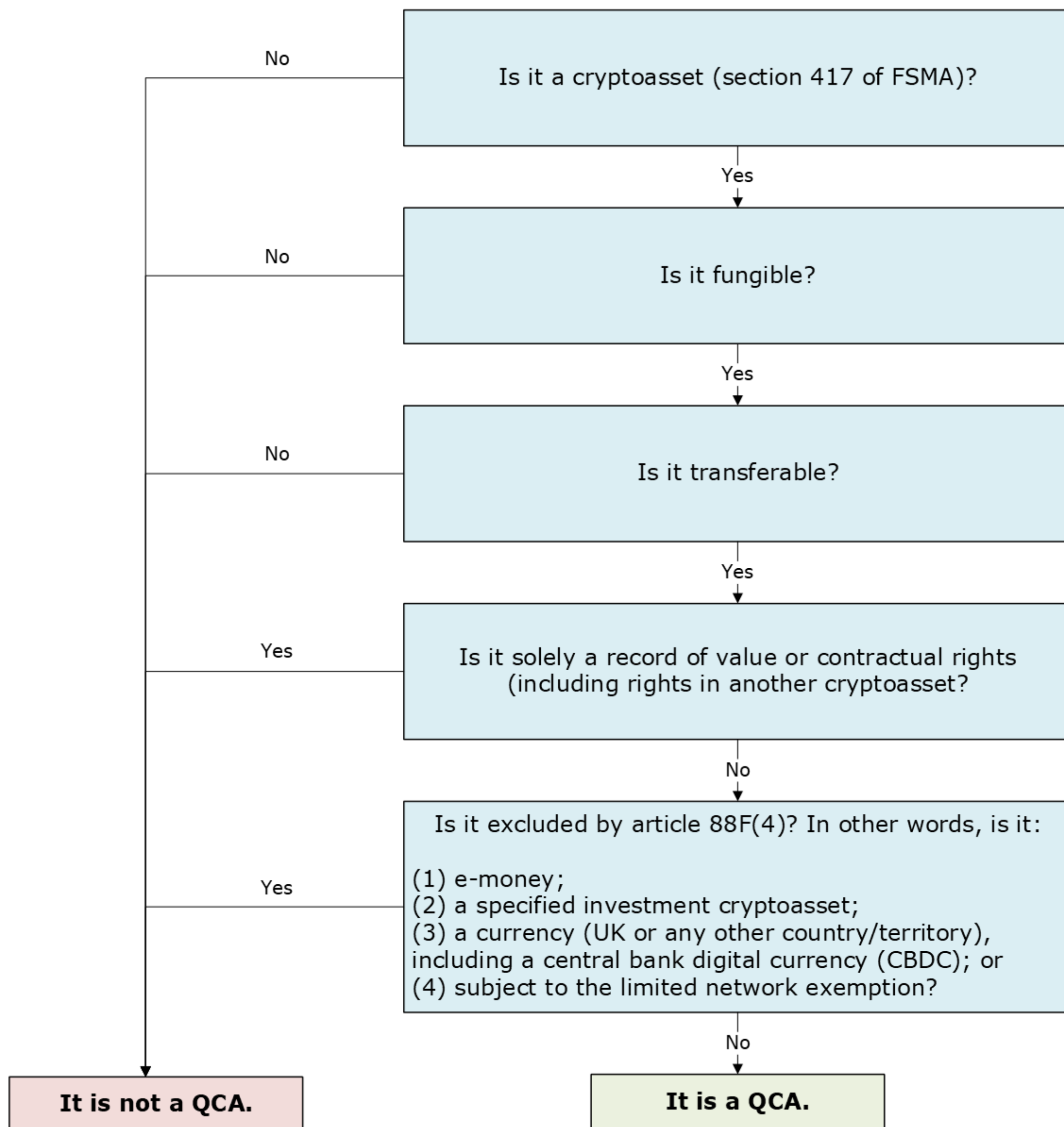
19.12.10 The geographic scope of the *Money Laundering Regulations* and the *Act*, the *Regulated Activities Order* and the *Financial Promotions Order* regimes are different and therefore could potentially capture different natural and legal persons when conducting the activities under the respective pieces of legislation. The *Money Laundering Regulations* apply to *cryptoasset exchange providers* and *custodian wallet providers* who are based in the *UK* and to firms where the firm's registered office (or head office) is in the *UK* and the day-to-day management is taking place from that registered office, head office or another establishment maintained by the firm in the *UK*. In contrast, the broader geographic perimeter for regulation under the *Act* focuses on persons who are, or who are deemed to be, 'carrying on activities by way of business' in the *UK*. Therefore, the geographic scope of the perimeter under the *Act* is different from that under the *Money Laundering Regulations* and will need to be considered in each case.

Q12.11 Is the meaning of 'by way of business' in the Money Laundering Regulations the same as the 'by way of business' test for the new regulated activities?

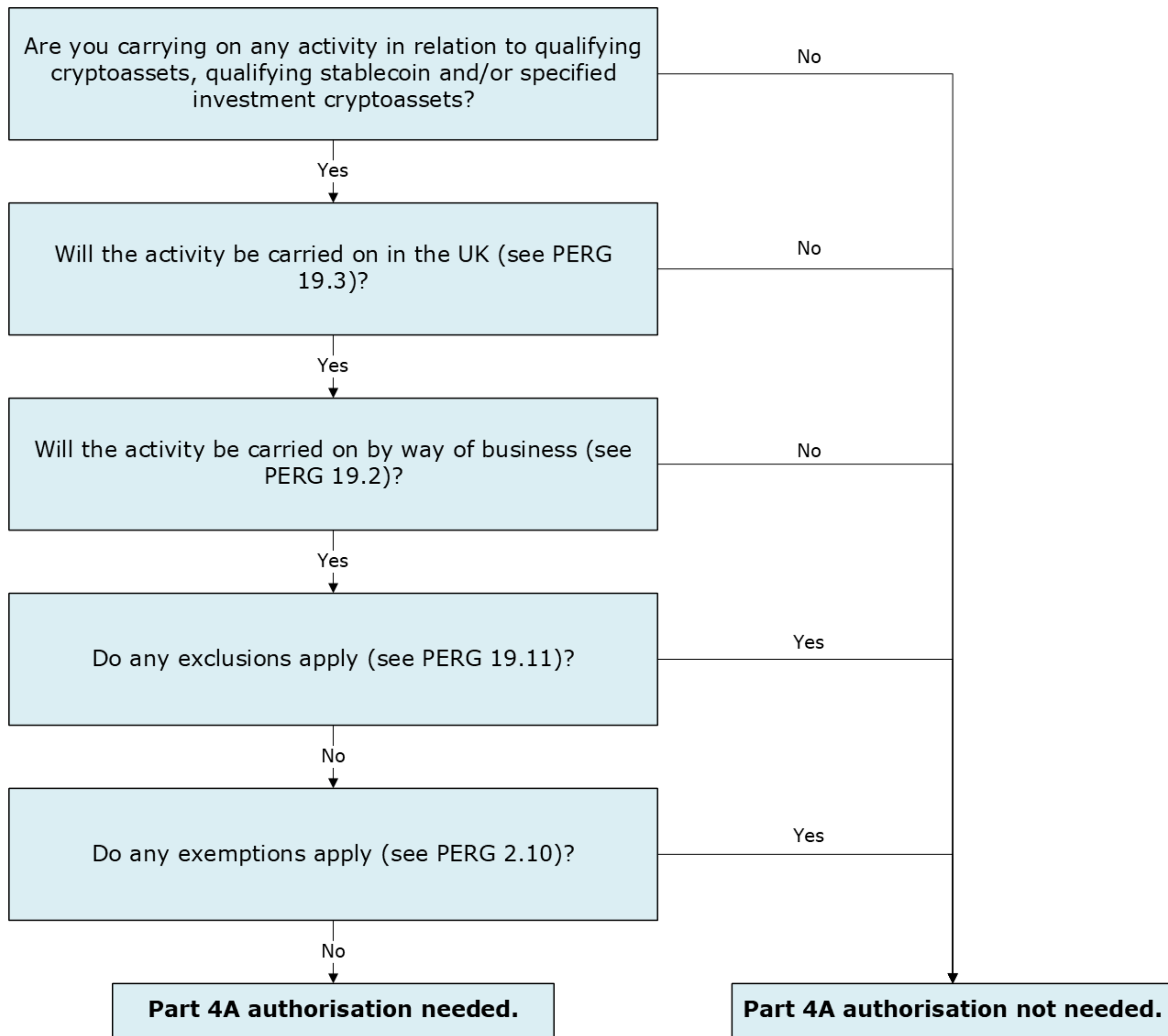
19.12.11 As explained at *PERG* 19.2, the *Cryptoassets Regulations* apply a narrower concept of what 'by way of business' means for the new *regulated cryptoasset activities* than the business test that would otherwise apply under the *Act*. Persons who are not acting by way of business for the purpose of the new *regulated cryptoasset activities* will need to separately consider whether they are acting by way of business for the purposes of regulation 14A of the *Money Laundering Regulations*. Persons will also need to consider whether they are 'acting in the course of business' and 'carrying on business' for the purposes of regulations 8 and 9 of the *Money Laundering Regulations*.

19 Annex 1 **Is it a qualifying cryptoasset (QCA)?**

19 Annex 1.1 This diagram provides a high-level overview of the factors that are relevant in assessing whether a cryptoasset is a qualifying cryptoasset for the purposes of the regulatory perimeter.



19 Annex 2	**Do I need to be authorised under FSMA for activities relating to cryptoassets?**
19 Annex 2.1	This diagram summarises the key questions that may be relevant when considering whether a person needs to be authorised under the *Act* to carry on activities relating to cryptoassets.


Are you carrying on any activity in relation to qualifying cryptoassets, qualifying stablecoin and/or specified investment cryptoassets?
No
Yes
Will the activity be carried on in the UK (see PERG 19.3)?
No
Yes
Will the activity be carried on by way of business (see PERG 19.2)?
No
Yes
Do any exclusions apply (see PERG 19.11)?
Yes
No
Do any exemptions apply (see PERG 2.10)?
Yes
No
Part 4A authorisation needed.
Part 4A authorisation not needed.

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