3 June 2026

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

Submitted by e-mail to: cp26-13@fca.org.uk

Dear Cryptoasset Policy Team,

**RE: *Consultation Paper CP26/13 – Cryptoasset Perimeter Guidance***

CFA Institute[1] and CFA Society of the United Kingdom (CFA UK)[2] welcome the opportunity to respond to the Financial Conduct Authority's Consultation Paper CP26/13, *Cryptoasset Perimeter Guidance*.

Overall, we support the direction of CP26/13, and appreciate the FCA's objective of providing clearer, technology-neutral perimeter guidance for cryptoasset activities in or from the United Kingdom (the UK), as clear regulatory scope and boundary guidance are essential for market integrity, investor protection and UK competitiveness.

Our comments are guided by a few key principles, and we further recommend that the FCA also sets out its own principles. This will help firms to navigate regulation and also allow the regulation and FCA guidance to adapt to new and different types of instruments and operating models in future.

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[1] With offices in Charlottesville, VA; New York; Washington, DC; Hong Kong SAR; Mumbai; Beijing; Abu Dhabi; and London, CFA Institute is a global, not-for-profit professional association of more than 190,000 members, as well as 160 member societies around the world. Members include investment analysts, advisers, portfolio managers, and other investment professionals. CFA Institute administers the Chartered Financial Analyst® (CFA®) Program. For more information, visit www.cfainstitute.org or follow us on LinkedIn and X.

[2] Founded in 1955, CFA UK is one of the largest member societies of CFA Institute, which serves nearly 12,000 members of the UK investment profession. Many of our members analyse securities, manage investment portfolios, advise on investments, or are in roles responsible for investment operations or oversight. Most of our members have earned the Chartered Financial Analyst® (CFA®) designation. All our members are required to attest to adhere to CFA Institute's Code of Ethics and Standards of Professional Conduct. For more information, visit www.cfauk.org or follow us on Twitter @cfauk and on LinkedIn.com/company/cfa-uk/

1) We support the principle of "same activity, same risk, same regulatory outcome". The International Organization of Securities Commissions (IOSCO) and Financial Stability Board (FSB) policy recommendations for crypto and digital asset markets call for regulatory outcomes that are the same as, or consistent with, those required in traditional financial markets, and specifically address vertically integrated cryptoasset service providers, custody and client-asset protection, cross-border risks and retail distribution.

2) Substance over form: We expect this to be a key principle in guiding applicants and the FCA's own assessment. We welcome the FCA's emphasis that cryptoasset labels and business-model descriptions should not be determinative, and that the substance of the activity and the role performed by the relevant person should drive the perimeter analysis. This will also help firms understand their role in decentralised chains and may also provide some flexibility to associated activities for example pure technology provision.

3) Validating a UK presence: We support an approach that focuses on substantive UK nexus of an activity, including the involvement of UK consumers, the presence of identifiable persons carrying on regulated activities in or into the UK, rather than relying solely on legal structure or location of technological infrastructure.

4) The recognition that cryptoassets introduce a new level of complexity in the determination of effective control or legal ownership over digital assets and/or the underlying real-world assets. Regulated firms will be expected to exercise their fiduciary duty with care in order to protect the interests of investors who may not grasp the subtleties of digital contracts. This is important for example in the case of custody where the ability to initiate, direct, or prevent transfers may be a better indicator of responsibility than legal title alone.

5) The final guidance should acknowledge that novel instruments and operating models may not fit neatly within existing categories such as qualifying cryptoassets, qualifying stablecoins, or specified investment cryptoassets. Thus, further clarification on how firms should approach perimeter assessments where innovative products fall close, but potentially outside, these definitions, in order to minimize uncertainty and reduce the risk of unintended regulatory gaps.

The proposed guidance is important because firms will rely on it to determine authorisation strategy, cross-border access, and consumer outcomes. Our recommendations are therefore intended to improve the clarity, reduce risks of regulatory arbitrage, and prevent investor misunderstanding – without seeking to expand the statutory perimeter through PERG.

## *Relevant Publications and Comment Letters*

CFA Institute has taken a keen interest in the development of digital finance and its policy implications. Our organization has released several pieces of research and comment letters related to this new field affecting capital markets, since 2021. We have consistently advocated for regulatory clarification and harmonisation.

Most recently, we have released a two-part research series on the development of tokenisation, including a review of policy implications, which delves into several of the issues referred to in CP26/13.

- *An Investment Perspective on Tokenization — Part I: A Primer on the Use of Distributed Ledger Technology (DLT) to Tokenize Real-World and Financial Assets*. January 2025.

- *An Investment Perspective on Tokenization — Part II: Policy and Regulatory Implications*. May 2025.

Here are links to the responses we provided to several previous consultations on the subject of digital finance released by the FCA:

- [Comment letter] *Response to FCA - DP25.1 — Regulating Cryptoasset Activities*. June 2025.

- [Comment letter] *Response to FCA – CP25/25 — Application of the FCA Handbook for Regulated Cryptoasset Activities Discussion Paper*. *and* *Response to FCA – CP25/25 — Application of the FCA Handbook for Regulated Cryptoasset Activities Ch. 1-5*. November 2025.

- [Comment letter] *Response to FCA – CP25/28 — Progressing Fund Tokenisation Part I*. *and* *Response to FCA – CP25/28 — Progressing Fund Tokenisation Part II.* December 2025.

- [Comment letter] *Response to FCA – CP25/40 — Regulating Cryptoasset Activities.* February 2026.

## *Summary of Key Positions*

### Questions 1 and 2 – Introduction and new specified investments.

We support the FCA's framework for assessing authorisation requirements. We also support the functional approach, particularly where tokenised or digitally native instruments confer rights equivalent to specified investments. Tokenisation should not result in a regulatory downgrade, and assets marketed as "stable" may still raise consumer-protection or financial-promotion risks even where they fall outside the qualifying stablecoin definition.

### Question 3 – New regulated cryptoasset activities

We broadly support the proposed activity-based guidance. We recommend further examples on assisted self-custody, powers of attorney, and would specifically call out investment-management-style mandates where a client may believe they are receiving discretionary portfolio management, but the firm's permissions relate to dealing, arranging, safeguarding or staking – in our interpretation the latter may not fall with the scope of the new perimeter (as managing investments is not included for 'qualifying crypto assets' and 'qualifying stablecoins') nor within the existing perimeter (if the investment management activity only relates to "specified investment cryptoassets")

The guidance should also avoid suggesting that matched principal trading by a qualifying cryptoasset trading platform (QCATP) operator is a routine permission-stacking matter, given the conflicts associated with combining platform operation and principal dealing.

The lending and borrowing section can be strengthened by including examples covering retail "earn" products, rehypothecation, platform-guaranteed yield, and cases where there is effectively legal title transfers arrangements where customers may continue to perceive ownership of their assets despite the transfer of ownership to the platform.

### Question 4 – Exclusions

We support the FCA's position that exclusions are activity-specific and may not remove all regulatory obligations. Custody and settlement exclusions (including title transfer, repo-style or temporary settlement structures) should not be used to weaken client-asset protection. Firms relying on such exclusions should be expected to evidence of investor protection.

### Questions 5 and 6 – MLR interaction, PERG 1, PERG 2 and PERG 8

MLR registration is not equivalent to Financial Services and Markets Act 2000 (FSMA)authorisation. We recommend further examples showing where FSMA, Money Laundering Registration (MLR) and Financial Promotion Order (FPO) analysis may diverge, particularly in cross-border and group structures. These regimes are related but firms should not assume that being within or outside one regime determines the analysis under the others.

## *Detailed Response*

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

We broadly agree with the proposed Introduction section.

We support the FCA's proposed route-map (paras 2.15–2.18; draft PERG 19.1.7) for determining whether a person requires authorisation. This approach is consistent with the statutory framework under FSMA, and appropriately reflects the assessment of "regulated cryptoasset activities'' under Cryptoassets Regulations, on which we previously commented in response to CP25/40.

We also support the FCA's substance-over-form approach. Draft PERG 19.1.8 appropriately focuses on what a person does in substance, and the rights and obligations created accordingly. In other words, contractual or technical labelling are not determinative.

We recognise the FCA's position in Annex 2 that a cost-and-benefit analysis is not required for general guidance. Nevertheless, given the significant regulatory risk arising from perimeter misclassification, we recommend that the FCA continue to provide non-exhaustive indicators and practical examples in the activity-specific sections to support high-quality authorisation applications.

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

We broadly agree with the proposed guidance on the new specified investments in draft PREG 19.4.

We support that in draft PERG 19.4.6 and 19.4.7, digitally native instruments that confer rights equivalent to specified investments should remain subject to the existing specified investment framework. This is consistent with IOSCO's principle and CFA Institute's long-standard principle that cryptoasset regulation should focus on economic substance. We therefore support the FCA's "functional approach'' aimed to avoid a lower-standard regime for economically equivalent securities recorded or transferred using distributed ledger technology.

To strengthen the guidance, we recommend further clarification on algorithmic or unbacked assets marketed as "stable" or "cash-like". We understand that qualifying stablecoins are defined by reference to a single fiat currency and backing assets, and that algorithmic or unbacked arrangements do not fall within that definition. However, their exclusion from the qualifying-stablecoin category may still create consumer-protection risk and financial-

promotion risks where such assets are marketed as stable or cash-like. We therefore recommend that the final guidance make this distinction explicit.

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

We broadly agree with the proposed guidance on new regulated cryptoasset activities.

We support activity-based approach (para 2.27–2.28). We also appreciate FCA's decision to address cryptoasset lending and borrowing in the guidance, even though they are not standalone regulated activities, because such arrangements may in substance involve dealing, arranging, safeguarding, title transfer, collateral use or other regulated activities.

Our comments focus on safeguarding, operating a QCATP, dealing and arranging, and cryptoasset lending and borrowing.

*Safeguarding and arranging safeguarding*

- We support the FCA's proposed guidance on safeguarding in draft PERG 19.6.1 - which applies regardless of whether the cryptoasset is owned by the client or the firm - provided the activity is carried on behalf of another person and the firm has the requisite degree of control. This is a critical investor-protection provision.

- We also agree with draft PERG 19.6.2, which recognises that control may arise through new technological methods and that online versus offline storage is not determinative. This appropriately focuses the analysis on functional control and client risk exposure.

- While we agree that genuine self-custody should fall outside the safeguarding perimeter (PERG 19.6.3), the boundary between self-custody, assisted self-custody and regulated safeguarding is increasingly more complex. Therefore, we recommend further examples addressing situations where firms present arrangements as self-custody, but retain elements of control, including recovery rights, override rights, or operational ability to reconstruct keys. These features should be assessed carefully when determining whether the safeguarding perimeter is engaged.

- We also recommend that PERG 19.6.7 on powers of attorney and investment management mandates be cross-referenced to draft PERG 19.8.7, which states that "managing investments" does not extend to qualifying cryptoassets. Accordingly, a firm may exercise discretion over qualifying cryptoassets without this constituting "managing investments" unless the relevant assets are specified investments. This may

create uncertainty, mismatched client expectations, where a client perceives that they are receiving a discretionary portfolio management service, while the firm's permissions instead relate to dealing, arranging, safeguarding or staking activities. This is particularly relevant where firms manage portfolios with some cryptoassets falling within existing specified investment regime while others are regulated through new cryptoasset activities. In practice, clients may experience these services as a single discretionary portfolio management offering, even where different permissions apply to different elements of the service. We are not suggesting that PERG should expand the statutory perimeter. Rather, the final guidance should help firms and clients understand which permissions are engaged where a service is economically similar to discretionary portfolio management but legally structured through regulated cryptoasset activities. In particular, we recommend examples covering discretionary cryptoasset portfolios, managed accounts, automated rebalancing, and investment managers instructing third-party custodians.

### *Operating a cryptoasset trading platform (CATP)*

- We support the technology-neutral definition of a QCATP in draft PERG 19.7.1 and the focus on whether a system brings together multiple third-party buying and selling interests in a way that results in a contract.
- However, we note the conflict implications of matched principal trading by a QCATP operator. Draft PERG 19.7.1(4)(a) states that CRYPTO 6 permits a firm operating a UK QCATP to execute trades on a matched principal basis on its QCATP, and draft PERG 19.7.2 states that where a QCATP operator engages in matched principal trading to execute client orders on its own platform, it will also require permission to deal in qualifying cryptoassets as principal.

- CFA Institute and CFA UK have previously stated that we do not support permitting principal dealing within the same legal entity as a CATP operator. A CATP controls access, platform rules, order-flow information, and aspects of price formation, while principal dealing gives the operator a direct financial interest in execution outcomes. Our prior response recommended an initial prohibition, with later review once the market abuse regime and supervisory capabilities have matured.

- While we recognise that CP26/13 is focused on perimeter guidance rather than the underlying policy consultation, we encourage the FCA to ensure that the final guidance does not inadvertently suggest that matched principal trading by a QCATP operator is a routine permission-stacking exercise.

- We recommend additional note after draft PERG 19.7.2 - where a firm operating a QCATP also undertakes matched principal trading or other principal activity, the requirement for dealing permission does not remove the need to identify and manage conflicts of interest and, where conduct controls are insufficient, to consider

structural mitigants. Authorisation for principal dealing should not be interpreted as indicating that a conflicted trading-platform model is acceptable in all circumstances.

### *Dealing as principal or agent and arranging deals*

- We support the FCA's notes that dealing and arranging in qualifying cryptoassets largely mirror the existing activities in RAO (Regulated Activities Order) articles, while recognising some crypto-specific exclusions differ (PERG 19.8.1–19.8.21).

- Draft PERG 19.8.7 states that the regulated activity of managing investments does not include qualifying cryptoassets, and that persons whose mandates include trading qualifying cryptoassets for clients should consider whether they need permissions for dealing, arranging, safeguarding or arranging safeguarding. This should be expanded. Similar to our comments above, under "Safeguarding and arranging safeguarding", we recommend further examples under common asset-management models, including discretionary cryptoasset portfolios, and managed accounts, fund managers instructing custodians, brokers or trading venues in relation to qualifying cryptoassets..
- The final guidance should:
    - Make clear that holding a managing investments permission does not itself authorise regulated cryptoasset activities involving qualifying cryptoassets.
    - Help firms and clients understand which permissions are engaged where a service is economically similar to discretionary portfolio management, but legally captured through dealing, arranging, safeguarding or staking permissions.
    - Signpost how firms should avoid misleading clients about the regulatory status and protections attached to such services.

### *Cryptoasset lending and borrowing*

- We welcome the inclusion of draft PERG 19.9.1. It is important that firms and investors understand that the terminology is less important than the legal structure and economic substance of the activity. Products described as lending, borrowing, earn, yield, may in substance involve dealing, arranging, safeguarding, title transfer, collateral use or other regulated activities.

- CFA Institute and CFA UK have previously stated that we do not support retail access to cryptoasset lending and borrowing at this nascent stage. Such arrangements are among the higher-risk retail-facing cryptoasset activities because they may combine title transfer, rehypothecation, collateral volatility, liquidation

risk, counterparty risk, and stress transmission. Disclosure and consent alone do not sufficiently mitigate these risks.

- Therefore, without suggesting that PREG create a standalone lending and borrowing activity, we recommend that draft PERG 19.9.1 include additional retail-facing examples covering rehypothecation of client cryptoassets, platform-guaranteed yield, and arrangements where legal title, control and customer understanding do not align. This could include transactions where legal title transfers to a platform or intermediary but the client continues to perceive the assets as being held on its behalf, as well as arrangements where legal title remains with the client but another party exercise effective control over the cryptoassets or the means of access to them.

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

We broadly agree with the proposed guidance on exclusions.

We support the FCA's statement in para 2.47 and draft PERG 19.11.1 that an exclusion removes an activity only from the relevant regulated cryptoasset activity, that the same conduct may still fall within another regulated activity.

We also support the FCA's warning that firms should not assume that exclusions used in traditional markets apply in the same way to regulated cryptoasset activities. That warning is important because cryptoasset business models frequently combine trading, custody, settlement, and other functions in a single customer journey.

The final guidance should strengthen the treatment of custody and settlement exclusions to reduce the risk that client-asset protection is weakened. Draft PERG 19.6.4 states that where a non-consumer has a right to return of a cryptoasset under a title transfer collateral arrangement or a repurchase transaction, the firm will not be safeguarding cryptoassets, even where it exercises sufficient control. While this may be appropriate in some wholesale contexts, the guidance should recognize that effective control over client assets remains a significant source of risk regardless of the legal ownership structure. The exclusion should therefore not be interpreted as diminishing the importance of transparency, risk disclosure, and clear client understanding where firms retain the practical ability to control, deploy, rehypothecate or otherwise use client assets.

Therefore, without narrowing the statutory exclusion, we recommend that final guidance clarify expectations for firms relying on title transfer or repo-style exclusions. Firms relying on such exclusions should be able to evidence that:

- the client is not a consumer for the relevant statutory purpose;

- the client understands the transfer of title and insolvency consequences;
- return rights, default rights, and collateral mechanics are documented;
- the arrangement is not marketed or described as custody;
- rehypothecation, lending, or collateral use is disclosed.

This clarification would help distinguish genuine wholesale collateral or settlement arrangements from customer-asset arrangements that may be perceived by clients as custody.

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

We broadly agree with the proposed guidance in draft PERG 19.12.

We support the FCA's clarification in para 2.51 that MLR registration is not equivalent to authorisation under FSMA for conduct, custody, redress or disclosure purposes. Firms carrying on regulated cryptoasset activities should still obtain FSMA authorisation, while MLR obligations continue to operate concurrently.

We also support draft PERG 19.12.10, which recognises that MLRs have a different - and in some cross-border cases narrower - territorial scope than FSMA, the RAO and the FPO. The MLRs apply to UK-based cryptoasset exchange and custodian wallet providers, whereas the FSMA perimeter applies more broadly to persons carrying on regulated activities by way of business in the UK.

Given the complexity of overlapping territorial tests, we recommend that the final guidance should address:

- an overseas exchange serving UK consumers without a UK establishment;
- a UK-authorised QCATP accessing global liquidity pools; and
- financial promotions into the UK where the MLR, FSMA, and FPO analyses diverge.

A cross-regime table or "crosswalk" would help firms identify when different UK regimes may apply across cross-border and group structures, articulating the differences across regimes and reducing the risks of inadvertent breaches and misleading client communications.

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

We broadly agree with the proposed consequential amendments.

We recommend that the final guidance to make clear distinction between FSMA authorisation, MLR registration and the FPO. These regimes are related but firms should not assume that being within or outside one regime determines the analysis under the others. This is particularly important for qualifying stablecoins, custody services, lending or yield products, and cross-border communications into the UK.

## *Concluding Remarks*

CFA Institute supports the FCA's intent to establish a clear, coherent and outcomes-focused cryptoasset regulatory framework. CP26/13 perimeter guidance is important to ensure that cryptoasset activities in or from the UK are brought within a relevant and proportionate scope of essential investor protections.

A proportionate regime should support responsible innovation and market development, but it should also preserve the principles that underpin effective capital markets: fair access, neutral market infrastructure, robust custody, clear accountability, conflict management, and transparent disclosure. We would welcome continued engagement with the FCA as it finalises the guidance and implements the broader cryptoasset regime.

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Thank you for your consideration of our views and perspectives. We would welcome the opportunity to meet with you to provide more details. If you have any questions or seek further elaboration of our views, please contact Mr. Olivier Fines, Head of Advocacy and Policy Research at CFA Institute, at olivier.fines@cfainstitute.org.

Sincerely,

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