

UK financial regulation: Update on the UK's proposed regime for cryptoassets

May 9, 2025 | Client Update | 9-minute read

Since 2023, the UK government has been engaging with the cryptoasset industry as part of its efforts to develop a regulatory regime for cryptoasset activities and services. In late April and early May 2025, HM Treasury and the FCA published two key documents setting out the government's draft legislation on the new regime and discussing their regulatory priorities.

Background

In October 2023, His Majesty's Treasury (HM Treasury) published proposals for the establishment of a new regulatory regime for cryptoassets. Following further engagement with industry participants, the government [confirmed](#) in November 2024 that it would largely move forward with HM Treasury's proposals. The [latest publication](#) from HM Treasury includes a draft Statutory Instrument (Draft SI) which, if enacted, would create new regulated activities applicable to certain types of cryptoassets, including fiat-referencing stablecoins. HM Treasury also issued a policy note alongside the Draft SI (the Policy Note).

Separately, the Financial Conduct Authority's (FCA) [latest discussion paper](#) on cryptoasset regulation seeks input on a range of issues, including the FCA's approach towards regulating cryptoasset trading platforms (CATPs) and intermediaries, decentralised finance and staking (the Discussion Paper).

Taken together, the Draft SI and Policy Note provide key insights into the UK government's plans as it moves forward with comprehensive regulation of the cryptoasset industry. The FCA's Discussion Paper offers fewer definitive proposals but nonetheless highlights the regulator's views on the areas where the government is inviting further comment from industry participants before formulating draft rules. The main takeaways from the recently published documents are discussed below.

Overview of the current UK regime and the government's proposals

Section 19 of the Financial Services and Markets Act 2000, as amended (the FSMA) provides that no person may carry on a regulated activity in the UK unless that person is authorised by the FCA or Prudential Regulation Authority or exempt. This is referred to in the FSMA as the "general prohibition".

Section 22 of the FSMA defines a regulated activity as an "activity of a specified kind" which "relates to an investment of a specified kind" or "is carried on in relation to property of any kind". For this purpose, "specified" means specified by the HM Treasury by statutory instrument. The relevant statutory instrument is the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544), as amended (the RAO). The RAO identifies a range of specified activities, including: (i) dealing in investments as principal or as agent; (ii) advising on investments; and (iii) managing investments. Specified investments comprise, among other things, shares, bonds and other debt instruments, government and public securities, options and futures, contracts for differences, and units in a collective investment scheme.

To date, most cryptoassets do not qualify as specified investments under the RAO. The exception is where a cryptoasset has the characteristics of an existing specified investment, such as conferring on the holder voting rights, rights to receive dividends or coupon payments. These are commonly referred to as security tokens. In addition, derivatives with a cryptoasset as the underlying assets will be caught by one of the existing categories of specified investment.

Activities in relation to cryptoassets that are not security tokens or cryptoasset derivatives are not currently subject to the general prohibition, meaning there is no authorisation requirement. Instead, those operating as cryptoasset exchange providers or as custodian wallet providers have been required to register with the FCA under the UK's anti-money laundering regime since January 2020. Promoting certain types of cryptoassets in the UK has been restricted by the UK's financial promotion regime since 2023.

Key takeaways from the Draft SI and Policy Note

The Draft SI proposes several important changes to the current UK regime, including:

- **Definitions:** the Draft SI introduces new definitions of 'qualifying cryptoassets' and 'qualifying stablecoins' as the categories of cryptoassets which will be subject to regulation. There are specific carve-outs from these definitions to ensure they remain distinct from other regulatory regimes (e.g., the rules applicable to electronic money).
 - 'Qualifying cryptoasset' means a cryptoasset that is fungible and transferrable. The definition excludes (i) electronic money; (ii) fiat currency; (iii) central bank digital currency; and (iv) cryptoassets that cannot be transferred or sold in exchange for money or other cryptoassets except by way of redemption with the issuer or that can only be used to acquire goods or services from the issuer or a limited network of service providers.
 - 'Qualifying stablecoin' means a qualifying cryptoasset that references a fiat currency and seeks or purports to maintain a stable value through the issuer holding or arranging for the holding of fiat currency or fiat currency and other assets. The definition excludes a cryptoasset that represents a claim for the repayment of a sum of money received by way of deposit.
- **Classification:** the Draft SI provides that qualifying cryptoassets and qualifying stablecoins are to be designated as specified investments under the RAO. Certain activities in relation to these assets are also designated as regulated activities and will therefore be subject to the general prohibition discussed above. Consequently, persons engaged in these activities will need to be authorised by the FCA.
- **New regulated activities:** the Draft SI introduces the following new regulated activities in relation to qualifying cryptoassets and qualifying stablecoins: (i) issuing qualifying stablecoins in the UK; (ii) safeguarding of qualifying cryptoassets; (iii) operating a CATP; (iv) dealing in qualifying cryptoassets as principal or as agent; (v) arranging deals in qualifying cryptoassets; and (vi) staking qualifying cryptoassets.
- **Legislative alignment:** the Draft SI would amend the Financial Promotion Order 2005 (FPO) to ensure that the definitional changes in the RAO are carried across to the FPO. The Money Laundering Regulations 2017 (MLRs) are also set to be amended by the Draft SI. Notably, the Draft SI repeals the provisions of the MLRs which currently permit FCA-registered cryptoasset firms to approve their own financial promotions. In its Policy Note, HM Treasury explains these provisions were intended to be a temporary measure, and notes that the creation of new regulated activities means that cryptoasset firms that become authorised under the new regime will approve their own financial promotions. This aligns with the approach taken in traditional finance, where firms must be FCA-authorised to approve their own financial promotions.
- **Territorial scope:** the government has previously indicated that cryptoasset firms dealing with UK retail customers will be required to obtain FCA authorisation, regardless of whether they are operating from the UK or overseas. The Draft SI provides language to this effect, although there are certain carve-outs to the authorisation requirement. These exemptions are discussed in more detail below.
- **Stablecoins:** as explained above, the Draft SI introduces a new regulated activity of 'issuing qualifying stablecoins'. Apart from this, the regulatory treatment of qualifying stablecoins is generally similar to qualifying cryptoassets. The Draft SI also provides carve-outs to ensure stablecoins are largely exempt from the regimes applicable to alternative investment funds and collective investment schemes.

Key conclusions from the Discussion Paper

In its Discussion Paper, the FCA highlights the following key areas of cryptoasset regulation where it is interested in receiving views from industry participants:

- **CATPs:** the FCA's approach in this area draws upon its established rules in respect of traditional trading venues. However, the FCA explains that CATPs may be able to serve retail customers directly, which raises a number of regulatory challenges compared to traditional trading venues that only provide access to members that are authorised.
- **Cryptoasset intermediaries:** the FCA indicates that it is basing its approach to the regulation of intermediaries on international frameworks. Its aim is to regulate intermediaries in line with the principle of 'same risk, same regulatory outcome', while bearing in mind the specific features of the wider cryptoasset market.
- **Cryptoasset lending and borrowing:** The FCA is proposing to restrict firms from offering retail customers access to cryptoasset lending and borrowing services, as the FCA does not consider these products to be suitable for retail customers.
- **Use of credit to purchase cryptoassets:** the FCA is considering whether it should implement restrictions on the use of credit as a means for consumers to purchase cryptoassets. However, the regulator is open to considering an exemption for qualifying stablecoins issued by FCA-authorized issuers.
- **Staking:** the FCA highlights its concerns that consumers may not fully understand the blockchain validation process and the underlying technology. It suggests some safeguards in this area, including requirements for firms to obtain a retail customer's explicit consent to certain key terms and conditions before the firm can stake its customers' cryptoassets.

Implications for overseas cryptoasset firms

In the Draft SI, the starting point is that overseas cryptoasset firms dealing directly or indirectly with UK consumers will need to obtain FCA authorisation if they are engaged in the following activities:

- operating a qualifying CATP;
- dealing in qualifying cryptoassets as principal;
- dealing in qualifying cryptoassets as agent; and
- arranging deals in qualifying cryptoassets.

Additionally, firms will be required to obtain FCA authorisation if they are carrying on the following activities in the UK or on behalf of UK consumers:

- safeguarding qualifying cryptoassets and relevant specified investment cryptoassets; and
- qualifying cryptoasset staking.

The government has previously stated it does not intend to extend the overseas persons exemption to cryptoasset services. It is therefore unlikely that unauthorised overseas firms will be able to accept reverse solicitation approaches from UK retail customers.

However, the Draft SI proposes the following exemptions to these authorisation requirements, with the general aim being to avoid situations where an 'ever-growing chain of firms' need to obtain FCA authorisation:

- **Dealing through an intermediary:** if an overseas cryptoasset firm is dealing with UK retail consumers through a firm that is authorised to deal in qualifying cryptoassets as a principal or as a CATP, the overseas cryptoasset firm will not be required to obtain FCA authorisation.
- **Dealing with UK institutional customers:** overseas cryptoasset firms providing the above services only to UK institutional customers are not required to be authorised, provided the UK institutional customers are not intermediating between the overseas cryptoasset firm and UK retail consumers.
- **Safeguarding:** overseas firms involved in safeguarding cryptoassets at the direction of a firm which is authorised to carry on safeguarding activities are not required to obtain FCA authorisation for this activity.
- **Stablecoins:** issuers of 'qualifying stablecoins' are only required to be FCA authorised if they are carrying on the activity of issuing a qualifying stablecoin from a UK establishment.

Other topics of consideration

At this stage, the Draft SI does not currently include specific provisions relating to decentralised finance. HM Treasury suggests that there will not be an authorisation requirement where specified activities are undertaken on a 'truly

decentralised basis' and no one person is undertaking the activity in the course of business. However, the FCA will have the discretion to determine if there is a 'sufficiently controlling party' which then needs to become authorised. We would expect the FCA to provide further guidance on this subject in the coming months.

Further draft regulations will also be proposed in due course to address topics relating to market abuse, disclosure and admissions to trading.

Next steps

The proposals from HM Treasury are at a near-final stage, and it is expected that any changes at this point will be relatively limited. Industry participants can provide technical comments on the Draft SI until 23 May 2025. Cryptoasset firms will benefit from a transition period prior to the new regime coming into force, during which firms should obtain the permissions they may require to continue their UK operations.

The FCA's deadline for comments on its Discussion Paper is 13 June 2025. A detailed consultation process will take place if the FCA plans to adopt any of the measures mentioned in the Discussion Paper in its final rules. Firms should ensure they are monitoring regulatory developments in the UK, as it is likely that the significant changes summarised above will be phased in during 2025 and 2026.

Resources
Crypto Regulation Hub

Visit our Crypto Regulation Hub for links to congressional proposals related to the regulation of crypto assets and other helpful materials.

[Explore our crypto resources](#)

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Mark Chalmers

+44 20 7418 1324
mark.chalmers@davispolk.com

William Tong

+44 20 7418 1089
william.tong@davispolk.com

Gabriel D. Rosenberg

+1 212 450 4537
gabriel.rosenberg@davispolk.com

Zachary J. Zweihorn

+1 202 962 7136
zachary.zweihorn@davispolk.com

Martin Rogers

+852 2533 3307
martin.rogers@davispolk.com

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.