3 June 2026.

SUBMITTED VIA EMAIL

To whom it may concern,

Re: FCA Consultation Paper 26/13 on Cryptoasset perimeter guidance

About Global Digital Finance (GDF)

GDF is the leading global members association advocating and accelerating the adoption of best practices for crypto and digital assets. GDF's mission is to promote and facilitate greater adoption of market standards for digital assets through the development of best practices and governance standards by convening industry, policymakers, and regulators.

The input to this response has been curated through a series of member discussions, industry engagement, and previous engagement with the EU authorities over the years and GDF is grateful to its members who have taken part.

As always, GDF remains at your disposal for any further questions or clarifications you may have, and we would welcome a meeting with you to further discuss these matters in more detail with our members.

Yours faithfully,

Lawrence Wintermeyer
Chair, Global Digital Finance

Response to the Public Consultations: Executive Summary

Global Digital Finance ("**GDF**") welcomes the FCA's continued engagement with industry on the design of the new UK cryptoasset regulatory regime and is grateful for the opportunity to respond to the FCA's consultation on its draft perimeter guidance ("**PERG**") in CP 26/13. Notwithstanding that engagement, GDF has material concerns with the proposed perimeter arranging deals in cryptoassets, and in particular, arranging with a view to, as set out in PERG 19.8. These concerns similarly apply to the proposed perimeter of arranging cryptoasset staking as set out in PERG 19.10.

The Financial Services and Markets Act 2000 ("**FSMA**"), the Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026 (the "**Crypto Regulations**") (and the accompanying Explanatory Memorandum), as well as the FSMA 2000 (Regulated Activities and Miscellaneous Provisions) (Cryptoassets) Order 2025 (the "**Draft SI**") (and the accompanying Policy Note), do not define "arranging" or articulate its intended scope. The perimeter of the new specified activity will therefore be materially determined by the FCA's PERG Guidance.

GDF's response is centred on the following three overlapping concerns, and which are further developed in the response to Question 3.

a) The FCA's discretion to provide bespoke guidance: GDF respectfully submits that the FCA is not bound to align the perimeter of Article 9Y with the existing perimeter of Article 25, and has both the power and the discretion to issue tailored perimeter guidance reflecting the specific characteristics of cryptoasset markets. The legislative, and market-structural/operational basis for that submission, together with the precedent set by the HM Treasury-approved Joint Money Laundering Steering Group ("JMLSG") Guidance, are set out at Question 3. In addition, GDF submits that the FCA is not bound by the scope of cryptoasset arranging as set out in the FSMA 2000 (Cryptoassets) Regulations 2026 ("Crypto Regulations") (as the statutory instrument does not define the scope of arranging and this is left predominantly to FCA guidance).
b) Idiosyncrasies of the cryptoasset market: PERG, as currently drafted, does not, in GDF's view, give sufficient weight to the structural differences between cryptoasset and traditional financial services ("TradFi") markets, and risks mapping a body of intermediary-focused guidance and case law onto a market in which the relevant intermediary functions are simply not performed.
c) Inconsistency with existing TradFi perimeter guidance: if the FCA considers that it is bound by existing guidance on Article 25 arranging, PERG 19.8 (and which PERG 19.10 borrows concepts from) does not achieve this. The draft PERG guidance is inconsistent in a number of respects with the FCA's own existing PERG guidance on Article 25. In particular:

i) it does not, in respect of arranging with a view to under Article 9Y(2), give proper effect to the purposive "with a view to" requirement. Arranging with a view to therefore captures those who make arrangements with the purpose of bringing about transactions in qualifying cryptoassets, not those who merely provide infrastructure through which transactions may occur;

ii) it materially broadens the perimeter of cryptoasset arranging beyond the equivalent perimeter for TradFi arranging under Article 25, and is additionally broader than the cryptoasset arranging perimeter under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the "MLRs");

iii) the draft PERG guidance inverts the established approach to perimeter analysis under FSMA by placing most participants in the cryptoasset transaction chain within scope unless they can demonstrate that they do not "add value". This departs from the established TradFi position under which "*added value*" operates only as an indicator that the communications exclusion for arranging activities is unavailable in respect of "*order routing*" services, rather than elevating added value into a substantive gating criterion for the underlying specified activity. The FCA's interpretation of the communications exclusion in Article 9Z2 renders that exclusion largely inoperative for modern, interface-based cryptoasset products.

GDF's concerns bear most acutely on what GDF refers to in this response as a "software provider": a person who creates, offers and/or operates a front-end user interface that assists users in formulating and broadcasting user-initiated transactions in qualifying cryptoassets using the user's own self-custodial wallet, and which does not hold private keys, take custody of cryptoassets, exercise discretion over transactions, solicit specific transactions or take or route orders. Worked examples are set out at Annex II.

<u>International divergence</u>

If finalised in its current form, the draft PERG guidance would place the UK materially out of step with the approach taken in leading jurisdictions – including the United States (per the April 2026 Staff Statement of the Staff of the Division of Trading and Markets of the U.S. Securities and Exchange Commission ("SEC")), the EU, Singapore, the United Arab Emirates, Switzerland and Hong Kong – to the regulatory characterisation of non-custodial software interfaces. The competitive, compliance and migration implications of that divergence run counter to the Government's stated ambition to make the UK a global hub for cryptoasset innovation. The international comparators are analysed at Question 3.

Further concerns relating to other new regulated activities

While arranging and staking are the focus of this response, GDF also raises concerns in relation to three further new regulated cryptoasset activities. First, the requisite-degree-of-control test for safeguarding at PERG 19.6.2 does not address the partial key-holding, co-signing and operator arrangements that characterise modern multi-party computation and threshold-signature custody, with the result that firms that cannot bring about a transfer may nonetheless fall within scope. Secondly, the interaction between the platform-separation rule for qualifying cryptoasset trading platforms and the Draft SI's treatment of qualifying stablecoin exchanges forecloses, in practice, the settlement of tokenised securities trades in UK qualifying stablecoin ("UKQS") — a result not aligned with the Bank of England's stated policy direction in the Digital Securities Sandbox. Thirdly, the dealing perimeter captures wholesale UKQS lending, borrowing and collateral arrangements between professional counterparties that present none of the consumer-facing risks the regime is designed to address. These concerns are developed in the response to Question 3.

Recommended amendments

In light of the above, GDF recommends that the FCA make the following amendments to the draft PERG guidance:

a) Provide guidance on what arranging deals in cryptoasset entails and additionally, in respect of arranging with a view to under Article 9Y(2), give proper effect to the purposive "*with a view to*" requirement.
b) Confirm that the provision of software, connectivity, non-custodial wallet functionality or a user interface to public blockchain infrastructure does not, of itself, constitute regulated arranging where the provider does not exercise custody, control or discretion over user cryptoassets, orders or transactions.
c) Clarify the converse position – namely the intermediary-like indicia that would bring a software provider within Article 9Y.
d) Confirm that transaction-based fees are not, without more, indicative of arranging, provided they are objective, consistent, and product-, execution-route-, venue- and counterparty-agnostic.
e) Refine the concept of "added value", by recasting it by reference to whether the provider performs intermediary-like functions and in particular order routing, rather than by reference to standard user-interface functionality.
f) Preserve a meaningful and practicable communications exclusion for arranging deals in cryptoassets under Article 9Z2 and the technical service provider exclusion for arranging cryptoassets staking under Article 9Z6.
g) Revise the guidance at PERG 19.10.2 regarding the technical service provider exclusion for arranging staking under Article 9Z6 for consistency with the Crypto Regulations,

particularly by referring to participation in "qualifying cryptoasset staking" as defined by Article 9Z6, rather than participation in "arranging qualifying cryptoasset staking".

h) Publish worked examples (drawing, if helpful, on the models set out in Annex II) of business models, technology services and user interfaces that would not constitute regulated arranging deals in cryptoassets or would fall within the Article 9Z2 exclusion, and similarly, which would not constitute arranging cryptoasset staking or fall within the Article 9Z6 exclusion.
i) Confirm in PERG 19.6.2 how the requisite degree of control applies to multi-party computation and threshold-signature custody — including partial key-holding, co-signing and operator arrangements — and whether that test informs the concept of control elsewhere in PERG 19.
j) Resolve the foreclosure of qualifying stablecoin settlement of tokenised securities trades arising from the interaction of the platform-separation rule and the Draft SI: in the near term by confirming and addressing in PERG 19 the workability of off-venue UKQS settlement of trades executed on a multilateral trading facility, and in the longer term, with HMT and the Bank of England, by setting out a pathway to atomic on-ledger settlement in UKQS.
k) Introduce a carve-out from the dealing perimeter for UKQS lending, borrowing and collateral arrangements between non-consumer counterparties, where the arrangement is incidental to a broader transaction or facility rather than a standalone yield product.

Conclusion

GDF supports the Government's objective of bringing cryptoasset activities within an appropriately calibrated UK regulatory perimeter and welcomes the FCA's leadership in delivering that perimeter. With the final guidance and the opening of the application gateway both scheduled for September 2026, GDF respectfully urges the FCA to resolve the issues identified in this response before finalisation, so that firms and their advisers can analyse the perimeter with reasonable certainty and so that firms within scope can plan their regulatory applications with confidence. GDF would welcome the opportunity to engage further with the FCA on the points raised and would be pleased to assist in the development of worked examples and conduct-based indicia for inclusion in the final guidance.

Response to the Consultation Paper Questions

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

While GDF welcomes the FCA's guidance in the Introduction section, there are a number of areas where further clarity would be beneficial.

"By way of business" test (PERG 19.2)

Crypto Regulations apply a narrower concept of what "by way of business" means for the new regulated cryptoasset activities. PERG 19.2.1 states that a person will only be regarded as carrying on a regulated cryptoasset activity by way of business if they carry on "the business of engaging in one or more of" such activities, in contrast to the broader formulation applicable to most other regulated activities.

Although the FCA frames this test as narrower than the equivalent investment-business test, on its face it appears to apply to any firm carrying on a commercial activity in the relevant area, which is materially the same threshold. GDF asks the FCA to articulate the practical difference between the two formulations. The PERG guidance should also make clear that software fees or incidental commercial benefit do not, by themselves, mean that a software provider is acting by way of business (and therefore, potentially falling within scope of the regulated activity of arranging).

Territorial scope of safeguarding

Regarding safeguarding, the proposed guidance at PERG 19.3.2G states that the "place of supply" of the safeguarding cryptoassets activity is assumed to be the location of the safeguarding operations, and focuses on where the requisite degree of control to bring about a transfer is being or could be exercised. Modern cryptoasset safeguarding, particularly arrangements employing multi-party computation ("**MPC**") technology, typically utilises a globally distributed technological architecture in which cryptographic key material is split across multiple jurisdictions as a security enhancement. Therefore, GDF requests further guidance as to how territorial scope should be assessed in relation to such globally distributed safeguarding mechanisms. Furthermore, GDF requests clarification that the guidance does not require a firm providing safeguarding services in the UK to locate its entire technological infrastructure – including all key shards or MPC nodes – within the UK, where a determination is made that control, or elements of control, are situated in the UK.

Authorisation-location policy

Perimeter analysis should be kept distinct from authorisation-location policy. The FCA has issued separate guidance (referenced in paragraph 2.21 of the CP as "Annex 4: Approach to International Cryptoasset Firms") setting out a baseline expectation that firms requiring FCA authorisation will carry on their regulated cryptoasset activities from a UK legal entity. A subsidiarisation expectation of that kind is disproportionate for global software and interface providers with limited UK nexus. GDF asks the FCA to confirm how this expectation applies (if at all) to technology providers who do not exercise custody, control or discretion over UK user assets or transactions.

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

Overview

GDF is broadly supportive of the FCA's substance-over-labels approach as set out in PERG 19.4. There are a number of areas where further clarity would be beneficial.

Tokenised securities and specified investment cryptoassets

GDF asks the FCA to confirm that tokenisation of a security does not automatically give rise to a specified investment cryptoasset (a "**SIC**") that is also treated as a qualifying cryptoasset. PERG 19.4.6 explains that a SIC is a cryptoasset whose legal and economic substance means it falls within one of the specified investment categories in the RAO, such as shares, debt instruments, units, derivatives and deposits, and that a cryptoasset that is a specified investment is excluded from the qualifying cryptoasset definition by article 88F(4)(a). However, the draft guidance can be read as implying that any tokenisation of a security results in the asset falling outside the SIC carve-out and becoming a qualifying cryptoasset, which would have significant unintended consequences for issuers, registrars and central securities depositories operating distributed ledger technology-based registers.

The "*solely a record of value or contractual rights*" test in article 88F(2)(c) of the RAO requires further explanation, particularly for DLT register tokens, ledger entries and bookkeeping tokens where the token operates solely as part of an issuer-, registrar- or CSD-controlled register and is not itself the root of title to the underlying rights. PERG 19.4.4 sets out that a cryptoasset is excluded where it "*does not function in practice as an asset in its own right*", but the draft guidance's functional test (including factors such as whether the asset is used and traded as the object of exchange in markets and whether market participants rely on it as the authoritative basis for taking commercial risk) does not clearly address the position of tokens that function purely as register entries within a controlled system.

Liquid staking tokens and wrapped tokens

PERG 19.4.4 states that liquid staking tokens and some wrapped tokens, although they record or represent rights in another cryptoasset, "*tend to be widely traded and often function as a liquid investment in their own right, unlike encrypted spreadsheets and databases*" and are therefore "*unlikely to constitute mere records*" excluded from the qualifying cryptoasset definition. GDF considers this approach sensible in principle but asks the FCA to draw the boundary more sharply, so that firms are not required to re-analyse every token structure on a case-by-case basis. In particular, GDF asks the FCA to confirm whether the relevant test is solely one of market practice (i.e. whether the token is in fact widely traded) or whether structural features of the token itself are also determinative.

Limited network token exclusion and algorithmic stablecoins

The FCA should provide further clarity on two distinct exclusions that affect whether assets fall within the qualifying cryptoasset definition. First, the limited network token exclusion in article 88F(4)(d)(ii)(bb) of the RAO, which excludes from the qualifying cryptoasset definition cryptoassets that can only be redeemed with the issuer or used to acquire goods or services within a limited network of service providers with direct commercial agreements with the issuer. The FCA should confirm how this exclusion operates in practice, including for multi-purpose tokens that have both limited-network and open-market functionality.

Second, the position of algorithmic stablecoins under article 88G. PERG 19.4.5 states that qualifying cryptoassets "*which maintain their value through algorithmic methods or other means without underlying backing assets do not constitute qualifying stablecoin*." The FCA should confirm that such tokens may nevertheless be qualifying cryptoassets (subject to other conditions being met), and should provide examples of the boundary between algorithmic stablecoins and non-stablecoin qualifying cryptoassets.

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

Overview

The PERG 19.8 guidance on arranging deals in cryptoassets and the communications exclusion is the area of greatest concern for GDF. These concerns similarly apply to PERG 19.10 relating to the regulated activity of arranging cryptoasset staking and the technical services provider exclusion. The draft guidance should not be finalised in its current form.

GDF's view is that the draft guidance materially broadens the cryptoasset arranging perimeter beyond that of TradFi arranging without a clear statutory or policy basis, is inconsistent with the FCA's own existing TradFi PERG guidance and with the JMLSG Guidance under the MLRs, and would place the UK out of step with comparable international regimes. This response addresses, in turn: (i) the statutory and interpretive basis for arranging and the FCA's discretion to issue tailored guidance; (ii) the purposive "*with a view to*" requirement in Article 9Y(2); (iii) the structural and case-law differences between cryptoasset and TradFi markets; (iv) the communications exclusion in Article 9Z2 and the introduction of "added value" as a substantive gating criterion; (v) the absence of a formal technical-services exclusion and the comparable position under the MLRs and the Payment Services Regulations 2017 (the "**PSRs**"); (vi) the international comparators; (vii) transaction-based fees; (viii) the regulatory consequences of arranging characterisation; and (ix) the criminal-law consequences of an unclear perimeter.

Separately, and beyond the arranging and staking activities, GDF raises concerns in relation to three further new regulated activities: safeguarding qualifying cryptoassets (PERG 19.6), operating a qualifying cryptoasset trading platform (PERG 19.7), and lending and borrowing involving qualifying stablecoin (PERG 19.9). These are addressed at Parts C to E below.

A. Proposed perimeter of arranging deals in cryptoassets

Statutory and interpretive basis for arranging and the FCA's discretion to issue tailored guidance

GDF understands that the FCA does not intend to broaden the regulatory perimeter beyond what has been set by the Crypto Regulations and the policy intent of HMT. In particular, PERG 19.8.1 states that the new arranging activities "*mirror*" the existing regulated activities in Article 25 of the RAO and "*are expected to operate similarly*" (subject to the effect of related exclusions). Notwithstanding this, the PERG guidance as currently drafted materially broadens the cryptoasset arranging perimeter beyond that of TradFi arranging, and the statutory and policy basis for this is unclear.

FSMA, the Crypto Regulations and the accompanying Explanatory Memorandum, as well as the Draft SI and the accompanying Policy Statement, all do not define the scope of the "arranging" activity. These documents address the territorial scope of the regime, but the policy intent for expanding UK territorial scope should not be conflated with a policy intent for expanding the scope of arranging as a specified activity in the absence of a clear statement to that effect. Consequently, the result is that the perimeter is currently being set by the PERG guidance. For the FCA's convenience, the relevant references to arranging in all four documents are extracted at **Annex I**.

In GDF's view, the FCA is not bound to align the perimeter of Article 9Y with the existing perimeter of Article 25, and has both the power and the discretion to issue tailored perimeter guidance reflecting the specific characteristics of cryptoasset markets. That submission is supported by three features of the legislative architecture:

(a) First, HMT introduced cryptoasset arranging as a new, standalone specified activity in Article 9Y, rather than by amending Article 25 to include qualifying cryptoassets. That legislative choice indicates that Article 9Y is *not* to be treated as identical in scope to Article 25 and that existing case law on Articles 25(1) and 25(2) cannot be assumed to apply by analogy.

(b) Secondly, the regulatory perimeter under Article 9Y is materially different from that under Article 25. The territorial scope of Article 9Y has been significantly broadened, including through the new deeming provisions in section 418(6C) of FSMA, so as to capture firms that are involved (whether directly or indirectly through a chain of intermediaries) in the sale or subscription of a qualifying cryptoasset to or by a UK consumer; and the suite of exclusions applicable to Article 9Y is materially different to that applicable to Article 25 (most notably, the overseas persons exclusion does not apply).

(c) Thirdly, the cryptoasset markets that the new regime is intended to regulate are materially different from the TradFi markets to which Article 25 applies, in respect of both market structure (the absence of centralised intermediation) and the technologies through which transactions are effected.

There is also clear precedent for adopting a different interpretation of the same statutory formulation in a cryptoasset context. The cryptoasset arranging activities under the MLRs are drafted in near-identical terms to Article 25, yet are interpreted more narrowly under the HMT-approved JMLSG Guidance, which confirms (at paragraphs 22.12, 22.25 and 22.26 of Part II, Sector 22) that software developers and providers of ancillary products or services to cryptoasset networks are, as a starting point, outside scope. GDF asks the FCA to take a comparable approach in the FSMA context and to carve software providers out of scope as a starting position, subject to clearly defined indicia of conduct that would bring a provider within the perimeter.

Notwithstanding the above, and the statement at PERG 19.8.1 that the cryptoasset arranging activities are to mirror the TradFi arranging activities, PERG 19.8 as currently drafted materially broadens the crypto arranging perimeter beyond that of TradFi arranging (for the reasons further expanded on in the sub-headings below). GDF notes that, PERG is treated as persuasive guidance by the courts. An expansive reading of the arranging activities in PERG 19 therefore risks becoming self-fulfilling, and the FCA should ensure that its guidance reflects the distinct structure of cryptoasset markets rather than mechanically importing TradFi concepts.

Structural and case-law differences between cryptoasset and TradFi markets

In TradFi, transactions are typically executed through a chain of authorised intermediaries – brokers, custodians, execution venues and clearing houses – each of which exercises some element of custody, discretion or control over client assets and order flow. In the cryptoasset markets with which this response is principally concerned, that chain of intermediaries is largely absent: users retain self-custody of their cryptoassets, interact directly with public blockchain protocols, and use software interfaces as a means of formulating and broadcasting their own instructions to those protocols.

The case law on which the FCA's PERG guidance for cryptoasset arranging is, in substance, modelled – including *Re Inertia Partnership LLP*, *Watersheds v DaCosta*, *SimplySure*, *Adams v Options SIPP* and *FCA v Avacade* – was developed in the TradFi context and, without exception, concerned conduct that involved a material degree of human intermediation between the provider and the relevant transaction. None of those cases considered the position of a software provider operating without human intermediation, and none is capable of being read as authority for the proposition that the passive provision of non-custodial software interfaces, without more, constitutes "making arrangements" within Article 25 (still less within the new Article 9Y). Treating those authorities as dispositive of the perimeter of Article 9Y therefore risks mapping a body of intermediary-focused case law onto a market in which the relevant intermediary functions are simply not performed.

The "with a view to" requirement

GDF asks the FCA to provide clearer guidance on what arranging deals in cryptoasset entails and additionally, in respect of arranging with a view to under Article 9Y(2), give proper effect to the purposive "*with a view to*" requirement.

As a matter of statutory interpretation, GDF refers to *R (O) v Secretary of State for the Home Department* [2022] UKSC 3 which is the leading modern authority on statutory interpretation generally, and which affirms that "***[w]ords and passages in a statute derive their meaning from their context. A phrase or passage must be read in the context of the section as a whole*** *and in the wider context of a relevant group of sections. Other provisions in a statute and the statute as a whole may provide the relevant context. They are the words which Parliament has chosen to enact as an expression of the purpose of the legislation and are therefore the primary source by which meaning is ascertained*." (our emphasis). Accordingly, courts are to ascertain the meaning of the words used in a statute in the light of their context and the purpose of the statutory provision and not just the sub-section alone. As such, PERG guidance should reflect this approach, and confirm that Article 9Y(2) should be read in conjunction with Article 9Y(1), such that the "*with a view to*" requirement in Article 9Y(2) imports a purposive element – that the person making arrangements must have the bringing about of a transaction as an end in view. Arranging with a view to therefore captures those who make arrangements *with the purpose of* bringing about transactions in qualifying cryptoassets, not those who merely provide infrastructure through which transactions may occur. A technical or software provider whose commercial objective is to sell or license its software, and which is agnostic as to whether any particular transaction takes place, does not have transactions as an end in view within the meaning of the activity. The provider's business is the provision of technology.

The draft statement at PERG 19.8.3(8) that "*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*" fails to give proper effect to this purposive requirement. It conflates the provision of functionality through which orders are capable of being placed with the distinct question of whether the provider has the bringing about of transactions as an end in view. PERG 19.8 should draw a clear distinction between (i) a provider that intends transactions to occur as the purpose of its arrangements, and (ii) a provider that is selling or licensing access to software. Only the former should be caught by Article 9Y(2).

Given the FCA's statements that the new Article 9Y arranging activities should "*mirror*" the existing regulated activities in Article 25 of the RAO, GDF also refers to the leading authority on arranging with a view to under Article 25(2) in the Court of Appeal's decision in *FCA v Avacade Ltd* [2021] EWCA Civ 1206 – which also supports the purposive element in arranging with a view to. The Court of Appeal confirmed in *Avacade* that the word "arrangements" in Article 25(2) should be given its ordinary meaning and what is required is that a relevant transaction is part of the intended purpose of making the arrangements. On the relationship between the arrangements and the transaction, in a

frequently cited passage, Lord Justice Popplewell stated: "***An intended purpose, an end in view, must be that a relevant transaction take place****, but the arrangements do not need to bring it about by way of an actual or notional test of causation … You cannot make the proverbial horse drink, but taking it to water involves making arrangements with a view to it drinking.*" (emphasis added). This makes clear that Article 25(2) does not require a causal link between the arrangements and the transaction, and additionally is read in the context of Article 25(1), such that the intent of the arrangement is decisive as to whether the activity amounts to arranging with a view to or not.

Accordingly, a cryptoasset technology provider has a materially different position from the types of firms whose conduct has been found by the courts to constitute regulated arranging under Article 25. In *Avacade*, the defendants, Avacade Limited and a related entity, operated a scheme whereby they cold-called consumers who had existing pensions and offered them a free report on their current pension position. Off the back of those reports, Avacade sought to facilitate and steered the transfer of consumers' existing pension funds into self-invested personal pensions ("**SIPPs**"), and at Avacade's direction, consumers purchased unregulated alternative investments.

By contrast, a cryptoasset software provider (including those which embeds/integrates third-party trading functionality) that provides an interface through which users autonomously determine what to trade, when to trade, and in what size, is not directing or steering users towards any particular transaction or investment outcome. The user alone exercises agency over each trading decision. The fact that the software provider may receive remuneration from an execution venue does not meet the requisite purposive nexus. Where the software provider's purpose is confined to offering software and technological infrastructure on a product-agnostic basis, it cannot properly be said that the provision of that software is directed at any particular cryptoasset transaction.

It is worth observing that TradFi offers additional instructive parallels. FCA-authorised CFD providers routinely integrate the MetaTrader software trading solutions (and other third-party trading solutions) into their client-facing offerings, such that retail clients interact with a front-end interface through which they access the MetaTrader technology to submit orders and execute trades. In that context, the MetaTrader software is characterised as a technology service and is understood to fall outside the scope of applicable TradFi regulatory requirements. GDF acknowledges that the TradFi environment differs in material respect which is that a licensed intermediary (the authorised CFD provider) is interposed between the technology provider and the end user. However, were the absence of such an intermediary to be treated as determinative of whether a technology service provider itself falls within the regulatory perimeter, this would, in our view, have the effect of undermining the very basis on which DeFi services are offered and operated. A foundational principle of DeFi is the facilitation of decentralised, self-directed transactions through technology, without reliance on a central intermediated counterparty. To hold that the removal of the intermediary automatically renders the technology provider an "arranger" would be to conflate the provision of neutral infrastructure with the active, purposive conduct that the existing case law requires before Article 25 is engaged.

The communications exclusion and "added value" as a substantive gating criterion

A central concern for GDF is the FCA's interpretation of the communications exclusion in Article 9Z2. PERG 19.8.19 states that the "*crucial element*" of the exclusion is the word "*merely*" and that if a person "*adds value to what is provided, they will lose the benefit of this exclusion*". The FCA's interpretation of "merely" and the addition of the concept of "added value" at PERG 19.8.19 and 19.10.2 leave little room for the communications exclusion in practice, particularly where an interface is itself the means of communication.

In the existing PERG guidance on Articles 25(1) and 25(2), PERG 8.32.9 states that "*[a] person* ***providing such order routing services would not, in the FCA's view, be merely facilitating communication (of the orders) if he provides added value***." In the TradFi context, therefore, order routing services would benefit from the Article 27 enabling parties to communicate exclusion *unless* they involve added value. "Added value" is accordingly tied to order routing services and operates only as an indicator that the communications exclusion is unavailable; it is not determinative of whether an activity amounts to regulated arranging in the first place.

The draft PERG guidance for cryptoassets elevates "added value" into a substantive gating criterion for the Article 9Y arranging activity itself. PERG 19.8.19 states that *"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*." This departs from TradFi precedent, which ties added value to order routing, and materially broadens the arranging perimeter by tying it instead to the provision of the means of communication generally. This is conceptually unworkable, since all technical services that provide a means of communication (including front-end, wallet and interface providers) add value in some sense. PERG 19.8.19 lists as examples of added value "*formatted screens, audit trails, checking completeness of orders or matching orders or reconciling trades*" and further states that persons providing "*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*" will "*likely be making arrangements with a view to transactions in qualifying cryptoassets*". These are standard features of any modern user interface. The practical effect is that the Article 9Z2 exclusion exists in theory but has extremely limited application to commercially viable products.

GDF asks the FCA to recast the "added value" concept in the cryptoasset regime by reference to whether the provider performs intermediary-like functions in relation to a transaction (for example, by exercising discretion or control over execution, by soliciting specific transactions, by taking custody of user cryptoassets, or by directing or leading the user towards a particular transaction outcome), rather than by reference to whether the provider supplies standard user-interface functionality such as formatted screens, pre-filled order forms, audit trails or completeness checks. So recast, "added value" should function as an indicator of the unavailability of the Article 9Z2 exclusion in respect of conduct that already has the substantive character of arranging, and not as a free-standing gating

criterion for the Article 9Y activity itself. The activity should not, as a matter of practical construction, be limited to wholly passive bulletin boards or chat room functionality.

GDF would be grateful if the FCA would clarify what level of user-interface functionality can be provided without being treated as "added value" that takes the provider outside the exclusion. If no commercially viable examples can be provided, GDF urges the FCA to reconsider whether the exclusion, as currently drafted, serves any meaningful purpose.

Absence of a technical services exclusion and the MLR / JMLSG and PSR comparison

PERG 19.8.3(6) explicitly states that "*the Regulated Activities Order does not have any particular exclusion from arranging deals in qualifying cryptoassets for 'technical services'*". GDF acknowledges that this reflects a deliberate HMT policy decision. However, the practical consequences of that decision are materially shaped by two factors: (i) how narrowly the FCA interprets the existing exclusions (notably Article 9Z2); and (ii) how broadly the FCA interprets the arranging activity itself.

In a TradFi context, technical service providers – such as execution management systems, order management systems, smart order routers, aggregators, communication platforms and white-label technology solutions – are generally not treated as regulated arrangers merely because they provide technological trading infrastructure. GDF's view is that equivalent cryptoasset trading infrastructure should not be caught by the arranging activity for the same reason: the provision of technology does not, of itself, amount to "*bringing about*" or "*making arrangements with a view to*" a transaction.

The absence of a formal statutory exclusion does not, in GDF's view, prevent the FCA from publishing guidance that supports this position. The MLR cryptoasset arranging activities drafted in near-identical terms to Articles 25 and 9Y of the RAO are interpreted more narrowly under JMLSG Guidance. Paragraph 22.12 of JMLSG Part II, Sector 22 confirms that software developers and other providers connected to a decentralised cryptoasset exchange and payment system may fall outside the scope of the arranging definition. Paragraphs 22.25 and 22.26 further confirm that software developers who merely sell an application or platform, and providers of ancillary products or services to cryptoasset networks, are not included in scope provided they do not engage as a business in relevant activities.

Critically, HMT has provided ministerial approval of the JMLSG Guidance. This establishes a clear precedent that guidance – rather than a formal statutory exclusion – can appropriately limit the scope of arranging activities and confirm that technical service provision does not constitute regulated arranging.

Beyond the MLRs, an equivalent principle is evidenced in the PSR, which contain an express exclusion for services provided by technical service providers (including information technology and communication network provision). If the FCA considers this outcome proportionate in a payment services context, the principle of "same risk, same regulatory outcome" suggests that an equivalent approach should apply to providers

performing a functionally equivalent role in the cryptoasset context, subject to appropriate tailoring.

GDF would be grateful if the FCA would publish PERG guidance confirming that technology services should, as a starting point, not be viewed as regulated arranging and clarifying the converse position – namely that, where a software provider goes beyond the mere provision of software and either (i) holds itself out as an intermediary, (ii) assumes fiduciary-like obligations to the user, or (iii) employs intermediary-like functions that lead or direct the user towards a particular transaction, that provider may fall within the scope of Article 9Y.

International comparators

If finalised in its current form, the draft PERG guidance would place the UK materially out of step with the approach taken in other leading jurisdictions to the regulatory characterisation of non-custodial software interfaces. In April 2026, the Staff of the Division of Trading and Markets of the SEC issued a statement setting out conditions under which a "Covered User Interface Provider" may create, offer and/or operate a non-custodial user interface for the preparation of crypto asset securities transactions without being required to register as a broker-dealer under section 15(a) of the U.S. Securities Exchange 11 Act 1934. Those conditions turn on substantive, conduct-based indicia – the absence of solicitation of specific transactions, the absence of discretion or control over transactions, the absence of commentary or recommendations on execution routes, the absence of order taking or routing, the absence of custody of user assets, and the limitation of compensation to an objective, venue- and counterparty-agnostic user-paid fee – rather than on the presence of standard user-interface functionality. A comparable, conduct-based perimeter has emerged, or is emerging, in the EU under the Markets in Cryptoassets Regulation framework, in Singapore under the Monetary Authority of Singapore's payment-services and digital-token frameworks, and in the United Arab Emirates, Switzerland and Hong Kong.

A UK perimeter for arranging that captures the routine provision of non-custodial user interfaces by reference to "added value" – combined with the materially expanded territorial reach of the new regime under section 418(6C) of FSMA – would not be matched by the perimeters in any of those jurisdictions. The implications of that divergence are significant: it would create an avoidable competitive disadvantage for UK-based software providers; it would generate substantial cross-border compliance friction for global firms; and it would, in GDF's view, accelerate the trend (already evidenced by reports of DeFi protocols and overseas exchanges geofencing UK users, ring-fencing UK operations or relocating out of the UK, and by investors increasingly viewing the UK as a less attractive jurisdiction for cryptoasset investment) of cryptoasset activity migrating away from the UK. That trend runs counter to the Government's stated ambition to make the UK a global hub for cryptoasset innovation.

Transaction-based fees

Consistent with the SEC Staff Statement and emerging international standards, the FCA should clarify that the mere receipt of transaction-based fees by a software or interface provider is not, without more, indicative of arranging, provided such fees are based on objective factors, applied consistently, and are product-, execution-route-, venue- and counterparty-agnostic. The SEC Staff Statement confirms that providers of front-end user interfaces (e.g. websites, browser extensions and mobile applications) used to prepare user-initiated crypto asset securities transactions via self-custodial wallets may charge transaction-based fees (whether as a flat fee or a percentage) without triggering broker-dealer registration, provided such fees meet those criteria. The final PERG 19 should align the relevant indicators more closely with these objective, conduct-based criteria.

Regulatory consequences of arranging characterisation

Under the proposed CRYPTO sourcebook, the obligations that attach to an arranger are contingent on the nature of the arranging activity. In particular:

- CRYPTO 5.2 requires that orders executed or RTO on behalf of retail or elective professional clients must be routed to a UK qualifying execution venue (a UK-authorised cryptoasset trading platform ("**CATP**") or principal dealer);
- CRYPTO 5.3/3.3 states that a firm must not arrange deals in cryptoassets (this obligation is not limited to RTO and would apply to both types of arranging) for a retail client unless the cryptoasset is admitted to trading on a UK-authorised CATP and a compliant QCDD has been made available; and
- CRYPTO 5.4 applies best execution and order handling duties where a firm is executing orders.

A technology services provider – such as a non-custodial wallet, DeFi front-end, router or aggregator – characterised as "arranging" could therefore find itself subject to the full suite of these obligations, even where it simply provides software infrastructure, exercises no discretion over transactions and is in the business of technology provision rather than intermediation. This risk is compounded by the FCA's expansive interpretation of "added value" under PERG 19.

GDF treats any analogy to MiFID RTO with caution. In TradFi, RTO involves an authorised firm acting as a gatekeeper between a client and a regulated execution venue the client could not otherwise access directly. In DeFi, that intermediation is absent: users retain self-custody, interact directly with on-chain protocols, and route orders to a venue or protocol of their choosing. The wallet or interface is, in substance, software that helps the user formulate and broadcast an instruction to a public blockchain.

In addition to FCA authorisation requirements, the regulatory consequences of being characterised as an arranger have the practical effect of rendering DeFi connectivity

unworkable. This underscores the need for the FCA to recast the "added value" concept and to provide examples of interfaces that would satisfy the Article 9Z2 communications exclusion or fall outside regulated arranging altogether.

Criminal-law consequences of an unclear regulatory perimeter

Contravention of the general prohibition is a criminal offence carrying up to two years' imprisonment and/or an unlimited fine, and renders agreements entered into by the unauthorised person unenforceable.

An arranging perimeter that turns on a concept as amorphous as "added value" leaves external counsel unable to advise clients with the confidence that the criminal-law context demands. The FCA should ensure that the final guidance draws the perimeter with sufficient clarity to enable firms and their advisers to determine with reasonable certainty whether they are within or outside scope.

Worked examples

GDF would be grateful if the FCA would publish worked examples of business models and technological interfaces that would not amount to regulated arranging in the first place and/or that would satisfy the communications exclusion in Article 9Z2. For the FCA's convenience, examples of technological services and interfaces are provided for consideration in Annex II.

B. Proposed perimeter of arranging cryptoasset staking

Overview

GDF supports the inclusion of the Article 9Z9 exclusion for technical services in relation to arranging qualifying cryptoasset staking. However, PERG 19.10, which addresses the regulated activity of arranging qualifying cryptoasset staking under Article 9Z6, is subject to a number of the same shortcomings identified in relation to cryptoasset arranging. The guidance creates a significant risk that providers of non-custodial staking software will be caught by the perimeter. The FCA again introduces the nebulous concept of "added value" to the Article 9Z9 exclusion for technical service providers, effectively removing the practical effect of the exclusion. PERG 19.10 also erroneously describes the conditions of the exclusion, thereby materially narrowing its scope (as further explained in our response).

Guidance on the perimeter of arranging cryptoasset staking

The concerns raised above regarding the arranging deals guidance in PERG 19.8 equally apply to the FCA's proposed guidance in PERG 19.10 on arranging cryptoasset staking under Article 9Z6.

PERG 19.10.1 provides that that "*arrangements where a person provides services such as an interface to stake qualifying cryptoassets*" could amount to arranging staking. Separately, PERG 19.10.2 which addresses the technical services exclusion in Article 9Z9,

states that if "*the provision of the service includes added value, this is unlikely to be excluded as providing a pure technical service*." The FCA's examples of "*added value*" include "***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*." The effect of reading these two provisions together is that the provision of a staking interface is treated, on the one hand, as sufficient to constitute arranging staking and, on the other hand, as sufficient to constitute added value that would preclude reliance on the technical services exclusion. This creates an issue with the PERG guidance: the very feature – namely, the interface – that brings a person within the scope of the arranging activity also serves to deny that person the benefit of the technical services exclusion. It is accordingly unclear how a person whose activity is characterised as arranging staking by reason of providing an interface, which is inherently a technological service, could, on the FCA's analysis, ever avail itself of the technical services exclusion.

GDF asks the FCA to confirm a safe harbour for non-custodial staking tooling (including dashboards and reporting) where the provider has no custody or control over the staked assets and no discretion over whether staking starts, continues or stops. These are the indicia that go to the intermediation risk the arranging activity is designed to address. Eligibility for the safe harbour should turn on whether the provider exercises (i) custody or control of the qualifying cryptoassets and (ii) discretion over whether staking activities are initiated, continued or discontinued, and not on whether a front-end interface or reporting dashboard is offered alongside the technical service.

GDF's view is that PERG, as currently drafted, does not interpret the perimeter of arranging staking in a manner which recognises the nature of cryptoasset activities and products. Engaging in staking as a technical service provider necessarily involves technical services beyond simply running a validator node, and most staking infrastructure providers add some value beyond this, including reporting, monitoring, slashing protection, key management, or user-facing dashboards. The combined effect of characterising staking as an arranging activity 'at its core' and pairing that framing with a narrowly drawn Article 9Z9 exclusion that is lost wherever a firm adds even basic user-facing functionality is to render the exclusion of limited practical use.

<u>Erroneous description of the conditions attached to the staking technical services exclusion</u>

The PERG 19.10 guidance on the staking technical services exclusion raises a further distinct concern in that it erroneously describes the conditions of the exclusion as defined in the Crypto Regulations, thereby significantly narrowing its applicability. Article 9Z9 provides that a technical service provided by a person ("**P**") will not constitute the regulated activity of arranging qualifying cryptoasset staking, provided "*(a) the service **allows another person to participate in qualifying cryptoasset staking, as defined by article 9Z6,** including by the operation of a validator node for that staking, and (b) **P does not hold itself out** as offering qualifying cryptoasset staking to the public.*" (emphasis added), with qualifying cryptoasset staking defined as "*use of a qualifying cryptoasset in blockchain*

validation." However, PERG 19.10.2 describes the first condition as "*the service **allows another person to participate in arranging qualifying cryptoasset staking** including by operation of a validator node for that staking*." This deviation would limit the exclusion to persons providing services to other intermediaries arranging staking on behalf of third parties, rather than to providers of services to end users staking their own cryptoassets. GDF assumes that this narrowing is unintentional and requests that the FCA revises the guidance to reflect the legislative language.

C. Safeguarding and the requisite degree of control (PERG 19.6.2)

Beyond the territorial point addressed in response to Question 1, GDF has a concern regarding the substantive test for safeguarding. PERG 19.6.2 turns the safeguarding perimeter on whether a person has the requisite degree of control to bring about a transfer of a qualifying cryptoasset. GDF welcomes the confirmation that negative control is out of scope, so that multi-signature and threshold participants who can only block, and not authorise, a transfer are not safeguarding. The test nonetheless requires further development.

PERG 19.6.2 reproduces two examples from the Crypto Regulations — holding or storing means of access, and operating arrangements under which others hold or store means of access — and otherwise refers to the facts and circumstances. The straightforward cases are clear. The difficult ones are not addressed: partial key-holding in MPC arrangements; co-signing arrangements in which the firm can sign but cannot unilaterally bring about a transfer; operators of MPC infrastructure who hold no key shares themselves; and smart-contract-mediated custody. On a literal reading, several of these architectures potentially fall within the test even though the firm has no ability to bring about a transfer. As MPC and threshold-signature schemes are now the dominant institutional custody architecture, case-by-case assessment is not a workable basis for the firms building this infrastructure.

The point matters beyond safeguarding. The concept of control runs through the dealing, arranging and qualifying cryptoasset trading platforms ("QCATPs") analyses, and PERG 19.6.2 is likely to be read as the foundational statement of how control applies across the perimeter. This is the same concern that animates GDF's submissions on arranging - a person who does not control user assets, and cannot bring about a transaction, should not be treated as performing the regulated activity merely because it provides part of the technical architecture.

GDF asks the FCA to (i) address the partial-key, co-signing and MPC-operator cases directly in PERG 19.6.2, with worked examples and the factors the FCA considers relevant in each; and (ii) confirm whether the requisite-degree-of-control test is intended to inform the application of control-like concepts elsewhere in PERG 19, or whether parallel guidance is required for the other activities.

D. Operating a qualifying cryptoasset trading platform and the settlement of tokenised securities in qualifying stablecoin (PERG 19.7)

GDF raises a discrete concern arising from the interaction between the platform-separation rule for QCATPs and the Draft SI's treatment of qualifying stablecoin exchanges. The concern is not about arranging, but about the combined effect of the QCATP regime and the dealing perimeter on the settlement of tokenised securities trades in UK qualifying stablecoin ("UKQS").

GDF understands the rationale for maintaining separation between QCATPs and conventional trading venues such as multilateral trading facilities ("MTFs"): the conduct, market abuse and prudential regimes differ, and the FCA has chosen to keep on-venue trading of qualifying cryptoassets separate from on-venue trading of financial instruments. However, the combination of (i) the platform-separation rule in PERG 19.7.1(6)(b), which prevents instruments traded on a UK QCATP from being offered on a UK trading venue and vice versa, and (ii) the Draft SI's treatment of UKQS exchanges in Article 9Z10A, produces an unintended and significant consequence - settlement of tokenised securities trades in UKQS is foreclosed in practice, even though neither measure forecloses it in isolation.

The mechanism is as follows. Article 9Z10A excludes from the dealing and arranging activities any activity comprising or related to the transfer of a UKQS, or the exchange of a UKQS for another asset (including money or another UKQS), but reads back into the perimeter the exchange of a UKQS for a qualifying cryptoasset other than a UKQS. A specified investment cryptoasset ("SIC") is not a qualifying cryptoasset; the two categories are mutually exclusive under article 88F(4)(a). A UKQS-for-SIC exchange is therefore not read back in, and the UKQS leg of a tokenised securities trade falls prima facie within the "another asset" exclusion. The SIC leg, however, remains a regulated activity of dealing in investments under articles 14 and 21 of the RAO, unaffected by the Draft SI or PERG 19. Layered on top, PERG 19.7.1(6) provides that financial instruments (including SICs) cannot be traded on a QCATP, and that a firm operating both a QCATP and a trading venue cannot offer the instruments traded on one on the other. The result is that the trade itself — a UKQS-for-tokenised-security exchange — cannot be executed and settled atomically on a single venue.

Off-venue settlement may offer a partial answer: an MTF could match a tokenised securities trade, with the parties settling both legs bilaterally off-venue, the UKQS leg falling within the "another asset" exclusion and the SIC leg attracting article 14 / 21 treatment as it would for any other settlement asset. The mechanics are sufficiently non-obvious, however, that firms should not be expected to derive the position by reasoning across multiple instruments and two regimes. More fundamentally, off-venue bilateral settlement forecloses the atomic, on-ledger settlement that tokenised market infrastructure is designed to deliver, in which the security leg and the cash leg settle simultaneously on the same ledger. That model is contemplated by the Bank of England in the Digital

Securities Sandbox, which envisages regulated stablecoin (including UKQS) as a settlement asset for tokenised securities, and is reflected in international work including the BIS Project Agorá initiative and the ECB's work on wholesale settlement. A regime that permits UKQS settlement only off-venue delivers the regulatory complexity of DLT without its operational benefits.

GDF asks the FCA to address this both in the near term and as a matter of longer-term policy: in the near term, to confirm whether off-venue UKQS settlement of an MTF-executed SIC trade is workable within the proposed framework and, if so, to address this expressly in PERG 19, so that firms with tokenised securities offerings have certainty in time to plan for commencement; and in the longer term, in coordination with HMT and the Bank of England, to set out a pathway by which atomic, on-ledger settlement of tokenised securities trades in UKQS can be accommodated — whether through a settlement-asset exception to the platform-separation rule, a recognised-settlement-asset designation for UKQS, or another mechanism.

E. Lending, borrowing and collateral arrangements involving qualifying stablecoin (PERG 19.9)

PERG 19.9 confirms that cryptoasset lending and borrowing is not itself a regulated activity, but that the constituent transactions may fall within the dealing, arranging or safeguarding perimeters. GDF does not take issue with that analysis as a general matter. GDF's concern is narrower and specific to UKQS: PERG 19.9, read with the Draft SI, treats UKQS lending and borrowing as a single activity for perimeter purposes, when in practice it captures wholesale collateral and liquidity arrangements between professional counterparties that present none of the consumer-facing risks the regime is designed to address.

UKQS are designed to function as a stable settlement asset and unit of account. In wholesale markets, settlement assets are routinely lent, borrowed, posted as collateral and rehypothecated. Arrangements that will involve UKQS in this way include securities lending and repo where the cash leg is denominated in UKQS; initial and variation margin for cleared and bilateral derivatives; tri-party collateral arrangements; intra-day liquidity in payment and settlement systems, including delivery-versus-payment and payment-versus-payment settlement of tokenised securities and FX; and liquidity held by market-makers, settlement banks and CCPs to support tokenised markets. Each involves UKQS transactions that, on the FCA's analysis, fall within the dealing perimeter. The substance, however, is collateral or liquidity provision between professional counterparties, not a yield product offered to a consumer.

The friction is material. Every wholesale participant using UKQS for collateral or liquidity would need to test each leg of each transaction against the dealing perimeter and against the status of each counterparty. HMT has acknowledged this and has indicated that it intends to mitigate such barriers in the final SI and will seek industry input on how best to do so. GDF welcomes this and asks that a carve-out from the dealing perimeter be

introduced for UKQS lending and borrowing where: (i) the counterparties are not consumers (applying the section 418 definition, or the Professional client classification); (ii) the arrangement is a title transfer collateral arrangement, repurchase or securities financing transaction, derivatives margin arrangement, intra-day liquidity arrangement, or other specified collateral or liquidity arrangement; and (iii) the UKQS lending or borrowing is incidental to a broader transaction or facility, such as a securities trade, a derivatives position or a settlement facility, rather than a standalone yield product.

A test of this nature is not novel. PERG 19.6.4 already applies a non-consumer test for a comparable safeguarding carve-out; the new Article 9UA establishes that activity not provided as a service to a client may be carved out; and MiFID II, the financial collateral arrangements regime and the wider UK wholesale markets framework all distinguish consumer-facing activity from wholesale collateral and liquidity arrangements by reference to the Retail / Professional / Eligible Counterparty classifications. GDF notes that any such carve-out will need to be reflected in both the final SI and PERG 19.

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

GDF refers the FCA to the response to Question 3 above, and particularly our concerns regarding guidance in PERG 19.8 on the communications exclusion in Article 9Z2 (including the concept of "added value") and guidance in PERG 19.10 on the staking technical services exclusion in Article 9Z9 (including the concept of "added value" and the erroneous description of the conditions attached to the staking technical services exclusion).

Our response to this Question 4 covers the limited carry-over of the RAO general exclusions. In particular, the limited carry-over of RAO general exclusions, combined with the absence of the overseas persons exclusion, materially extends the extraterritorial reach of the regime. The FCA should map clearly which general exclusions do and do not apply to the new regulated cryptoasset activities, and should explain how that interacts with the territorial provisions in section 418 of the Act. The FCA should also provide a clear rationale for any departure from the position that applies to analogous TradFi regulated activities, including where certain exclusions have been tailored to recognise the specific characteristics of cryptoassets. This would provide firms the clarity needed to conduct reliable perimeter analysis, and would be consistent with the FCA's stated objective that firms should be able to "organise their businesses and apply for relevant permissions with confidence."

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.

GDF welcomes the no-double-registration principle confirmed at PERG 19.12.3, but notes that transition guidance is needed urgently (given the application window opens on 30 September

2026) on mechanics such as notifications, variations of permission, savings provisions and gateway timing for firms currently MLR-registered who will apply for FSMA authorisation.

However, the dual-regime burden remains significant. As RAO exclusions do not have equivalent MLR exclusions, firms outside FSMA may still require MLR registration – for example, limited network tokens excluded from the RAO definition of "qualifying cryptoasset" under article 88F(4)(d)(ii)(bb) may still be caught by the broader MLR definition of "cryptoassets". GDF requests that the FCA map these divergences clearly, including the different geographic perimeters under FSMA, the RAO, the Financial Promotions Order and the MLRs, and the different "by way of business" tests applicable under each regime in its PERG guidance, so that firms can determine with confidence which regime(s) apply to their activities.

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

The FCA should clarify where existing PERG 1 and PERG 2 guidance continues to apply and where PERG 19 supersedes or supplements it, particularly where PERG 19 takes a crypto-specific approach to concepts (such as the communications exclusion) that are addressed in general terms in PERG 8.32.

In addition, the consequential amendments to PERG 8 – which introduce "*making arrangements with a view to transactions in qualifying cryptoassets*" (Article 9Y(2)) and "*arranging qualifying cryptoasset staking*" (Article 9Z6) as controlled activities for financial promotions purposes – should not inadvertently bring non-promotional, informational or software-only interface content within the financial promotions regime. The FCA should consider whether the policy concerns addressed through the arranging perimeter are more appropriately dealt with under the financial promotions regime rather than through an expansive reading of the arranging activity itself.

Annex I

References to arranging in the Crypto Regulations and accompanying Explanatory Memorandum, and Draft SI and accompanying Policy Note

	Approach under the Crypto Regulations	Approach under the Draft SI
Arranging activity	**Arranging deals in qualifying cryptoassets** 9Y. – (1) Making arrangements for another person, whether as principal or agent, to buy, sell, subscribe for or underwrite a qualifying cryptoasset is a specified kind of activity. (2) 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, is also a specified kind of activity.	**Arranging deals in qualifying cryptoassets** 9Z. – (1) Making arrangements for another person (whether as principal or agent) to buy, sell, subscribe for or underwrite a qualifying cryptoasset is a specified kind of activity. (2) Making arrangements with a view to a person who participates in the arrangements buying, selling, subscribing for or underwriting qualifying cryptoassets falling within paragraph (1), whether as principal or agent, is also a specified kind of activity.
Enabling parties to communicate exclusion	**Article 9Y exclusion: enabling parties to communicate** 9Z2. A person does not carry on an activity specified by article 9Y(2) merely by providing means by which one party to a transaction, or potential transaction, is able to communicate with other such parties.	**Enabling parties to communicate** 9Z3. A person does not carry on an activity of the kind specified by article 9Z(2) (arranging deals in qualifying cryptoassets) merely by providing means by which one party to a transaction, or potential transaction, is able to communicate with other such parties.
Explanatory Memorandum / Policy Notes	**Explanatory Memorandum** **4. Overview of the Instrument** ***What does the legislation do?*** 4.1 This statutory instrument delivers the UK's financial services regulatory framework	**Policy Note** **Part 2** Part 2 amends the RAO to insert a new chapter ("Chapter 2B (cryptoassets)") to create new categories of specified investments and associated new specified activities for cryptoassets.

	Approach under the Crypto Regulations	Approach under the Draft SI
	for cryptoassets. […]These new regulated activities include […] arranging deals in qualifying cryptoassets […]. **6. Legislative and Legal Context** **How has the law changed?** 6.1 As outlined in the previous section, this instrument, delivers a new comprehensive financial services regulatory framework for cryptoassets. The legislation is described in three key parts, namely, a) defining 'qualifying cryptoassets' and new regulated activities; b) cryptoassets admissions and disclosures regime; and c) market abuse regime for cryptoassets. 6.2 Part 1 of the instrument details the instrument's commencement, initially enabling the FCA to issue directions, guidance and rules with full commencement beginning on Monday 25 October 2027. […] *A) Defining 'qualifying cryptoassets' and new regulated activities.* […] 6.14 Dealing in cryptoassets (new articles 9T – 9Z5 of the RAO) as principal, agent, or arranging deals (the provisions are also intended to capture cryptoassets lending and borrowing services). […]	**Other new specified activities** Part 2 creates the following further activities: • […] • Arranging deals in qualifying cryptoassets – this activity is drafted such that is also intended to capture the operation of a cryptoasset lending platform **Part 3** Part 3 makes amendments to section 418 of FSMA to set the geographic scope of the regulatory perimeter, in line with the Government's intention to ensure that cryptoasset firms serving UK retail customers should be authorised in the UK. The geographic perimeter is designed to achieve the outcomes listed below. For the following activities, firms that are dealing directly or indirectly with a UK consumer will need to be authorised in the UK regardless of whether the firm is based in the UK or overseas: […] arranging deals in qualifying cryptoassets.

	Approach under the Crypto Regulations	Approach under the Draft SI
	6.18 The instrument amends section 418 of FSMA to make provision for when a person will be deemed to be carrying on an activity in the UK. For the following activities, firms that are involved in the sale or subscription of a qualifying cryptoasset to, or by, a UK consumer will need to be authorised in the UK regardless of whether the firm is based in the UK or overseas: […] d) arranging deals in qualifying cryptoassets.	

Annex II

Examples of technology provider services and technological interfaces

Model 1: NCW with connectivity to third-party swap functionality

A non-custodial wallet ("**NCW**") is a key management and transaction-signing and broadcasting tool. The NCW provider supplies the front-end software – e.g. a mobile app, hardware UI, browser extension etc. (together, the "**interface**") – so that the firm's customer/user can utilise their NCW. In practice, most NCW interfaces have connectivity to third-party swap functionality, which may be achieved in different ways.

Model 1(a): Connectivity via a widget, SDK, plugin or similar

- The NCW provider's ("**Firm A**") interface embeds third-party swap functionality via a widget, SDK, plug-in or similar (collectively, "**widgets**"). Although aggregator-built widgets are more common, trading protocols and AMMs also build their own embeddable widgets.

Model 1(b): API connectivity

- Model 1(b) is similar to Model 1(a), though rather than hosting a third-party widget, the interface integrates third-party swap functionality via API calls. Although API calls to an aggregator are more common, direct smart contract calls can also be made to a protocol.

Model 1(c): Direct smart contract integration with transaction construction

- Firm A interacts directly with the smart contracts of a DEX protocol or AMM, without the involvement of an aggregator.

Model 1(d): Direct smart contract integration with routing logic

- Model 1(d) builds on Model 1(c) with Firm A applying its own logic to determine which pool to use, selecting the optimal execution route and presenting this to the user. Firm A is more active than being a passive interface to liquidity.

Model 1(e): Ongoing information about the user's portfolio

- The NCW queries blockchain data and external market data feeds, and displays ongoing information about the user's cryptoasset portfolio. For example, (i) token balances and their current market value; (ii) transaction history (swaps, transfers) by indexing on-chain activity associated with the user's NCW address; (iii) price alerts and notifications for tokens held, drawing on price oracle or market data aggregator feeds; and (iv) token vesting schedules and unlock timelines by reading from the relevant vesting smart contracts etc.

Model 2: NCW with embedded fiat on-ramp via a regulated third-party

- The NCW provider ("**Firm B**") embeds the third-party fiat on-ramp provider's ("**Firm C**") widget or hosts their webpage within the NCW interface (i.e., a host environment similar to Model 1(a)).

- The user accesses Firm C's on-ramp services via the widget/hosted web-page. All information displayed and interactions within the widget/web-page are between the user and Firm C.

Model 3: Analytics website or dashboard with a 'Trade on [DEX]' button

- "**Firm D**" operates a website or dashboard displaying charts, on-chain metrics, and token information. Each token page contains a 'Trade on [DEX]' button that, when clicked, opens the user's chosen DEX with the relevant token pre-selected.

- Firm D has no relationship with the user beyond the navigational link. After the 'Trade' button is clicked, Firm D has no involvement – it does not relay or receive transaction information and will be unaware as to whether a transaction takes place.

Model 4: White-label arrangements

"**Firm E**" develops a front-end swap interface ("**Swap Module**") and makes it available to a third party on a white-label basis. The Swap Module provides UI elements – e.g. quote display, token selection, transaction construction logic etc. – enabling users to interact with public DEX smart contracts. White-label arrangements generally operate in two ways.

Model 4(a): Technology provider supplies software to a regulated platform:

- "**Firm F**", an FCA-authorised third party, integrates Firm E's Swap Module into its own user-facing application under its own branding. Firm F controls the deployment, hosting, and availability of the application. It is the entity that provides services to users and has the regulatory and contractual relationship with them.

- Firm E has no relationship with the user, does not know their identity, and does not host or control the application in which the Swap Module is embedded.

Model 4(b): "Crypto-as-a-Service":

- Under Model 4(b) the regulatory position is reversed, replicating "Banking-as-a-Service" or "Payments-as-a-Service" arrangements commonly utilised in other sectors. Firm E, in addition to being the Swap Module provider, is the FCA-authorised entity that provides services to users and has the regulatory and contractual relationship with them.

However, the swap services are provided under a partner firm's ("**Firm G**") brand, with Firm G generally unregulated.