IRSG
INTERNATIONAL REGULATORY STRATEGY GROUP

International Regulatory Strategy Group (IRSG)

RESPONSE TO THE FINANCIAL CONDUCT AUTHORITY CONSULTATION PAPER (CP25/40) 'REGULATING CRYPTOASSET ACTIVITIES'

Introduction

The International Regulatory Strategy Group (IRSG) is a joint venture between TheCityUK and the City of London Corporation. Its remit is to provide a cross-sectoral voice to shape the development of a globally coherent regulatory framework that will facilitate open and competitive cross-border financial services. It is comprised of practitioners from the UK-based financial and related professional services industry who provide policy expertise and thought leadership across a broad range of regulatory issues. The IRSG welcomes the opportunity to respond to the Financial Conduct Authority (**FCA**) Consultation Paper (CP25/40): 'Regulating Cryptoasset Activities'.

We wish to thank Clifford Chance LLP for their support in drafting this response.

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Points for consideration

Regulatory perimeter and location policy

We support the FCA's policy intent to bring cryptoasset trading platforms (CATPs) serving UK consumers within the regulatory perimeter, aligned with the amendments to the Financial Services and Markets Act (FSMA) 2000 section 418. Clear perimeter rules will strengthen consumer confidence and support the development of a sustainable UK cryptoasset market. We also welcome the FCA's confirmation that firms serving only non-consumer UK clients may continue to operate offshore.

However, further clarity is required to ensure the framework operates effectively in practice and does not create unintended barriers for internationally active firms.

- Treatment of UK branches
  A key concern is the lack of clarity for international firms operating in the UK via a branch structure, without establishing a UK-incorporated subsidiary. The strong preference for UK legal entities expressed throughout the consultation risks being interpreted as precluding UK branches from operating in UK crypto markets. This would be contrary to the FCA's own statement that "operating branches help markets function well, while helping the UK maintain open and competitive markets" (DP 25/1, p.12).

  While the FCA appears to acknowledge some flexibility — noting that, in line with its general approach to international firms, there is flexibility in the legal form of a UK presence (CP 25/40, 2.8) — the proposal to assess firms' intended legal form on a case-by-case basis at the authorisation gateway (CP 25/40, 2.15) creates uncertainty. Firms require clearer ex ante parameters to structure their UK operations with confidence.

We acknowledge that the FCA has effectively left a "gap" for firms operating through a UK branch structure, potentially by exception. However, we urge the FCA to state explicitly in the Final Rules that the proposed cryptoasset regime will not preclude UK branches — particularly those already authorised to conduct traditional investment services — from participating in UK crypto markets, subject to appropriate supervisory safeguards.

- Consistency with treatment of non-digital activities
  The language in the current draft also creates potential inconsistency between the approach to digital assets and that applied to their non-digital equivalents. The FCA currently permits third-country branches to provide traditional investment banking services in non-digital products. However, for digital asset activities, the consultation raises concerns about effective supervision, insolvency, and safeguarding in a manner that suggests branch models may not satisfy threshold conditions.

  Absent further clarification, this risks creating a discrepancy in regulatory treatment between economically similar activities, solely on the basis of their digital form. We encourage the FCA to clarify how its threshold conditions analysis will apply consistently across digital and non-digital products, and to explain why branch structures would be appropriate for one but not the other.

- Scope of carve-outs and application beyond CATPs
  It is also unclear whether international firms operating under a UK branch structure — particularly those conducting cryptoasset activities other than CATP services — would be permitted to operate under the proposed regime through their existing branch model.

  In CP 25/40, carve-outs for international firms are framed specifically in the context of "Location, incorporation, and authorisation of UK CATPs" (p.11), and explicitly reference CATP services. However, Annex 4 (Approach to International Cryptoasset Firms, CP 26/4) identifies several cryptoasset activities, distinct from CATP operations within scope of the FCA, including:
  - Issuing qualifying stablecoins (Article 9M)
  - Safeguarding qualifying cryptoassets or relevant specified investment cryptoassets (Article 9N(1)(a))
  - Arranging safeguarding (Article 9N(1)(b))
  - Operating a qualifying cryptoasset trading platform (Article 9S)
  - Dealing as principal (Article 9T)
  - Dealing as agent (Article 9W)
  - Arranging (bringing about) deals (Article 9Y(1))
  - Making arrangements with a view to transactions (Article 9Y(2))
  - Arranging qualifying cryptoasset staking (Article 9Z6)

  We therefore seek clarity that any location-policy carve-outs for international firms apply consistently across all regulated cryptoasset activities within the regime, not solely CATP specific services. This should be reflected consistently in the Final Rules.

- Need for greater operational clarity
  More broadly, the FCA should:
  - Define what constitutes "predominantly UK business";
  - Set clear parameters for acceptable branch and subsidiary models;

- Specify how home- and host-state supervisory responsibilities will be allocated;
- Provide worked examples illustrating acceptable structures;
- Establish transparent criteria for assessing "comparable jurisdictions"; and
- Include a presumption that firms subject to robust home-state supervision may rely on equivalence or mutual recognition arrangements, where appropriate.

Without such clarity, the framework risks creating regulatory duplication, operational uncertainty, and competitive disadvantage for internationally active firms.

Finally, we would encourage continued alignment with international frameworks, including EU's Markets in Crypto-Assets Regulation (MiCA), where possible. Greater cross-border coherence will support market integrity while reinforcing the UK's position as an open, globally competitive cryptoasset hub.

Proportionality and alignment with existing regulatory frameworks

We welcome the FCA's efforts to align elements of the CATP regime with established Markets in Financial Instruments Directive (MiFID) based concepts, including market integrity, conflicts management, and transparency obligations. These principles already operate effectively in traditional markets and provide a strong foundation for crypto regulation. However, the FCA should avoid rigid or prescriptive application that fails to reflect the structural differences of cryptoasset markets.

We particularly support the FCA's decision to disapply cryptoasset trading platform (CATP) level best execution and to adopt a principles-based approach to algorithmic trading rather than importing MiFID Regulatory Technical Standards (RTS) 6 in full. The FCA should apply this proportionality consistently across governance, settlement, conflicts, and transparency requirements to prevent unnecessary friction and regulatory overreach.

Market integrity, pricing, and liquidity

We support strong market integrity standards, including fair pricing and effective market-abuse monitoring. However, certain proposals risk distorting liquidity if the FCA applies them rigidly in a nascent UK CATP market. For example, fixed requirements to reference multiple UK-authorised venues for pricing would distort price formation where global liquidity pools and internal benchmarks dominate.

The FCA should instead adopt a risk-based approach that allows firms to rely on multiple reliable and independent price sources, including non-UK venues and recognised reference pricing services. The FCA should also provide clear examples or safe harbours to support consistent application across firms of different sizes and business models.

Conflicts of interest and proprietary activity

We welcome the FCA's revised approach to conflicts of interest, including its recognition that firms may conduct certain forms of principal dealing and affiliate trading subject to appropriate controls. This functional approach better reflects market practice than mandatory structural separation.

Strong governance, effective information barriers, ongoing monitoring, and robust audit trails can manage conflicts without requiring legal separation. The FCA should explicitly recognise these control-based frameworks as compliant to provide certainty and avoid competitive distortions.

Settlement, custody, and operational realism

We support high-level settlement obligations but urge the FCA to reflect real-world cryptoasset market mechanics. Firms commonly rely on internal ledgering within omnibus wallets, selective on-chain settlement, and third-party custody arrangements. The FCA should explicitly accommodate these models and align settlement requirements with its custody and prudential proposals to ensure a coherent framework.

Retail protection and client differentiation

We support strong protections for retail consumers, including enhanced disclosures, asset admission standards, and safeguards against excessive risk. However, the FCA should not rely on overly procedural consent and disclosure requirements that deter participation or push activity offshore. Retail protections should focus on clear information, proportionate gatekeeping, and outcomes-based obligations aligned with MiFID II and Consumer Duty standards.

The FCA must also maintain a clear distinction between retail and non-retail clients. Applying retail-style requirements—such as negative balance protection or granular consent—to professional or institutional clients would impose disproportionate burdens and conflict with their risk management capabilities.

International interoperability and competitiveness

The FCA should prioritise international interoperability to maintain the UK's competitiveness. Divergence from EU's MiCA or emerging US frameworks will increase compliance costs, fragment liquidity, and incentivise offshore activity. The FCA should align transparency, reporting, and disclosure requirements with international standards wherever possible.

While the FCA's cost–benefit analysis identifies important consumer benefits, it underestimates the cumulative burden created by multiple concurrent regulatory initiatives and the operational complexity facing cross-border firms. The FCA should adopt phased implementation, provide transitional relief, and commit to periodic review to ensure the regime protects consumers without undermining innovation or institutional participation.