Blockchain & Cryptocurrency Regulation

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Government attitude and definition

Although still actively developing, current UK policy thinking in relation to cryptocurrencies was set out by the UK Cryptoassets Taskforce in its *Final Report*[1] (the "**Taskforce Report**"), published in October 2018.

The Taskforce Report identifies cryptocurrencies as a subset of the broader category 'cryptoasset'. It defines the latter as "a cryptographically secured digital representation of value or contractual rights that uses some type of [distributed ledger technology] and can be transferred, stored or traded electronically".[2] Within this overarching category, the Taskforce Report identifies three sub-categories and offers the following (non-legislative) definitions:

"A. **Exchange tokens** – which are often referred to as 'cryptocurrencies' such as Bitcoin, Litecoin and equivalents. They utilise a [distributed ledger technology] platform and are not issued or backed by a central bank or other central body. They do not provide the types of rights or access provided by security or utility tokens, but are used as a means of exchange or for investment.

B. **Security tokens** – which amount to a 'specified investment' as set out in the Financial Services and Markets Act (2000) (Regulated Activities) Order […]. These may provide rights such as ownership, repayment of a specific sum of money, or entitlement to a share in future profits. They may also be transferable securities or financial instruments under the EU's Markets in Financial Instruments Directive II […].

C. **Utility tokens** – which can be redeemed for access to a specific product or service that is typically provided using a [distributed ledger technology] platform."[3]

Although UK financial regulators have issued warnings in relation to investment in cryptoassets,[4] they are not subject to a blanket prohibition or ban in the UK. However, as indicated by the definitions set out in the Taskforce Report, some will be subject to financial regulation (see *Cryptocurrency regulation* below).

Despite publication of the Taskforce Report, UK policy towards cryptocurrencies is still developing. In particular, the authorities making up the Taskforce are continuing to conduct further substantive work in relation to cryptocurrencies. For example, the UK Financial Conduct Authority ("**FCA**") recently consulted on[5] and published[6] regulatory guidance in relation to cryptoassets (including cryptocurrencies) (the "**FCA Guidance**"). It has also recently consulted[7] on a proposed ban on the sale, marketing and distribution of derivatives and exchange traded notes referencing cryptoassets (including cryptocurrencies) to all retail consumers. As discussed further in *Money transmission laws and anti-money laundering requirements* below, HM Treasury has consulted[8] on the implementation of the Fifth EU Money Laundering Directive ("**5MLD**") in the UK and is expected to consult separately with a view to determining whether the existing financial regulatory perimeter should be

extended to capture certain kinds of cryptoassets that are not currently caught (such as Bitcoin, Litecoin and Ether).

Cryptoassets (including cryptocurrencies) are not considered money or equivalent to fiat currency in the UK. For the time being, the Bank of England has also ruled out issuing a central bank digital currency.[9]

Cryptocurrency regulation

As noted above, there is no blanket prohibition or ban on cryptocurrencies in the UK. Nor does the UK does have a bespoke financial regulatory regime for cryptocurrencies. Accordingly, whether or not a given cryptocurrency is subject to financial regulation in the UK depends on whether it falls within the general financial regulatory perimeter established under the Financial Services and Markets Act 2000 ("**FSMA**") or, as discussed in *Money transmission laws and anti-money laundering requirements* below, under the payment services and electronic money regime established under the Payment Services Regulations 2017 ("**PSRs**") and the Electronic Money Regulations 2011 ("**EMRs**").

This is reflected in the cryptoasset "taxonomy" set out in the FCA Guidance which broadly follows the definitions set out in the Taskforce Report, but which has been refined by the FCA as follows:

<table>
<tr><th>Taskforce Report taxonomy</th><th>FCA Guidance taxonomy[10]</th></tr>
<tr><td rowspan="2">Security tokens – which amount to a 'specified investment' as set out in the Financial Services and Markets Act (2000) (Regulated Activities) Order […]. These may provide rights such as ownership, repayment of a specific sum of money, or entitlement to a share in future profits. They may also be transferable securities or financial instruments under the EU's Markets in Financial Instruments Directive II […].</td><td>Security tokens: These are tokens that amount to a 'Specified Investment' under the Regulated Activities Order (RAO), excluding e-money. These may provide rights such as ownership, repayment of a specific sum of money, or entitlement to a share in future profits. They may also be transferable securities or other financial instrument under the EU's Markets in Financial Instruments Directive II (MiFID II). These tokens are likely to be inside the FCA's regulatory perimeter.</td></tr>
<tr><td>E-money tokens: These are tokens that meet the definition of e-money under the Electronic Money Regulations (EMRs). These tokens fall within regulation.</td></tr>
<tr><td>Exchange tokens – which are often referred to as 'cryptocurrencies' such as Bitcoin, Litecoin and equivalents. They utilise a [distributed ledger technology] platform and are not issued or backed by a central bank or other central body. They do not provide the types of rights or access provided by security or utility tokens, but are used as a means of exchange or for investment.</td><td rowspan="2">Unregulated tokens:
Any tokens that are not security tokens or e-money tokens are unregulated tokens. This category includes utility tokens which can be redeemed for access to a specific product or service that is typically provided using a DLT platform.
The category also includes tokens such as Bitcoin, Litecoin and equivalents, and often referred to as 'cryptocurrencies', 'cryptocoins' or 'payment tokens'. These tokens are usually decentralised and designed to be used primarily as a medium of exchange. We sometimes refer to them as exchange tokens and they do not provide the types of rights or access provided by security or utility tokens, but are used as a means of exchange or for investment.</td></tr>
<tr><td>Utility tokens – which can be redeemed for access to a specific product or service that is typically provided using a [distributed ledger technology] platform.</td></tr>
</table>

In summary, the FCA Guidance taxonomy splits cryptoassets into regulated and unregulated cryptoassets. The Taskforce Report definitions of exchange tokens and utility tokens are retained and these two sub-categories of cryptoassets comprise "unregulated tokens" in the FCA Guidance taxonomy. Cryptoassets that constitute electronic money are split out from the Taskforce Report sub-category of security tokens, instead being labelled as "e-money tokens", and these two sub-categories of cryptoassets (i.e., security tokens other than e-money tokens and e-money tokens) comprise "regulated tokens" in the FCA Guidance taxonomy.

The kinds of instruments that are regulated under FSMA are set out in exhaustive fashion in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ("**RAO**"). These are known as "specified investments" and include instruments such as shares, bonds, fund interests and derivative contracts. Therefore, in order to determine whether a given cryptocurrency is subject to financial regulation in the UK, it is necessary to analyse whether it matches the definition of any specified investment in the RAO. Those cryptoassets that do are labelled "security tokens" in the FCA Guidance and will typically be subject to UK financial regulation.

As stated by the FCA: "Any tokens that are not security tokens or e-money tokens [as to which see *Money transmission laws and anti-money laundering requirements*] are unregulated tokens."[11] In practice, this analysis proceeds predominantly on the basis of an 'intrinsic' assessment of a given cryptocurrency, focused on the rights or entitlements granted to holders, rather than being based on 'extrinsic' factors, such as the intended or actual use of the relevant cryptocurrency or other contextual factors relating to the cryptoasset (such as whether a platform to which the cryptoasset relates is currently operational or whether the network underlying the cryptoasset is decentralised).[12]

Although characterisation of cryptocurrencies in this way must be undertaken on a case-by-case basis in order to determine definitively whether they are subject to UK financial regulation, the FCA Guidance provides useful indicators of the likely outcome of any such analysis. 'Classic' cryptocurrencies (such as Bitcoin, Litecoin and Ether) which are not centrally issued and give no rights or entitlements to holders are labelled "exchange tokens" in the Taskforce Report and "unregulated tokens" in the FCA Guidance. As explained in the FCA Guidance, exchange tokens "typically do not grant the holder any of the rights associated with specified investments".[13] Accordingly, in the FCA's view:

> "Exchange tokens currently fall outside the regulatory perimeter. This means that the transferring, buying and selling of these tokens, including the commercial operation of cryptoasset exchanges for exchange tokens, are activities not currently regulated by the FCA.
>
> "For example, if you are an exchange, and all you do is facilitate transactions of Bitcoins, Ether, Litecoin or other exchange tokens between participants, you are not carrying on a regulated activity."[14]

It is, therefore, clear that Bitcoin, Litecoin and Ether are not currently subject to financial regulation in the UK. Cryptocurrencies with substantially similar features (i.e., those that are not centrally issued and do not grant any rights or entitlements to holders) are also currently likely to be unregulated in the UK. The fact that they may be used for speculative investment purposes in addition to being used as a means of exchange should not impact this conclusion.

One increasingly popular type of cryptoasset which is typically more difficult to characterise for financial regulatory purposes than classic cryptocurrencies is 'stablecoins'. Broadly, a stablecoin is a cryptoasset which by design seeks to maintain a stable market value through

pegging the value of the stablecoin to an underlying asset (such as gold or USD). Often, stablecoins are primarily intended to be utilised as a means of exchange much like classic cryptocurrencies. Pegging the value of a stablecoin to an underlying asset can be achieved in a variety of ways, and the precise structure adopted by a given stablecoin will determine whether it is classified as a specified investment in the UK. For example, a 'fully-collateralised' stablecoin issued by a central issuer, which is pegged to an underlying reference asset through the issuer holding the relevant underlying reference asset, is likely to constitute a specified investment (or, indeed, electronic money) if holders of the stablecoin have rights or entitlements in relation to the underlying reference asset. It is presently possible, however, to structure a stablecoin such that it is unregulated in the UK.

However, it is important to note that even if a given cryptocurrency is not a specified investment other than electronic money (i.e., not a security token following the FCA Guidance), certain activities in relation to such cryptocurrencies can still be subject to UK financial regulation and cryptoassets that constitute electronic money (i.e., e-money tokens following the FCA Guidance) are subject to regulation.

For example, offering to enter into derivative contracts which reference unregulated cryptocurrencies as their underlying (such as cryptocurrency contracts for differences or Bitcoin futures) way of business is likely to constitute a regulated activity in the UK for which a person would require authorisation from the FCA. Indeed, such derivatives are also the subject of the proposed FCA ban on their sale, marketing and distribution to retail customers. Establishing, operating, marketing or managing a fund which offers exposure to unregulated cryptocurrencies by way of business may also be subject to UK financial regulation. Furthermore, money transmissions laws and anti-money laundering legislation may also apply to activities carried out in relation to unregulated cryptocurrencies (see *Money transmission laws and anti-money laundering requirements* below).

Sales regulation

The principal sales regulation that is potentially applicable to sales of cryptocurrencies in the UK falls into three broad categories: i) UK prospectus requirements; ii) the UK restriction on financial promotions; and iii) consumer protection and online/distance selling legislation.

UK prospectus requirements

FSMA, in conjunction with the EU Prospectus Regulation, imposes requirements for an approved prospectus to have been made available to the public before: a) transferable securities are offered to the public in the UK; or b) a request is made for transferable securities to be admitted to a regulated market situated or operating in the UK.[15] Unless an exemption applies (public offers made to qualified investors are, for example, exempt), a detailed prospectus containing prescribed content must be drawn up, approved by the FCA (or the appropriate EEA member state financial regulator where the UK is not the home state of the issuer of the transferable securities) and published before the relevant offer or request is made.

However, these requirements only apply to offers or requests relating to transferable securities. Transferable securities for these purposes are anything which falls within the definition of transferable securities in the second EU Markets in Financial Instruments Directive ("**MiFID II**") which captures, for example, shares, bonds, and depository receipts (and instruments which give their holders similar rights or entitlements).

Therefore, in order to determine whether these requirements apply to the sale of a given cryptocurrency in the UK, it is necessary to determine whether the cryptocurrency in question

is a transferable security. Referring back to the FCA Guidance, only cryptocurrencies that are security tokens (i.e., only those cryptocurrencies that amount to a specified investment under the RAO other than electronic money) may be transferable securities.[16] As noted above, classic cryptocurrencies (such as Bitcoin, Litecoin and Ether) and cryptocurrencies with substantially similar features to classic cryptocurrencies are likely to be regarded as unregulated exchange tokens, rather than security tokens. Accordingly, the UK prospectus requirements should not apply to the sales of such cryptocurrencies.

UK restriction on financial promotions

FSMA contains a restriction on financial promotions which applies independently of the UK prospectus requirements. In summary, the restriction is that a person who is not appropriately authorised must not, in the course of business, communicate an invitation or inducement to engage in investment activity in a way which is capable of having an effect in the UK unless the communication is approved by an appropriately authorised person or an exemption applies.

For these purposes, the concept of engaging in investment activity is further defined by reference to "controlled activities" and "controlled investments", which are set out in exhaustive fashion in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 ("**FPO**"). Therefore, in order to determine whether the restriction on financial promotions applies to the sale of a given cryptocurrency, it is necessary to determine whether it involves the performance of a controlled activity or a controlled investment by reference to the definitions of each which are set out in the FPO.

Typically, sales of classic cryptocurrencies (such as Bitcoin, Litecoin and Ether) and cryptocurrencies with substantially similar features to classic cryptocurrencies should not engage the UK restriction on financial promotions although analysis of the sale in question must be undertaken on a case-by-case basis in order to determine definitively that this is the case (and related offerings such as funds providing exposure to unregulated cryptocurrencies may well trigger the restriction). Furthermore, even if a particular sale of cryptocurrencies were *prima facie* to engage the restriction a number of potentially helpful exemptions exist, of which the most likely to be relevant are those relating to financial promotions which are made to investment professionals, sophisticated investors and high-net-worth individuals/companies.

General advertising, online/distance selling and consumer protection legislation

In addition to sales regulation that arises out of the UK financial regulatory framework, there is a raft of general advertising, online/distance selling and consumer protection legislation that is potentially applicable to sales of cryptocurrencies or the offering of services related to cryptocurrencies (such as exchange or wallet services) in or from the UK.

Some, like the Consumer Rights Act 2015 or the Consumer Protection from Unfair Trading Regulations 2008, only apply in relation to consumers (typically defined as individuals acting outside of their trade, business, craft or profession) but where they do, provide consumers with significant statutory rights and remedies against supplies of goods, services and digital content and impose restrictions on the kinds of contractual terms that can be enforced against consumers. Others, like the Electronic Commerce (EC Directive) Regulations 2002, are of more general application and impose requirements on businesses established in the UK that offer or provide goods or services digitally. The application of such legislation may also depend on whether or not the business being conducted is subject to UK financial regulation.

Taxation

Currently, there are no bespoke UK tax rules applicable to cryptocurrencies. Therefore, existing tax principles and rules apply generally although uncertainty remains as to their application, particularly in relation to business and corporate tax.

Although there is no definitive policy towards the taxation of cryptoassets (including cryptocurrency) in the UK, the UK tax authority HM Revenue and Customs ("**HMRC**") published in December 2018 a policy paper entitled *Cryptoassets for individuals*,[17] which set out its views about how individuals who hold exchange tokens (as defined in the Taskforce Report) are to be taxed. Notably, the policy paper states that "HMRC will publish further information about the tax treatment of cryptoasset transactions involving businesses and companies"; however, this is yet to be forthcoming at the time of writing. Furthermore, the policy paper makes clear that the views contained within it are relevant only to the taxation of exchange tokens (which includes classic cryptocurrencies such as Bitcoin), and that for security tokens and utility tokens different tax treatments may need to be adopted. However, beyond this, classification of cryptoassets is not determinative of their tax treatment which will depend on the nature and use of the cryptoasset in question.

Having said that, the policy paper includes the following helpful general points:

- Capital Gains Tax ("**CGT**") and Income Tax ("**IT**") may apply to dealings in cryptocurrencies depending on the circumstances. HMRC has clarified that it does not regard cryptocurrencies as currency or money, and that it does not consider buying and selling cryptocurrencies to be the same as gambling (which largely rules out arguments that cryptocurrencies could be exempt from taxation).
- In most cases, HMRC expects that buying and selling of cryptocurrencies by an individual will amount to personal investment activity meaning that individuals will typically have to pay CGT on any gains they realise upon disposal of the cryptocurrencies (which includes not only selling them for fiat currency but also using them to pay for goods and services, giving them away to another person and exchanging them for another kind of cryptoasset).
- However, if (exceptionally, in HMRC's view) an individual is engaged in a trade of dealing in cryptocurrencies (to be determined in accordance with the existing approach taken towards determining whether an individual is engaged in trading securities and other financial instruments for tax purposes), IT would take priority over CGT, being applied to the individual's trading profits.
- Individuals will be liable to pay IT and National Insurance contributions on cryptocurrencies which they receive as a form of payment from their employer, as a result of mining activity or "airdrops" (unless the cryptocurrencies received via the airdrop are not in return for, or in expectation of, a service or as part of a relevant trade). In these circumstances, the cryptocurrencies will be taxable as miscellaneous income unless their receipt is considered part of a trade (in which case they will be taxable as part of the individual's trading profits).
- A charge to CGT may also arise if an individual subsequently disposes (other than in the course of a relevant trade) of cryptocurrencies received from their employer, as a result of mining activity or airdrops regardless of whether or not IT was payable on their receipt.

Money transmission laws and anti-money laundering requirements

Money transmission laws

The principal UK laws relevant to money transmission are the PSRs and the EMRs. Together the PSRs and EMRs establish a regulatory framework applicable to persons performing payment services (including, for example, money remittance and issuing electronic money) in the UK which includes authorisation, organisational, regulatory capital, safeguarding and conduct of business requirements. Whether this framework applies depends on whether a service involves payment services or electronic money as defined by the PSRs and EMRs, respectively.

Payment services as defined by the PSRs necessarily involve funds. Cryptocurrencies are not considered funds for these purposes. Therefore, products and services involving only cryptocurrency (such as a crypto-to-crypto exchange) will not normally involve payment services. Important exceptions to this are products or services relating to what the FCA Guidance terms "e-money tokens". Take, for example, a stablecoin structured in a way that means it constitutes electronic money – issuing or providing wallet services in relation to such a stablecoin would be likely to trigger the application of both the PSRs and EMRs.

Conversely, where fiat currency is involved (for example, in the context of a fiat-to-crypto exchange) there will be funds and so further analysis would need to be conducted to determine whether payment services are being provided and, if so, the precise application of the regulatory regime established by the PSRs and EMRs.

Anti-money laundering requirements

UK anti-money laundering ("**AML**") requirements are principally contained in the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("**MLRs**").

The MLRs implement the Fourth EU Money Laundering Directive in the UK and impose various requirements on businesses that are within their scope, including: the requirement to perform a firm-level AML risk assessment, organisational requirements relating to AML (including systems and controls and record-keeping requirements), customer due diligence obligations when establishing a business relationship with a customer or when transacting above a certain threshold, and ongoing monitoring obligations. The MLRs only apply to those businesses that have been identified as the most vulnerable to the risk of being used for money laundering or terrorist financing. Accordingly, they apply to the following "relevant persons":

- credit institutions;
- financial institutions;
- auditors, insolvency practitioners, external accountants and tax advisers;
- independent legal professionals;
- trust or company service providers;
- estate agents;
- casinos; and
- high-value dealers.

Generally speaking, this means that providers of products and services related to unregulated cryptocurrencies (i.e., classic cryptocurrencies and cryptocurrencies with substantially similar features to classic cryptocurrencies) are not presently subject to the MLRs provided

that their activities in relation to such cryptocurrencies do not require them to be authorised and they are not otherwise a relevant person (for example, an estate agent acting in relation to a house purchase involving Bitcoin).

However, this is subject to change with the impending implementation of 5MLD in the UK. 5MLD must be implemented in the UK by 10 January 2020 and, as noted in *Government attitude and definition* above, HM Treasury is currently consulting on this.

At a minimum, the scope of the UK AML regime will be extended to capture fiat-to-crypto cryptocurrency exchanges and cryptocurrency custodial wallet providers regardless of whether they are otherwise regulated as a consequence of 5MLD. However, it remains to be seen whether the HM Treasury will choose to "gold-plate" 5MLD when implementing it in the UK and apply UK AML requirements to other intermediaries/service providers in relation to cryptocurrencies. For example, in its recent consultation, it invited feedback from stakeholders as to whether entities offering crypto-to-crypto cryptocurrency exchange services or entities responsible for "the publication of open-source software (which includes, but is not limited to, non-custodian wallet software and other types of cryptoasset related software)"[18] should be brought within the scope of the UK AML regime. Those involved in the provision of products and services relating to cryptocurrencies should, therefore, monitor developments in this area closely.

Promotion and testing

In November 2018, the FCA established a formal Innovation Division which encompasses the regulator's various initiatives relating to innovation in financial services that it has developed over the last five years. Notably in relation to promotion and testing, beneath this umbrella, sit:

- The FCA's Regulatory Sandbox, which allows both authorised and unauthorised businesses which meet certain eligibility criteria to test innovative financial services propositions in the market with real consumers. Firms which successfully apply to participate in the Sandbox may benefit from the various Sandbox 'tools' which the FCA can deploy to facilitate real world testing such as restricted authorisation, individual guidance, informal steers, waivers and no-enforcement action letters.
- The Global Financial Innovation Network, which grew out of the FCA's proposal to create a global sandbox, seeks to provide a more efficient way for innovative firms to interact with regulators, helping them navigate between countries as they look to scale new ideas. This is for firms wishing to test innovative products, services or business models across more than one jurisdiction.
- The FCA's Innovation Hub, which offers direct support from the FCA to eligible innovative businesses by providing a dedicated contact for innovator businesses that are considering applying for authorisation or a variation of permission, need support when doing so, or do not need to be authorised but could benefit from FCA support.

Ownership and licensing requirements

The nature and form of property rights that may exist in relation to cryptocurrencies under English law is currently untested. In the interests of improving legal certainty in this regard, the UK Jurisdiction Taskforce of the UK government's LawTech Delivery Panel ("**UKJT**") recently consulted on what it perceives to be the principal issues of legal uncertainty about the status of cryptoassets (including cryptocurrencies) and smart contracts under English

private law. These include questions focused on: whether and how cryptoassets can be characterised as personal property; whether cryptoassets are amenable to concepts such as possession and bailment; whether and how security interests may be granted over cryptoassets; and how cryptoassets should be treated for the purposes of UK insolvency law. A legal statement summarising the current status of cryptoassets (including cryptocurrencies) under English private law is expected to be published by the UKJT shortly.

As to licensing requirements, whether or not a person requires authorisation to perform their activities in relation to cryptocurrencies in the UK will depend on whether they are conducting "regulated activities" as defined by FSMA. As noted in *Cryptocurrency regulation* above, a person's activities in relation to cryptocurrencies may still be subject to UK financial regulation even where the underlying cryptocurrency involved is not a specified investment. A classic example of where this might be the case is that of establishing, operating, marketing or managing a fund which offers exposure to unregulated cryptocurrencies by way of business – this kind of activity may well trigger licensing requirements in the UK. For the time being, cryptocurrencies are also unlikely to be permissible for inclusion in fund products (for example, exchange-traded funds) that require approval from the FCA: it is made clear in the Taskforce Report that the FCA will not authorise or approve the listing of a transferable security or a fund that references exchange tokens unless it has confidence in the integrity of the underlying market and that other regulatory criteria for funds authorisation are met.

Mining

Mining cryptocurrencies is permitted in the UK and, as noted above, there is no bespoke financial regulatory regime for cryptocurrencies in the UK which expressly regulates this activity. Mining of cryptocurrencies is also unlikely to fall within the existing UK financial regulatory perimeter (for example, mining Bitcoin is not currently subject to UK financial regulation).

Border restrictions and declaration

There are currently no border restrictions or requirements to declare cryptocurrency holdings when entering the UK. Individuals carrying cash in excess of EUR 10,000 must declare this to HMRC on entering the UK from a country outside the EU, but cryptocurrencies are not regarded as cash for these purposes.

Reporting requirements

No bespoke reporting requirements apply to cryptocurrencies in the UK. Reporting requirements that arise as a result of exiting financial regulation or AML legislation could, however, apply in relation to transactions in cryptocurrencies.

* * *

Endnotes

1. *Cryptoassets Taskforce: Final Report* (26 October 2018) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752070/cryptoassets_taskforce_final_report_final_web.pdf <accessed 1 August 2019>.
2. *Final Report* (n 1), 2.10.

3. *Ibid.*, 2.11.
4. For example, at the time of writing, both the Financial Conduct Authority and Bank of England websites warn that anyone investing in cryptoassets (including cryptocurrencies) should be prepared to lose all of the money invested https://www.fca.org.uk/consumers/cryptoassets, https://www.bankofengland.co.uk/research/digital-currencies <accessed 1 August 2019>.
5. FCA, *CP19/3: Guidance on Cryptoassets* (23 January 2019) https://www.fca.org.uk/publication/consultation/cp19-03.pdf <accessed 1 August 2019>.
6. FCA, *PS19/22: Guidance on Cryptoassets* (31 July 2019) https://www.fca.org.uk/publication/policy/ps19-22.pdf <accessed 1 August 2019>.
7. FCA, *CP19/22: Prohibiting the sale to retail clients of investment products that reference cryptoassets* (3 July 2019) https://www.fca.org.uk/publication/consultation/cp19-22.pdf <accessed 1 August 2019>.
8. HM Treasury, *Transposition of the Fifth Money Laundering Directive: consultation* (15 April 2019) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795670/20190415_Consultation_on_the_Transposition_of_5MLD__web.pdf <accessed 1 August 2019>.
9. "We are not planning to create a central bank-issued digital currency." Bank of England website https://www.bankofengland.co.uk/research/digital-currencies <accessed 1 August 2019>.
10. As set out here: https://www.fca.org.uk/firms/cryptoassets <accessed 1 August 2019>.
11. https://www.fca.org.uk/firms/cryptoassets <accessed 1 August 2019>.
12. This is consistent with the approach taken in the FCA Guidance. See, for example, paragraphs 42, 45, 49 and 65 to 67 of the FCA Guidance: *PS19/22* (n 6), Appendix 1.
13. *PS19/22* (n 6), Appendix 1 41.
14. *Ibid.*, 43 to 44.
15. The FCA maintains a list of UK regulated markets: https://register.fca.org.uk/shpo_searchresultspage?preDefined=RM&TOKEN=3wq1nht7eg7tr <accessed 1 August 2019>.
16. Electronic money does not fall within the definition of transferable securities.
17. HMRC, *Cryptoassets for individuals* (19 December 2019) https://www.gov.uk/government/publications/tax-on-cryptoassets/cryptoassets-for-individuals <accessed 1 August 2019>.
18. *Transposition of the Fifth Money Laundering Directive: consultation* (n 8), 2.38.

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