

23 May 2025

For the attention of the HMT Cryptoasset Legislation team
cryptoasset.legislation@hmtreasury.gov.uk

FIA EPTA's comments on the draft Financial Services and Markets Act 2000 (Regulated Activities and Miscellaneous Provisions) (Cryptoassets) Order 2025) (the "draft SI")

Dear Sir, Madam,

The FIA European Principal Traders Association (FIA EPTA) welcomes the opportunity to comment on the draft Financial Services and Markets Act 2000 (Regulated Activities and Miscellaneous Provisions) (Cryptoassets) Order 2025) (the "draft SI"). FIA EPTA represents 20 independent European Principal Trading Firms (PTFs) which deal on own account, using their own money for their own risk, to provide liquidity and immediate risk transfer in exchange-traded and centrally-cleared markets for a wide range of financial instruments, including shares, options, futures, bonds, ETFs and crypto assets. Our members are important sources of liquidity for end-investors and markets across European markets in the UK, EEA and Switzerland.

FIA EPTA fully supports the development of a robust framework for the regulation of cryptoassets in the UK, building on [HMT's previous proposals](#) published in October 2023.

We consider that the future success of the new regime lies in clear and well-defined rules. We note that the proposed legislation (the [draft Financial Services and Markets Act 2000 \(Regulated Activities and Miscellaneous Provisions\) \(Cryptoassets\) Order 2025](#)) (the "draft SI") builds on and supplements the existing Financial Services and Markets Act 2000 ("FSMA") framework for regulating financial services in the UK and understand from that that firms within scope of the new regime will be treated in a similar manner to firms that are already subject to the existing regulatory regime in the UK, including with respect to compliance with regulatory requirements and applicable exclusions to those requirements. We welcome the opportunity to review and provide technical comments, as requested in the draft SI Policy Note.

1. Technical comment - new group exclusion under the draft SI

In connection with the above, we note that of the seven new cryptoassets-related regulated activities under the draft SI, four are based on existing regulated activities set out under the FSMA 2000 (Regulated Activities Order) 2001 (as amended)(the “**RAO**”). Those four activities (the “**RAO equivalent activities**”) are: (i) *dealing in qualifying cryptoassets as principal* (new Article 9U); (ii) *dealing in qualifying cryptoassets as agent* (new Article 9X); (iii) *arranging deals in qualifying cryptoassets* (new Article 9Z); and (iv) *safeguarding of qualifying cryptoassets and relevant specified investment cryptoassets* (new Article 9O).

Article 69 of the RAO sets out the basis under which a service provider can make the RAO equivalent activities available to other members of the service provider’s group on a different basis to the provision of services to unaffiliated clients, subject to the conditions set out under the group exemption in Article 69.

The draft SI imports new group exclusions for the new regulated activities. We note that whilst the group exclusion under the draft SI is available for: (i) *dealing in qualifying cryptoassets as principal* (under new Article 9W); (ii) *arranging deals in qualifying cryptoassets* (under new Article 9Z6); and (iii) *safeguarding of qualifying cryptoassets and relevant specified investment cryptoassets* (under new Article 9P), there is no group exclusion for the other RAO equivalent activity, dealing in qualifying cryptoassets as agent.

It is not evident from the draft SI Policy Note, nor from HMT’s previous consultation paper (published in February 2023) or response paper (published in October 2023) that this was intentional in the drafting. We do not consider there to be an obvious policy reason for the distinction between dealing as principal and dealing as agent in qualifying cryptoassets.

We would like to highlight the significance to our members, which as independent market makers and liquidity providers are integral to the resiliency and efficiency of the financial markets. As proprietary traders, our members may be organized in such a way to keep certain regulated services within the group and rely on the group exemption to carry on such activities for the benefit of the group without being subject to the same requirements that would apply if those services were provided to unaffiliated clients.

As such, we request that the group exclusion under the draft SI is applied to all the RAO equivalent activities.

2. Drafting comment – Article 9Z6(3) (Other exclusions)

We set out below a minor drafting error in Article 9Z6(3):

“(3) The regulated activity specified in article 9Z does not include arrangements made by a person (“A”) where...”

We thank you for the opportunity to comment on the draft SI and we look forward to the final published version taking into account the comments raised by FIA EPTA and other respondents.

About FIA EPTA: *The FIA European Principal Traders Association (FIA EPTA) represents the leading Principal Trading Firms in the EU and UK. Our members are independent market makers and providers of liquidity and risk transfer for markets and end-investors across Europe, providing liquidity in all centrally cleared asset classes including shares, bonds, derivatives and ETFs. FIA EPTA works constructively with policymakers, regulators and other market stakeholders to ensure efficient, resilient and transparent financial markets in Europe. More information about FIA EPTA and independent market makers is available on: www.fia.org/epta and www.wearemarketmakers.com*