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Ava Labs.
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June 13, 2025

Crypto Policy
Payments & Digital Assets Division
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Submitted via email to: dp25-1@fca.org.uk

RE: Comments to FCA Discussion Paper 25/1 on Regulating cryptoasset activities

To whom it may concern:

Owl Explains appreciates the Financial Conduct Authority's ("FCA") efforts to foster industry engagement, transparency, and regulatory clarity in the rapidly evolving and innovative space of blockchain and cryptoassets and welcomes the opportunity comment on certain matters pertinent to Discussion Paper 25/1 ("DP 25/1").

I. Background

Owl Explains is powered by Ava Labs, Inc. ("Ava Labs"). Ava Labs is a Brooklyn-based technology company formed in 2018 with the aim of advancing blockchain and related technologies in order to foster greater adoption of this database layer of the internet.[i] The Avalanche Primary Network was launched by a diversified group of validators in September 2020, bringing its novel consensus mechanism and the ability to create custom blockchains to the world. Owl Explains is a project created by the legal team at Ava Labs with the goal of becoming a trusted educational resource for regulators, policymakers, and other stakeholders interested in learning about blockchain technology, cryptoassets, and Web3.[ii] Owl Explains also collaborates with academics to give greater exposure to the research being done on these topics.[iii]

The Avalanche Primary Network is powered by the proof-of-stake based Avalanche consensus[iv] and is secured by a distributed set of independently operated validators located around the globe who secure the network and authenticate transactions.[v] The Avalanche protocol also affords users the ability to build interoperable, custom layer-1 blockchains.[vi]

The native token of the Avalanche Primary Network is AVAX, which serves as the unit of account and means by which resources are allocated on the network through, among other things, paying "gas" and other fees and staking to operate validator nodes.

To date, Avalanche community members have utilised the network and AVAX tokens to build and operate over 100 custom layer-1 blockchains, create over 785,000 Smart Contracts, and

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execute over 1.5 billion transactions.[vii] The Avalanche protocol has been adopted for various use cases by participants across the world from the public and private sectors, including:

- **Tokenised securities and other finance related use cases**,[viii] including tokenised fund interests and other securities by financial institutions like BlackRock, Franklin Templeton, Apollo Global Management, and KKR, as well as a decentralised reinsurance marketplace and the deployment of smart contracts capable of pricing and executing bilateral trades.

- **Cross-border payments**,[ix] with companies like StraitsX and Fonbnk utilising Avalanche to simplify cross-border payments in Southeast Asia and Sub-Saharan Africa, enabling otherwise unbanked users to access cost-effective and secure payment solutions.

- **Ticketing and consumer programs**,[x] where Avalanche technology powers platforms by Tixbase, Sports Illustrated, and SK Planet, connecting users to NFT-based ticketing and loyalty rewards programs.

- **Privacy, Security, and Data Integrity**,[xi] with a wide range of entities—the California DMV, Bergen County New Jersey, Deloitte, Chainlink, Balcony, and J.P. Morgan—relying on Avalanche technology to support blockchain-based applications that require privacy and security and combat real-world fraud.

II. Responses to Certain Requests for Information

The FCA has long been a thought leader on matters related to blockchain and cryptoassets, through a variety of Discussion Papers, Consultation Papers and other materials dating back to the DLT discussion paper issued in 2017. With a prior focus on financial promotions and anti-money laundering, Owl Explains appreciates the FCA now turning its attention to tackling broader regulatory issues in preparation for a full cryptoasset regime in the UK.

As such, Owl Explains appreciates the opportunity to respond to DP 25/1. We previously submitted comments in response to the FCA's Discussion Paper 24/4, in which we focussed on the importance of token classification and ensuring that the inclusion of cryptoassets within the definition of "specified investments" was properly scoped to recognise that many tokens are not financial instruments.[xii]

In this letter, we explain why infrastructure providers on blockchain networks are not financial intermediaries, including but not limited to when they use Native DLT Tokens (as defined in our prior letter) to perform technology functions integral to the operation of the blockchain.[xiii] The need to differentiate infrastructure from intermediaries permeates not only DP 25/1 but also much of the other work that the FCA is undertaking at present, with respect to development of the UK's cryptoasset regulatory regime While we believe this point is clear, we urge FCA to provide guidance to reassure stakeholders of when their activities are outside the regulatory perimeter, bearing in mind the aforementioned crucial distinction.

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A. Infrastructure Providers on Blockchain Networks Are Not Financial Intermediaries

Blockchain technology has revolutionised the way transactions in assets, including securities, are conducted. A starting point for the determination of the cryptoasset regulatory perimeter should be an explicit recognition that ecosystem and network participants - who provide and maintain the infrastructure that allows blockchain networks to function - are not engaged in the activities of a financial intermediary and thus fall outside the regulatory perimeter. These infrastructure activities may include but are not limited to: hardware, software, and communications providers; miners, validators, delegators and node operators; and providers of APIs/RPCs, block explorers and other data (collectively, "Infrastructure Providers"). Some of these activities require the use of native DLT tokens, but many do not. We will address the role and use of native DLT tokens in the provision of infrastructure functions in the next section, but the broad principle around providing infrastructure is the same: infrastructure functions are not intermediary activities and therefore should not be considered as being within the regulatory perimeter.

The provision of essential infrastructure in connection with transactions on a blockchain does not involve financial services provision and does not lead to a characterisation of these Infrastructure Providers as regulated intermediaries. The FCA regulates various types of intermediaries performing financial services (*e.g.* cryptoasset trading platforms, investment advisors, clearing agencies, transfer agents, custodians, exchanges, brokers, dealers and/or arrangers). However, the UK has not traditionally regulated activities associated with technology infrastructure provision - such as building hardware, developing software, and facilitating communications. Performing these activities in connection with blockchains does not transform those providers into intermediaries any more than is the case for similar providers in traditional markets. First, if the cryptoassets underlying the transactions are not specified investments, then there is no regulated transaction and no activity within the regulatory perimeter. Second, even when specified investments are involved, long-standing principles reflect that Infrastructure Providers are not regulated because they are engaging in administrative and technological actions, as opposed to the direct provision and undertaking of financial services and activities.[xiv]

Blockchain Infrastructure Providers supply the passive infrastructure layer that facilitates the functioning of the network. They do not engage in archetypal intermediary activities like custodying customer funds or assets, recommending, arranging or soliciting trades or portfolio allocations, or executing, clearing, and settling transactions. For example, miners and validators perform the important technical function of reviewing, verifying, and recording of information. Similarly, other Infrastructure Providers are not interacting with customers, holding assets, or otherwise responsible for trading. They simply provide the technology (hardware, software, communications, data) layer that makes it possible for networks to function and, if applicable, for the intermediaries to conduct their activities.

As such, Infrastructure Providers do not engage in activities that are the hallmarks of a regulated intermediary even if specified investments like tokenised securities are trading on the network. Their involvement is limited to maintaining and enhancing the blockchain network's infrastructure, ensuring its functionality and security. It follows that, the Infrastructure Providers performing those tasks should not fall within the regulatory perimeter.

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B. Blockchain Technology Functions Using Tokens Are a Type of Infrastructure

Native DLT Tokens play an integral role in network functionality. Deploying the intrinsic technical features of these tokens constitutes a type of infrastructure provision, not the activities of an intermediary. For the purposes of this letter, Technology Functions include any transaction or other activity in which a token is transferred or otherwise used on a protocol in accordance with its design as an integral part of the operation of that protocol.

The intrinsic features represented by Technology Functions often involve network security and allocation of resources on the protocol, both of which are core to the functioning of the technology. While the uses for, and rights provided by, Native DLT Tokens may vary from network to network, all have one thing in common: they are, by their nature, utilised in connection with the day-to-day functionality of their respective networks on a consumptive basis. They are used and created to allocate scarce resources by providing incentives for network security and other desired behaviors, a medium of exchange and unit of account, and rights to services with respect to the network, among other functions.

The nature of the Native DLT Token used on the network is infrastructure, not intermediation or investment. It is designed to be actively used by the holder in the Technology Functions integral to the workings of the protocol. It is intended for participatory action on the network, to help in network operations. Tokens used in Technology Functions are no less a part of the core technology operations of blockchain protocols than the hardware, communications, cybersecurity, and software that facilitate their operation. Just as activities and transactions related to the latter are not considered intermediary activities, so it should be with tokens used in Technology Functions.

Examples of Technology Functions include but are not limited to:

- Staking tokens and operating a validator node or delegating tokens to a validator;
- Receiving or distributing staking rewards in connection with validating transactions and/or securing the protocol;
- Locking tokens (*e.g.* in a smart contract), including wrapping, bridging, and staking;
- Minting and burning tokens;
- Payments of transaction or other fees on the protocol;
- Other participation in the operation or testing of the protocol;
- Claiming or otherwise receiving tokens through an Airdrop or similar mechanism; and
- Sending, receiving, or otherwise transferring tokens on the protocol for any related purposes.

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We note the Order of 9 January 2025 from HM Treasury specifically excludes the staking activities in the first two bullet points above from the definition of collective investment scheme.[xv] Staking tokens and the tokens that are minted as staking rewards, for example, are a vital component of the validation mechanism of many networks. Without their contribution, network security and reliability would falter. The Order recognises the important contribution of staking to the infrastructure of a blockchain rather than as investment or financial services activities. This result should be more broadly applied to all Technology Functions utilising tokens. We note a recent academic comparing Proof-of-Stake to Proof-of-Work as part of the critical infrastructure of blockchains and concluding that the former is more secure.[xvi]

All Technology Functions are foundational to the operation of blockchain networks - no less intrinsic than the role internet service providers, communications protocols, hardware makers, web browsers, or the internet generally play in traditional financial markets. These technology providers and their functions sit rightly outside the regulatory perimeter. For the same reasons, we urge the FCA to issue guidance specifically stating that Technology Functions, and the persons who perform them, are outside the regulatory perimeter, regardless of the types of assets tokenised on the blockchain, including those constituting specified investments. This clarity is essential to preserve the neutrality of infrastructure, protect innovation, and ensure that regulation remains appropriately targeted

* * *

We appreciate the opportunity to provide comments on these important issues. We are happy to discuss these points further and answer any questions you may have. You may direct any inquiries to me, the General Counsel of Ava Labs (lee@avalabs.org). Thank you for your attention to this matter.

Sincerely,

Signed by:
Lee A. Schneider
EBA43E0DF74346A...
Lee A. Schneider

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[i] *See The Future of Digital Assets: Providing Clarity for the Digital Asset Ecosystem*, House Comm. on Fin. Serv. (Jun. 13, 2023), https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408851.

[ii] Hereinafter, we refer to Ava Labs and Owl Explains jointly as "Owl Explains."

[iii] For example, here is a podcast series in conjunction with CBER Forum. https://www.owlexplains.com/en/podcasts/avalabsxcber/1/

[iv] *See* Team Rocket et al., *Scalable and Probabilistic Leaderless BFT Consensus through Metastability* (Aug. 24, 2020), https://cdn.prod.website-files.com/5d80307810123f5ffbb34d6e/6009805681b416f34dcae012_Avalanche%20Consensus%20Whitepaper.pdf.

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[v] *See What is Staking?*, Avalanche, https://build.avax.network/docs/nodes/validate/what-is-staking (last visited Mar. 31, 2025).

[vi] *See Avalanche L1s*, Avalanche, https://build.avax.network/docs/avalanche-l1s.

[vii] *See Avalanche L1s Overview*, Avalanche, https://stats.avax.network/dashboard/overview/.

[viii] Find further information concerning these use cases below:

- Apollo Global Management and Securitize: https://www.prnewswire.com/news-releases/apollo-and-securitize-announce-partnership-and-launch-tokenized-access-to-credit-fund-on-aptos-avalanche-ethereum-ink-polygon-and-solana-networks-302364212.html; https://www.prnewswire.com/news-releases/apollo-and-securitize-announce-partnership-and-launch-tokenized-access-to-credit-fund-on-aptos-avalanche-ethereum-ink-polygon-and-solana-networks-302364212.html.
- BlackRock and Securitize: https://www.avax.network/blog/blackrock-launches-digital-liquidity-fund-buidl-on-avalanche-via-securitize.
- Citi on-chain pricing smart contracts: https://www.citigroup.com/global/insights/on-chain-pricing-smart-contracts.
- Colombian Neobank Littio leverages OpenTrade to offer interest-bearing USD accounts to local customers: https://www.avax.network/blog/colombian-neobank-littio-opentrade-interest-bearing-usd-accounts-avalanche.
- Diamond Standard: https://www.avax.network/blog/diamond-standard-leverages-oasis-pro-and-avalanche-to-make-diamonds-an-investable-asset-class.
- Franklin Templeton: https://www.avax.network/blog/franklin-templeton-launches-tokenized-money-market-fund-benji-avalanche.
- Homium: https://www.avax.network/blog/homium-issues-first-home-equity-loans-on-avalanche.
- Intain: https://www.avax.network/blog/intain-launches-avalanche-subnet-to-usher-in-new-era-for-multi-trillion-dollar-securitized-finance-market.
- Misyon Bank: https://thedefiant.io/news/tradfi-and-fintech/misyon-bank-launches-tokenization-solution-on-avalanche.
- ParaFi: https://securitize.io/learn/press/parafi-tokenizes-fund-on-securitize-platform-with-avalanche.
- Re – a decentralised reinsurance marketplace: https://coverre.com/members?redirect=for_us_customers.
- Republic Note: https://www.avax.network/blog/republic-selects-avalanche-for-its-profit-sharing-digital-asset.
- Wine Capital Fund: https://www.avax.network/blog/wine-capital-fund-leverages-oasis-pro-and-avalanche-to-make-fine-wine-an-investable-asset-class.

[ix] Find further information concerning these use cases below:

- StraitsX: https://www.avax.network/blog/straitsx-leverages-avacloud-and-avalanche-to-simplify-cross-border-payments-in-southeast-asia.

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- Sub-Saharan Africa by Fonbnk: https://www.avax.network/blog/fonbnk-builds-avalanche-on-ramp-for-cross-border-payments-in-emerging-markets.

- Visa powered cryptocurrency card: https://www.avalanchecard.com/.

[x] Find further information concerning these use cases below:

- Tixbase & Sports Illustrated: https://www.avax.network/blog/nft-tix-migrates-to-avalanche-and-announces-global-festival-partnerships; https://www.avax.network/blog/avalanche-to-power-si-tickets-nft-platform-box-office.

- SK Planet: https://decrypt.co/198091/south-koreas-dreamus-puts-nft-tickets-avalanche-events-kpop-concerts.

[xi] Find further information concerning these use cases below:

- California DMV combats title fraud: https://www.reuters.com/technology/california-dmv-puts-42-million-car-titles-blockchain-fight-fraud-2024-07-30/.

- Close as You Go, a Deloitte project: https://www.owlexplains.com/en/podcast/ep-9-how-deloitte-is-using-smart-contracts-to-accelerate-disaster-relief/.

- Crop insurance smart contracts, by Lemonade: https://www.owlexplains.com/en/podcast/ep-8-how-lemonade-is-using-smart-contracts-to-revolutionize-crop-insurance/.

- Kinexys by J.P. Morgan: https://www.avax.network/blog/avacloud-selected-to-participate-in-kinexys-by-j-p-morgans-project-epic---exploring-privacy-and-identity-solutions-for-institutions.

- Real estate tokenisation by Balcony: https://www.owlexplains.com/en/podcast/ep-29-balcony-revolutionizing-and-tokenizing-real-estate/. The Bergen County, New Jersey project: https://www.northjersey.com/story/news/bergen/2025/05/29/bergen-county-nj-deal-strengthen-protect-property-records/83901692007/

- Real-time corporate actions data on-chain by Chainlink: https://www.prnewswire.com/news-releases/chainlink-and-8-major-market-participants-launch-ai-powered-corporate-actions-initiative-to-address-unstructured-data-challenge-for-the-financial-industry-302281824.html.

Other real world use cases of the Avalanche Network:

- Film fundraising by Pressman Film and Republic: https://www.avax.network/blog/legendary-pressman-film-leverages-republic-investment-platform-and-avalanche-network-to-transform-independent-film-financing.

- Off the Grid, a blockchain based video game: https://www.avax.network/blog/gunzilla-launches-aaa-shooter-on-an-avalanche-subnet.

[xii] *See* https://www.owlexplains.com/en/comment-letters/response-to-financial-conduct-authority/ ("Native DLT tokens: A narrow category of truly DLT-native tokens (e.g., Bitcoin, Ether, AVAX, etc.). Might be a subset of intangible asset tokens in the sense that these tokens are just a bundle of rights with no physical item involved, although some may have an element of services (e.g., when the token is used for resource allocation on the network). The classification system treats native DLT tokens as not a subset of intangible asset tokens because the latter must be something that exists (or can exist) distinct from the blockchain that creates and maintains it. Native DLT tokens have no existence or purpose without the associated blockchain.").

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[xiii] Our recent submissions to the U.S. Securities and Exchange Commission Crypto Task Force discuss these matters, including token classification, in the U.S. law context. 2025/4/23 submission: https://www.owlexplains.com/en/comment-letters/response-to-the-sec-crypto-task-force/; 2025/5/28 submission: https://www.owlexplains.com/en/comment-letters/crypto-task-force-nature-of-the-activity-test/

[xiv] *See, e.g.*, Policy Statement 23/11 Guidance on the Trading Venue Perimeter https://www.fca.org.uk/publications/policy-statements/ps23-11-guidance-trading-venue-perimeter**;** In PS 19/22, the FCA identified participants such as miners and non-mining nodes and noted that many of their crypto- related activities "are unlikely to be perimeter issues" and therefore fall outside regulation. https://www.fca.org.uk/publication/policy/ps19-22.pdf

[xv] *See* https://www.hoganlovells.com/en/publications/uk-new-statutory-instrument-on-cryptoasset-staking.

[xvi] *See* Kose John et al., *Proof-of-Work versus Proof-of-Stake: A Comparative Economic Analysis* (Dec. 16, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3750467. *See also The Fundamentals: What Is Staking?*, Owl Explains (Mar. 11, 2025), https://www.owlexplains.com/en/articles/the-fundamentals-what-is-staking/.