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Regulatory Update

Market Abuse Rules for Cryptoassets — The New UK Regime

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Introduction

This briefing covers the FCA's proposed rules for market abuse in cryptoassets (MARC) in [\(DP24/4\)](#) and follows our earlier coverage on the proposals for the [FCA's admissions and disclosures \(A&D\) regime](#) proposed in that Discussion Paper. Please also see our previous alert on [the FCA's Crypto Roadmap](#) and the additional topics the FCA will be consulting on over the course of 2025.

The FCA is requesting feedback on the Discussion Paper by 14 March 2025. It is clear that the FCA is keen to engage with the industry both via written responses and meetings to ensure that it does not foot fault at a delicate time for the U.K. cryptoasset industry.

With improved sentiment toward the cryptoasset sector in the United States and the EU's Markets in Cryptoassets Regulation having come into force, it appears that the U.K. does not want to be left behind in the race to regulate the cryptoasset sector.

In this Stay Current alert, we focus on the new market abuse requirements being consulted on. The admissions and disclosures rules were covered in our previous instalment (linked above).

Background

Cryptoasset businesses providing their services in the U.K. are currently subject to anti-money laundering registration, which mandates customer due diligence, transaction monitoring and screening. Separately, both offshore and U.K. cryptoasset businesses communicating to customers in the U.K. are also subject to the U.K.'s financial promotions rules, which mandates the display of certain "front-end" disclosures and requires the imposition of "back-end" customer frictions in onboarding journeys. The result is that U.K. cryptoasset businesses are not presently subject to comprehensive financial services regulation.

Under the previous U.K. government, HM Treasury (HMT) had issued a [Call for Evidence and Consultation](#) on the Future Financial Services Regulatory Regime for Cryptoassets (HMT Consultation). These proposals sought to align cryptoasset regulation more closely with regulation applying to broader financial services markets, applying a more fulsome regulatory regime to the sector.

Since the HMT Consultation in 2023, the U.K.'s cryptoasset industry has been waiting for substantive developments to provide it with direction and certainty. On 26 November 2024, the FCA's Crypto Roadmap gave the industry its first communication on the proposed future regime for U.K. cryptoasset regulation, setting out the FCA's consultation topics planned over the following 12 months. The FCA covers MARC alongside the A&D regime in DP24/4, which is the first of these consultations.

Overview and Summary

- DP24/4 introduces plans for MARC which lean on the existing Market Abuse Regulation (MAR) framework for financial instruments. HMT is expected to introduce enabling legislation for this.
- MARC will prohibit insider dealing, unlawful disclosure of inside information and market manipulation, drawing on the existing MAR framework. The definition of “inside information” will have common elements between the two regimes, including information on client orders, with potential FCA guidance down the line specific to cryptoassets.
- The FCA is considering crypto-native behaviours like MEV, manipulative schemes like wash trading and pump-and-dumps, and potential safe harbours or exemptions for certain behaviours like delayed disclosure and coin burning, based on principles of market function and consumer protection.
- Disclosure rules around key information, including potential inside information, may extend to “sponsors” (those listing cryptoassets) when there is no identifiable issuer, with potentially limited requirements compared to traditional securities issuers. The FCA is exploring methods for disseminating this information to the public, using existing or crypto-specific “primary information platforms”.
- Exchanges and intermediaries will need systems and controls to detect and prevent abusive behaviour, potentially including direct suspicious transactions and order reporting to exchanges and on-chain transaction monitoring based on firms’ risk assessments.
- A private-to-private information-sharing mechanism between regulated exchanges is proposed to improve detection of abusive behaviour. This mechanism would allow exchanges to share information about suspicious trading activity, potential market manipulation and other threats to market integrity.

Being at least two steps removed from final rules, the Discussion Paper’s details are limited in some areas. The picture is clearer where trading and market dynamics in cryptoassets are more similar to their securities market counterparts. Where there are more differences, the FCA shares its current thinking while seeking comment from stakeholders.

The FCA’s stated aim with the design of MARC is to enable “*a fair and orderly [trading] environment with equal opportunity to act on information*” and assumes the introduction of new legislation by the U.K. government that would:

- (a) bring exchanges (referred to in the Discussion Paper as “cryptoasset trading platforms” or CATPs) into the U.K. regulatory perimeter for market abuse regulation; and
- (b) prohibit insider dealing, disclosure of inside information and market manipulation in relation to cryptoassets traded on U.K.-regulated exchanges.

Despite using MAR as a common starting point, the Discussion Paper points to deviation both from MAR itself and the EU’s own market abuse regime for cryptoassets (see our previous alert on [MiCA’s level 2 market abuse requirements](#)). The FCA does not yet have clear proposals in some areas of MAR, with comments invited via the Discussion Paper to shape the approach.

Defining Abusive Behaviour and Inside Information

The FCA proposes carrying over to MARC the three key prohibitions in MAR, namely bans on:

- insider dealing;
- unlawful disclosure of inside information; and
- market manipulation (including dissemination of false/misleading information).

The first two of those—and the disclosure rules we cover below—hinge on the concept of what constitutes “inside information”. At a glance, and despite the difficulties of one-to-one comparisons between how the asset classes trade, the principles proposed for MARC look similar to those used under MAR, with the need for the information to be:

- (a) precise;
- (b) non-public;

- (c) related to a given cryptoasset; and
- (d) likely to have a significant effect on the market price of the cryptoasset.

“Inside information” also extends to information on a client’s pending order to prevent front-running and other similar behaviour.

However, the FCA’s discussion of the topic recognises that there are difficulties with adopting traditional finance terminology for cryptoasset markets. For instance, there is commonly an absence of an identifiable issuer or operator of a token or network in relation to whom inside information might arise when compared to individuals with information on business performance, asset impairment, etc. at a securities issuer.

To clarify, the FCA hints at the potential to issue guidance on the types of inside information that might apply to cryptoassets themselves, as opposed to information on, for example, others’ listing or trading intentions.

For other types of manipulative behaviour, the FCA gives the examples of wash trading and pump-and-dump schemes. While we would generally expect many established manipulative behaviours from securities markets to have analogues in cryptoasset markets, the FCA is open-minded about crypto-native behaviours such as maximal extractable value (MEV) and whether they should be prohibited or subject to safe harbours (see below). The FCA published a [research note on MEV](#) earlier this year, which is likely to inform the regulator’s final position.

Safe Harbours and Exceptions

The existing market-abuse regime recognises that some behaviour that would otherwise be prohibited has legitimate purposes and should be permitted. That reality carries over to the cryptoasset world, although the practices here are newer and developing. The FCA contemplates potential safe harbours or exemptions for delaying the disclosure of inside information (although this may be more limited for non-issuers, whose legitimate interests in delay are less obvious) or coin-burning practices as an analogue to share buyback programmes.

Ultimately, the FCA will develop any safe harbours and exceptions based on principles. It proposes the following principles, which we would expect to then inform proposals for specific safe harbours and exceptions in a consultation paper at the next stage:

- The outcome of the application of the safe harbour must support market function or financial stability;
- The design of safe harbours must minimise harm to consumers, including the risk of information asymmetry or consumers being misled; and
- Safe harbours must be specific to a well-defined activity and, ideally, be well-timed.

Disclosing/Cleansing Inside Information

To help promote transparency in markets, regulations tend to require orderly disclosure and dissemination of inside information in an orderly way such that it is no longer inside information. In securities markets, these requirements focus on disclosure by the issuer. However, noting the different nature (or practical absence) of issuers in cryptoasset markets, the FCA is exploring extending similar disclosure rules to the persons applying to list a cryptoasset on an exchange. This might be the exchange itself or it might be a project team, community group or foundation. We refer generically to the listing applicants as “sponsors”.

The FCA’s current thinking is to make sponsors responsible for disclosing inside information in situations where either the issuer is not identifiable or the listing is proposed without the request or involvement of the issuer. The sponsor’s disclosure requirements are proposed to be more limited than for an issuer in recognition of their differing roles and information, covering only inside information which directly concerns the sponsor and of which the sponsor is reasonably aware.

While the FCA acknowledges that while certain “decision-useful, non-material” types of information, such as technological updates, might arise on a continuous basis, this wouldn’t necessarily qualify as inside information. They invite views on whether regulation needs to specify information beyond that included in admission documents and inside information that needs ongoing disclosure.

Information must be “disseminated” to end its “inside information” status. In securities markets, there are established methods of doing this, including the mandated use of regulatory information services, also known as primary information platforms (PIPs), alongside social media and issuer-owned channels like websites.

At present, the FCA is determining whether it makes the most sense to create crypto-specific PIPs (centralised or decentralised), piggyback on existing securities market PIPs (perhaps with expanded operating hours to match 24/7 crypto markets—U.K. PIPs currently operate from 7 a.m. to 6:30 p.m.) or fall back to a discloser’s website. The clearest proposal on this front is that the FCA expects there to be some requirement for “active” dissemination somewhere beyond the discloser’s own website, but perhaps less formal than a PIP, given potential operational challenges. Oversight of PIPs for cryptoasset markets might also be industry-led rather than regulator-led, in contrast to the approach in the securities market.

Systems and Controls

To make the prohibitions more effective, the market abuse regime obliges trading venues and intermediaries to implement systems and controls—proportionate to their business and activities—to detect, prevent and disrupt abusive behaviour.

In the Discussion Paper, the FCA gives non-exhaustive lists of potential systems and controls to be implemented under MARC by exchanges and other intermediaries:

Proposed controls for intermediaries	Proposed controls for exchanges
Conflict of interest declarations.	
Personal account lists and internal rules on personal account dealing for employees (such as employees seeking clearance before trading).	
Use of emerging crypto RegTech tools where appropriate.	
Maintain records for five years.	
Information barriers that limit intermediary employees’ access to client orders to prevent frontrunning.	Information barriers.
Contractual or other agreements with clients which would allow them to disrupt activities they identify as abusive, including the ability to off-board the client.	Establishing platform-specific rules that set out options for disrupting abusive activity, including off-boarding clients.
Monitoring and rejecting suspicious client orders.	Real-time and post-trade surveillance.
Reporting suspicious orders to the relevant exchange via suspicious trade and order reports (STORs).	Participation in cross-platform information sharing (see below).
	On- and off-chain monitoring.
	Trading halts, delays or suspensions.
	Employee training on overall proper management of inside information disclosures to the market concerning initial exchange offerings.
	PDMR transaction disclosures and insider lists (for where an exchange has sought admission of a cryptoasset to trading).

In a potential deviation from both MAR and the latest MiCA position, the FCA is exploring the idea of having intermediaries file STORs directly with exchanges for investigation and assessment of escalated/filed STORs for intermediaries at that level, with the FCA occupying an oversight role. In other regimes, competent authorities like the FCA receive STORs and investigate them as appropriate. This would create a greater burden for exchanges, which would need to develop processes to receive, investigate and process STORs from market participants.

A more traditional control proposed is the use of insider lists maintained by firms, used alongside personal account dealing policies and trading restrictions to help manage the flow of inside information, reduce the surface area for abuse and assist in investigations of potential illicit activity.

The FCA currently expects exchanges to monitor activity on their own platforms and, given the limitations of monitoring a decentralised crypto ecosystem, to require them to have access to tools to monitor and investigate on-chain transactions. This should increase the integrity of trading signals on individual venues within MARC while making use of the more limited information available elsewhere.

The expectation for on-chain monitoring appears likely to be less prescriptive than for on-platform activity, with the FCA proposing to leave the design and justification of exchanges' on-chain monitoring approaches to individual firms based on their own risk assessments. In practice, this might look like using those tools for investigations in some cases, and/or for higher-risk customers, rather than necessarily using on-chain data for everything.

Information Sharing

The FCA is proposing to introduce a private-to-private information sharing mechanism, likely through one or more third-party systems. This will aim to enable greater cooperation between FCA-regulated exchanges as they implement their systems and controls to detect and interdict abusive behaviour.

While the FCA at least seems to be considering bilateral models for information sharing, with or without the use of a standard, we read it as being more likely that one or more third parties come in to provide this function, in a similar way to third-party solutions developed for travel rule compliance.

Although MAR doesn't include a similar information sharing mechanism, there are parallels with other recent financial-crime-related initiatives, most notably under the EU AML Regulation and section 188 of the U.K. Economic Crime and Corporate Transparency Act.

Next Steps

The FCA is requesting comments on the Discussion Paper by 14 March 2025. The FCA welcomes feedback from all participants in the cryptoasset sector, including international participants.

The FCA expects to release additional publications in Q1/Q2 of 2025, including:

- A discussion paper on trading platforms, intermediation, lending, staking and prudential considerations for cryptoasset exposures; and
- A consultation paper on stablecoins, custody and the introduction of a new prudential sourcebook.

Firms should keep abreast of these developments.



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