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UK and EU H1 Digital Assets Regulatory Update

The first half of 2025 brought significant developments in the regulation of digital and cryptoassets in the UK and EU. In this half-year update, we review these and look ahead to likely developments in the UK and EU in the second half of 2025.

- In the UK, HM Treasury published key draft legislation establishing the regulatory framework for cryptoassets, and the UK Financial Conduct Authority (FCA) also published a number of consultation and discussion papers on cryptoasset regulation. Further developments are expected in this area, including the UK Prudential Regulation Authority's consultation on implementing the Basel standard for the prudential treatment of cryptoassets, later in 2025.
- For the EU, the Market in Crypto-Assets Regulation (MiCA) became fully applicable starting 30 December 2024. A number of member states have begun issuing MiCA authorisations to cryptoasset service providers in their jurisdictions, and EU officials continue to develop the regime with the publication of supervisory guidance and new delegated regulations to supplement the framework. Notably, the European Commission has not yet published its report on the latest developments with respect to cryptoassets, which is required under Article 142 of MiCA and has been expected since the end of 2024.

More generally, international interest in the development of cryptoassets continues. The Bank for International Settlements (BIS) prereleased the chapter of its 2025 Annual Economic Report on the next-generation monetary and financial system, examining tokenisation and stablecoins. The report expresses concern about the prospect of stablecoins being a mainstay of the monetary system given poor performance against the integrity, singleness and elasticity tests. Whether the regulatory frameworks in the EU and UK will be able to address these concerns remains to be seen.

UK – Key Developments

Development	What Is New and What Comes Next?
<p>Crypto staking excluded from the scope of collective investment schemes</p> <p>8 January 2025</p>	<ul style="list-style-type: none"> - On 8 January 2025, HM Treasury issued a statutory instrument amending the scope of "collective investment schemes." It confirmed crypto staking is not within the scope of collective investment schemes through an amendment to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001. - The amendment entered into force on 31 January 2025. - For further information, see our 13 January 2025 article "Cryptoasset Staking Excluded From the UK Fund Compliance Regime."

(continued on next page)

UK and EU H1 Digital Assets Regulatory Update

UK – Key Developments

Development	What Is New and What Comes Next?
Cryptoasset regulatory regime declared FCA priority for 2025 work programme 8 April 2025	<ul style="list-style-type: none">- The FCA published its 2025/2026 work programme on 8 April 2025 and highlighted the development of the UK cryptoasset regime as one of the biggest areas of investment.- For further information, see our April 2025 article "UK Financial Regulation Update."
Legislation establishing the UK cryptoasset regulatory framework published 29 April 2025	<ul style="list-style-type: none">- HM Treasury published draft legislation to establish a regulatory framework for cryptoassets within the UK's financial services sector, including a policy note outlining the intended policy objectives behind the new rules.- The legislation creates new regulated activities of:<ul style="list-style-type: none">• Issuing "qualifying stablecoins."• Providing custody arrangements or operating a platform for "qualifying cryptoassets."• Dealing or arranging transactions in "qualifying cryptoassets." <p>Firms wishing to undertake these activities will need to be authorized and regulated by the FCA, although for "qualifying stablecoins" the new regime will only apply to UK issuers.</p> <ul style="list-style-type: none">- Under the draft legislation, most cryptoasset activities targeting UK consumers will require a UK-authorized entity (which can be an intermediary). Non-UK cryptoasset firms dealing exclusively with UK institutional clients will not need authorization, provided these institutions are not intermediaries to consumers.- Industry response to the draft legislation has been generally welcoming, although we understand that HM Treasury is currently considering a large number of comments received on the draft statutory instrument. We expect a further draft to be published later this year.- For further information, see our 30 April 2025 article "HM Treasury Publishes Draft Legislation Establishing Financial Services Regulatory Regime for Cryptoassets in the UK."

(continued on next page)

UK and EU H1 Digital Assets Regulatory Update

Development	What Is New and What Comes Next?
<p>FCA discussion paper on approach to cryptoasset regulation published</p> <p>2 May 2025</p>	<ul style="list-style-type: none"> - The FCA published Discussion Paper 25/1, which covered several key areas of the proposed regulatory framework, mainly building on the approach used for traditional finance, in particular in relation to the multilateral trading-facility regime for cryptoasset trading platforms (CATPs) and existing broker rules for intermediaries. - Regarding territoriality, the FCA built on HMT’s proposals (in the draft statutory instrument) to make clear that entities operating a CATP in the UK will need to be authorised. <ul style="list-style-type: none"> • Non-UK CATPs that serve UK retail customers will also need to be authorised; this will require the establishment of a UK-authorized firm. • However, CATPs that provide services to UK retail clients will need an authorised subsidiary in the UK, meaning a branch by itself will not be sufficient. - All CATPs must operate nondiscretionary trading systems, which would mean a disapplication of best-execution requirements for those accessing CATPs directly. - The discussion paper further outlined the impact of the new regulatory framework on: <ul style="list-style-type: none"> • Cryptoasset intermediaries. • Lending and borrowing in relation to cryptoassets. • Staking and decentralised finance. - The deadline for feedback was 13 June 2025. - For further information, see our 12 May 2025 article “UK FCA Discussion Paper Proposes Crypto Regulatory Framework and Seeks Industry Feedback.”
<p>Progression of legislation to ensure that digital assets can be considered personal property</p> <p>8 May 2025</p>	<ul style="list-style-type: none"> - On 8 May 2025, the Property (Digital Assets etc) Bill completed its third reading in the House of Lords. - The bill has returned to the House of Commons for the House of Lords’ amendments to be considered before the bill is finalised for Royal Assent. - The bill provides that digital assets can be considered to be personal property under the laws of England and Wales, and can therefore be afforded the same legal protections as other, traditional categories of personal property. - For further information, see our 16 September 2024 article “UK Government Introduces Bill To Clarify the Legal Status of Digital Assets.”

(continued on next page)

UK and EU H1 Digital Assets Regulatory Update

Development	What Is New and What Comes Next?
<p>FCA consultation paper on stablecoin issuance and cryptoasset custody published</p> <p>28 May 2025</p>	<ul style="list-style-type: none"> - The FCA published Consultation Paper 25/14, which set out proposed rules and guidance for issuing qualifying stablecoins and safeguarding qualifying cryptoassets. - The FCA intends to regulate stablecoins as money-like instruments, distinct from e-money and investment products. - The stablecoin regime proposed imposing a number of potentially burdensome requirements on qualifying stablecoin issuers, including: <ul style="list-style-type: none"> • Direct T+1 redemption at par value. • Strict customer due diligence. • Maintenance of highly liquid, fiat-backed asset pools held in statutory trusts for the benefit of stablecoin holders. - For cryptoasset custody, the FCA proposed a bespoke regime based on the existing CASS framework, requiring custodians to: <ul style="list-style-type: none"> • Segregate client assets. • Maintain detailed records. • Conduct daily reconciliations. • Implement robust loss minimisation and governance controls, including due diligence on third-party service providers. - The consultation period ends on 31 July 2025, with final rules expected in 2026. - For further information, see our 4 June 2025 article "UK FCA Publishes Consultation Paper on Stablecoin Issuance and Cryptoasset Custody in the UK."
<p>FCA consultation paper on a prudential regime for cryptoasset firms published</p> <p>28 May 2025</p>	<ul style="list-style-type: none"> - The FCA published Consultation Paper 25/15 (concurrently with CP 25/14) which set out the proposed prudential regime for cryptoassets. - The regime is modelled on the current prudential requirements that apply to UK investment firms, despite criticism that this may be disproportionate to stablecoin risk profiles. - The proposed new regime will be structured as two separate sourcebooks that will both apply to cryptoasset firms: (i) COREPRU and (ii) CRYPTOPRU. <ul style="list-style-type: none"> • The introduction of this structure marks the start of the FCA's remodelling of its approach to prudential regulation, with the ultimate intention that the rules in COREPRU will apply to all FCA-solo regulated firms, supplemented by specific sourcebooks for each type of firm. - A number of prudential matters (including how the ICARA process will operate for cryptoasset firms) are reserved for future FCA consultations. - The consultation period ends on 31 July 2025, with final rules expected in 2026. - For further information, see our 11 June 2025 article "UK FCA Publishes Consultation Paper on a Prudential Regime for Cryptoasset Firms."
<p>FCA quarterly consultation paper published</p> <p>6 June 2025</p>	<ul style="list-style-type: none"> - The FCA's quarterly consultation paper (CP 25/16) was published on 6 June 2025, consulting on proposed miscellaneous amendments to the FCA Handbook. - As part of these proposals, the FCA intends to lift the ban on offering cryptoasset exchange-traded notes (cETNs) to retail investors, if the notes are traded on a FCA-approved investment exchange.

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UK and EU H1 Digital Assets Regulatory Update

EU – Key Developments

Development	What Is New and What Comes Next?
<p>EBA/ESMA joint report on recent developments in cryptoassets published</p> <p>13 January 2025</p>	<ul style="list-style-type: none"> - As required under Article 142 of MiCA, the European Banking Authority (EBA) and European Securities and Markets Authority (ESMA) published their joint report on recent developments in cryptoassets. - The report highlighted the growth of cryptoasset lending, borrowing and staking services in the EU and flagged the continued risk of money laundering/terrorist financing in the decentralised finance space. - The European Commission’s report to the European Parliament and the EU Council on developments in cryptoassets, which this report contributes to, has not yet been published.
<p>ESMA guidelines on reverse solicitation under MiCA published</p> <p>26 February 2025</p>	<ul style="list-style-type: none"> - On 26 February 2025, ESMA published guidelines on situations in which a third-country firm is deemed to solicit clients established or situated in the EU and the supervision practices to detect and prevent circumvention of the reverse solicitation exemption under MiCA. - The guidelines: <ul style="list-style-type: none"> • Aim to create greater convergence in the interpretation of, and supervisory approaches to, the situations in which a third-country firm is deemed to solicit clients established or situated in the EU. • Are intended to promote supervision practices to detect and prevent the circumvention of MiCA.
<p>ESMA guidelines on the conditions and criteria for the qualification of cryptoassets as financial instruments published</p> <p>19 March 2025</p>	<ul style="list-style-type: none"> - ESMA published guidelines on the conditions and criteria for the qualification of cryptoassets as financial instruments on 19 March 2025. - The guidelines: <ul style="list-style-type: none"> • Specify conditions and criteria for determining whether a cryptoasset should qualify as a financial instrument, and thereby be subject to the MiFID II regulatory framework. • Provide clarifications on certain features of utility tokens, NFTs and hybrid tokens.
<p>ESMA guidelines on supervisory practices for EU regulators to prevent and detect market abuse under MiCA published</p> <p>29 April 2025</p>	<ul style="list-style-type: none"> - ESMA published guidelines on supervisory practices to prevent and detect market abuse under MiCA on 29 April 2025, aiming to ensure harmonised application of MiCA supervisory standards. - The guidelines are structured around the principles of proportionality, promote a risk-based approach and feature adaptations for crypto sector specificities.

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Development	What Is New and What Comes Next?
Adoption of new regulation on the requirements for applications to be authorised to offer asset-referenced tokens 5 June 2025	<ul style="list-style-type: none">- On 5 June 2025, the European Commission adopted a Delegated Regulation for the regulatory technical standards specifying the information in an application for authorisation to offer asset-referenced tokens (ARTs) to the public or to seek their admission to trading.- The delegated regulation sets out requirements for:<ul style="list-style-type: none">• Identification details of the applicant.• Programme of operations, including the main features of the intended issuance.• Internal governance arrangements and structural organisation.• Liquidity management, reserve of assets and redemptions rights.• Suitability of the members of the management body.- The regulation will enter into force on the 20th day following its publication in the Official Journal of the EU.
EBA no-action letter on the relationship between authorisation under PSD2 and MiCA published 10 June 2025	<ul style="list-style-type: none">- The EBA published a no-action letter on 10 June 2025 on the relationship between the Revised Payment Services Directive (PSD2) regime and MiCA for cryptoasset service providers (CASPs) that transact in electronic money tokens (EMTs).- The letter advises the national competent authority to enforce authorisation under PSD2 for CASPs that transact in EMTs after the transition period ending 2 March 2026, and from that point onward to apply a streamlined process to take advantage of the information provided during the CASP authorisation procedure.- The EBA advises the European Commission, EU Council and European Parliament to ensure in the long term that EU law avoids a dual authorisation requirement under both the PSD2 regime and MiCA for transacting in EMTs.

We will continue to monitor these trends and developments through the remainder of 2025, including how they interrelate with the rapid pace of change in the digital assets sector in the US.

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