Electronic Money Association
Crescent House
5 The Crescent
Surbiton, Surrey
KT6 4BN
United Kingdom
Telephone: +44 (0) 20 8399 2066
www.e-ma.org

Financial Conduct Authority

31 July 2025

Dear Sir/Madam,

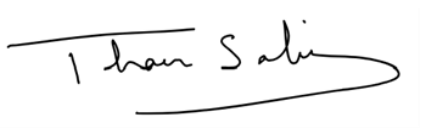
Re: EMA Response to FCA Consultation Paper on Stablecoin Issuance and Cryptoasset Custody

The Electronic Money Association (EMA) is the trade body representing electronic money issuers, alternative payment service providers, and crypto asset service providers (CASPs). Our members include leading payment institutions, crypto services firms, and e-commerce platforms operating across the UK and Europe.

We welcome the opportunity to contribute to the FCA's Consultation Paper CP25/14 on regulating cryptoasset activities. Our response reflects the operational realities of our members and aims to support a proportionate, internationally aligned framework that fosters responsible innovation while managing risks.

We would be grateful for your consideration of our comments and proposals.

Yours sincerely,



Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA RESPONSE

Chapter 3 – Requirements for Issuing Qualifying Stablecoin

Question 1: Do you agree that the Consumer Duty alone is not sufficient to achieve our objectives and additional requirements for qualifying stablecoin issuers are necessary?

Proportionate additional requirements may be appropriate for qualifying stablecoin issuers, particularly given their intended use as money-like instruments for retail and wholesale purposes. The Consumer Duty provides a helpful foundation but does not on its own address structural and operational risks specific to stablecoin issuance - such as the composition and custody of backing assets, redemption mechanics, and contingency arrangements in the event of issuer failure. Targeted rules that ensure robust and transparent backing of assets, timely redemption, and protection of holders' rights are necessary to maintain confidence in qualifying stablecoins as a trusted form of digital settlement.

That said, we caution against layering overly prescriptive or duplicative obligations on top of the Consumer Duty. Many of the proposed rules in CP25/14 could be better addressed through outcomes-focused guidance and supervisory expectations, rather than rigid rulemaking. Several proposals - such as the prohibition on affiliated custodians, or mandated publication intervals for disclosure - may be unnecessarily burdensome for smaller issuers or those operating across multiple jurisdictions. We urge the FCA to carefully consider where the Consumer Duty can be relied upon to reduce regulatory overlap, and to assess the marginal value of new requirements against their potential to limit competition and innovation.

Question 2: Do you agree that issuers of multi-currency qualifying stablecoins should be held to similar standards as issuers of single-currency qualifying stablecoins unless there is a specific reason to deviate from this? Please explain why. In your answer please include:
i. Whether you agree with our assessment of how multi-currency stablecoins may be structured, and whether there are other models.
ii. Whether there are specific rules proposed which do not work for multi-currency qualifying stablecoins, and explain why.
iii. Whether there are any additional considerations, including risks and benefits, we should take into account when applying our regulation to multi-currency qualifying stablecoins.

We broadly agree that issuers of multi-currency qualifying stablecoins should be held to the same high-level principles as single-currency issuers — particularly around asset backing, redemption rights, and disclosure. However, the specific application of rules may need to be adapted to reflect the additional complexity of multi-currency structures. For example, defining "par value" in the context of a currency basket is inherently more complicated and may require different mechanisms to ensure transparency and stability. We support the FCA's initial assessment of the different models that may emerge, including currency pairings, fixed-percentage baskets, and dynamic FX-weighted constructions.

Several proposed requirements - particularly the application of 1:1 backing and redemption at par - may need to be tailored to avoid unintended consequences. Multi-currency stablecoins will necessarily involve FX exposure and volatility that complicates daily reconciliations and valuation. Requiring redemption at a fixed par rate to each underlying fiat may not be operationally viable or economically

accurate. Instead, a model based on transparent index-based pricing and clearly disclosed redemption methodologies may be more appropriate.

Question 3: Do you agree with our proposals for requirements around the composition of backing assets? If not, why not?

We support the FCA's aim to ensure stablecoins are backed by high-quality, liquid assets, and welcome the expanded list of permissible backing assets. Allowing longer-term government debt, money market funds, and repo arrangements provides some flexibility for issuers, while maintaining safeguards to protect consumers. The minimum on-demand deposit requirement (ODDR) and the proposed BACR are sensible tools to manage liquidity risk, provided they are applied proportionately.

However, we remain concerned that aspects of the framework may place a heavy burden on new or smaller issuers. For example, requiring firms to hold only core assets for the first 90 redemption days may be too restrictive and limit market access. The outright ban on passing any interest they derive from backing assets to users may also reduce competitiveness and consumer adoption. We encourage the FCA to allow greater flexibility in how firms meet these requirements, particularly where robust risk management is in place.

Question 4: Do you have any views on our overall proposed approach to managing qualifying stablecoin backing assets? Particularly: i) the length of the forward time horizon; ii) the look-back period; iii) the threshold for a qualifying error.

We broadly support the FCA's use of the BACR framework to manage liquidity risk in a dynamic and data-driven way. The 14-day forward estimation window and 180-day look-back period seem broadly appropriate, and should give issuers enough data to plan for redemptions while keeping the process manageable.

That said, we do have concerns about the 110% threshold for what counts as a "qualifying error." This could be too strict - especially for newer issuers who are still learning how their customers behave. A small difference between predicted and actual redemptions could result in a much higher requirement to hold core assets. We'd recommend either a higher threshold or more flexibility during the early stages of a firm's operations, so that the rules support growth without compromising consumer protection.

Question 5: What alternative ways would you suggest for managing redemption risk, which allow for firms to adopt a dynamic approach to holding backing assets?

No comments.

Question 6: Do you think that a qualifying stablecoin issuer should be able to hold backing assets in currencies other than the one the qualifying stablecoin is referenced to? What are the benefits of multi-currency backing, and what risks are there in both business-as-usual and firm failure scenarios? How might those risks be effectively managed?

Yes, we believe qualifying stablecoin issuers should have the option to hold some backing assets in currencies other than the one the coin is pegged to, provided they have strong risk management in

place. Multi-currency backing could help firms diversify risk, reduce over-reliance on a single sovereign issuer, and support international operations where liabilities and customers are spread across jurisdictions. It also allows firms to optimise yields and improve liquidity management in a global market context.

That said, we recognise there are added risks — including foreign exchange volatility and increased complexity in redemption scenarios, especially during firm failure. These risks could be addressed through requirements for appropriate hedging strategies, clear policies on FX exposure, and limits on the proportion of non-reference currency assets held. The FCA could also consider requiring these assets to be converted into the reference currency before redemptions, or held in segregated accounts with clear controls. With the right safeguards, a limited degree of multi-currency backing can support innovation without undermining consumer protection.

Question 7: Do you agree that qualifying stablecoin issuers should hold backing assets for the benefit of qualifying stablecoin holders in a statutory trust? If not, please give details of why not.

We do not agree that a statutory trust should be imposed over backing assets, for the following reasons:

An ownership regime is not appropriate for the function of backing assets, which serve to ensure stability of value and the operation of the contractual right of redemption by backing up an object of property of equivalent value. While the safeguarding of backing assets is important, backing assets are not the focus of stablecoin holders, who have paid for these stablecoins in order to spend or transfer them. They own the exchange value of the money they paid for the qualifying stablecoins, and any rights and liabilities arising from that ownership (whether relating to the custody of stablecoins, their misappropriation or their use in financial crime) should therefore relate to the stablecoins themselves rather than the backing assets. An equitable interest under a trust to the backing assets may interfere with the usual criminal processes in this respect, not least because issuers would become fiduciaries of these assets and therefore liable to account for them to holders in addition to any liability they may have relating to the stablecoins themselves.

Giving holders an equitable interest under a statutory trust in the backing assets might make it harder to distinguish them from collective investment schemes, not least because the default position would be that they would also own any income arising from these assets. Interest on backing assets is an important revenue stream for issuers and provides an incentive for the development of new stablecoin products. If issuers could not retain any interest (even though they may wish to pass on some of this interest to holders if this benefits their business model), this would create an uneven playing field with other financial products that are not subject to the same restrictions and likely increase the price of the service for users.

It should also be considered that consumers holding qualifying stablecoins are for the most part at least one level removed from issuers, dealing with exchanges and businesses in a secondary market. These exchanges and businesses, as well as issuers themselves, will hold a significant proportion of the issued stablecoins, while consumers are expected to purchase them for immediate use rather than for saving and investment purposes. Given this secondary market for qualifying stablecoins, consumers are likely to be able to realise most of the value of the stablecoins they hold even if their value falls,

lessening the impact of any shortfall in the asset pool. Issuers, exchanges and other businesses, on the other hand, can be expected to assume some risk and do not require the same protection as consumers.

While in the case of issuer insolvency, a trust may have some advantages in terms of protecting the asset pool from third-party creditors, it will result in disproportionate direct as well as indirect costs for issuers who are going concerns, not least because it will restrict issuers' ability to innovate using backing assets accounts in the way that is common in other financial sectors. This will undermine the UK's competitive position as a jurisdiction in which stablecoins are issued. Even on insolvency itself, a statutory trust is unlikely to result in less involvement of the courts in the administration process and will therefore add to the costs of distributing borne by the asset pool.

Question 8: Do you agree with our proposal that qualifying stablecoin issuers are required to back any stablecoins they own themselves? If not, please provide details of why not.

No comments.

Question 9: Do you agree with our proposal to require third parties appointed to safeguard the backing asset pool to be unconnected to the issuer's group?

While we recognise the validity of the reasons behind the proposal to require third parties appointed to safeguard the backing asset pool to be unconnected to the issuer's group, we consider that this proposal unnecessarily forecloses opportunities for the issuer's group, including learning and cultural opportunities connected to custody and investment of relevant assets, as well as the business opportunities then stem from expertise in this area. There will also be direct and indirect costs (i.e., duplication and other inefficiencies) that will reduce the income that issuers derive from backing assets, which may translate into lower incentives for issuance and higher costs to consumers.

We think that the requirement for safeguarding accounts to be held with third parties, particularly when coupled with a trust, sufficiently ensures remoteness to counterbalance any risks of conflicts, fraud and contagion.

Question 10: Do you consider signed acknowledgement letters received by the issuer with reference to the trust arrangement to be appropriate? If not, why not? Would you consider it necessary to have signed acknowledgement letters per asset type held with each unconnected custodian?

In our experience, signed acknowledgment letters that have to follow a prescribed format present an obstacle to obtaining accounts from relevant third parties, particularly where these are located overseas. In this respect, we envisage the explicit acknowledgment of a trust will be problematic where the relevant jurisdiction's legal system does not have the concept of a trust or where its trusts law differs from that of the UK (for example, an appropriate naming convention for a trust account may not be available or may have unintended consequences).

We consider that mentioning a trust in the acknowledgment letter does not add any further protection to the account, as a statutory trust (if indeed adopted in the final rules) will apply regardless of whether this has been mentioned in the acknowledgement letter. Given the difficulties that the mentioning of

a trust may give rise to, it would therefore be preferable to drop the mentioning of the trust from the text of the acknowledgement letter while leaving the remainder of the wording intact.

If the trust is retained in the wording, we suggest adding a further sentence under point 7 of the template letter in CASS16 Annex 1.1R (and equally, in CASS16 Annex 2.1R) to ensure that third parties do not consider themselves obliged to look through the trust to its beneficiaries (whether for AML, tax reporting or other legal/regulatory purposes):

> *We acknowledge that:*
> *7. you are not responsible for ensuring compliance by us with our own obligations in respect of the backing [assets/funds] account[s]* ***and do not have any obligations with respect to the beneficiaries of the trust***.

Given that acknowledgement letters are to be obtained on a per account basis, we do not consider it necessary to have signed acknowledgement letters per asset type held with each unconnected custodian.

Question 11: Do you agree with our proposals for record keeping and reconciliations?

We agree that robust record-keeping and regular reconciliations are vital to ensure that qualifying stablecoins remain fully backed at all times.

However, we are concerned that the proposed approach may be overly burdensome for some firms, particularly those using multiple custodians or operating across several blockchains. Daily reconciliation involving external parties may be operationally complex and expensive, especially for smaller or newer issuers. We would support the FCA issuing clear guidance on what constitutes a proportionate reconciliation process and how frequently firms should reconcile in lower-risk contexts. Flexibility based on backing asset composition and redemption activity would help reduce unnecessary costs while maintaining sound controls.

Question 12: Do you agree with our proposals for addressing discrepancies in the backing asset pool? If not, why not?

We agree that discrepancies between the value of backing assets and the volume of stablecoins in circulation must be addressed swiftly to maintain confidence in the peg and protect consumers. However, we believe the FCA's proposed requirement to remove excess value or top up shortfalls within one business day may be too rigid in practice. The causes of discrepancies can vary - from market movements and minor valuation timing differences to operational lags - and not all warrant urgent remediation. A one-size-fits-all timeframe may create unnecessary strain, especially where movements are small and transient.

We recommend a more proportionate approach that considers the size and materiality of the discrepancy. For example, firms could be allowed a short window to monitor and self-correct immaterial excesses or shortfalls before being required to act. For material discrepancies, the proposed next-day action is sensible. Additionally, the requirement to notify the FCA in cases of unresolved shortfalls is appropriate, but should not lead to automatic enforcement where good-faith

remediation efforts are underway. Flexibility in managing discrepancies would reduce unnecessary disruption while still ensuring the backing asset pool remains sound and transparent.

Question 13: Do you agree with our proposed rules and guidance on redemption, such as the requirement for a payment order of redeemed funds to be placed by the end of the business day following a valid redemption request? If not, why not?

We support the principle that holders of qualifying stablecoins should have a clear and enforceable right to redeem at par value in the reference currency. This is essential to maintain trust in the stablecoin as a money-like instrument and to prevent misalignment between perceived and actual value. However, we have reservations about mandating that a payment order must be placed within one business day in all circumstances, as this fails to accommodate operational realities. Payment system constraints, cross-border banking relationships, and the need to complete customer due diligence - particularly for first-time or secondary-market holders - can create legitimate delays outside the issuer's control.

We welcome the FCA's recognition that additional time may be needed to complete AML and CDD checks, and that certain exceptions (e.g. legal restrictions, currency conversions) may justify longer timeframes. However, the guidance could go further by clearly distinguishing between delays due to issuer fault and those arising from necessary processes or external dependencies. We also encourage the FCA to avoid inadvertently penalising or discouraging use of third-party service providers for redemption - a practice which may, in fact, increase reliability and reduce operational risk. A flexible, risk-based approach will better balance consumer protection with practical implementation for a range of business models.

Question 14: Do you believe qualifying stablecoin issuers would be able to meet requirements to ensure that a contract is in place between the issuer and holders, and that contractual obligations between the issuer and the holder are transferred with the qualifying stablecoin? Why/why not?

No comment.

Question 15: Do you agree with our proposed requirements for the use of third parties to carry out elements of the issuance activity on behalf of a qualifying stablecoin issuer? Why/why not?

We agree with the FCA's approach to permit the use of third parties in carrying out key elements of the issuance activity, while placing ultimate responsibility on the issuer. This approach recognises the operational models commonly used across the stablecoin and wider cryptoasset industry and supports innovation and efficiency. We particularly support the flexibility to appoint both authorised and non-authorised third parties, provided the issuer undertakes appropriate due diligence and ensures contracts are robust and information flows are sufficient.
However, it is essential that the forthcoming Conduct and Firm Standards consultation, which will clarify how SYSC applies to cryptoasset firms, is closely aligned with these proposals. Otherwise, there is a risk of duplicated or inconsistent obligations that may be difficult to reconcile. The proposals for information-sharing, annual reviews, and maintaining contractual oversight are sensible and proportionate. That said, for firms with complex global operations, further guidance on how to

evidence ongoing oversight of third-party performance may be useful, particularly where services span multiple jurisdictions or rely on sub-outsourcing chains.

Question 16: Do you agree with our proposals on the level of qualifications an individual needs to verify the public disclosures for backing assets? If not, why not?

We agree in principle that the verification of public disclosures regarding the 1:1 backing of stablecoins should be performed by an appropriately qualified and independent individual. However, the FCA's proposed requirement that the verifier meet auditor-level qualifications (e.g. under the Companies Act 2006) may unnecessarily restrict the pool of professionals able to undertake this work, particularly for smaller or non-UK issuers. Firms operating in emerging or cross-border crypto markets may rely on independent consultants or subject-matter experts who are well-qualified in cryptoasset auditing or blockchain analytics but are not registered auditors.

To strike the right balance, we recommend broadening the eligibility criteria to include individuals or firms with demonstrable expertise in digital asset auditing, systems assurance, or financial reporting, even if they are not formally appointed under the Companies Act. An alternative route could be a competency-based assessment or recognition of equivalent overseas qualifications. Ensuring independence and capability is paramount, but this can be achieved without creating unnecessary barriers that could limit the availability of suitably qualified professionals.

Question 17: Do you agree with our proposals for disclosure requirements for qualifying stablecoin issuers? If not, why not?

We support the FCA's broad aim to ensure clear, accessible, and non-misleading disclosures to stablecoin holders and the public. Consumer trust depends heavily on transparency around how stablecoins function, how they are backed, and how redemption works. The distinction between information that must be updated when it becomes inaccurate versus information updated at least every three months is helpful and proportionate. We also support the flexibility to use different formats (e.g. FAQs, infographics) to enhance user understanding.

That said, the proposed scope of mandatory disclosures - including real-time updates on backing assets, redemption procedures, and third-party involvement - may create significant operational burdens, particularly for smaller firms or those issuing on-chain assets across multiple blockchains. We urge the FCA to consider safe harbours for immaterial inaccuracies, grace periods for correction, and the use of structured reporting templates. Furthermore, the requirement to publicly name all third parties and backing asset account providers may raise commercial sensitivity and confidentiality concerns. We encourage the FCA to provide clear thresholds for disclosure materiality and allow aggregated or anonymised reporting where appropriate.

Chapter 4 – Regulating custody of cryptoassets

Question 18: Do you agree with our view that the Consumer Duty alone is not sufficient to achieve our objectives and additional requirements for qualifying cryptoasset custodians are necessary?

We recognise the FCA's concerns that the Consumer Duty may not, on its own, address all the operational risks and asset protection challenges posed by cryptoasset custody. While the Duty sets an important overarching framework for fair treatment and good outcomes, firms would benefit from clarity on specific expectations relating to the safeguarding of private keys, record-keeping, and governance arrangements, particularly in insolvency scenarios. However, it is important that the FCA avoids duplicating requirements or creating undue complexity by layering on rules that may be indirectly addressed through existing conduct standards.

We also urge the FCA to ensure that any additional rules are proportionate, outcomes-focused, and adaptable to different custody models, including non-custodial and third-party delegated frameworks. Many crypto firms operate with leaner infrastructure than traditional custodians, and prescriptive measures could create significant compliance burdens or deter market entry. A flexible, principles-based approach that accommodates innovation while setting baseline safeguards for consumer protection will be more effective than rigid technical mandates.

Question 19: Do you agree with our proposed approach towards the segregation of client assets? In particular:
i. Do you agree that client qualifying cryptoassets should be held in non-statutory trust(s) created by the custodian? Do you foresee any practical challenges with this approach?
ii. Do you have any views on whether there should be individual trusts for each client, or one trust for all clients? Or whether an alternative trust structure should be permitted?
iii. Do you foresee any challenges with firms complying with trust rules where clients' qualifying cryptoassets are held in an omnibus wallet?
iv. Do you foresee any challenges with these rules with regards to wallet innovation (e.g. the use of digital IDs) to manage financial crime risk?

We support the FCA's objective to enhance legal clarity and consumer protection in cryptoasset custody through the use of trust structures. Establishing a non-statutory trust framework is a sensible first step given the evolving legal treatment of digital assets, and it can offer a practical way to mitigate client harm in insolvency scenarios. That said, custodians may face operational and legal complexity when adapting existing systems and contractual frameworks to embed non-statutory trust structures - particularly if they serve clients across multiple jurisdictions with differing property law regimes.

On wallet design, a one-size-fits-all requirement for individual or omnibus wallets would be overly rigid. We support the FCA's proposed flexibility for firms to adopt a structure aligned with their business model - whether individual, pooled, or hybrid. Omnibus wallets are commonly used for cost, efficiency, and security reasons, and imposing a narrow requirement could disrupt well-functioning practices. However, clear rules around ownership records and reconciliation processes are essential to ensure that omnibus arrangements continue to protect client entitlements effectively. This will in particular need to include rules on how and when beneficial interests in the stablecoins are transferred.

We also encourage the FCA to remain mindful of ongoing technological innovation. For example, the use of programmable wallets, digital identity solutions, and modular custody designs may enhance compliance with financial crime and ownership verification requirements, but could challenge the traditional application of trust law. The framework should be principles-based enough to accommodate such developments while still ensuring adequate safeguards are maintained.

Question 20: Do you agree with our proposed approach towards recordkeeping? If not, why not? In particular, do you foresee any operational challenges in meeting the requirements set out above? If so, what are they and how can they be mitigated?

We support the principle that cryptoasset custodians should maintain accurate, client-specific records to ensure proper asset segregation and enable timely and full asset return in the event of insolvency. The proposed requirements — including tracking the type, quantity, address, client claim, and parties with control — reflect a sensible set of outcomes that align with existing best practices among mature custody providers. Maintaining records independently of any DLT or third party is also an important safeguard, given the current limitations of blockchain-based data in verifying beneficial ownership.

However, the proposals may introduce implementation challenges for some firms, particularly those using modular custody or external wallet infrastructure, or firms operating on public blockchains where client-specific wallet structures are not natively supported. Requiring off-chain records to be maintained separately from the DLT — and explicitly not relying on third-party providers — may impose duplicative processes, especially for smaller firms without large in-house systems. We recommend the FCA allow firms to meet these outcomes through a combination of internal and verified third-party systems, provided the firm retains ultimate responsibility and oversight. A flexible, technology-agnostic approach will help ensure compliance while allowing for innovation and scalability.

Question 21: Do you agree with our proposed approach for reconciliations? If not, why not? In particular:
i. Do you foresee operational challenges in applying our requirements? If so, please explain.
ii. Do you foresee challenges in applying our proposed requirements regarding addressing shortfalls? If so, please explain.

We recognise the critical role that reconciliations play in ensuring that client-specific records remain accurate, discrepancies are swiftly resolved, and client assets are properly safeguarded. Aligning cryptoasset custody reconciliations with the daily cadence of CASS may be a sensible evolution from the initial real-time proposal and provides an appropriate balance between operational feasibility and client protection. The clarity introduced on external reconciliation timing, recordkeeping independence, and FCA notification obligations is also welcome.

That said, we note two practical challenges. First, operationalising daily reconciliations across multiple wallets — particularly when omnibus structures and multiple chains are in use — may require further systems investment, especially for smaller or newer custodians. Second, the proposed approach to shortfalls introduces a complex judgement framework around whether the custodian or a third party is responsible. In fast-moving markets, firms may need further FCA guidance on how such determinations should be documented and on the thresholds for notifying affected clients. A proportionate, risk-based materiality standard could assist firms in handling minor or transient shortfalls without triggering undue regulatory burden.

Question 22: Do you agree with our proposed approach regarding organisational arrangements? If not, why not?

While the principle of requiring qualifying cryptoasset custodians to maintain adequate organisational arrangements is sound, the proposals as outlined may be too high-level to drive consistent implementation in practice. Simply requiring policies and procedures to be "adequate" and "reviewed regularly" leaves considerable room for interpretation, which may be problematic given the uneven maturity across firms operating in this space.

In particular, clearer expectations on what constitutes "adequate" organisational arrangements in the context of cryptoasset custody would be helpful — for example, minimum standards around internal control frameworks, incident response mechanisms, and the segregation of duties across operational and technical functions. Without further clarification or supporting guidance, there is a risk that the requirement will not be sufficiently meaningful to prevent harm or support effective supervisory oversight.

Question 23: Do you agree with our proposed approach regarding key management and means of access security?

While we recognise the importance of secure private key management, the current proposals risk being overly reliant on high-level language such as "adequate organisational controls" without specifying minimum thresholds. Given the severity of risks involved in key compromise — particularly in the context of client asset safeguarding — a more prescriptive baseline may be appropriate in certain areas, such as key generation entropy standards, multi-party computation (MPC) protocols, or cold/hot wallet segregation practices.

In addition, the proposal to maintain "verifiable key-mapping records" is theoretically sound but may introduce operational challenges where MPC or sharding is used. In these cases, access rights may not map neatly to specific individuals or systems. It would be helpful for the FCA to clarify how such records can be maintained without compromising operational security or exposing sensitive architecture, especially in relation to incident response, backup protocols, and cross-border custody models.

Question 24: Do you agree with our proposed approach to liability for loss of qualifying cryptoassets? In particular, do you agree with our proposal to require authorised custodians to make clients' rights clear in their contracts?

We agree with the importance of transparency regarding liability for the loss of qualifying cryptoassets and support the principle that clients should be clearly informed of their rights through contractual terms. However, we caution against placing disproportionate liability on custodians for events genuinely outside their control — such as protocol-level vulnerabilities or systemic failures in underlying blockchain networks — particularly given the evolving nature of technology in this space.

It would be helpful for the FCA to further clarify the standard of liability it expects custodians to meet (e.g., gross negligence vs. strict liability) and define what would constitute events "within the custodian's control." This clarity will be important for enabling firms to design appropriate risk frameworks, obtain insurance coverage where feasible, and draft enforceable agreements with clients and third-party service providers. Without such clarification, there is a risk that overly cautious liability interpretations may deter market entry or limit service offerings.

Question 25: Do you agree with the requirements proposed for a custodian appointing a third party? If not, why not? Do you consider any other requirements would be appropriate? If not, why not?

We broadly support the FCA's direction in setting out minimum expectations for appointing third parties to safeguard qualifying cryptoassets. The proposed controls rightly acknowledge the increasing reliance on advanced custody technologies (such as MPC and HSMs), and the associated operational and legal risks when third parties are involved in securing client assets. Requiring a clear written policy, thorough due diligence, and governing body approval offers a robust framework aligned with best practices in traditional custody.

However, some clarification may be required regarding how these requirements apply to technology infrastructure providers as distinct from legal sub-custodians. For example, providers of MPC technology may not "hold" assets in the conventional sense but may still introduce key dependencies.

The FCA could consider distinguishing between *delegated safekeeping* and *infrastructure dependency* arrangements to avoid creating uncertainty in how the obligations apply.

In addition, the proposed requirement for third parties to acknowledge that client assets are held on trust may not be legally enforceable in all jurisdictions. Firms may face challenges negotiating these terms with overseas third parties. We would welcome further clarity from the FCA on whether such acknowledgements are expected only where legally possible, and how firms should demonstrate best efforts when this is not feasible.

Question 26: Do you agree with our assumptions and findings as set out in this CBA on the relative costs and benefits of the proposals contained in this consultation paper? Please give your reasons.

No comment.

Question 27: Do you have any views on the cost benefit analysis, including our analysis of costs and benefits to consumers, firms and the market?

No comment.

Members of the EMA, as of July 2025

Airbnb Inc
Aircash
Airwallex (UK) Limited
Amazon
Ambr
American Express
Banked
Benjamin Finance Ltd.
Bitstamp
Blackhawk Network EMEA Limited
Boku Inc
Booking Holdings Financial Services International Limited
BVNK
Cardaq Ltd
CashFlows
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Coinbase
Crypto.com
Currenxie Technologies Limited
Curve UK LTD
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Deel
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