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Financial Conduct Authority

31 July 2025

Dear Sir/Madam,

**Re: EMA Response to FCA Consultation Paper on A prudential regime for cryptoasset firms**

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 CP25/15: A prudential regime for cryptoasset firms. We would be grateful for your consideration of our comments and proposals.

Yours sincerely,

Thaer Sabri

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

## EMA responses to CP 25/15

**Question 1:** **Do you have any comments on our proposals for the definitions and types of, and deductions from, regulatory capital that CRYPTOPRU firms should use to calculate their own funds?**

We welcome the regulatory changes as proposed in FCA CP 25/10 and have no further comments.

**Question 2:** **Do you have any views on our proposed requirements for deductions from CET1 capital, in particular cryptoassets held by firms which they have issued or are in control of the supply of?**

The proposed general requirement for capital deductions of cryptoassets, other than regulated stablecoins, which firms have issued themselves and now hold or control, is unjustified. Whether, as the argument in para 3.7 for the exemption of regulated stablecoins suggests, the value of such cryptoassets can be expected to remain stable, is not relevant. A capital deduction of self-issued assets other than capital or funding instruments can only be justified to the extent a loss in value of these assets affects the firm's capital position e.g. effectively depletes capital since it will have to be realised in the firm's P&L. If that is not the case firms should be free to hold appropriately backed cryptoassets they themselves have issued or control. Firms may have perfectly justified reasons to do so, e.g. temporarily in the course of redeeming cryptoassets, without the holding of these assets or fluctuations of their value jeopardising in any way the firm's capital position.

**Question 3:** **Do you have any comments on our proposed overall approach on the Own Funds Requirement (OFR), and the detailed provisions of the specific components: (i) PMR, (ii) FOR, (iii) K-SII, and (iv) K-QCS?**

We have no comments regarding the OFR, the PMR, and the FOR.

In contrast, we believe the activity-based 'K-factor' requirement (KFR) for custodians and the corresponding K-QCS to be misconceived. The KFR is a size-driven capital charge for operational risks. In the absence of better alternatives, size-related metrics have a long regulatory history as proxies for operational risk used for the computation of related own funds requirements. The FOR is a case in point. Similar to the KFR it is based upon fixed overheads as size-related metric and, besides its character as a backstop with a view to a possible wind-down of the firm, could be seen and defended as another operational risk capital charge.

Regarding the capture of operational risk, there is, however, an important difference between the KFR and the FOR. As is well known, operational risk is a non-linear risk. It does not increase 1 to 1 with firms' business volume but typically and fortunately lags behind. Economies of scale result necessarily in corresponding economies of the related operational risks. However, the proposed calculation of K-QCS as 0.04% * firms' QCS ignores this non-linear character of operational risk.

In contrast, fixed overheads are not or at least much less. Which is precisely why, as Figure 2 shows very clearly, the KFR for larger firms exceeds by a significant margin the FOR. Which, however, should not be seen as a welcome advantage of the proposed supplementary KFR but rather as a flaw of the computation of K-QCS which for larger firms systematically results in overstating the actual operational risk. For these firms the significance and scale of operational risks is much better captured by the fixed overheads. It is a more reliable proxy for the size of firms' operations as the ultimate source of the operational risk firms run.

We note in this regard, that it is exactly to respond to the non-linear character of operational risk that the size-based own funds requirements for payment institutions under Method B and C integrate scaling/multiplication factors that decrease (dramatically) with the increase of the underlying size-based metrics (see The Payment Services Regulations 2017, Schedule 3, Part 2, para 8. to 10.).

Finally, we would strongly encourage the FCA to reconsider the issue in a comprehensive fashion during CP2 when addressing the internal capital adequacy and risk assessment process (ICARA). Operational risks are notoriously difficult to measure. Unlike many other risk categories they require a much more flexible, firm-specific, and also both quantitative and qualitative approach to ensure a proper risk assessment assisting effective risk management and eventually providing reasonably reliable quantification of financial resources to be held to absorb potential losses. Therefore, firms' ICARA is the much more suitable context for addressing operational risk. The corresponding supervisory processes should allow for discretion to set proportionate and sufficiently risk adequate own funds requirements on a case-by-case basis as and when needed.

That said, we urge the FCA to read across the supervisory discretion to increase or decrease own funds requirements by 20% as provided for in The Electronic Money Regulations 2011, Schedule 2, para 15 and The Payment Services Regulations 2017, Schedule 3, para 4. This kind of cautiously framed regulatory agility is particularly important for a still fledgling cryptoasset industry, which is facing operational and other risks that continue to evolve and are not yet fully understood. In our view such discretionary adjustments of own funds requirements belong to the supervisory tool kit needed when responding to firms' ICARAs and any identified flaws.

**Question 4: Do you have any views on the items to be deducted from total expenditure when calculating the FOR, are there any others that may be relevant for cryptoasset firms and if so, why?**

We are not aware of other specific items to be deducted from total expenditure when calculating the FOR for cryptoasset firms.

**Question 5: Do you agree with our proposal that the value of qualifying cryptoassets appointed by or to a third party custodian for the purposes of safeguarding must be included in the measurement of QCS? If not, how else would you suggest that the risk of potential harm from the use of third parties is mitigated?**

No. At least not as a general rule. Involvement of a third party in the safeguarding of cryptoassets can significantly reduce related risks. Firms often resort to third parties that have superior expertise and are better resourced to manage and contain risks. An additional capital charge may well disincentivise collaborative arrangements ensuring effective risk mitigation to the benefit of clients, individual firms and the market.

**Question 6:** **Do you agree with our proposals on the basic liquid asset requirement (BLAR)?**

Yes.

**Question 7:** **As part of the BLAR, can you identify any circumstances where the provision of guarantees provided to clients by firms might apply to cryptoasset custodians or qualifying stablecoin issuers?**

No.

**Question 8:** **Do you agree with our proposals on the issuer liquid asset requirement (ILAR) to address price risk when government debt instruments are held in a backing pool (either directly, or indirectly in connection with certain funds and repo/reverse repo transactions)? If not, please explain why you do not agree with specific aspects and what alternative solutions would you suggest?**

In principle, yes. However, it is difficult to comment on the rather crude asset charges set in the table in 6.1.11 R of CRYPTOPRU and would welcome disclosure of information incl. data to demonstrate that the set charges are not excessive, that is are justified by actual price volatilities and are aligned to charges for price risk elsewhere in the UK regulatory system.

**Question 9:** **Do respondents consider that the foreign exchange risk for qualifying stablecoin issuers described in paragraph 5.22 needs to be addressed through minimum requirements, for example would a specific capital charge be appropriate?**

We concur with the FCA's view that there is no need to address the foreign exchange risk discussed in paragraph 5.22 through specific minimum requirements.

**Question 10:** **Do you have any comments on the proposal for monitoring and control of concentration risk? Please provide suggestions for any specific clarifications that you feel may be helpful.**

We have no further comments on the FCA's proposal for monitoring and control of concentration risk and are looking forward to providing additional comments as and when the sectoral concentration risk requirements for CRYPTOPRU firms will be consulted upon.

**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
Circle
Coinbase
Crypto.com
Currenxie Technologies Limited
Curve UK LTD
Decta Limited
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ECOMMPAY Limited
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EPG Financial Services Limited
eToro Money
Etsy Ireland UC
Euronet Worldwide Inc
Finance Incorporated Limited
Financial House Limited
FinXP
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Ixaris Systems Ltd
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