

UK REGULATION OF CRYPTOASSETS IN 2025

David Hopkins

INTERNATIONAL OVERSIGHT OF CRYPTOASSETS

- 2022 BIS and IOSCO joint guidance recommending stablecoin arrangements should follow international standards for payment, clearing and settlement systems¹
- 2023 G20 FSB global regulatory framework for crypto-asset activities², including high level recommendations on:
 - Safeguarding of client assets
 - Conflicts of interest
 - Cross-border cooperation

¹ <https://www.bis.org/cpmi/publ/d206.pdf>, accessed 2 Dec 2024

² <https://www.fsb.org/uploads/P170723-1.pdf>, accessed 2 Dec 2024

STABLECOIN BASICS (1)

- A stablecoin is a cryptocurrency which is intended to maintain a stable level of purchasing power. Examples: Tether USDT, Circle USDC and EURC
 - Backed by “real” assets, such as fiat currencies, gold, and so on
 - Or algorithmically pegged
- Doesn't always work: see Terra UST in 2022

STABLECOIN BASICS (2)

- **Stablecoins otherwise have broadly the same features as other cryptocurrencies**
 - Issued by private entities
 - Disintermediated and near-instantaneous transfers
 - Mining costs
 - Held in crypto wallets
 - Can be traded on exchanges, such as Binance
 - Privacy

HM TREASURY POLICY IN 2023 (1)

- **Feb 2023: HMT announces plans to legislate for a future financial services regime for cryptoassets.**
 - Phase 1: Regulation of activities relating to fiat-backed stablecoins used for payment
 - Phase 2: The broader cryptoasset regime
- **Update in Oct 2023 following above call for evidence**

HM TREASURY POLICY IN 2023 (2)

- HMT intended to amend the Payment Services Regulations 2017 (SI 2017/752) to bring the use of fiat-backed stablecoins in payment chains within the FS regulatory perimeter
- This was to be combined with the introduction of new regulated activities related to stablecoin

FCA PROPOSALS IN 2023 (1)

- Nov 2023: FCA discussion paper DP23/4, “Regulating cryptoassets, Phase 1: Stablecoins”
- FCA's current remit extends to AML/ CTF supervision of cryptoasset businesses and FinProms of cryptoassets
- FCA proposals intended to facilitate the use of fiat-backed stablecoins as a means of payment. Focused on consumers

FCA PROPOSALS IN 2023 (2)

- **Two new regulated activities:**
 - issuance of stablecoin in or from the UK
 - stablecoin custody activities carried out from the UK or to UK based consumers
- **Usual DISP rules, including access to the Ombudsman**
- **But no FSCS protection**

HM TREASURY POLICY NOW (1)

- HMT now intends¹ to implement the Phase 2 proposals from Oct 2023 in full
- The “big bang” moment for retail payments using fiat-backed stablecoins hasn’t arrived as had been expected in 2023
- The new regulated activities for stablecoins will still be implemented, but now at the same time as the rest of the regulatory regime

¹ Keynote address given by Tulip Siddiq, Economic Secretary to the Treasury, at the Tokenisation Summit on 21 Nov 2024: UK government approach to tokenisation and regulation. Transcript available at <https://www.gov.uk/government/speeches/keynote-address-at-the-tokenisation-summit-uk-government-approach-to-tokenisation-and-regulation>, accessed 2 Dec 2024

HM TREASURY POLICY NOW (2)

- No longer an intent to bring stablecoin into UK payments regulation “at this time” – so no amendment to PSRs
- HMT aims “to engage firms on draft legal provisions for the cryptoasset regime including stablecoins as early as possible next year”
- Government “intends to proceed with removing [the] legal uncertainty” regarding whether cryptoasset staking services constitute a CIS

39 Essex Chambers LLP is a governance and holding entity and a limited liability partnership registered in England and Wales (registered number OC360005) with its registered office at 81 Chancery Lane, London WC2A 1DD. 39 Essex Chambers' members provide legal and advocacy services as independent, self-employed barristers and no entity connected with 39 Essex Chambers provides any legal services. 39 Essex Chambers (Services) Limited manages the administrative, operational and support functions of Chambers and is a company incorporated in England and Wales (company number 7385894) with its registered office at 81 Chancery Lane, London WC2A 1DD.

39essex.com

BARRISTERS . ARBITRATORS . MEDIATORS

LONDON . MANCHESTER . SINGAPORE . KUALA LUMPUR

