

# Comprehensive Analysis Of Cryptocurrency And Regulations, Legal Implications, And Economic Consideration In The Uk

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## Abstract

*Cryptocurrency has been accepted as a means of financial transactions by UK and other countries of the world. Despite numerous challenges, the cryptocurrency market has a potential to revolutionise the financial markets. Nowadays the underlying technology behind this the Blockchain technology is been used in a variety of field. The novelty factor and the pace of growth have fueled both a utopian promises and dystopian fears behind it. This paper examines the principle-based regulatory framework for crypto assets in the UK which distinguishes itself as an innovator. The financial impact of the Financial services and Marketing (FSMB) 2023 bill passed regarding it in the year 2023 in an attempt to compete European Union's Market in Crypto Assets(MiCA)regulations post Brexit. Instead of developing a separate regime, the government intends to incorporate cryptocurrency assets into the regulatory framework established by the Financial Services and Markets Act (FSMA). This recent development has shown a positive impact in the consumer behaviour and it assists in mitigating risk. This article will be useful to scholars of economics, technology and law regarding the regulatory aspects of the cryptocurrency. This research will be useful to scholars of law, economics, and technology regarding the regulatory aspects of cryptocurrency.*

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Research objective:

1. To understand the current regulatory framework, present in the United Kingdom regarding cryptocurrency.
2. To gain insight on the taxation regime on crypto incomes in the selected country.

## RESEARCH METHODOLOGY:

To effectively regulate cryptocurrencies, a multifaceted approach with diverse research methods is necessary for a thorough understanding of the subject. The use of the dialectical method allows us to identify contradictions. The formal legal method helps form precise legal concepts by understanding both external and internal aspects of a specific legal phenomenon. This method explains the structure and meaning of legal provisions, as well as the possible effects they might have. This approach allows for a more comprehensive understanding of the problem and its interdependence. Using diverse research methods, a thorough analysis of cryptocurrency regulation can lead to more effective and balanced policies. Will assist in further development of regulations.

## INTRODUCTION

“The question of how cryptocurrencies work is an altogether new logical issue broadly as well as universally. There are currently no monographs that examine the fundamentals and operational mechanisms of electronic payment methods based on cryptographic solutions in the fields of economics and law. However, new forms of transactions and methods of settlement that go far beyond the existing knowledge and legal framework have been generated by the advancement of civilization, particularly the development of virtual communities built on new technologies.”

“Legal Aspects of Cryptocurrencies must be categorized as private money, with the so-called community currency falling under this category. It is not against the law in the majority of nations to make payments in cryptocurrencies—or, more broadly, to use them—so to speak[i]. Evidently, cryptocurrencies cannot be considered electronic money under Directive 2009/110/EC[ii] because they are not recognized as legal tender. Because they are too dissimilar, cryptocurrency and virtual money cannot be considered to be the same thing. Unlike virtual money, however, cryptocurrency does not have an issuer. In spite of this, by and by and in teaching, the idea of virtual money by and large likewise incorporates digital currencies, most

importantly Bitcoin, and at times a differentiation among centralized and decentralized virtual monetary standards is made.”

“Cryptocurrency users face a significant legal risk as a result of the numerous legal issues they raise. The first and essential issue is to lay out the legitimate idea of cryptographic money (by and large three strategies for lawful guideline can be recognized - common regulation, regulatory regulation, and criminal regulation). In any case, one ought to examine and decide if digital currency ought to be seen consistently inside the system of every one of the techniques for legitimate guidelines. Such uniform comprehension may not be directly a result of the particular understanding of specific arrangements where the phonetic translation is liked, similar to the case, for instance, for charge regulation or criminal regulation.”

“The quintessence of the digital money framework is a one-of-a-kind record of exchanges. A blockchain is the term for this. In the Bitcoin framework, there isn't anything that would relate to lawful delicate money, which is well-defined for cash. Users of the cryptocurrency system only store the information (links) indicating where the transaction confirmation can be found in each block in their wallets. The links—indicators of where a block is located—are the only thing that change between the wallets of one holder of Bitcoin and another holder of Bitcoin or any other cryptocurrency. There is no movement between these wallets.”

“Subsequently the cryptographic forms of money (for example Bitcoins or Litecoins), characterized independently (for example 1 BTC), and not as a framework, are just keeps in the record, for example the blockchain. A subjective value is represented by these records. For comfort, the idea of money related unit comprehended as a theoretical proportion of significant worth can be applied to these records. According to the perspective of common regulation, the digital currencies should be visible as a proportion of significant worth other than cash, except if the gatherings to the understanding have specified that how much the advantage not entirely settled by the concurred proportion of significant worth, for example a particular cryptocurrency.[iii] This approach compares to the view of digital money as a theoretical proportion of significant worth, that is the financial unit. When taken as a whole, the cryptocurrency ought to be recognized as both a type of property and a property right. A record in the blockchain, also known as the ledger, is how this property right is represented. Arrangement of advances in cryptographic money might raise some discussion. A different, yet significant in friendly terms, is the issue of shopper security, which ends up being clear even with a cursory assessment of the functional acts of the business people working in the digital currency framework. We should consider whether to regulate cryptocurrencies in the same way that payment services are regulated by law. Though on account of installments utilizing an installment account there is a moderately clear division of obligations between the installment administration client and supplier, as set out in the arrangements of the PSD Directive[iv] and the arrangements of public law of the EU Part States, for exchanges utilizing digital currency, since there is no substance running the cryptographic money framework, such division doesn't exist by any stretch of the imagination and the clients bear the whole obligation regarding accurately managing exchanges based on common guidelines of common regulation. Under the present status of regulation, while making cryptographic money exchanges, it is beyond the realm of possibilities to expect to apply the PSD Order (and, thus, no Part States' arrangements carrying out the Mandate) since this sort of exchanges falls outside both material and individual extent of the Mandate. In addition, it appears that the application of the PSD Directive (or a new PSD2 Directive[v])—even if only partially or corresponding to it—may pose significant challenges that are difficult to overcome, if only due to the absence of an entity in the cryptocurrency system that is comparable to the payment services provider.”

“The fact that the blockchain resembles a payment account, as well as a bank account used for payment transactions, is not merely coincidental; rather, it is the result of the deeply ingrained ideological assumptions that underpin cryptocurrency schemes (the development of a payment system that would serve as an alternative to official systems that are based on accounts held by banks). Without a doubt the principal objective of the cryptographic money framework is to empower one to make installments for labor and products; in any case, the blockchain likewise serves to gather conceptual worth, that is money related units of a specific digital currency. Inside the worth of a specific cryptographic money, the framework likewise has a depositary capability. And it's possible that this, in addition to making payments, is a truly revolutionary aspect that the cryptocurrency brings to the modern era: it turns on its head our understanding of deposit-taking, which is, after all, the very nature of banking. The fact that only an entity capable of meeting the

requirements outlined by law can run deposit-taking activity, otherwise it is punishable under criminal law, demonstrates that banks have a monopoly on this activity (an additional issue is to what extent this monopoly can currently be justified and maintained)."

"It is interesting that although payment accounts and blockchain have similar functions and application, only the activity run on the basis of payment accounts is subject to state supervision. It seems that the decentralization of cryptocurrency system makes it impossible for such a supervision to be conducted over the entire system – simply because there is no single entity running the system. However, some entities which are important for the system such as professional users of cryptocurrency – first of all the so called cryptocurrency exchanges - could be subject to this kind of supervision. Experience shows that the exchanges generate the highest risk of property loss by other cryptocurrency users."

"It is commonly agreed in literature that money, being legal tender, fulfills four basic functions: measure of value, medium of circulation, means of payment and store of value. From the point of view of economics, a thing capable of fulfilling all these four functions would be regarded as money, no matter what its legal nature. Nevertheless, a means of payment that is commonly accepted would still be an important issue<sup>[vi]</sup>"

"From the social (or even psychological) perspective, money is what people recognize as money. In other words, this is something that they view (an entirely subjective belief) as serving as the measure of value, fulfilling the function of circulation and that of the store of value. This has important economic relevance and ultimately legal relevance constituting the primary reason for the state to build a special institutional and legal structure in which the central bank plays a dominant role in order to convince the state's population that the legal tender issued by its central bank is trustworthy. Public confidence in legal tender enables it to fulfill the above functions; still, the obligation itself to accept legal tender by creditors is not enough to build such confidence. However, the public (society) can hardly have greater confidence in private money (e.g. crypto-currency) than in legal tender (unless cryptocurrency is recognized as legal tender by the state). This comes as a consequence of the fact that one of the elements of the state's sovereignty is its monopoly on making decisions as to what is the commonly accepted money on its territory in the already mentioned functional and economic terms."

"From this point of view, two kinds of private money systems can be distinguished – the systems limited at their very outset and those seeking to become commonly recognized. The first ones are characterized in that their very nature does not allow them to become widespread for they are either limited territorially (e.g. local (currency) money) or only to one game or web portal (e.g. virtual money), or they are restricted legally and functionally (e.g. regulated electronic money). In addition, they have low or hardly any capitalization compared to the currency which is legal tender (e.g. in 2013 in the UK the value of local currency (local money), Bristol Pound was only GBP 250.000 and was used by one million people, and for Brixton Pound the values were respectively GBP 100.000 and GBP 300.000)<sup>[vii]</sup>. The second kind of systems, on the other hand, aspire by definition to become widespread and their creators declare, within the framework of a particular ideology, to replace or eliminate the means of payment issued by central banks (as is the case for cryptocurrencies, and for Bitcoin in particular)."

"In their very nature, the private money systems which are limited by definition, such as local money or virtual currency are very unlikely to become a threat to the monopoly of central banks. In particular, they can neither affect the monetary stability, first of all owing to its low capitalization, nor the financial market stability<sup>[viii]</sup>. Cryptocurrencies, on the other hand, present a wholly different matter. The cryptocurrency system is by definition of global nature (trans-territorial or trans-national) with everyone being able to use it to purchase any goods and services (including virtual ones as well as the illegal ones). Although presently (in 2015) cryptocurrencies have not yet become of a common nature, owing to their relatively low capitalization, and nobody knows whether they ever will (the already mentioned issue of trust is crucial here), it seems that now is the time to launch expansive studies in the field of legal regulations on the central bank's monopoly over money issuance in the context of the development of cryptocurrencies."

"The regulation of cryptocurrencies in the UK has developed alongside the evolution of the technology itself. Overall, UK regulators have attempted to balance supporting innovation with protecting consumers and maintaining financial stability. In 2018, the Cryptocurrencies Taskforce (the Taskforce) brought together HM Treasury (HMT), the Financial Conduct Authority (the FCA), and the Bank of England (the BoE) to

coordinate the UK's approach to regulating cryptocurrencies and distributed ledger technology (DLT) as it relates to financial services. In April 2022, the UK government expressed its intention to make the UK a global hub for cryptocurrency technology and investment and in February 2023, HMT released a consultation paper and call for evidence on a future financial services regulatory regime for cryptocurrencies (the Consultation), which seeks to deliver on the aforementioned ambitions. UK policymakers and regulators have identified the opportunity presented by cryptocurrency technology and intend to encourage growth, innovation, and competition in the industry, while (i) protecting UK consumers by clearly presenting the risks involved to ensure that they make well-informed decisions, and (ii) maintaining stability and market integrity."

### Definition

"At the hour of composing, there is no acknowledged worldwide meaning of a cryptocurrency;[ix] in any case, there is expanding agreement on the essential components of the definition in the UK and global regulation. The Financial Services and Markets Bill (the FSMB), which got Royal Consent on 29 June 2023, characterizes cryptocurrencies as"

[A]ny cryptographical portrayal of significant worth or authoritative freedoms that -  
a. "can be moved, put away, or exchanged electronically, and"  
b. "uses innovation supporting the recording or stockpiling of information (which might incorporate conveyed record innovation)."

"This definition is like the meaning of cryptocurrency utilized in the Tax evasion, Fear-based oppressor Supporting and Move of Assets (Data on the Payer) Guidelines 2017 (as extended by the Illegal tax Avoidance and Psychological militant Funding (Correction) Guidelines 2019 to cover cryptocurrencies) (MLRs), the important distinction being that the FSMB definition references a more extensive scope of fundamental innovation."

The Consultation distinguishes four expansive kinds of cryptocurrencies:

- "Security tokens, which add up to a predefined venture as set out in the Monetary Administrations and Markets Act (2000) (Managed Exercises) Request (the RAO). These may give privileges like possession, reimbursement of a particular amount of cash, or qualification to an offer in ongoing benefits. They may likewise be adaptable protections or monetary instruments under the EU's Business sectors in Monetary Instruments Mandate II (MiFID II)."
- "Exchange tokens, also known as cryptocurrencies like Bitcoin, Litecoin, and others, that support the recording or storage of data by utilizing a technology like DLT but are not issued by or backed by a central bank or other body. They are used for investment or exchange, but they do not provide the same rights or access as utility tokens or security tokens. Stablecoins, algorithmic tokens, and asset-referenced tokens are all examples of exchange tokens."
- "Utility tokens, which give computerized admittance to a particular help or application (e.g., computerized publicizing or document stockpiling) and utilize an innovation, for example, DLT to help the recording or stockpiling of information. Although they can be traded on cryptocurrency trading venues for investment purposes, they do not provide the rights or features that are associated with a security token (such as share or ownership rights) and do not function as a means of payment. Fan tokens and governance tokens are examples of utility tokens."
- "Non-fungible tokens (NFTs), which present computerized possession freedoms of an extraordinary resource (e.g., a piece of computerized craftsmanship) utilizing an innovation, for example, DLT to help the recording or stockpiling of information. NFTs don't furnish the freedoms or elements related with a security token and don't work for the purpose of installment."

"The E-Money Regulations of 2011 (the EMRs) may also include some of the aforementioned kinds of cryptocurrency as e-money. The FCA's Edge Direction for Cryptocurrencies (PS 19/22) (the Direction) sets out more detail on the various sorts of cryptocurrencies and their cooperations with the current administrative border."

"Notwithstanding its job as a consultee and individual from the Taskforce, the BoE is thinking about the presentation of a national bank computerized money (CBDC), albeit this has not yet been executed."

### **Cryptocurrency money guideline**

“The UK doesn't right now control crypto in essence; rather, cryptocurrency's and related exercises might fall inside existing systems where their particular attributes direct so. Right now, cryptocurrency exercises acted in the UK are managed under two particular administrative systems:”

- “The first framework is applicable to all cryptocurrencies and is determined by what is done with the cryptocurrency and whether or not it raises the risk of money laundering. Firms that fall inside this system are expected to enlist with the FCA under the MLRs.”
- “The subsequent system applies relying upon the qualities of a cryptocurrency, and whether it falls inside the meaning of a predetermined venture under the RAO.”

“Notwithstanding the RAO and MLRs, the ad of specific items or exercises, where they are focused on or are in any case fit for having an impact in the UK, might be dependent upon specific limitations set out in the Monetary Administrations and Markets Act 2000 (Monetary Advancement) Request 2005 (the FPO). This will depend on whether the product or activity falls under the Financial Services and Markets Act of 2000 (FSMA)'s definition of controlled investment or controlled activity, which forbids unapproved financial promotions.”

“The UK's proposed way to deal with cryptocurrency guideline is itemized in the Counsel. One of the center plan standards of the new administrative system is same gamble, same administrative result, meaning an emphasis on accomplishing a similar administrative result where conceivable, no matter what the innovation utilized.”

“The UK government plans to bring cryptocurrencies into the existing regulatory framework established by FSMA and the RAO in phases, as opposed to the EU's approach of introducing a bespoke regulatory framework for cryptocurrencies (MiCAR).”

- “To begin with, the public authority has acquainted legislation[x] with bring qualifying cryptocurrencies into the extent of the current monetary advancements system under the FPO.”
- “Second, the government has enacted legislation through the FSMB to regulate stablecoins that are backed by fiat and used for payment.”
- “Third, the public authority expects to acquaint a system with control more extensive cryptocurrency exercises, for example, the exchanging of and speculation cryptocurrencies, which will zero in on focusing on movement regions related with a more serious level of chance from both a shopper and market point of view. The proposed extent of cryptocurrency exercises to be controlled is expansive and incorporates: ( I) issuance exercises; ( ii) installment exercises; ( iii) trade exercises; ( iv) activities related to risk management and investments; v) loaning, getting and influence exercises; ( vi) protecting as well as organization (care) exercises; and (vii) activities related to governance and validation.”
- “Fourth, in additional beginning region of the market, the public authority will effectively look for perspectives to illuminate future approach advancement and will proceed to decisively evaluate improvements in the market to decide future periods of work, thinking about the perspectives on industry, purchasers, and controllers.”

### **Bargains rule**

“The offer of cryptographic money in the UK is dependent upon deals guidelines that fall into three general classes: (i) the monetary advancements system; ( ii) outline guideline; also (iii) purchaser assurance and on the web/distance selling regulation.”

### **Monetary advancements**

“An invitation or inducement to engage in investment activity that is communicated throughout the course of business is known as a financial promotion. The monetary advancement system applies to correspondences regarding specific exercises including controlled ventures (like offers, bonds or subordinates) and controlled exercises, the two of which are set out in a thorough rundown in the FPO. Monetary advancements fit for having an impact in the UK must”

- “be given by a FCA/Prudential Guideline Authority (PRA)- approved individual;”
- “be supported by a FCA/PRA-approved individual; or on the other hand”
- “fall inside an exception from the monetary advancement system.”

“To decide if the monetary advancement system applies to cryptocurrencies, it is important to decide if the exercises include a controlled action or controlled venture by alluding to the FPO. A security token or other cryptocurrency that is a regulated specified investment will likely fall under the definition of a controlled investment under section 21 of FSMA.”

“On 7 June 2023, the public authority passed the Monetary Administrations and Markets Act 2000 (Monetary Advancement) (Correction) Request 2023 (the FP Alteration Request), which will bring qualifying cryptocurrencies inside the extent of the FPO with impact from 8 October 2023. Comprehensively, a qualifying cryptocurrency is any cryptographically gotten computerized portrayal of significant worth or legally binding freedoms that is adaptable and fungible, yet does exclude NFTs, cryptocurrencies that meet the meaning of e-cash, or a currently controlled speculation (i.e., a security token). The majority of cryptocurrencies that fall outside the regime's purview are included in this broad definition; As a result, financial promotions communications that are invitations or inducements to engage in such activities will no longer be permitted unless they are issued by a person authorized by the FCA or PRA, approved by a person authorized by the FCA or PRA, or fall under an exemption from the financial promotion regime. The FP Amendment Order, on the other hand, provides a unique exemption in the sense that MLR-registered FCA-registered businesses may use their authorization to approve and communicate their promotions.”

“Any violation of this restriction constitutes a criminal offense that entails a fine and/or up to two years in prison. Any officer, manager, or beneficial owner's ability to meet the MLRs' fit and proper requirements may also be affected if the prohibition is broken. When the law goes into effect, both HMT and the FCA have pledged to enforce it with a firm hand.”

“Quickly following the death of the FP Revision Request, on 8 June 2023, the FCA distributed Strategy Explanation PS23/6 on Monetary advancement rules for cryptocurrencies (the Cryptocurrency FP Strategy Proclamation), setting out its last arrangement position close last Handbook rules.[xi] The Cryptocurrency FP Strategy Explanation affirms that the FCA expects to continue as talked with sorting cryptocurrencies as Confined Mass Market Speculations (RMMIs) and apply related limitations on their showcasing to UK buyers, as set out in the FCA's Strategy Articulation PS 22/10 on Reinforcing our monetary advancement rules for high gamble ventures and firms endorsing monetary Promotions.[xii] In addition to other things, for first-time financial backers in RMMIs, and thus cryptocurrencies, a customized risk-cautioning spring up and a 24-hour chilling period will be required. There will likewise be a restriction on promptings to put resources into these allude a companion rewards.”

#### **Outline Guideline**

- “FSMA and the onshored UK Plan Guideline expect firms to make accessible a supported outline to general society, previously (I) adaptable protections are proposed to the general population, or (ii) a solicitation is made for adaptable protections to be owned up to a managed market arranged or working in the UK.”
- “These prerequisites connect with adaptable protections thus, to decide if this system is material to cryptocurrencies, it should be laid out whether the important cryptocurrency is an adaptable security. The issuer is required to issue a prospectus whenever a transferable security is made available to the general public or allowed to trade on a regulated market. The UK Markets in Financial Instruments Regulation (MiFIR) includes transferable securities in its definition. It is a criminal offense to make a proposition or solicitation admission to exchanging of adaptable protections without an endorsed outline, albeit various exceptions are accessible (e.g., public offers made to qualified financial backers or less than 150 people). The Direction sets out that main security tokens might be adaptable protections.”
- “In the Counsel, the public authority proposes to lay out an issuance and revelations system for cryptocurrencies customized to their particular ascribes. Similarly as with conventional protections contributions, limitations will be put on open contributions of a cryptocurrency and its admission to a cryptocurrency exchanging scene without a plan. As the onshored UK Prospectus Regulation will be replaced under the FSMB, the proposed Designated Activities Regime (DAR) will serve as the basis for the development of rules governing prospectus requirements. The DAR is designed to allow HMT to designate specific activities in order to make regulations relating to the performance of those activities. Certain exceptions are planned to be accessible as per the sort or extent of public proposition, including offers under

an insignificant financial limit, offers made exclusively to qualified financial backers, and offers made to less than 150 people. Where there is no guarantor (e.g., Bitcoin), the exchanging scene would be expected to assume the obligations of the backer in the event that they wish to concede the resource for trading.<sup>[xiii]</sup>

- “General publicizing, on the web/distance selling and buyer insurance regulation”
- “Those showcasing cryptocurrencys are additionally expected to conform to the CAP Code and the Promoting Norms Authority (the ASA) rules.”
- “The ASA gives different principles regarding how cryptocurrencys might be advanced and publicized. In addition to other things, these norms give that commercial ought not be misdirecting or contain bogus data and shouldn’t suggest that crypto ventures are riskless, or okay, minor choices. Any promotion should likewise unmistakably and obviously express that”
- “cryptographic forms of money are unregulated in the UK;”
- “there may be capital gains tax (CGT) on any profits; furthermore,”
- “the worth of speculations is variable.”
- “Outside the prerequisites of the UK monetary administrative structure, other regulation might be applicable to the deal or presenting of digital money and administrations connected with them.”
- “The Consumer Rights Act of 2015 and the Consumer Protection from Unfair Trading Regulations of 2008 provide consumers (individuals acting outside of their trade, business, craft, or profession) with statutory rights and remedies against suppliers of goods, services, and digital content. Both of these laws apply to consumers. Further limitations are forced on the sorts of legally binding terms that can be implemented against shoppers.”
- “Businesses that offer or provide goods or services digitally are subject to the Electronic Commerce (the EC Directive) Regulations 2022, which apply more broadly and impose requirements on them. Whether the regulation applies relies upon whether the business being led is dependent upon UK guideline.”

### Taxation

“At the time of writing, there is no specific tax regime to govern how cryptocurrency transactions are taxed; therefore, the current tax rules must be considered and applied (although some uncertainty remains as to their application). The UK tax authority, HM Revenue and Customs (HMRC), uses the same definition of cryptocurrencys adopted by the Taskforce, identifying four types of cryptocurrencys, namely exchange tokens, utility tokens, security tokens, and stablecoins. The classification of cryptocurrencys is not necessarily determinative of their tax treatment, which will depend on the nature and use of the cryptocurrency in question.”

“HMRC has published some guidance relating to the taxation of cryptocurrencys, focusing on the taxation of exchange tokens. It is important to note that HMRC is not bound by its published guidance; however, it is useful for interpreting how HMRC might approach a tax case that will be decided on its facts.”

“HMRC does not treat exchange tokens as money or fiat currency; therefore, tax rules that apply to fiat currency do not apply to exchange tokens. Additionally, exchange tokens contributed to pension funds would not be treated as a tax-relievable contribution.”

“In April 2022, the government announced that it will explore ways to enhance the competitiveness of the UK tax system to encourage development of the cryptocurrency market.<sup>[xiv]</sup> This includes”

- “a review of how decentralised finance (DeFi) loans (where holders of cryptocurrencys lend the assets out for a return) are treated for tax purposes;”
- “a consultation on extending the scope of the Investment Manager Exemption (the IME) to include cryptocurrencys; and”
- “negotiation on a new OECD Crypto-Asset Reporting Framework (CARF), which is intended to amend the Common Reporting Standard (CRS) to ensure enhanced tax transparency and enable a level playing field in tax reporting globally.”

### DeFi

“Under CGT regulations, the transfer of cryptocurrencys for lending or stake purposes results in a capital disposal and possibly a dry tax charge. Additionally, gets back from loaning or marking cryptocurrencys are not treated as revenue as HMRC doesn’t consider cryptocurrencys to be cash or government issued money. The tax treatment of the return will be determined by whether the receipt is revenue or capital.”

“Reactions from HMRC’s most memorable round of counsel in 2022 for change leaned toward new regulation to make separate standards for DeFi loaning and marking like those rules appropriate to repos and stock loaning. HMRC’s second round of counsel shut in June 2023.[xv]”

#### **IME**

“The IME is a legal concession, which gives that a UK-based speculation director won’t be treated as a UK illustrative of a non-UK occupant store on the off chance that specific circumstances are met. These circumstances incorporate limits regarding the kinds of exchange that can meet all requirements for the IME. A rundown of qualifying exchanges is set out in the venture exchanges list (the ITL). In order to implement this change, HMRC issued regulations in December 2022, which went into effect on January 1, 2023[xvi]. For the purposes of the regulations, modifications to the ITL will only be applicable to the IME and not to any other tax whitelists. With the exception of a few exceptions, CARF’s broad definition of cryptocurrency has been adopted by the regulations.”

#### **CARF**

“In June 2023, the OECD distributed an overhauled variant of CARF.[xvii] Extensively, CARF contains a set-up of reasonable effort and revealing prerequisites that apply to elements and people managing cryptocurrencies. CARF likewise contains a Multilateral Skilled Power Settlement on programmed trade of data (the MCAA) to work with the trading of data between signatories to the MCAA. At the hour of composing, the UK presently can’t seem to report a course of events for executing CARF into homegrown regulation.”

#### **Taxation of individuals**

- “HMRC direction contains the accompanying general focuses connecting with how people who hold trade tokens are to be taxed:[xix]”
- “trading cryptographic money would no doubt add up to individual speculation action (rather than exchanging action) with the end goal that CGT would be payable on any increases an individual acknowledges on removal;”
- “any profits made from trading exchange tokens would be subject to income tax rather than CGT if a person participated in a trade of tokens; also,”
- “trade tokens got as a type of installment from a business would be dependent upon personal duty and Public Protection commitments.”
- “Removals incorporate (however are not restricted to):”
- “selling trade tokens for cash;”
- “trading one kind of cryptocurrency for an alternate sort of cryptocurrency;”
- “distributing tokens to another individual; what’s more,”
- “utilizing trade tokens to pay for labor and products.”
- “A UK charge occupant yet non-domiciled person who guarantees the settlement premise of tax collection is typically simply dependent upon UK annual duty and CGT in regard of non-UK-obtained pay and capital additions (emerging from the removal of non-UK-arranged resources), separately, that have been dispatched to the UK. HMRC direction treats the situs of trade tokens just like the ward in which the individual helpful proprietor of the trade tokens is charge occupant. Any non-UK-sourced income or capital gains (arising from the disposal of non-UK-situated cryptocurrencies) would be subject to UK income tax or CGT for UK tax residents, regardless of domicile status, regardless of whether such income or gains have been remitted to the UK.”
- “Individual citizens ought to keep nitty gritty records in regard of each cryptocurrency exchange.”
- “Tax collection from organizations”
- “In regard of how exchanges including trade tokens embraced by organizations and different organizations (counting sole brokers and associations) would be dealt with, HMRC has demonstrated the following:[xx]”
- “partnership charge (CT) regulation, which connects with cash or government issued money, wouldn’t make a difference to cryptocurrencies as HMRC doesn’t believe trade tokens to be cash;”
- “where movement, for example, trading trade tokens adds up to a exchange, the receipts and costs of the exchange will shape part of the computation of the exchanging benefit regard of that business for CT purposes;”

- “where the movement doesn't add up to a exchange, and isn't charged to CT in another way, the action may be treated as the removal of a capital resource with the end goal that any increase emerging from the removal would be charged to CT as a chargeable increase;”
- “esteem added charge (Tank) is expected in the typical way on the stock of labor and products sold in return for cryptocurrency;”
- “The transfer of exchange tokens is unlikely to be subject to stamp duty and reserve tax. However, each case's particular facts and circumstances will be taken into consideration; furthermore,”
- “stamp obligation land charge isn't payable on moves of trade tokens as such exchanges are not considered by HMRC to be land exchanges; However, if exchange tokens are offered in exchange for land, they would be subject to stamp duty land tax because they would be considered money or money's worth.”

#### **Requirements for preventing money laundering and laws governing money transmission**

“The MLRs impose a general obligation on cryptocurrency businesses to maintain appropriate risk-based policies and procedures to prevent their systems from being used for money laundering or financing terrorism. The MLRs rendered the arrangements of the Fourth Illegal tax avoidance Order ((EU) 2015/849) (MLD4) into UK regulation; When the Fifth Money Laundering Directive ((EU) 2018/843) (MLD5) was incorporated into UK law in January 2020, their scope was further expanded. As a result, businesses operating in the UK and dealing in cryptocurrencies were subject to the MLRs and required to be registered with the FCA.”

“In-scope cryptocurrency organizations are supposed to have been agreeing with the MLRs since 10 January 2020. a cryptographically secured digital representation of value or contractual rights that uses a form of DLT and can be transferred, stored, or traded electronically is the MLRs' definition of a cryptocurrency.”

“The MLRs apply to organizations recognized as being generally helpless against the gamble of being utilized for tax evasion and psychological militant funding purposes. In-scope organizations are alluded to as important people, as recorded in guideline 8(2) and (3). The execution of MLD5 brought CEPs and CWP (characterized beneath) inside extent of the MLRs as significant people; Consequently, anyone engaged in cryptocurrency business as defined by the following definitions is affected.”

“A cryptocurrency trade supplier (CEP) is a firm or sole expert who, via business, gives at least one of the accompanying administrations, including where the firm or sole specialist does as such as maker or guarantor of any of the cryptocurrencies involved:”

- “exchanging cryptocurrencies for money or money for cryptocurrencies, or arranging or making arrangements in this regard;”
- “trading, or orchestrating or making game plans with a view to the trading of, one cryptocurrency for another; or
- running a machine that exchanges cryptocurrencies for money or money for cryptocurrencies through automated processes.”

“The FCA makes it clear that the MLRs apply to businesses that issue new cryptocurrencies through initial coin offerings (ICOs) or initial exchange offerings (IEOs), as well as peer-to-peer providers and cryptocurrency automated teller machines.”

“A custodian wallet provider (CWP) is a business or sole practitioner that provides services to safeguard or safeguard and administer one or both of the following assets:”

- “cryptocurrencies for the benefit of its clients; or
- holding, transferring, and storing cryptocurrencies with its customers' private cryptographic keys.”

“The FCA has expressed that it will think about the business component, business benefit, the importance to other business by the significant firm, and the consistency/recurrence of exercises as variables influencing its choices on whether cryptocurrency action is continued.”

“Quite, an individual may be a CEP or CWP, regardless of whether they are generally controlled in the UK, on the off chance that they carry on cryptocurrency business that is in extent of the new definitions. In this way, MLR prerequisites for cryptocurrency organizations apply to both directed and unregulated cryptocurrency organizations in the UK.”

“To stick to the MLRs, organizations should follow different commitments, for example, creating an account; continuous gamble evaluations; keeping up with the right policies; controls and methods; staff preparing; client a reasonable level of investment; record keeping; likewise reporting For instance, the Office of Financial

Sanctions Implementation (OFSI) updated its guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018 (SAMLA) on August 30, 2022, to reflect the implementation of reporting obligation measures. The guidelines expand the meaning of pertinent firms that have monetary assets announcing commitments to incorporate CEPs and CWP, and they are accordingly expected to advise OFSI of specific data.”

“The Joint Illegal tax avoidance Controlling Gathering distributed direction that further explained how the MLRs connect with cryptocurrencies. The guidance considers how CEPs and CWP should interpret the AML requirements in relation to cryptocurrencies in an appropriate manner and highlights the sector-specific AML risks.”

### **Cash transmission regulations**

“Firms that take part in the exchange of cash via business, including cash transmitters and cash administration organizations that are not exposed to an exclusion from enlistment, are administered by the FCA under the PSRs and the EMRs.[xxi] These guidelines plan to guarantee the security and productivity of installment administrations and e-cash issuance inside the UK. Cash transmission organizations are dependent upon customary reviews and consistency checks by the FCA to guarantee they meet their administrative necessities as for illegal tax avoidance oversight (counting client an expected level of effort, record keeping, and revealing dubious activity).[xxii]”

“The FCA might verify that particular sorts of cryptocurrencies trigger the administrative border under the EMRs where they comprise e-cash tokens (e.g., fiat-upheld stablecoins that are utilized for installments) and the PSRs where working with directed installment administrations (e.g., the arrangement of wallet administrations for stablecoins).[xxiii] This assurance by the FCA would rely upon the particular attributes of the cryptocurrencies and their utilization cases.”

### **Advancement and testing**

“In accordance with the regulative expectation, there are various drives that endeavor to empower development around here. The majority of these drives are upheld by the FCA, which laid out an Advancement Division in November 2018.”

“The FCA's Development Center expects to offer direct help to imaginative firms that are attempting to send off into the market. It does as such through a few drives:”

- “The Administrative Sandbox gives an open door to organizations, everything being equal, approved and unapproved, occupant or new players, to direct the business and administrative reasonability of their items and administrations in a live climate under oversight. The test project must clearly achieve its goal and have a positive effect on customers in order to be accepted. On acknowledgment, the firm will be distributed a committed caseworker to help in the test's turn of events and execution. On the off chance that, nonetheless, a firm that is acknowledged into the sandbox is participating in controlled exercises, then they should apply for the pertinent authorisation or enlistments.”
- “The Computerized Sandbox permits firms to test and foster verifications of idea in a computerized testing climate, empowering firms to create, team up, and test new items and arrangements. The Advanced Sandbox was sent off for all time chasing after 60% of pilots gaining positive headway, including receipt of financing/associations, sending off items, and receiving industry prizes and acknowledgments.”
- “The Global Financial Innovation Network (GFIN) is a global network of related organizations and financial regulators dedicated to fostering financial innovation for the benefit of customers. The organization plans to give a more effective way to creative firms to interface with controllers as the organizations hope to scale groundbreaking thoughts.”
- “TechSprints structure part of the FCA's administrative tool stash to unite market members, including controllers (from across and outside monetary administrations), to team up to foster innovation based thoughts or evidences of idea to address explicit industry challenges. TechSprints are designed to help unlock the potential benefits of technology innovation by exploring solutions and acting as a catalyst for change.”
- “CryptoSprint occasions were held by the FCA in May and June 2022, giving a chance to investigate potential UK strategy answers for the guideline of cryptocurrencies. The FCA has not previously gathered opinions from industry and other stakeholders to help it comprehend emerging cryptocurrency market practices and assist in determining future policy.”

“Moreover, in Walk 2022, the Middle for Money, Development and Innovation (the CFIT) distributed terms of reference[xxiv] reporting that the CFIT model will contain a alliances approach, endeavoring to help the development of the area. The CFIT is a virtual body that provides research and data capabilities in financial technology and innovation as well as enhanced regional connectivity. The underlying work of the CFIT will zero in on opening datasets to show the capability of open money in conveying better monetary results for little and medium-sized undertakings (SMEs) and purchasers across the UK.”

“Under the FSMB, HMT will be conceded the ability to give legal instruments permitting the formation of administrative sandboxes (devices permitting organizations to investigate and try different things with new and creative items, administrations or organizations under a controller's oversight). The public authority has reported plans to present a monetary market framework sandbox to empower firms to explore and develop in giving the foundation benefits that support markets, in particular by empowering DLT to be tried. This sandbox will be made in the last 50% of 2023.”

“The public authority has likewise reported plans to lay out a Cryptocurrency Commitment Gathering to work intimately with the business. This would include the BoE and other key industry figures meeting consistently to examine the bearing of the cryptocurrency business and how best to help its development.”

“All the above are important for government's arrangement to make the UK a worldwide center point for cryptocurrency innovation, with the actions assisting firms with money management, enhance and scale up in the UK.[xxv] Furthermore, and considering that the UK has a second-mover advantage following the earlier execution of MiCAR, the Counsel likewise can possibly increment development inside the UK market.[xxvi]”

#### **Ownership and licensing requirements**

“Two key distributions are looking to improve lucidity around advanced resources, however they don't indicate to change administrative angles.”

#### **Guideline Commission - Meeting on Automated Assets**

“In August 2022, the Law Commission for Britain and Grains (the Commission) sent off a definite consultation[xxvii] that contained change proposition to all the more likely perceive and safeguard computerized resources, particularly crypto-tokens.”

“In June 2023, the Commission gave its last report on computerized assets[xxviii] setting out a three sided way to deal with tending to the legitimate vulnerability that remaining parts in the developing advanced resource market.[xxi] To diminish this lingering vulnerability, the Commission prescribed regulation change to guarantee that the ongoing overall set of laws can support the strength of the computerized resource biological systems while guaranteeing that the confidential law of Britain and Ridges stays a dynamic, adaptable apparatus that will give UK market members a worldwide upper hand in the space.[xxix] To accomplish this, the Commission's last report: ( I) focuses on the advancement of custom-based regulation; ( ii) only makes a specific proposal for statutory reform to support the current common law position or to prevent further development of common law; what's more (iii) suggests that the UK government make a board of specialized specialists, legitimate experts, scholastics, and judges to give non-restricting direction.”

“The Commission's vital suggestion from the counsel, as emphasized in the last report, is the unequivocal acknowledgment of a third classification of individual property for information objects; this would perceive advanced resources as unmistakable things, fit for being objects of individual property privileges. Digital assets run the risk of falling into either of the two existing categories, things in possession or things in action, so the definition adds a third category. the Commission suggests express legal affirmation that a thing won't be denied of legitimate status as an object of individual property privileges only by reason of the way that it is neither a thing of activity, nor a thing under lock and key. To qualify as an information object and draw in property privileges, a computerized resource must:”

- “be made out of information addressed in an electronic medium, remembering for the type of PC code, electronic, computerized, or simple signs;”
- “exist freely of people (who might profess to possess them) and the general set of laws (which could be depended on while attempting to uphold privileges connecting with them); and • be competitive; that is, their utilization by one individual intrinsically forestalls synchronous use by someone else.”

“Divestibility could then act as a pointer regarding whether a computerized resource comprises an information object on the off chance that the exchange of the article brings about the transferor being denied of it. The Commission acknowledges that crypto-assets and crypto-tokens generally meet this requirement.”

“In addition, the Commission proposed a novel control concept based on common law that sought to strike a balance between the benefits of the law of possession and the unique characteristics of data objects. Control would rely upon the verifiable capacity to decide if an individual has use over the information object, as opposed to any legitimate freedoms they could have comparable to it. An individual in charge of an information item can: reject others from utilizing it; use and move it; also, recognize themselves as the individual ready to do these privileges. However, there is no requirement for intent under the existing legal concept of possession. The Commission recognizes that this idea probably won't have the option to address complex lawful instruments and plans, like authority and insurance courses of action.”

“The Commission's consultation is based on the conclusions of the UK Jurisdiction Taskforce (the UKJT) Legal Statement[xxx], which was published in 2019 on the Status of Cryptocurrencies and Smart Contracts and stated that: ( i) Cryptocurrencies are assets; ii) Cryptocurrencies can be owned, transferred, assigned, and subject to security interests, at least in part; (iii) Under English law, smart contracts can be considered contracts. This has been taken on and maintained by the High Court of Britain and Ribs when it held that specific cryptocurrencies were equipped for comprising a type of property.[xxxii] In April 2021, the UKJT distributed its Computerized Debate Goal Rules,[xxxiii] which were to be integrated into on-chain computerized connections and brilliant agreements. This laid out a discretion system for resolving any debates connecting with cryptocurrencies, shrewd agreements, or other novel computerized advances.”

“A legal statement confirming that English law already supports a variety of digital securities structures without the need for statutory intervention was published in February 2023 by the UKJT.[xxxiv]”

### **Mining**

“The consensus mechanism used by a particular blockchain determines how cryptocurrencies are mined, or the process by which miners are rewarded with new units of a particular cryptocurrency if they complete a specified activity and thus validate and add transactions to a blockchain. This was also the case for the Ethereum blockchain up until September 2022, when its highly anticipated transition to the proof-of-stake (PoS) consensus mechanism took place. For instance, transactions are validated on the Bitcoin blockchain using the proof-of-work (PoW) consensus mechanism, which requires validators to compete to solve complex mathematical equations.[xxxv] The original execution layer of the Ethereum blockchain merged with a new PoS consensus layer during this software upgrade, which is referred to as the Ethereum Merge (the Merge). As a result, transactions were validated using a PoS consensus mechanism. As an option in contrast to the serious PoW approval strategy, PoS depends on validators chose aimlessly to affirm exchanges and make new blocks. The Merge was implemented to address some of the issues that were encountered with PoW and laid the technical foundation for future enhancements to the Ethereum blockchain's scalability: nearly, the Consolidation is safer, less energy-escalated, and has expanded throughput. Together, these features have made it possible for transactions and blocks to be approved more quickly than with PoW. On the other hand, the staking component of the PoS consensus mechanism may lead to regulatory scrutiny.”

“With PoS, partaking validator hubs working on a PoS network should stake capital (i.e., tokens) into a shrewd agreement on the organization to be qualified to approve exchanges. Despite the fact that PoS validator nodes are chosen at random, they are more likely to be chosen to validate if they stake a large number of tokens in the deposit contract (for instance, 32 ETH is required for a user to participate as a validator). These tokens address esteem put in question that can be annihilated if the validator acts untrustworthily while exploring, proposing, and sending blocks.[xxxvi] Perceiving the productivity of marking, specialist co-ops have arisen that offer clients the choice to stake their tokens to the specialist organization's validator hub, accordingly expanding their possibilities being chosen to approve new blocks and hence procure marking rewards, which are then given to clients in relation to their tokens marked (Validator Specialist organizations).”

“Marking exercises through Validator Specialist organizations might fall inside the meaning of an aggregate speculation conspire (CIS) compliant with segment 235 of FSMA. For instance, it very well might be contended that this movement comprises a CIS if: ( I) members don't have everyday command over the

administration of cryptocurrencies marked with a validator hub; ( ii) The assets of participants are pooled by the validator nodes; iii) a member has an assumption for benefits via their cooperation in the marking system; (iv) The Validator Service Provider is in charge of managing the staked cryptocurrencies as the scheme's operator. Despite the prior, each venture will probably be evaluated dependent upon the situation as there are extra components to the CIS definition that might possibly be fulfilled relying upon a specific task's mechanics. The connection among marking and the meaning of a CIS has not yet been tried."

"HMT has noticed that there may not be a defense to direct the action of mining all by itself; However, it has questioned industry participants regarding whether other regulatory outcomes (such as miner extractable value, in which miners choose how to sequence transactions to extract value from other traders) should be pursued when regulating mining. As needs be, the mining and marking of cryptocurrencies fall beyond the current administrative edge and are not explicitly directed exercises in the UK (aside from HMRC considering any benefits got from mining exercises to be available for people and organizations either as exchanging benefits or under the different pay arrangements)."

#### **Restrictions and declaration at the border**

"Upon appearance in the UK, people conveying £10,000 or more in real money should proclaim this reality to HMRC on a traditions statement structure. At the time of this writing, there are no explicit border restrictions against bringing cryptocurrencies into the UK for investment or personal use, provided that all applicable customs and declaration requirements are followed. HMRC doesn't consider cryptocurrencies to comprise cash or cash; in any case, there is plausible that a statement of cryptocurrency property upon reemergence into the UK would be required assuming that it is resolved that a cryptocurrency comprises a great, as cryptocurrencies are liable to burden detailing obligations.[xxxvi]"

#### **Requirements for reporting**

"Cryptocurrency transactions may be subject to reporting requirements outlined in AML legislation or financial regulation. CEPs and CWP are also subject to a broad reporting requirement in the MLRs, requiring them to provide the FCA with information regarding their compliance with the MLRs."

#### **Home preparation**

"HMRC has affirmed that it considers cryptocurrencies to be property for the reasons for legacy charge. For tax purposes, individuals who are domiciled (or deemed domiciled) in the UK must pay inheritance tax on their worldwide estates. In that capacity, cryptocurrencies will shape part of the singular's home and will be dependent upon the standard legacy charge pace of 40% (accepting the worth of the domain surpasses the £325,000 tax-exempt limit). On the individual's death, the taxable value of the cryptocurrencies will be calculated. Executors are unable to submit rebate claims for cryptoassets. Any assets held and located in the UK are, with some exceptions, subject to taxation by non-UK-domiciled individuals."

"A departed benefactor ought to teach their own delegate on the most proficient method to get the cryptographic keys and subtleties of wallet specialist organizations, generally the worth of cryptocurrencies left to recipients of a home will be lost."

## **CONCLUSION**

"From the monetary perspective, the references to the thought behind the rise of virtual cash can be tracked down in different strands of the financial hypothesis. The Austrian School of Economics' (xxxviii) emphasis on business cycles and money theory is largely responsible for the majority of the views that lead to the idea of virtual currency. They were of the opinion that business cycles were brought about by currency interventions. Unnecessary extension of credit set off by partial save banking prompts expanded cash supply and misleadingly low loan fees. Entrepreneurs interpret it as a signal and frequently make decisions that conflict with customers' preferences, resulting in a crisis. The Austrian School maintains that the return to the gold standard and abandonment of the fractional reserve banking system—which would result in smoother business cycles—is the solution to the monetary authorities' excessive discretion over money manipulation[xxxix]."

"The public's confidence will determine whether or not the spread of cryptocurrencies will continue and lead to them becoming potential competitors for money, just like other currencies have done throughout the history of money. To reinforce this certainty, lawful changes controlling the overall structure under which

cryptocurrencies are utilized are important. This ought to be viewed as the sine qua non necessity for digital currencies to have the option to leave the generally informal course of present times."

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