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Dr. Michael Huertas

Tel: +49 160 97375760

michael.huertas@pwc.com

Dr. Hagen Weiss

Tel: +49 1511 5708446

hagen.weiss@pwc.com

Kristin Lyaskova

Tel: +49 1515 0691934

kristin.lyaskova@pwc.com

EU RegCORE Team

de_regcore@pwc.com

Cryptoasset Regulation: UK Advances Comprehensive Regime as US CLARITY Act Stalls

QuickTake

On 16 September 2026, the Financial Conduct Authority (FCA) published PS26/18, finalising perimeter guidance for the UK cryptoasset regime under the Financial Services and Markets Act 2000 Regulations 2026 (Cryptoasset Regulations). The principal provisions take effect on 25 October 2027.

The FCA application window opened on 30 September 2026 and closes on 28 February 2027 for firms seeking the savings provisions. In the US, the Senate on 15 September 2026 rejected cloture on the motion to proceed to the CLARITY Act by 49-50, leaving the bill stalled rather than defeated on final passage.

The contrast is structural: a legislatively anchored UK implementation path versus US agency action under existing law while Congress debates market structure.

UK - FCA Cryptoasset Perimeter Guidance (PS26/18)

The Cryptoasset Regulations were made on 4 February 2026 after a draft had been approved by both Houses of Parliament, and their principal provisions take effect on 25 October 2027.¹ They amend the regulatory perimeter under the Financial Services and Markets Act 2000 (FSMA). PS26/18, published on 16 September 2026, provides detailed perimeter guidance through PERG 18. The FCA received 78 responses to CP26/13, with 60% generally supporting the proposed perimeter guidance.² The key elements include:

- **New regulated activities:** issuing qualifying stablecoins in the UK; safeguarding and arranging safeguarding of qualifying cryptoassets and relevant specified investment cryptoassets; operating qualifying cryptoasset trading platforms (QCATPs); dealing as principal or agent; arranging deals in qualifying cryptoassets; and arranging qualifying cryptoasset staking.³
- **Specified investments:** a qualifying cryptoasset is a specified investment under the new regime, and a qualifying stablecoin is a subcategory of qualifying cryptoasset. A specified investment cryptoasset (SIC) is a cryptoasset that also falls within an existing specified-investment category; certain activities in relation to SICs are therefore already within the FSMA perimeter.⁴
- **Authorisation gateway:** the application window opened on 30 September 2026 and closes on 28 February 2027 for applicants wishing to rely on the savings provisions. Existing registrations and permissions do not convert automatically.⁵

Territorial scope: the cryptoasset-specific "by way of business" test is narrower than the general FSMA business element. The territorial rules also expand the circumstances in which certain services provided from outside the UK to UK consumers are treated as carried on in the UK. Parliament did not create an Overseas Persons Exclusion (OPE) for the new regulated cryptoasset activities, although the application of the territorial deeming rules and available exclusions remains fact-specific.⁶

- **Additional statutory instrument:** the Government has laid a further statutory instrument containing targeted amendments that affect, among other matters, technical and infrastructure services, dealing and arranging involving UK qualifying stablecoins (UKQS), and temporary holding arrangements. The FCA has made clear that PS26/18 does not yet incorporate those amendments.⁷
- **Further guidance and MLR interaction:** the FCA plans a further PERG consultation in early Q4 2026 and aims to publish final amended guidance in early 2027. Firms registered under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) will need the appropriate FSMA permission where they conduct regulated cryptoasset activities; MLR and FSMA obligations will continue to operate concurrently where applicable.⁸

¹ The Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026, SI 2026/102, introductory text (made 4 February 2026 following approval by resolution of each House) and reg. 1.

² FCA, PS26/18, paras. 1.9-1.10 (78 responses; 60% generally supportive).

³ FCA, PS26/18, para. 4.1 (listing the new regulated cryptoasset activities, including safeguarding and arranging safeguarding).

⁴ FCA, PS26/18, paras. 3.2-3.5; Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2026, reg. 40 (amending the Regulated Activities Order, including the definitions of qualifying cryptoasset, qualifying stablecoin and specified investment cryptoasset).

⁵ FCA, PS26/18, paras. 1.25-1.27; FCA, PS26/18 webpage, "Next steps".

⁶ FCA, PS26/18, paras. 2.4-2.5 and 5.7; PERG 18.3.2 in the made rules appended to PS26/18. The FCA states that the cryptoasset-specific business element is narrower, that certain overseas-to-UK-consumer activity may be deemed to occur in the UK, and that Parliament did not create an OPE for the new regulated cryptoasset activities.

⁷ FCA, PS26/18, paras. 1.6-1.8; FCA, Press Release, "Crypto firms get guidance on how the new regime applies", 16 September 2026. PS26/18 explains that a further Government SI had been laid and that the final guidance did not yet incorporate its targeted amendments.

⁸ FCA, PS26/18, paras. 1.25-1.26 and 6.2. The FCA explains that existing registrations and permissions do not convert automatically and that MLR and FSMA obligations are not identical in scope and will continue to operate concurrently.

David Geale, the FCA's Executive Director for Payments and Digital Finance and Payment Systems Regulator Managing Director, stated: "We are building a crypto regime that firms, consumers and international partners can trust. Getting ready for regulation starts with understanding how the regime applies to your business."⁹

US - CLARITY Act Stalls; SEC and CFTC Continue Agency-Led Measures

The CLARITY Act (H.R. 3633, 119th Congress) would establish a federal market-structure framework for digital assets, allocating significant oversight of digital-commodity markets to the Commodity Futures Trading Commission (**CFTC**) while preserving Securities and Exchange Commission (**SEC**) authority over securities and investment-contract transactions. The House passed the bill 294-134 on 17 July 2025.¹⁰ The Senate Banking Committee advanced it 15-9 on 14 May 2026.¹¹ On 15 September 2026, however, the Senate rejected cloture on the motion to proceed by 49-50. That was a procedural failure to advance the bill, not a vote on final passage.¹²

Speaking at the Solana Policy Institute Summit on 14 September 2026, SEC Chairman Paul Atkins urged Congress to advance the legislation, adding that "with or without that legislation, this Administration will deliver for American investors and technological innovators."¹³ The agencies have continued to use existing statutory authorities in parallel:

- **Project Crypto:** Chairman Atkins announced Project Crypto on 31 July 2025 as a Commission-wide initiative to modernise federal securities regulation for on-chain finance. On 29 January 2026, the SEC and CFTC launched a joint phase of Project Crypto focused on regulatory harmonisation.¹⁴
- **March 2026 interpretation and guidance:** on 17 March 2026, the SEC issued an interpretive release on the application of the federal securities laws to crypto assets, with the CFTC providing related guidance. The framework identifies, among others, Bitcoin and Ether as digital commodities, while emphasising that transactions involving a non-security crypto asset may still constitute an investment contract depending on the facts.¹⁵
- **August-September 2026 SEC measures:** on 18 August the SEC proposed Regulation Crypto Assets, including exemptions for offerings of up to USD 5 million over four years and USD 75 million in any twelve-month period, together with a conditional safe harbour from the term "investment contract".¹⁶ On 1 September it proposed a substantial modernisation of the transfer-agent regime, including for blockchain-based securities

⁹ FCA, Press Release, "Crypto firms get guidance on how the new regime applies", 16 September 2026. The release identifies David Geale as FCA's Executive Director for Payments and Digital Finance and Payment Systems Regulator Managing Director contains the quoted statement.

¹⁰ Office of the Clerk, U.S. House of Representatives, Roll Call 199, H.R. 3633 (CLARITY Act), 17 July 2025: passed 294-134, <https://clerk.house.gov/Votes/2025199>.

¹¹ U.S. Senate Committee on Banking, Housing, and Urban Affairs, "Chairman Scott, Senate Banking Committee Advance Clarity Act in Historic Bipartisan Vote", 14 May 2026 (H.R. 3633 advanced 15-9).

¹² U.S. Senate, Roll Call Vote No. 234, 15 September 2026, cloture on the motion to proceed to H.R. 3633 rejected 49-50. Because the question was cloture on the motion to proceed, this was not a final-passage vote.

¹³ Paul S. Atkins, Chairman, U.S. Securities and Exchange Commission, "Remarks at the Solana Policy Institute Summit: Washington x Wall Street", 14 September 2026, <https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-solana-policy-institute-091426>.

¹⁴ Paul S. Atkins, Chairman, SEC, "American Leadership in the Digital Finance Revolution", 31 July 2025 (announcing Project Crypto), <https://www.sec.gov/newsroom/speeches-statements/atkins-digital-finance-revolution-073125>; Paul S. Atkins, "Opening Remarks at Joint SEC-CFTC Harmonization Event - Project Crypto", 29 January 2026.

¹⁵ SEC, Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets, Release Nos. 33-11412 and 34-105020, File No. S7-2026-09, issued 17 March 2026; the CFTC provided guidance relating to the SEC interpretation, <https://www.sec.gov/rules-regulations/2026/03/s7-2026-09>.

¹⁶ SEC, Regulation Crypto Assets, Release Nos. 33-11434 and 34-106150, File No. S7-2026-27, issued 18 August 2026. The proposal includes exemptions for offerings up to USD 5 million during a four-year period and up to USD 75 million during each twelve-month period, plus a conditional safe harbour from the term "investment contract"; comments are due 20 October 2026, <https://www.sec.gov/rules-regulations/2026/08/s7-2026-27>.

infrastructure.¹⁷ On 17 September it issued a temporary, conditional "Innovation Exemption" permitting limited on-chain trading of tokenised NMS stock through qualifying Tokenized Securities Venues.¹⁸

- **September-October 2026 additional measures:** on 17 September the CFTC submitted a pre-rule initiative entitled "Regulation Crypto Asset Transactions and Regulation Crypto Asset Markets" for review by the Office of Information and Regulatory Affairs (**OIRA**); the item remains at the pre-rule stage and pending review.¹⁹ On 1 October the SEC proposed a tailored crypto-asset custody framework for registered investment advisers and regulated funds.²⁰

Key Considerations for Implementation

1. Regulatory Divergence and Cross-Border Complexity

The UK now has a legislatively anchored implementation path with a defined FCA gateway and a settled body of core rules that will apply from October 2027. The US picture is not one of regulatory absence: Congress enacted the GENIUS Act for payment stablecoins in July 2025,²¹ and the SEC and CFTC continue to act under existing securities and commodities statutes. But comprehensive federal market-structure legislation remains unresolved. For firms operating across both jurisdictions, the result is a dual compliance challenge and model: a timetable-driven UK authorisation exercise on one side and a layered, still-evolving US framework on the other.²²

US measures adopted or proposed under existing statutory authority may be revised through later agency action, affected by judicial review, or superseded by subsequent legislation. The SEC itself has described its September Innovation Exemption as a bridge toward more durable rulemaking.²³ Conversely, the UK's legislative foundation provides greater certainty on direction and timing, but overseas firms cannot assume that traditional cross-border exclusions will keep them outside scope.²⁴

2. UK Authorisation Readiness

Firms currently registered under the MLRs, already authorised under FSMA or entering the UK market should now perform a granular activity-by-activity assessment against PERG 18, determine which Part 4A permissions are required, and test whether they need to apply within the 30 September 2026 to 28 February 2027 window to preserve access to the savings arrangements. Once authorised, firms must continue to satisfy the FCA threshold conditions and all applicable ongoing regulatory requirements.²⁵

That exercise should include mapping legal entities, booking models, consumer touchpoints, outsourcing chains and technology functions against the territorial rules and the new regulated activities. Firms should consider using the FCA's Pre-application Support Service (PASS), and dual-regulated firms should engage

¹⁷ SEC, Press Release 2026-81, "SEC Proposes to Modernize Rules for Registered Transfer Agents", 1 September 2026, noting expressly the use of electronic communications and blockchain technology in securities offerings and share transfers.

¹⁸ SEC, Press Release 2026-90, "SEC Issues 'Innovation Exemption' to Facilitate the Trading of Tokenized NMS Stock and Request for Comment", 17 September 2026. The relief is temporary and conditional and applies to qualifying Tokenized Securities Venues.

¹⁹ Office of Information and Regulatory Affairs, RIN 3038-AF80, "Regulation Crypto Asset Transactions and Regulation Crypto Asset Markets", Commodity Futures Trading Commission; received 17 September 2026, stage: Prerule, review status: Pending Review.

²⁰ SEC, Press Release 2026-100, "SEC Proposal Would Address How Investment Advisers and Funds Can Custody Crypto Assets Under the Federal Securities Laws", 1 October 2026; SEC, Adviser and Regulated Fund Custody Rules; Crypto Custody Rules, File No. S7-2026-35, Release Nos. IA-7023 and IC-36353.

²¹ The White House, "The President Signed into Law S. 1582", 18 July 2025 (Guiding and Establishing National Innovation for U.S. Stablecoins Act, or GENIUS Act, providing for the regulation of payment stablecoins).

²² Compare FCA, PS26/18, paras. 1.23-1.29, with SEC, Regulation Crypto Assets, File No. S7-2026-27; SEC-CFTC Memorandum of Understanding, 11 March 2026; and the unresolved status of H.R. 3633 following U.S. Senate Roll Call Vote No. 234.

²³ Paul S. Atkins, Chairman, SEC, "Statement on the Innovation Exemption: A Bridge Toward Durable Rulemaking", 17 September 2026. Atkins described the temporary exemption as an interim measure that should be followed by durable rulemaking and noted that Congress had been unsuccessful in advancing the CLARITY Act earlier that week.

²⁴ FCA, PS26/18, paras. 2.5 and 5.7; PERG 18.3.2. The FCA emphasises the cryptoasset-specific territorial deeming rules and the absence of an OPE, subject to the detailed facts and applicable exclusions.

²⁵ FCA, PS26/18, paras. 1.25-1.29 (automatic conversion, application window, PASS, PRA engagement, threshold conditions, systems and controls and reporting requirements).

the Prudential Regulation Authority (**PRA**). They should also keep the perimeter analysis open pending the FCA's further Q4 2026 consultation on the additional statutory instrument and related PERG changes.²⁶

3. US Framework - Opportunities and Limitations

Regulation Crypto Assets is one of the SEC's most significant attempts to date to create a tailored securities-law pathway for crypto-related capital formation. It would pair principles-based disclosure with the USD 5 million and USD 75 million exemptions and a conditional safe harbour, but it remains a proposal and the current comment deadline is 20 October 2026.²⁷ Firms should therefore model both the proposal as drafted and the possibility of material changes before adoption.

The March interpretation, the transfer-agent proposal, the Innovation Exemption, the October custody proposal and the CFTC pre-rule collectively amount to an increasingly comprehensive agency-led architecture.²⁸ The important legal point is that this architecture rests on existing federal securities and commodities statutes; under which the SEC and CFTC are acting. What remains absent is new comprehensive congressional market-structure legislation. That distinction matters for durability, litigation risk and the extent to which agency action can solve jurisdictional questions that ultimately depend on statute.²⁹

4. Governance and Compliance Infrastructure

In both jurisdictions, firms should review governance, compliance, reporting and control frameworks now rather than wait for final implementation. In the UK, the FCA expects authorised firms to continue satisfying threshold conditions, maintain appropriate systems and controls and comply with applicable reporting requirements; PS26/13 and the associated June 2026 policy package apply the wider FCA Handbook architecture to regulated cryptoasset firms.³⁰ The MLR and FSMA regimes are not identical in scope and will continue to operate concurrently where relevant.³¹

In the US, Project Crypto and the March 2026 SEC-CFTC Memorandum of Understanding provide an institutional basis for closer coordination, but firms should still design compliance architecture around the legal status of the relevant asset, transaction, entity and activity rather than assume a single unified crypto rulebook.³²

Outlook

The UK is building one of the most comprehensive national cryptoasset frameworks, alongside the EU's already-operative Markets in Crypto-Assets Regulation (**MiCAR**). The FCA has indicated that further work will cover decentralised finance, distributed ledger technology, cryptoasset derivatives, stablecoins, audit requirements, savings and transitional provisions and resolution in cryptoasset firm failures. The

²⁶ FCA, PS26/18, paras. 1.8, 1.27-1.28; FCA, Press Release, "Crypto firms get guidance on how the new regime applies", 16 September 2026 (further perimeter consultation and early-2027 final guidance).

²⁷ SEC, Regulation Crypto Assets, File No. S7-2026-27, issued 18 August 2026; Paul S. Atkins, "Remarks at the Solana Policy Institute Summit", 14 September 2026 (describing Regulation Crypto Assets as "one of the most significant steps" taken by the Commission to modernise federal securities regulation).

²⁸ SEC, Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets, 17 March 2026; SEC, Press Release 2026-81, 1 September 2026; SEC, Press Release 2026-90, 17 September 2026; SEC, Press Release 2026-100, 1 October 2026.

²⁹ OIRA, RIN 3038-AF80, "Regulation Crypto Asset Transactions and Regulation Crypto Asset Markets", pending review as of 4 October 2026; see also SEC Chairman Atkins, "Statement on the Innovation Exemption: A Bridge Toward Durable Rulemaking", 17 September 2026.

³⁰ FCA, PS26/18, para. 1.29; FCA, "Overview of our cryptoassets regime policy statements", 30 June 2026, including PS26/13 - Application of the FCA Handbook for Regulated Cryptoasset Activities.

³¹ FCA, PS26/18, para. 6.2; FCA, PS26/13 and associated June 2026 policy package. The FCA states that the MLR and FSMA regimes are not identical in scope and will continue to operate concurrently.

³² SEC and CFTC, "Memorandum of Understanding", announced 11 March 2026, establishing guiding principles for coordination and collaboration and a Joint Harmonization Initiative, <https://www.sec.gov/newsroom/press-releases/2026-26-sec-cftc-announce-historic-memorandum-understanding-between-agencies>.

forthcoming perimeter consultation will therefore be an important final calibration exercise rather than the end of UK rulemaking.³³

In the US, the 15 September cloture vote was a setback for the CLARITY Act but did not terminate the legislative project. A group of Democratic senators stated the following day that the vote was "a setback, but not the end" and committed to continued bipartisan work.³⁴ In parallel, Regulation Crypto Assets remains open for comment until 20 October 2026, the CFTC pre-rule remains pending at OIRA and the SEC's 1 October custody proposal opens another major implementation workstream.³⁵

For financial services firms, the practical lesson is not to wait for convergence. UK authorisation planning should proceed against the October 2027 commencement date, while US compliance programmes should remain modular enough to absorb legislative, rulemaking and exemptive developments - possibly based on prior experience from digital assets statutes like MiCAR. Cross-border firms should align product classification, booking, custody, disclosures, governance and documentation at group level while preserving jurisdiction-specific controls. PwC Legal's EU RegCORE team will continue to monitor and report on developments in both jurisdictions.

³³ FCA, PS26/18, para. 1.30; FCA, "Overview of our cryptoassets regime policy statements", 30 June 2026 (describing a comprehensive UK regime); Regulation (EU) 2023/1114 on markets in crypto-assets (MiCAR), as amended.

³⁴ U.S. Senator Kirsten Gillibrand et al., "Gillibrand, Colleagues Issue Statement On Continued Commitment To Pass CLARITY Act", 16 September 2026 ("This week was a setback, but not the end ..."), <https://www.gillibrand.senate.gov/news/press/release/gillibrand-colleagues-issue-statement-on-continued-commitment-to-pass-clarity-act/>.

³⁵ SEC, Regulation Crypto Assets, File No. S7-2026-27 (comments due 20 October 2026); OIRA, RIN 3038-AF80 (pending review as of 4 October 2026); SEC, Adviser and Regulated Fund Custody Rules; Crypto Custody Rules, File No. S7-2026-35, issued 1 October 2026.

About us

PwC Legal is assisting a number of financial services firms and market participants in forward planning for changes stemming from relevant related developments. We have assembled a multi-disciplinary and multijurisdictional team of sector experts to support clients navigate challenges and seize opportunities as well as to proactively engage with their market stakeholders and regulators.

Moreover, we have developed a number of RegTech and SupTech tools for supervised firms, including PwC Legal's Rule Scanner tool, backed by a trusted set of managed solutions from PwC Legal Business Solutions, allowing for horizon scanning and risk mapping of all legislative and regulatory developments as well as sanctions and fines from more than 2,500 legislative and regulatory policymakers and other industry voices in over 170 jurisdictions impacting financial services firms and their business.

Equally, in leveraging our Rule Scanner technology, we offer a further solution for clients to digitise financial services firms' relevant internal policies and procedures, create a comprehensive documentation inventory with an established documentation hierarchy and embedded glossary that has version control over a defined backward plus forward looking timeline to be able to ensure changes in one policy are carried through over to other policy and procedure documents, critical path dependencies are mapped and legislative and regulatory developments are flagged where these may require actions to be taken in such policies and procedures.

The PwC Legal Team behind Rule Scanner are proud recipients of ALM Law.com's coveted "2024 Disruptive Technology of the Year Award" and the "2025 Regulatory, Governance and Compliance Technology Award in 2025".

If you would like to discuss any of the developments mentioned above, or how they may affect your business more generally, please contact any of our key contacts or PwC Legal's RegCORE Team via de_regcore@pwc.com or our [website](#).



Contact

Dr. Michael Huertas

Tel: +49 160 97375760
michael.huertas@pwc.com

Dr. Hagen Weiss

Tel: +49 1511 5708446
hagen.weiss@pwc.com

EU RegCORE Team

de_regcore@pwc.com

Kristin Lyaskova

Tel: +49 1515 0691934
kristin.lyaskova@pwc.com



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