

Written evidence submitted by CryptoUK (DGC0031)

CRYPTOUK SUBMISSION: TREASURY COMMITTEE INQUIRY ON DIGITAL CURRENCIES

We welcome the decision by the Treasury Select Committee to undertake an inquiry into digital currencies. The UK holds great potential to become a global leader in cryptocurrencies, as is already the case for the wider financial services sector. However, the absence of regulatory direction, despite huge growth in popularity amongst retail investors, makes this inquiry well-timed.

As the UK's first self-regulatory industry body for the cryptocurrency industry, founded in February 2018, CryptoUK represents some of the largest companies with operations in the UK. Our founding members are: BlockEx; CEX.IO; Coinbase; Coinshares; Coinfloor; CommerceBlock; CryptoCompare; eToro.

Members of CryptoUK are committed to the following three key principles:

- The UK's potential to become a global leader in financial services related to cryptocurrencies, dependent on the advancement of a supportive operating environment.
- Supporting the introduction of appropriate regulation in the UK to ensure consumer safety, the promotion of best practice, and to provide certainty and clarity for cryptocurrency financial service providers.
- Supporting the Association's self-regulatory [Code of Conduct](#), including taking the appropriate measures to know their customers, act fairly, maintain operational standards, and prevent financial crime. Members are committed to working together to further improve such standards for best practice.

We perceive this inquiry to be focused on two areas: a) blockchain technology and how it might evolve or be applied to new areas; and b) the growth in the cryptocurrency "sector", its appropriateness for UK regulation and how that might be applied.

Due to the expertise and experience of our members our response to the Committee's call for evidence seeks to address those questions in its Terms of Reference which are relevant specifically to the cryptocurrency industry. These are as follows:

- Are digital currencies ultimately capable of replacing traditional means of payment?
- To what extent could digital currencies disrupt the economy and the workings of the public sector?
- What risks and benefits could digital currencies generate for consumers, businesses and governments?
- What work has the Government (and its associated bodies) done to understand, prepare for and, where relevant, encourage changes that may be brought about by increased adoption of digital currencies?
- How might the Government's processes adapt should digital currencies be adopted more widely (e.g. tax implications, anti-money laundering measures)?
- Is the government striking the right balance between regulating digital currencies to provide adequate protection for consumers and businesses whilst not stifling innovation?
- How are governments and regulators in other countries approaching digital currencies and what lessons can the UK learn from overseas?

As a new, constantly innovating technology, we recognise the need to clarify key terminology in the interest of accurate interpretation of our submission to the Committee. Please note that our submission is based on the following definitions:

- **Digital currencies:** A digital currency is a currency that is transferred and stored in a digital format. This term generally applies to existing fiat currencies represented in a digital form however this definition is not exclusive. Cryptocurrencies are arguably digital currencies but not all digital currencies are cryptocurrencies.
- **Cryptocurrencies:** A cryptocurrency is an electronic asset, secured by cryptography and administered via public distributed ledger, which is issued and/or traded via a decentralised peer to peer electronic system.

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- **Fiat Currency:** The term Fiat Currency has widely been accepted as any currency a government has declared 'legal tender' but is not backed by any commodity or any physical reserve.

EXECUTIVE SUMMARY

While we have addressed most of the questions set out by the Committee's terms of reference, this submission is primarily focused on those areas related directly to cryptocurrencies; summarised as follows:

1. **Cryptocurrency investment, and the associated actives involved in investing in cryptocurrencies, should be made a regulated activity in the UK, as it is in other jurisdictions who are now securing the benefits:**

- **Growth:** cryptocurrencies have seen a surge in popularity amongst ordinary retail investors over recent years, and particularly in 2017. We believe that this growth will continue.
- **Consumer protection:** we are already seeing evidence of consumer detriment from investors choosing platforms which do not voluntarily apply appropriate standards in the absence of regulation.
- **Market competitiveness:** while we recognise this is out of the remit or interest of the Financial Conduct Authority (FCA), there is a huge opportunity, via an appropriate regulatory framework, to make the UK a global leader in cryptocurrencies, bringing benefits both around economic growth but also financial inclusion.

2. **Regulation should be applicable only for the on/off ramps between fiat and digital currencies:**

- It is not possible, in the first instance, to regulate the actual currencies which, by their very nature, transcend nation-states.
- Instead regulation should focus on those platforms that are facilitating the interaction between digital currencies and fiat: exchanges, brokers and trading platforms.

3. **HM Treasury should grant the FCA powers to regulate cryptocurrency platforms:**

- Currently, cryptocurrency investment sits outside the FCA's authority. HM Treasury has the powers to amend the rules to provide new permission.
- Based on parallel examples such as with peer-to-peer finance and equity crowdfunding, this is a straight-forward process delivered via Secondary Legislation.
- The FCA would then offer a licence to approved platforms.

4. **A subsequent FCA regime needs to be tailored specifically to the cryptocurrency sector, with consumer protections at its core but while allowing innovation. Our Code of Conduct already sets out a number of these, but we believe the licence should include:**

- **Appropriateness checks:** all platforms should be required to screen investors to ensure only those who understand the risk are onboarded.
- **Anti-money laundering rules:** all platforms should be required to undertake due diligence checks on the blockchain.
- **Operational standards:** all platforms should be obliged to maintain standards including on marketing and advertising, and on holding a proportion of cryptocurrencies in cold storage.

We believe strongly that in delivering this, government has a wonderful opportunity to make the UK the global centre for cryptocurrencies.

CryptoUK would be pleased to contribute further to the inquiry through the provision of oral evidence – expanding on this initial written submission.

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SUBMISSION

1. THE BENEFITS OF CRYPTOCURRENCIES TO UK CONSUMERS, FINANCIAL SERVICES, AND THE ECONOMY

1.1. *The unique, beneficial technology of cryptocurrencies*

- 1.2. Cryptocurrencies have several distinct attributes which allow them to act as true, positive disrupters. Firstly, and crucially, they are programmable. This offers vast potential across the public sector, as well as the private sector. For instance, the development of a “social securities coin” that is only spendable on certain things, at certain times and at certain places, could provide government with the means of gaining greater control over the appropriate use of benefits - thereby preventing system abuse.
- 1.3. This example brings us to a second important quality of cryptocurrencies – they are traceable. Through the distributed-ledger technology (DLT) behind them, cryptocurrencies can be accurately traced through to their origin. This offers great opportunity for eliminating fraud and improving the transparency of tax calculation and collection in a way that is impossible with cash. Despite frequent misconception that cryptocurrencies encourage illicit activity, in fact the opposite is true of this incredibly transparent technology. The traceability of cryptocurrencies is also a significant advantage for the financial inclusion of SMEs: using this attribute could allow them to ensure prompt payment through automatically allowing them to receive payment from large retailers once their goods are sold. This quality could also ultimately be taken advantage of by government, through the issuing of a sovereign cryptocurrency – helping to address issues such as forgery and the expense of physical coinage production.
- 1.4. Thirdly, cryptocurrencies offer the potential of efficiencies, due to the significantly reduced reliance on a centralised body. Cryptocurrencies rely on two core technologies: DLT and cryptography. Whereas the latter provides the functionality of security and pseudo-anonymity, the former creates a decentralised system that is completely autonomous of a centralised body. This allows the possibility of real-time accounting for businesses, instead of waiting three months after the end of the fiscal year to get a profit and loss balance sheet. Cryptocurrencies also make it possible to send money reliably without the money being double spent. Time-locked contracts are one example of this: a payment whereby the receiving party only has a certain amount of time to accept the payment, otherwise the money is returned to sender.

1.5. *Amplifying the benefits of cryptocurrencies to consumers and the economy via regulation*

- 1.6. There are huge advantages and opportunities for the UK if it takes the right approach to cryptocurrencies – primarily, this involves bringing the asset class within the remit of regulatory scrutiny (as we will detail later in this submission). By securing regulatory certainty, through an FCA licence regime, we could expect the following benefits:
 - Greater financial inclusion for those unable or unwilling to engage in traditional financial services (including a global opportunity to benefit UK international development spending);
 - Increased consumer awareness of financial risks;
 - Economic growth through sector expansion and investment in the UK;
 - Potential for increased tax revenues: regulation is likely to encourage UK banks to provide banking services to regulated businesses (currently these are systematically refused to most cryptocurrency businesses);
 - Attraction of new specialist talent from outside of the UK, growing sector investment.

1.7. *Benefits to existing financial services*

Cryptocurrencies themselves have vast potential for a wide range of uses, thanks to the ever-evolving blockchain technology behind them. We do not see this as a direct competition with fiat, but as an opportunity to positively disrupt and expand the existing offering of financial services, through innovation. Through the use and national adoption of cryptocurrencies, we can migrate

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from a narrow, monotonic, fiat currency system to a much richer ecosystem of many different digital currencies which have been specifically designed for different purposes. Examples of how this might look include the adoption of a sovereign, geographic, asset-backed and utility type cryptocurrencies. Together, such innovations have the potential to deliver a much richer and broader ecosystem, driven by user demand.

1.8. Benefits to start-ups

- 1.9. Regulation and consequent regulatory stability is essential both to the cryptocurrency industry and consumer trust. For start-ups and scale-ups alike, regulation will both encourage and enable investments to be made within the UK by providing a clear framework on the standards expected of them.
- 1.10. Presuming that these include measures around consumer protection and transparency, as well as targeting criminality, it appears natural that this would improve consumer trust in new sector businesses. The standardisation of best practice, as is the case in other industries, will allow consumers to be confident that they are being provided with accurate information and protection at predefined standards set by government and regulators.
- 1.11. In turn, this combination of new business investment and consumer trust will prove a powerful combination in driving the growth of this exciting division of financial technology – delivering the Government's vision of making the UK a global leader in this sector.

2. THE RISKS OF CRYPTOCURRENCIES TO CONSUMERS, BUSINESS AND GOVERNMENT

- 2.1. Whilst the benefits that arise from the increased adoption of cryptocurrencies are numerous, we recognise that they do also bring risks. These primarily stem from low levels of consumer knowledge about cryptocurrencies and the lack of an appropriate regulatory framework surrounding them.
- 2.2. Whilst cryptocurrencies themselves are highly secure, a lack of regulation around the “on” and “off” ramps, where fiat is converted into a cryptocurrency and vice versa, means that these points are currently vulnerable to criminal activity.
- 2.3. As an industry body, we are realistic that these factors, combined with large levels of capital investment, do create an environment where there is a risk of consumer manipulation – as has been the case with other asset classes in the past. For that reason, we are advocating a proactive approach to addressing this by regulating the “on” and “off” ramps of cryptocurrency conversion by exchanges. In this way, government can pre-emptively protect consumers against market abuse and exploitation.
- 2.4. We are concerned that not doing so poses a significant risk in itself – not only to consumers, but also to the future of this growing sector and technology in the UK economy. Other countries around the world are already starting to lead the way on regulation and thereby attracting the best of the sector – to the detriment of the UK (see section 4 of this response).
- 2.5. For this reason, ahead of the introduction of regulation, CryptoUK has developed a self-regulatory Code of Conduct, which our members need to comply with in order to join the organisation. The Code covers a number of areas which we regard as critical for future regulation, as follows:
 - Know-Your-Customer (KYC): investment in cryptocurrencies is not for everybody and we believe that all platforms should apply appropriateness checks when onboarding customers so that they are aware of the risks involved and are fit and proper to make an investment.
 - Anti-money laundering: as already set out in this response, the transparency of the distributed ledger means that where criminal activity has been undertaken with a cryptocurrency in circulation, this can be traced back to source. Our Code stipulates

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that these checks must be undertaken and we are in the process of developing further thinking on the parameters and thresholds to be applied.

- Storing customer funds: acknowledging instances of cyber-attacks on platforms resulting in loss of customer funds, our Code requires cold storage for a proportion of customer funds.
3. Other Code requirements, which we believe should be reflected in statutory regulation, include adopting existing FCA rules on treating customers fairly, particularly on marketing materials; notification of suspicious trading activity, and operations standards particularly on data security, amongst others. The full Code of Conduct can be found [here](#).

4. VIEWS ON THE ACTIVITY OF GOVERNMENT AND ITS RELATED BODIES TO UNDERSTAND, PREPARE FOR AND, WHERE RELEVANT, ENCOURAGE CHANGES THAT MAY BE BROUGHT ABOUT BY INCREASED ADOPTION OF DIGITAL CURRENCIES.

- 4.1. We welcome HM Treasury's plans to consider the rise of cryptocurrencies through a Crypto Assets Taskforce with the Bank of England and FCA as part of its Fintech Strategy. We are encouraging government to consult with industry practitioners before making any top-down recommendations. We also welcome the Prime Minister's comments in Davos that she would consider measures to tackle financial crime which abuses the positive potential of this technology.
- 4.2. However, we believe that the sector needs urgent action from government: HM Treasury should look to introduce secondary legislation to make cryptocurrency investment and the associated activities involved in investing in cryptocurrencies a regulated activity within the remit of the FCA.
- 4.3. As it stands, consumers lack assurance on trusted operators and are potentially exposed to risk of manipulation by unethical business practices. Meanwhile the best of industry operators lack the regulatory certainty needed to invest substantially in the UK. Correspondingly, the wide-brush tarnishing of the sector due to rogue operatives is being used by banks to refuse even the very best, innovative, future technology businesses from opening accounts in the UK. This is the case even for those that are proactively participating in the FCA's Regulatory Sandbox.¹
- 4.4. The FCA's Regulatory Sandbox initiative itself has been a highly welcome starting point in considering regulation surrounding the cryptocurrency industry as it develops. However, there have now been several cohorts of programme participants, yet no clear developments on a regulatory framework which recognises the unique qualities of cryptocurrencies. Instead, the regulator appears to be focusing on fitting participants into existing frameworks and overlooking the unique qualities of cryptocurrencies where a tailored approach is required. This is insufficient in providing the tailored regulatory guidance required by industry practitioners for UK operations and thereby in attracting the businesses and talent of this future technology sector.
- 4.5. Likewise, the Bank of England, although considering cryptocurrencies internally, has issued very mixed public messaging on this sector – oscillating in its view on their impact to financial stability. Clarity of intent and regulatory certainty is essential to ensuring that the very best of this sector calls the UK home.

4.6. Introducing appropriate regulation

- 4.7. As far as possible, we would advocate for the extension of existing regulatory frameworks – including the Financial Services and Market Act, the Anti-Money Laundering Directive and Payment Services Directive, as part of an evolutionary process for financial services regulation. It is our view that the FCA has the appropriate means and powers to enforce such regulation and Authorised firm the necessary qualities to adhere to them.

¹ FCA Feedback on Distributed Ledger Technology Discussion Paper (December 2017), p.22, section 6.4 <https://www.fca.org.uk/publication/feedback/fs17-04.pdf>

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4.8. Below we set out two draft options on how HM Treasury may wish to consider bringing digital currency exchanges within scope of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (the RAO) (or other legislative framework). Please note that these are provided as suggestions, without the benefit of the extensive time that would be required to draft something that has been subject to the proper testing to make it fit for the FCA Handbook.

4.9. Option 1: Amend Part II and Part III of RAO - add new specified activity and specified investment which are interdependent.

4.10. This option would insert a new type of specified activity: Operating a multilateral digital asset trading facility (as set out below).

Article 3: Interpretation

“multilateral digital asset trading facility” means a multilateral system which brings together multiple buying and selling interests in digital assets (whether between two third parties or between a third party and the operator of the multilateral digital asset trading facility) - in the system and in accordance with non-discretionary rules - in a way that results in a contract between buyer and seller

Article 25F: Operating a multilateral digital asset trading facility

The operation of a multilateral digital asset trading facility on which digital assets are traded is a specified kind of activity.

In paragraph (1), “digital asset” means any investment of the kind specified by article 90.

Article 90 Digital Assets

For the purposes of Article 25F only, electronic assets, secured by cryptography or similar means and administered via distributed ledger or similar, which are issued and/or traded via a decentralised peer to peer electronic system, to the extent they do not fall within Articles [X], [Y] or [Z]; or

Electronic assets, secured by cryptography or similar means and administered via distributed ledger or similar, which are issued by or on behalf of—

any body corporate (wherever incorporated); or

any unincorporated body constituted under the law of a country or territory outside the United Kingdom;

in this paragraph (2) for the purposes of fund raising or other business purposes, to the extent they do not fall within Articles [X], [Y] or [Z].

4.11. **Consequences:** We envisage this new activity being inserted in addition to the specified investments of digital assets, but the two would be inextricably linked (i.e. operating a multilateral digital asset trading facility and digital assets would be interdependent). Therefore, firms carrying out any other type of activity relating to digital assets would not be carrying out a regulated activity. Only firms who engage in operating a multilateral digital asset trading facility relating to digital assets would be carrying out a regulated activity. (i.e. exchanges only). Such firms would require prior authorisation from the FCA, which requires considerable preparatory work and the application process can take up to 12 months. Carrying out a regulated activity without the required regulatory permission is a criminal offence.

4.12. **Commentary:** We see this as the simplest option for now in terms of amendment to the RAO. We haven't for the moment addressed the consequences of such authorisation and how relevant obligations might be applied. We would expect though that a “multilateral digital asset trading facility” may be considered to have the same or similar regulatory profile as a Multilateral Trading

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Facility (MTF), as defined in the Markets in Financial Instruments Directive II (MIFIDII), which could in turn trigger additional regulatory obligations e.g. post trade transparency. It would therefore be necessary to carve out of the regime for digital assets (being a non-MIFID instrument).

4.13. Option 2: Separate legislation

- 4.14. As set out above, the RAO can be amended to reflect developments in UK financial services regulation that result in the introduction of new specified activities and investments (for example the current consultation on transposing the Insurance Distribution Directive in the UK).
- 4.15. Alternatively, new legislation could be introduced separate to the FSMA regime, for example as was done for the Payment Services 2 Directive (through the PSRs). This could be a new self-contained regime which would limit the amendments required to current legislation and knock-on effects (e.g. requirement to insert specified activities/investments into the RAO and controlled investments into the FPO).
- 4.16. **Consequences:** The regime can be tailored to meet the exact requirements of industry and perhaps provide more of a light touch regulatory framework.
- 4.17. **Commentary:** This perhaps provides the most flexibility and could then be linked to requiring AML checks on participants (rather than some of the more extensive obligations which naturally might flow from an amendment to the RAO).
- 4.18. Finally, it is worth noting that regardless of where the legislative change may sit (i.e. in RAO or beyond), the FCA are likely to make tailored rules in a handbook form to have a special detailed regime for crypto participants.

4.19. *Tone of government discourse on cryptocurrencies*

- 4.20. By taking regulatory action, as set out above, government will be able to address those concerns which have so far dominated political as well as popular opinion regarding cryptocurrencies. This is an important turning point. We also consider that a solid regulatory framework will encourage firms to move to the UK and therefore further entrench our position as a global leader in FinTech.
- 4.21. Whilst tackling the abuse of cryptocurrency technology is clearly essential, it is notable to our industry that this has formed the singular common feature of all public commentary by government on this exciting sector to date. In turn, engagement with the sector has been retrograde: instead of proactively engaging with industry leaders to grow best practice and innovation, government's public approach has so far been a reaction to criminals abusing this technology.
- 4.22. So, through taking regulatory measures to address this, we would encourage government and its related bodies to begin talking more about the future of this sector in the UK. Other countries are currently adopting tailored regulatory frameworks and issuing public calls for industry players to call them home. The UK has been slower in this and is falling behind. A more proactive approach and positive message of holistic engagement across the cryptocurrency ecosystem would benefit the UK in capturing the technological value and economic potential of this sector, particularly in a post-Brexit scenario. It would also ensure that consumers are better protected against market abuse, and thereby able to take advantage of the opportunities of economic inclusion that cryptocurrencies offer.

5. A BALANCED APPROACH TO REGULATION AND EXAMPLES FROM AROUND THE WORLD

- 5.1. The question of balance between offering necessary protection while facilitating industry growth is critical. And in our view the balance is not working on either side.

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- 5.2. Currently, innovation is being stifled by government's lack of regulatory guidance on cryptocurrencies and highly negative public messaging. Together these are leaving the sector in a state of regulatory uncertainty, detracting from the appeal of the UK as a place for this sector to do business. At the same time, government's lack of action on those areas of consumer protection it expresses concern about are leaving consumers vulnerable to criminal activity. Regulation is therefore key – both to innovation and consumer protection.
- 5.3. Attempting to regulate the currencies themselves – e.g. Bitcoin – is clearly challenging, precisely because it operates outside the remit of national governments and central banks. In our view, UK-led regulation should therefore instead address vulnerabilities around the “on” and “off” ramps where fiat is converted into cryptocurrency and vice versa.
- 5.4. Regulating cryptocurrencies the “right way” we believe has not yet been achieved, although some countries perhaps come close. We believe there are two key sources of learnings for how to approach cryptocurrency regulation: (1) experience of the passage and application of existing financial services regulation in the UK, and (2) what other countries have done in order to regulate cryptocurrencies.

5.5. Existing UK financial services regulation

- 5.6. Good regulatory outcomes stem from a number of common factors, one of which is harmonisation with other jurisdictions to the greatest extent possible. This was illustrated to great effect with the gradual harmonisation activity of the regulation of exchanges and multilateral trading facilities across the EU.
- 5.7. Prior to MiFID 1 exchanges across the EU were subject to disparate rules which made operation of a cross-border business within the EU incredibly difficult to manage on a legal and operational level. Differing legal requirements led to a fractured landscape which negatively affected the efficiency of the exchange market in the EU and allowed opportunities for regulatory arbitrage. By harmonising the rules around exchanges and creating the concept of a multilateral trading facility via MiFID 1, exchanges began being able to operate on an equal footing across the EU and to passport in and out of EU countries without significant barrier. This harmonisation of legal and regulatory requirements has led to a strong and efficient European market for MTFs and has also removed the ability for firms to be able to carry out regulatory arbitrage and promote a “race to the bottom” on regulation.
- 5.8. Regulation is often absolutely crucial but can be extremely difficult to manage in practice, particularly when the target being regulated is a moving one. For firms, one particular area of regulation that falls squarely within this problem is the regulation surrounding collective investment schemes. By their nature collective investment schemes are diverse operations that can often defy normal standards of definition, and over the years this has led to the FCA's definition of a collective investment scheme to be refined to a point where it is sufficiently broad to ensure it does not miss those schemes that should be regulated. This is absolutely necessary to ensure that investors are protected from schemes which might be structured to try and avoid regulation.
- 5.9. The unfortunate downside to this is that the definition can be difficult to apply in practice given its breadth and accordingly it can often be a worry for those firms that are not offering something that might normally be considered a collective investment scheme. As a result, when carrying out a regulatory analysis on new financial products it can be difficult (or even impossible) to obtain regulatory comfort that the collective investment scheme definition does not apply, which can have a chilling effect on some new financial products. Indeed, ICO tokens currently suffer from this uncertainty in some respects. This is not an example of “bad regulation” (given that we wholeheartedly believe the breadth of the definition is necessary to prevent individuals from structuring dubious investment schemes to avoid it) but does illustrate that regulations written to hit certain parameters can also lead to difficulties in other areas which may not have been considered.
- 5.10. Clearly harmonisation to the greatest extent possible, and clarity of application, will both be crucial to developing cryptocurrency regulation.

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5.11. One other point of interest around regulatory process is to consider engagement with the industry. We believe that the case study of the peer to peer industry in the UK and its engagement in the process of developing the “Article 36H” regulation is an excellent example of regulators and industry working together to develop a progressive regulatory environment which allows for innovation and consumer protection to work hand in hand. The UK peer to peer industry has thrived since Article 36H came into force and is now in a position of sensible strength, particularly when compared to the state of the industry during its growth phase across 2015 and early 2016. We believe that a similar process, working towards a shared outcome of sensible regulation providing for space to innovate, could work extremely well for the regulation of the cryptocurrency market within the UK.

5.12. *Cryptocurrency regulation in other countries*

5.13. Regulation of cryptocurrencies (as opposed to “initial coin offering” tokens or DLT more broadly) is remarkably few and far between across the world, particularly regulations specifically developed to regulate cryptocurrency or cryptocurrency markets. Broadly regulations, where they exist, tend to focus on market participants (particularly exchanges) rather than regulating the use of cryptocurrencies more broadly, and we would support that as an approach in the UK as well.

5.14. One excellent example of cryptocurrency regulation that to date has been successful is the Japanese approach of regulating crypto exchanges. Japan requires all cryptocurrency exchanges to be registered with the Japanese Financial Services Agency and mandates several key requirements for exchanges to follow, including adherence to cyber security and operational standards, mandatory employee training and submission to annual audits. This registration requirement is a lighter touch regime than the FSA’s regime for registration of more mainstream securities exchanges. This has led to the development of a group of mature cryptocurrency exchanges within Japan that lead the market in Asia, without being subject to over burdensome regulation that might stifle innovation in a time when the market is still developing.

5.15. Crypto regulation is not always as successful as the Japanese approach. One famous example is New York State Department of Financial Services’ “BitLicence”, which came into force in 2015. The BitLicence regulations required various different types of cryptocurrency market participants to be registered with the NYSDDFS. Regulatory arbitrage opportunities within the US, combined with a strong anti-regulatory sentiment in the crypto world at that time, meant that a huge proportion of New York’s cryptocurrency business moved out of New York State as a result of the regulation in order to avoid its effect.

5.16. The effects of the BitLicence continue today, with New York State lagging behind in terms of volume of cryptocurrency businesses compared to other comparable US states. The BitLicence is an extreme example of poorly executed regulation but illustrates strongly the need for cryptocurrency regulation to be developed in tandem with industry, and for it to be coordinated with other jurisdictions to avoid the UK being an outsider with overly burdensome regulation that leads the crypto industry to move to Switzerland, Gibraltar or another jurisdiction that is actively working to attract cryptocurrency businesses.

*Iqbal V. Gandham, Chair
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