



HM Treasury

# Managing the failure of systemic digital settlement asset (including stablecoin) firms

## **Government response to consultation**

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October 2023



Managing the failure of  
systemic digital settlement  
asset (including stablecoin)  
firms

**Government response to  
consultation**

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# Executive Summary

- I. In May 2022, HM Treasury published the consultation document 'Managing the failure of systemic Digital Settlement Asset (including stablecoin) firms'. The consultation ran from 31 May 2022 until 2 August 2022, and the Government received 26 responses. The summary below reflects the written responses to this consultation.
- II. The consultation sought views on the proposed application, with amendments, of the Financial Market Infrastructure Special Administration Regime (FMI SAR) to systemic payment systems, and service providers of systemic importance to those systems, which use digital settlement assets (DSAs) as defined in Section 23(2) of the Financial Services and Markets Act 2023 (the FSM Act – see Annex for further detail). This would mean the FMI SAR applies to (i) operators of recognised systemic DSA payment systems under s.112(2)(a) of the Financial Services (Banking Reform) Act 2013 (FSBRA), (ii) recognised DSA service providers to DSA payment systems (whether or not themselves systemic) under s.112(2)(aa), as well as (iii) non-systemic service providers to recognised systemic DSA payment systems which HM Treasury has designated under s.112(2)(c). The FSM Act provides the Bank of England (the Bank) with further powers to address the risks posed by the possible failure of DSA firms which are not banks, by extending the existing scope of the FMI SAR to such systemic DSA payment systems and service providers.
- III. Overall, many respondents were supportive of the proposed application of the FMI SAR to systemic DSA payment systems and service providers with necessary modifications and were broadly in agreement with the proposed approach. However, as is explained more fully in this consultation response, comments were made seeking clarity around how the FMI SAR would be applied in practice (with particular focus on the additional 'return or transfer of customer funds and custody assets' objective). Some respondents also noted they felt that a bespoke failure regime may be better placed to address the challenges posed by the failure of a systemic stablecoin firm.
- IV. The Government also received various technical questions which have informed the proposed delivery plan for the amended FMI SAR. A summary of intended next steps can also be found in this consultation response.
- V. This consultation response is being co-ordinated and published alongside HMT's wider stablecoin policy statement and the Government's response to the future financial services regulatory regime for crypto assets consultation to give stakeholders clarity on the overall regime and context.

# Chapter 1

## Introduction

### Policy background

- 1.1. In January 2021, HM Treasury issued an initial consultation and call for evidence inviting views from stakeholders on the UK regulatory approach to cryptoassets and stablecoins. This set out the Government's view that there is a strong case for bringing stablecoins with the capacity to be used for payments into the UK regulatory perimeter.
- 1.2. The Government published its response to this consultation in April 2022 and confirmed its intention to bring forward legislation to ensure the effective regulation of payment systems, issuers, custodians, and payment service providers of fiat-backed stablecoins, reflecting their specific risks, benefits, and potential use cases in relation to payments.
- 1.3. Specifically, the FSM Act enables the Government to achieve this by:
  - i. bringing what are called "digital settlement assets" into the regulatory perimeter for systemic payment systems and service providers (to fall under the remit of the Bank and the Payment Systems Regulator ("PSR") where they are systemically important). This is achieved through reforms to the Bank's regime for supervising systemically important payment systems under Part 5 of the Banking Act 2009 ("BA09") and the PSR's regime for systemically important service providers under Part 5 of the Financial Services (Banking Reform) Act 2013 ("FSBRA"), which have both been extended in scope to include DSAs via the FSM Act. The FSM Act therefore proposes to include systemic DSA payment systems and service providers within the FMI SAR provisions found in Part 6 (read together with Schedules 6 and 7) of the FSBRA.
  - ii. enabling HM Treasury to regulate the use of fiat-backed stablecoins used for payments and to bring activities such as the issuance and custody of fiat-backed stablecoins into the regulatory perimeter via statutory instrument (to fall under the remit of the Financial Conduct Authority (FCA));
  - iii. enabling HM Treasury to establish via statutory instrument a mechanism for facilitating dual regulation (to fall under the remit of the FCA and the Bank).
- 1.4. For clarity, in this consultation response the broad term "DSA" is used to refer to stablecoins together with wider forms of digital assets used for payments/settlement. The term "systemic DSA firm" is used to refer to (i) entities which form part of systemic DSA payment systems which are

recognised under Part 5 of BA09 or designated by HM Treasury under Part 5 of FSBRA or (ii) DSA service providers which are subject to the FMI SAR. In the case of stablecoins, this might include – but is not limited to – the issuer of a stablecoin, a custodian, or a third-party service provider.

- 1.5. A fuller definition is provided in section 23(2), and Schedule 6 to the FSM Act 2023 (as set out in Annex 1).
- 1.6. Adopting this definition will capture stablecoin firms (the focus of the Government's 'phase 1' of regulating cryptoassets) that have been designated or recognised as systemic and will also ensure that the failure of other systemic DSA firms can be handled using the FMI SAR as the industry develops and business models evolve.
- 1.7. The failure of a systemic DSA firm could have a wide range of consequences for financial stability as well as consumer protection. This could include disrupting continuity of services critical to the operation of the economy and the ability of individuals to access their funds or assets. Therefore the Government considers that it is important to ensure existing legal frameworks in relation to the failure of a systemic payment system or service provider can be effectively applied to manage the financial stability risks posed by the possible failure of systemic DSA firms.
- 1.8. As such, in May 2022, the Government consultation on managing the failure of systemic DSA (including stablecoin) firms proposed appointing the FMI SAR, with amendments, as the primary failure regime for systemic DSA firms which are not banks. A summary of the core policy proposals can be found below, and the original consultation can be found [here](#).
- 1.9. The proposals in this consultation do not extend to DSA firms that are not considered to be systemic. As set out in the Government's policy statement on stablecoins, the standard corporate insolvency procedures under the Insolvency Act 1986 (e.g. liquidation and administration under Schedule B1 of the Insolvency Act 1986) will continue to be available for those firms. Part 24 of FSMA 2000 provides the FCA with specific powers to participate and protect consumers in an insolvency process of an FCA supervised firm (e.g. rights to participate in court proceedings). However as noted in the Government's recent consultation and call for evidence, titled 'Future Financial Services Regulatory Regime for Cryptoassets', the Government will consider whether bespoke insolvency arrangements should be developed in time for non-systemic stablecoin firms (e.g., a new special administration regime).<sup>1</sup> As is explained below, the Government may also, in the longer term, consider the need for a bespoke regime for managing the failure of systemic DSA firms.

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1133404/TR\\_Privacy\\_edits\\_Future\\_financial\\_services\\_regulatory\\_regime\\_for\\_cryptoassets\\_vP.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1133404/TR_Privacy_edits_Future_financial_services_regulatory_regime_for_cryptoassets_vP.pdf)



However, the Government's view is that it is prudent to apply the amended FMI SAR in the near term.

## Summary of policy proposals

- 1.10. In its consultation, the Government outlined four key proposals which would seek to provide the Bank with further tools to handle the failure of a systemic DSA firm:
- i. **To appoint the FMI SAR as the primary regime for systemic DSA firms which are not banks**, as the Government considers that the Bank, rather than the FCA, should be the lead regulator in the administration of systemic DSA firms, which are subject to regulatory requirements imposed by both the Bank and FCA.
  - ii. **To establish an additional objective for the FMI SAR, as it applies to systemic DSA firms only, focused on the return or transfer of customer funds and custody assets, similar to that found in the Payments & Electronic Money Special Administration Regime ("PESAR")**. This will reflect that, unlike traditional payment systems, DSAs allow users to store value which is then used for the movement of funds between cryptoassets without transitioning into fiat money. The Government therefore considers that continuity of service alone (the primary objective of the FMI SAR) may not be sufficient to mitigate risks to financial stability arising from the failure of a systemic DSA firm in all cases, given DSAs may have a 'store of value' function. The Government has also determined that it will be appropriate to utilise provisions in the Investment Bank Special Administration Regime (IBSAR) in establishing this objective.
  - iii. **To provide the Bank with the power to direct administrators, and to introduce further rules to ensure the additional objective can be effectively implemented when applied to systemic DSA firms**. This will ensure that the Bank is able to respond flexibly to the specific circumstances of a firm's failure.
  - iv. **To require the Bank to consult with the FCA prior to seeking an administration order or directing administrators in respect of systemic DSA firms subject to regulatory requirements imposed by both the Bank and FCA**. In recognition of the regulatory overlap between authorities with responsibility for the regulation of systemic and non-systemic payment systems and other service providers respectively, the Government considers that this consultation process is necessary. This will ensure that the Bank considers the views and objectives of the FCA, including regarding impacts on consumers, as appropriate.

# Chapter 2

## Consultation summary and Government response

### Appointing the FMI SAR as the primary regime for systemic DSA firms

- 2.1. Around half of respondents were supportive of the proposal to appoint the FMI SAR as the primary regime for managing the failure of systemic DSA firms, given the Bank will be the lead authority for systemic DSA firms and the primary focus of the FMI SAR is to maintain continuity of service for firms in administration.
- 2.2. However, a further set of respondents, while acknowledging some of these benefits in the near term, queried whether a bespoke regime to deal with the failure of a systemic DSA firm would be more appropriate, or otherwise noted that appointment of the FMI SAR as the primary regime for systemic DSA firms that are not banks should be an interim measure whilst a further regime is developed. In part this reflected concerns that the FMI SAR would not fully address the potential consequences of a systemic DSA firm becoming insolvent, reflecting the fact that such a firm may have a different structure compared to the traditional payment systems the FMI SAR was originally designed for.
- 2.3. The Government notes this feedback, and may, in due course, conduct further work to consider whether a bespoke legal framework for the failure of systemic DSA firms is appropriate. However, in the near term, the Government considers it important to ensure an existing legal framework can be effectively applied in the shorter-term to manage the risks posed by the possible failure of systemic DSA firms.
- 2.4. In addition, as outlined in the previous consultation, to ensure that the FMI SAR can be applied as effectively as possible, the Government proposes to establish an additional objective and to make further amendments as necessary to account for the differences between existing payment systems and systemic DSA systems. Further detail on this approach and the future development of amendments and additional provisions to the FMI SAR can be found in the 'next steps' section of this consultation response.
- 2.5. Finally, a small number of respondents also noted concern over the effectiveness of the FMI SAR for systemic DSA firms which operate in jurisdictions outside of the UK. Through the FSM Act, the Government is seeking to provide powers for the Bank to adequately manage the insolvency of systemic DSA firms that operate within the UK. The Bank, through Part 5 of

the BA09, has broad supervisory powers to require, if it deems appropriate, that a systemic DSA firm operating in the UK market must establish a UK presence. Given the global nature of some stablecoins, like cryptoassets more generally, such an approach to requiring a globally operating systemic DSA firm to have a local presence within the UK is being considered as part of the development of the Bank's regulatory framework for systemic stablecoin firms.

2.6. In considering the policy and the objectives of the FMI SAR further, the Government considers that in addition to the grounds set out in section 117 of FSBRA under which a court may make an FMI administration order, it may be necessary to add an additional statutory justification to the court to make an FMI administration order to cover possible sources of non-financial failure (for example, the established ground of 'fairness', a term utilised within the IBSAR and the PESAR, whereby the applicant must satisfy the court that it is 'fair' to place an entity into special administration) which may be relevant for systemic DSA firms but not necessarily be captured under the existing grounds for administration. The Government will, as far as possible, follow precedent from existing SARs in establishing this additional statutory justification.

### Establishing an additional objective for the FMI SAR focused on the return or transfer of customer funds and/or custody assets

2.7. There were a number of responses to the question of whether to establish an additional objective for the FMI SAR, to apply only in respect of systemic DSA payment systems, which is focused on the return or transfer of customer funds and/or custody assets, similar to that found in the PESAR. The majority of respondents were supportive of this approach, and the additional flexibility it affords the Bank in responding to the potential failure of a systemic DSA firm.

2.8. Around a quarter of respondents asked for further clarity over how the return or transfer of customer funds and custody assets will function, noting that: different stablecoin arrangements may make this hard to apply; it will not always be the case that firms and customer funds and custody assets are fully separated; and the return of customer funds may be a lengthy process.

2.9. The Government notes that there is an important interdependency between the regime for managing the failure of a systemic DSA firm and the going concern regulatory regime for such firms. As set out in its accompanying policy statement, it is anticipated that the Bank will publish a paper on the regulatory regime for systemic stablecoin arrangements in due course which the Government anticipates will address many of the issues identified by respondents to this consultation. In relation to the FMI SAR, as is further clarified in the 'next steps' section of this consultation response, the Government intends to make further secondary legislation outlining the procedural insolvency rules and processes by which return of customer funds and custody assets will be handled (such as bar dates and reconciliation),

including issues of administrator direction. This will build, where appropriate, on the frameworks under the PESAR and the IBSAR.

2.10. As such, the precise wording of this additional objective in legislation will take into account the specific safeguarding and custody rules that are eventually adopted by the Bank as part of their regulatory regime. This will not affect the policy intent behind the objective, which remains to return or transfer customer funds and custody assets.

2.11. Several respondents asked for further clarity on how the additional objective will work together with the existing FMI SAR objective (continuity of service). As established in the previous consultation, the Government intends that the Bank will be able to instruct an administrator to prioritise an objective, based on the appropriate response for the situation. The Government envisages that the decision to prioritise an objective would be based on the public interest in the stability of the UK's financial systems, akin to the regulation 16 of the IBSAR which ensures that the Bank must have regard to the public interest in stability and the maintenance of public confidence in stability.<sup>2</sup>

2.12. A number of further questions were also asked concerning the detail of the additional objective. Some respondents questioned how funds would be returned with regard to timing and form (e.g. in fiat currency or over the blockchain), what the Bank will have regard to when directing an administrator, which additional powers the administrator will be granted, and the need for clearer definitions around terms such as customer funds. The Government will continue to consider these questions in the context of finalising the regulations, whilst some of the above issues will be dealt with in clarified in due course as part of the process of finalising the associated rules. As far as possible, it is intended that the process for implementing the additional objective will reflect the rules and provisions established for the existing PESAR and the IBSAR. Regarding the question of whether funds will be returned in fiat currency, DSA or another cryptoasset, the Government intends that regulations will be drafted broadly to allow for the return of funds or assets to be in the most appropriate form, which may include fiat currency, DSA, or another cryptoasset (or a combination of both). This flexibility aims to allow for the potentially varied business models which may develop over time and take account of the various functions of firms who are operating within a systemic DSA payment system.

2.13. A minority of respondents noted that, whilst implementing this objective, there should be further FCA involvement. As clarified in the previous consultation, the Government intends to establish that the Bank must consult the FCA before seeking an administration order in respect of a systemic DSA firm which is subject to regulatory requirements imposed by both the Bank and FCA, and before issuing a direction to the appointed administrator. As the

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<sup>2</sup> <https://www.legislation.gov.uk/uksi/2011/245/made>

Bank is the lead authority for systemic DSA firms, it is the Government's view that the Bank should maintain this position during insolvency. The consultation requirement will ensure FCA involvement in decision making around a dual-regulated systemic DSA firm failure, whilst preserving Bank autonomy as lead authority of these firms.

### To provide the Bank with the power to direct administrators to prioritise a specific objective

- 2.14. Respondents broadly agreed with the intention to provide the Bank with the power to direct administrators.
- 2.15. Several respondents questioned whether the FCA, rather than the Bank, should have power of instruction. Given the Bank's regulatory remit has been extended to capture systemic DSA firms under Part 5 of the BA09 by the FSM Act, the Government's position is that the Bank would be the appropriate regulator with the power to direct an administrator as to which objective should be prioritised. Further, the Bank is the only regulator that is able to make an application to the court for FMI administration given its remit over financial market infrastructures, including systemic DSA firms. In order to ensure FCA input, particularly concerning the transfer or return of customer funds and custody assets, the amended FMI SAR, when applied to dual-regulated systemic DSA firms, will require that the Bank consults the FCA before seeking an administration order from the court and directing an administrator in respect of a systemic DSA firm which is subject to regulatory requirements imposed by both the Bank and FCA.
- 2.16. A number of technical questions were raised across a number of issues. These focused on how the administrator will get up to speed with the business, and whether the power to direct will extend to practical issues related to the implementation of objectives. Respondents also raised concerns that the power of direction should not be overly wide or discretionary, and questioned how tension between the Bank's direction and administrator action will be resolved.
- 2.17. In response to the question regarding the scope of the power of direction, the Government intends to model this on existing regulations, including the IBSAR and PESAR, adapted as appropriate. As an illustrative example, the PESAR provides that a direction may only be given if the relevant authority (in the case of the PESAR, the FCA) is satisfied that a direction is necessary, whilst having regard to the public interest in the stability of the financial system of the UK, and other factors. With respect to other issues regarding the administrator, as is outlined in the 'next steps' section, the Government intends to initially lay regulations for the application of an amended FMI SAR framework to systemic DSA firms, which will be subsequently followed by the detailed rules which will further clarify the process for administrators to follow and address some of the issues outlined above. The Government intends to engage industry practitioners on the detail of these rules before bringing them into force.

2.18. One respondent also raised concerns over the power of direction being created prior to the outcome of HM Treasury's wider 'Payments Regulation and the Systemic Perimeter' consultation. The Government has since responded to this consultation, confirming its intention to similarly explore extending the FMI SAR commensurate with any further reforms to the scope of the Banking Act 2009 as part of any future legislative reforms.

### To introduce further regulations in support of the FMI SAR to ensure the additional objective can be effectively managed

2.19. Broadly, respondents agreed with the intention to introduce further regulations in support of the FMI SAR to ensure the additional objective can be effectively managed.

2.20. Several respondents questioned whether there will be immunity from liability in damages in respect of action or inaction in accordance with a direction, or additional items the Bank must have regard to when deciding on a direction.

2.21. In line with the overall policy intention to utilise existing provisions as far as possible. The amended FMI SAR will draw upon section 120 (5) to (7) and section 126 of FSBRA with regard to immunity from liability and indemnity. These sections clarify that the administrator will have immunity from liability in damages in respect of action or inaction in accordance with a direction given by the Bank, and that the Treasury may agree to indemnify persons in respect of liabilities incurred in connection with the exercise of powers and duties by the FMI administrator, and/or loss or damage sustained in that connection.

2.22. In general, the Government intends to ensure that the amended FMI SAR will draw on existing provisions such as within the existing FMI SAR, PESAR and IBSAR. As above, this may particularly focus on the IBSAR and PESAR where this concerns administrator direction. As is outlined in the 'next steps' section, the Government intends to initially lay regulations for the amended application of the FMI SAR framework, which will subsequently be followed by rules which clarify the process for applying the amended FMI SAR and administrator direction.

### Requiring the Bank to consult with the FCA prior to seeking an administration order or directing administrators

2.23. Broadly, respondents welcomed the proposed requirement for the Bank to consult with the FCA prior to seeking an administration order or directing administrators in respect of systemic DSA firms subject to dual regulation. Respondents also noted that this consultation will need to be prompt as the potential failure of a dual regulated systemic DSA firm may take place at pace.

2.24. Some respondents asked for further detail to be provided on the process of consultation, suggesting either the establishment of a Memorandum of Understanding (“MoU”), or an amendment to existing MoUs to establish clear protocols for consultation. The Bank and the FCA will consider the need to review their existing MoUs and amend these, if necessary, to establish clear protocols for consultation.

2.25. Some respondents noted wider questions over the regulatory remits of the Bank and FCA in the case where a DSA firm has become systemic, and therefore moved from FCA to Bank regulation. The Government may if appropriate establish a clear identification of the applicable regulatory requirements in instances where a stablecoin issuer or provider is regulated by more than one regulator. The regime will ensure that the regulators have the ability to put in place regulatory standards consistent with their objectives, subject to a duty to cooperate. The regulators will set out how they will work together through a memorandum of understanding to reflect their new supervisory responsibilities for stablecoin firms. These measures are consistent with those that exist for currently co-supervised investment firms, and existing requirements under FSBRA. Further detail can also be found in the Government’s consultation of payments regulations and the systemic perimeter.<sup>3</sup>

2.26. In a scenario where a stablecoin firm were to be recognised by HM Treasury as systemic, the Government expects that the Bank would act as the lead prudential supervisor, and the FCA for conduct regulation. As noted above, the relevant regulators will be expected to set out a joint MoU setting out specifically how they intend to co-supervise in these circumstances.

### Other comments

2.27. Some respondents requested further clarity as to the definition of a systemic DSA firm, and the recognition of a DSA firm as ‘systemic’. Since the original publication of the consultation in May 2022, the FSM Act has passed through Parliament. This provides a definition for DSAs in section 23(2).

2.28. Regarding designation as systemic, the FSM Act makes amendments to Part 5 of the BA09 through section 22 which, read together with Schedule 6, will allow HM Treasury to recognise a DSA firm as systemic, under the existing BA09 provisions and criteria. It is worth noting that this will not apply to banks who engage in similar activities, as they are covered by existing regulatory frameworks.

2.29. Questions were also raised around whether public funding may be available to conduct the insolvency. Broadly, the Government intends to mirror the rules of the existing FMI SAR and other relevant special

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<sup>3</sup>See pp. 21-23 for further detail on how this might work for stablecoins.

<https://www.gov.uk/government/consultations/payments-regulation-and-the-systemic-perimeter-consultation-and-call-for-evidence>

administration regimes like the PESAR and IBSAR, with relevant amendments as appropriate. With respect to public funding, the Government anticipates that provisions of the FMI SAR such as section 125 of FSBRA will continue to apply in respect of systemic DSA payment systems when the original FMI SAR 'continuity of service' objective applies. Section 125 provides that HM Treasury may make loans to the company for achieving the objective in section 115 of FSBRA 2013 (which broadly deals with continuity of service). Although the Government notes as a broader point that the use of public funds is always a last resort. An equivalent provision will not apply in respect of the 'return of customer funds' objective.

2.30. Questions were also raised around who will pay for the administrator. As with normal insolvency and as applies to special administration regimes currently, administrators will be paid out of the assets of the firm under administration. The Bank intends to publish a discussion paper, followed by a consultation paper on the proposed regulatory regime for systemic DSA firms. These will consider how the Bank proposes for the administrator's distribution costs to be covered while minimising the risks to the return of customer funds.



# Chapter 3

## Next steps

- 3.1. In order to ensure a balance between clarity over how the FMI SAR will operate with respect to systemic DSA firms, whilst ensuring the Bank has the tools it needs to respond to the potential failure of a systemic DSA firm as soon as is possible, the Government intends to develop two core products.
- 3.2. The Government initially intends to lay regulations which implement the policy intent described in the initial consultation regarding the overarching framework. It is proposed that this will appoint the FMI SAR, with necessary amendments, as the primary regime for systemic DSA firms which are not banks, establish an additional objective for the FMI SAR focused on the return or transfer of customer funds and custody assets and supplementary necessary provisions, provide the Bank with the power to direct administrators as to the prioritisation of objectives, and include a requirement to consult the FCA where applicable. This will enable the Bank to utilise the FMI SAR in the case of the failure of a systemic DSA firm. It is intended that the modifications to the FMI SAR will also apply in Scotland and Northern Ireland, although with any necessary further modifications to take account of insolvency law in those jurisdictions, and the Government intends to work with the devolved administrations with a view to developing rules covering those jurisdictions in due course.
- 3.3. To provide further clarity on the operation of the FMI SAR, the Government then intends to make the requisite insolvency rules. This will cover the detail and mechanisms underpinning how the regime is intended to operate. Specifically, the Government intends that this will consider issues such as the transfer or return of customer funds and custody assets, administrator processes, and other miscellaneous issues, resembling for example the existing rules for the PESAR, FMI SAR and IBSAR.
- 3.4. The Bank will also consider whether further guidance on the operation of the FMI SAR is necessary in the context of its finalised going concern regime and update stakeholders at the appropriate time.
- 3.5. The Government is currently working on the regulation of stablecoin and other cryptoassets. As noted earlier in this consultation, the Government is progressing its work to establish a regime for the regulation of cryptoassets in multiple phases. Phase 1 concerns enacting a regime for the regulation of fiat-backed stablecoins and their use-case in payments which is legislated for through the FSM Act, and statutory instruments that are proposed to be laid in due course, when parliamentary time allows.

3.6. The Government recently launched a consultation and call for evidence concerning phase 2 which seeks to establish a regime for the effective regulation of unbacked cryptoassets. This consultation closed on 30th April 2023.<sup>4</sup> The response to this consultation was published alongside this consultation response.

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<sup>4</sup> 'Future financial services regulatory regime for cryptoassets', HM Treasury, February 2023.

# Annex – Relevant definitions in the FSM Act 2023

## **Section 23(2)**

*“digital settlement asset” means a digital representation of value or rights, whether or not cryptographically secured, that—*

- (a) can be used for the settlement of payment obligations,*
- (b) can be transferred, stored or traded electronically, and*
- (c) uses technology supporting the recording or storage of data (which may include distributed ledger technology)*

## **Schedule 6**

*(5A) In this Part, a “DSA service provider” is a person who provides one or more services in relation to a payment system that includes arrangements using digital settlement assets where—*

- (a) the person creates or issues the digital settlement assets involved in the payment system,*
- (b) the person provides services to safeguard, or to safeguard and administer, digital settlement assets including their private cryptographic keys (or means of access),*
- (c) the person is directly involved in any of the activities mentioned in paragraphs (a) or (b),*
- (d) the person is a digital settlement asset exchange provider,*
- (e) the person sets rules, standards, or conditions of access or participation in relation to the payment system, or*
- (f) the person provides any service that facilitates, or supports, a transfer of money or digital settlement assets to be made using the payment system, including any infrastructure provider in relation to the system.*

*(5B) In this Part “digital settlement asset exchange provider” means a person who provides one or more of the following services, including as creator or issuer of any of the digital settlement assets, by—*

- (a) exchanging, or arranging the exchange of—*
  - (i) digital settlement assets for money,*
  - (ii) money for digital settlement assets,*

*(iii) digital settlement assets and money for digital settlement assets, or*

*(iv) digital settlement assets and money for money,*

*(b) exchanging, or arranging the exchange of, one digital settlement asset for another, or*

*(c) operating an automated process to carry out any of the activities mentioned in paragraphs (a) and (b).*