BPUK Submission to the FCA in relation to Financial Promotions on Social Media

We refer to **GC23/2 "Financial promotions on social media** . As a matter of policy, Bitcoin Policy UK (BPUK) is broadly supportive of the consultation paper in general, and of the aims and goals set out in it.

We highlight in particular the risks that feature in paragraph 2.5 - the cryptocurrency industry is unfortunately rife with unauthorised 'influencers' communicating illegal financial promotions (whether knowingly or otherwise, as we further discuss below). As the FCA rightly points out, there may in some cases be direct financial reward for such influencers, or in other cases an indirect financial benefit may accrue to such persons, through their resultant ability to use their followers as 'exit liquidity' when disposing of pre-sale tokens which they then dump on the market.

Previously, in submissions to HMRC, we highlighted the very disturbing case of a developer called Rhett Mankind (Twitter handle @Rhett) who used an AI bot and twitter follower surveys to create the next 'memecoin'. In this public journey of 'memecoin' creation, we witnessed a developer create a new coin TURBOTOAD (How a Digital Artist used ChatGPT to create a 50m meme coin) and release it on May 8th 2023.

By the following day the market cap had exceeded $100,000,000. Following the initial hype, TURBO has collapsed in price. Without question, some buyers of this token understood that they were buying a 'pump and dump' scheme, but others attracted by the hype, will have been less aware. We reiterate our general policy position regarding regulation in this area, which is that the overarching aim of any regulation should be to avoid customer harm. Sales of unregulated assets such as TURBO, and the subsequent financial losses suffered by retail buyers, are the very kind of harm that good regulation should aim to prevent. Had there been some restriction or fetter on this developer, preventing him from using social media to promote his new token and use his followers as exit liquidity, no doubt a substantial amount of harm would have been prevented.

In the context of the application of the guidance, we also urge a distinction between different types of cryptoassets. The vast majority are issued by an identifiable company, foundation, or group of persons, who then promote the tokens by many means, including but not limited to social media. A recent and troubling example is WorldCoin, which purports to issue tokens in exchange for the provision of biometric data. Large tranches of WorldCoin are of course still held by the founders of the project and their investors, and the distribution of the token and its alleged benefits have been heavily promoted on social media since its launch. WorldCoin's investors include the stamp of approval from illustrious names such as Sam Bankman-Fried (https://app.dealroom.co/companies/worldcoin) and the project has been rife with controversy since launch (Kenya Suspends Worldcoin). Despite these concerns, the project has been heavily promoted with apparent impunity acoss social media channels worldwide.

Bitcoin, by contrast, has no issuer, no founder, no foundation and no company behind it. Of all cryptoassets, it is most similar to a commodity and not to a security (a view shared by the United States Securities and Exchange Commission: Gensler confirms everything other than Bitcoin is a security). We have already submitted detailed evidence to this effect in our response to **GC23/1 Cryptoasset financial promotions: Guidance for firms,** to which we refer the FCA. We raise these unique characteristics of Bitcoin in this context because the nature of the asset will have an effect on the nature of social media promotions relating to it. Promotions to buy Bitcoin are typically promotions of specific ways in which to buy Bitcoin, such as a suggestion that one exchange offers a better rate than another (for example, 'Use Kraken to get a better GBP/BTC rate than Coinbase'), as exchanges compete for transaction fees. These exchanges and their social media activity should to the extent relevant be largely regulated by the FCA's previous guidance provided in **GC23/1 Cryptoasset financial promotions: Guidance for firms.**

Exhortations to buy Solana, or to buy WorldCoin, by contrast, may in many cases be funded by the companies or organisations that issue those tokens and control their supply. It is in these latter cases that we perceive the risk of influencer marketing to be most acute, given that such tokens are in the main held by founders, early investors in the projects, or even the companies that sit behind the tokens as their issuer. In terms of monitoring and enforcement, we would suggest that particular focus be given to new tokens in the early stage of their life cycle. A typical influencer promotion cycle will involve an influencer, often being paid in the token being promoted, aggressively marketing the new token on social media, only for the token price to crash as the influencer (and the token's initial team and investors) exit their positions via selling to retail investors. We cite 'Ben' token as a recent example - where a token was hyped, released, and crashed - likely with considerable harm being caused: BEN live price.

We have previously recommended that a prospectus-style regime be considered for the issuance of new tokens to the public (BPUK on the Future Financial Services Regulatory Regime), potentially with a requirement that new tokens demonstrate a three year track record prior to their offer to the public. Such a requirement would at a stroke render null and void the current hype cycle in which crypto influencers unfortunately indulge.

Our final area of concern relates to monitoring and enforcement. It is unclear whether the FCA intends social media platforms to police unauthorised financial promotions by influencers, whether influencers are intended to 'self-police', or whether the FCA will dedicate teams to scanning TikTok, Facebook, Instagram and Twitter/X in order to discover promotions that violate the guidance - and, once identified, what sanctions may be taken against promoters. While we have no wish to generalise, it is nevertheless our view that the majority of crypto influencers will not be aware that they are potentially committing criminal offences.

We believe that the guidance could benefit from some additional detail being provided for influencers, platforms, and indeed for the issuers of these ‘tokens’ as to their respective obligations as content creators, publishers or hosts of offending material, or as an issuer paying an influencer, as well as a steer for these various groups on the method and likelihood of enforcement action being taken. If the risk of enforcement is sufficiently low, then the guidance may not end up having its intended effect.