

Bitcoin Policy UK: Response to the FCA's Consultation Paper CP26/36: Cryptoasset Perimeter Guidance

Submitted by: Bitcoin Policy UK (BPUK)

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In response to: FCA's Consultation Paper CP26/36 Cryptoasset Perimeter Guidance, published 21 October 2026.

Consultation deadline: 18 November 2026

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Consent: Bitcoin Policy UK responds as an organisation and consents to its name and response being made public.

Executive Summary

Bitcoin Policy UK (BPUK) supports regulation that addresses the risks arising from financial services without imposing those obligations on people who develop, maintain or use the Bitcoin network. We welcome the FCA's recognition that software and protocols are not persons, that developing software does not automatically constitute a regulated activity and that decentralisation must be assessed in relation to the activities being performed.

There are areas where the proposed guidance needs greater precision. References to people who influence software development, contribute to network maintenance or provide automated technical services could be interpreted too broadly. This risks bringing developers, node operators, miners and providers of non-custodial wallets within regulatory requirements intended for financial intermediaries, even where they do not control customer assets or transactions.

The consequences extend beyond legal uncertainty. Businesses may face unnecessary compliance costs, withdraw services or decide against developing products in the UK. Smaller providers could be disproportionately affected, reducing competition and limiting access to Bitcoin payment and self-custody services.

BPUK therefore recommends targeted clarifications to the guidance on identifying persons carrying on regulated activities (PERG 18.1.17), territorial scope (PERG 18.3.1A), and the treatment of technical services and decentralised protocols (PERG 18.8.30 and 18.8.32). The aim is to ensure that firms providing regulated financial services remain accountable for the risks they create, while people participating in Bitcoin's decentralised infrastructure are not subject to obligations that do not reflect their activities.

Introduction and scope

BPUK is a non-partisan, non-profit organisation providing research and policy expertise on Bitcoin in the United Kingdom. Our response focuses on the proposed guidance where it affects Bitcoin, its

infrastructure and the businesses and individuals using it. We have concentrated on Questions 1 to 4 and 12 to 14, which address decentralisation, regulated activities, territorial scope, payments and technical services. BPUK has previously argued that Bitcoin should not be treated in the same way as cryptoassets controlled by an issuer. Bitcoin has no issuer or central authority capable of unilaterally changing its rules. Our open letter to the FCA on 8 October 2026 set out the reasons why these distinctions should be reflected in financial regulation.¹

We recognise that the FCA cannot change the statutory regulatory perimeter through guidance. Our recommendations therefore focus on clarifying how the legislation applies to Bitcoin and the activities of those developing or providing services around it.

Question 1: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in section 18.1? If not, please explain why.

BPUK agrees with the FCA's interpretation but recommends several clarifications. Draft PERG 18.1.17 to 18.1.20² recognises that software and protocols are not persons, that developing software does not automatically constitute a regulated activity and that decentralisation alone does not determine whether regulation applies. We support these distinctions, which are consistent with the position set out in our October 2026 open letter. Our remaining concern is how the FCA identifies the people responsible for regulated activities within decentralised arrangements.

Clarification 1: Attribution should follow control, not influence.

Draft PERG 18.1.17 refers to people who “determine or materially influence” the design or parameters of automated arrangements. It also identifies development, operation and maintenance as factors that may indicate responsibility for a regulated activity. We are concerned that these factors could be interpreted too broadly. Someone developing or maintaining software is not necessarily providing a financial service or exercising control over its users. The FCA recognises this distinction in PERG 18.1.18, but we would like it reflected more clearly in PERG 18.1.17.

Bitcoin Core contributors, for example, can propose and review changes to the software. They cannot impose those changes on the Bitcoin network. Independent node operators decide which software they run and contributors cannot unilaterally alter the network's rules or control users' transactions. If contributing to software is treated as evidence of operating a regulated financial service, UK developers could face uncertainty over whether they require authorisation. This could discourage contributions to open source projects without providing additional consumer protection. BPUK has previously warned that unclear regulatory requirements and disproportionate compliance costs can discourage innovation and place smaller providers at a disadvantage.³

We therefore ask the FCA to:

(a) clarify that the factors listed in PERG 18.1.17 must be assessed against the specific regulated activity and the person's actual role in carrying it out;

¹ Bitcoin Policy UK, Bitcoin Is Not a Generic Cryptoasset: [Our Open Letter to the FCA](#), 8 October 2026.

² Financial Conduct Authority, [CP26/36: Cryptoasset Perimeter Guidance](#), October 2026, Appendix 1, draft PERG 18.1.17–18.1.20.

³ Bitcoin Policy UK, [Response to the Bank of England and FCA's Approach to Joint Regulation of Systemic Stablecoin Issuers](#), 29 September 2026.

(b) confirm that developing, publishing or maintaining open-source software does not constitute a regulated activity where the contributor neither controls customer assets nor exercises discretion over their transactions; and

(c) clarify that “materially influences” refers to influence over the relevant regulated functions, rather than participation in software development alone.

Clarification 2: Economic benefit. Draft PERG 18.1.17 identifies financial benefit and control over expenditure as factors when determining whether a person is responsible for a regulated activity. Bitcoin developers may receive grants, donations or other funding to support their work. Receiving financial support does not necessarily mean they operate a financial service or exercise control over other people's transactions.

We ask the FCA to clarify that the existence of funding is not sufficient on its own to establish responsibility for a regulated activity. The relevant consideration should be whether the financial benefit is connected to the activity being assessed, and whether the recipient exercises control over that activity.

Clarification 3: Network participants and technical services. The FCA has already recognised that providing software does not automatically constitute a regulated financial activity. For example, PERG 18.10.3 confirms that supplying software which allows people to stake cryptoassets themselves, without further involvement from the provider, does not amount to arranging staking.⁴ We would like the FCA to provide similar clarity for Bitcoin node operators, miners and developers of non-custodial wallet software.

Bitcoin mining operates differently from staking. Miners use computing power and electricity to produce blocks through proof of work, helping secure the Bitcoin network. BPUK has previously examined Bitcoin mining as an industrial activity, including its potential role in managing electricity demand.⁵ This research illustrates how mining can operate as a commercial energy activity, distinct from providing financial services to customers.

There are also important differences between running a node, mining independently, contributing computing power to a mining pool and operating a pool for other participants. These activities should not automatically be treated as equivalent. Their regulatory treatment should depend on the services being provided and whether the operator exercises control over customer assets or transactions.

The FCA has already recognised in PERG 18.6.3 that arrangements where a provider cannot exercise control over customer cryptoassets fall outside the safeguarding activity. We would like similar clarity for ordinary participation in Bitcoin's infrastructure.

We therefore ask the FCA to confirm that the following activities do not, by themselves, constitute regulated cryptoasset activities:

(a) operating a Bitcoin full node to validate and relay transactions;

(b) mining Bitcoin independently or contributing computing power to a mining pool, without separately providing regulated financial services; and

(c) developing, publishing or maintaining non-custodial wallet software where the provider does not control users' assets or exercise discretion over their transactions.

⁴ Financial Conduct Authority, [FCA Handbook, PERG 18.10.3](#), “Is offering clients the ability to operate their own validator node for solo staking captured in the staking activity?”, 16 September 2026.

⁵ Bitcoin Policy UK, [UK Power Grid Demand Balance Using Bitcoin Mining as a Demand-Side Flexible Response](#), August 2024.

This would help businesses and individuals understand when participation in the Bitcoin network falls outside the regulatory perimeter, while preserving the FCA's ability to regulate financial services provided alongside these activities.

Clarification 4: Same risk, same regulation. BPUK supports the principle that regulation should reflect the risks of the activity being carried out. A business offering Bitcoin custody, exchange or other financial services may create risks for its customers and should be regulated accordingly. Operating Bitcoin infrastructure is different. Someone running a node or maintaining open source software does not automatically create the same risks as a business holding customer funds.

We ask the FCA to make this distinction clearer in PERG 18.1.17 and 18.1.19. The guidance should identify the services being provided and the risks arising from those activities, rather than treating participation in a decentralised network as evidence that financial regulation applies.

Question 2: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in section 18.2? If not, please explain why.

BPUK agrees with the FCA's interpretation. PERG 18.2.1 and 18.2.2 ⁶ confirm that using or transferring Bitcoin does not mean someone is carrying on a regulated activity by way of business. This is particularly relevant to people running Bitcoin and Lightning nodes. A Bitcoin node validates transactions against the network's rules. A Lightning node may also route payments and earn fees. Neither activity should automatically be treated as providing a regulated financial service.

We recommend that the FCA include an example explaining how these activities should be assessed. Running network infrastructure is not necessarily the same as providing financial services to customers. Receiving routing fees should not, on its own, determine whether an operator is carrying on a regulated activity.

Question 3: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in section 18.3? If not, please explain why.

BPUK agrees with the FCA's approach but believes the guidance needs to be more precise. Draft PERG 18.3.1A recognises that decentralised networks can operate across national borders. It also suggests that people developing or maintaining software in the UK could establish a connection that brings an activity within UK regulation.

This needs careful wording. A developer in the UK may contribute to Bitcoin software used around the world without providing a financial service or controlling the network. Their location alone should not mean that other participants or the Bitcoin network become subject to UK regulation. If developers cannot be certain where their legal responsibilities begin and end, they may avoid working on Bitcoin projects in the UK. That would discourage innovation without necessarily offering consumers greater protection.

We recommend that the FCA make clear that UK regulatory obligations depend on the activity being performed and the person responsible for it. Contributing to software development or maintenance in the UK should not bring an international network or its participants within the regulatory perimeter.

⁶ Financial Conduct Authority, [FCA Handbook, PERG 18.2.1–18.2.3](#), guidance on carrying on regulated cryptoasset activities by way of business.

Question 4: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in section 18.6.6? If not, please explain why.

BPUK supports the FCA's interpretation of the temporary settlement exclusion but would welcome greater clarity on how it applies to Bitcoin payments. PERG 18.6.6 recognises that cryptoassets may be held temporarily to complete a transaction, including an exchange for money. This could be relevant to Bitcoin payment processors that receive Bitcoin from customers and arrange payment to merchants in sterling. Whether the exclusion applies will depend on the processor's activities and the arrangements involved.

The FCA considers that temporary safeguarding is unlikely to exceed 24 hours. We agree that customer assets should not be held longer than necessary. There may, however, be exceptional circumstances where settlement takes longer, including network congestion, technical failures or delays beyond the payment processor's control.

We recommend that the FCA confirm that the 24 hour period is guidance rather than a fixed legal limit, and that the exclusion may still apply where a longer period is necessary to complete settlement. The FCA should also explain how this exclusion applies to payment processors that temporarily hold Bitcoin before converting it to sterling. Any separate regulated activities would remain subject to the relevant requirements.

Question 12: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in sections 18.8.5A and 18.8.5B? If not, please explain why.

The proposed guidance reflects the legislation, but Bitcoin payments do not receive the same treatment as qualifying stablecoins. Draft PERG 18.8.5A explains that certain transfers and exchanges involving UK qualifying stablecoins are excluded from regulated dealing and arranging activities. Bitcoin is also used to pay for goods and services, yet it does not benefit from this exclusion.

This could put businesses offering Bitcoin payment services at a disadvantage compared with providers handling qualifying stablecoins. Regulation should reflect what a business does and the risks involved, rather than favouring one payment method over another.

Bitcoin accounted for 21% of payments processed by CoinGate in the first half of 2026⁷, demonstrating its continued use as a payment method alongside stablecoins.

BPUK has consistently argued for this approach. In our September 2026 responses to the Bank of England and FCA, we called for proportionate regulation that does not impose unnecessary costs on smaller businesses. Our May 2026 response to HMRC on stablecoin taxation⁸ also argued that Bitcoin should be recognised as a means of payment and warned against rules that favour stablecoins over Bitcoin.

We recognise that the FCA cannot change these exclusions through guidance. We therefore recommend that it explain how Bitcoin payments and related services should be treated under the existing rules, including any other exclusions that may apply. The difference in legislative treatment is a matter we will also raise with HM Treasury.

⁷ CoinGate, [Crypto at CoinGate in H1 2026: Stablecoins Move to the Front](#), October 2026.

⁸ Bitcoin Policy UK, [Response to HMRC Call for Evidence on the Taxation of Stablecoins](#), 6 May 2026.

Question 13: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in section 18.8.18A? If not, please explain why.

Draft PERG 18.8.18A identifies transactions with retail investors as a possible indication that a firm is providing a cryptoasset dealing service. A customer paying for goods or services in Bitcoin is not necessarily acting as an investor. The FCA already addresses ordinary merchant payments in PERG 18.11.4 and 18.11.5. These explain how businesses whose main activity is selling goods or services can accept cryptoassets without requiring authorisation, provided the conditions of the exclusion are met.

We recommend that PERG 18.8.18A refer directly to this guidance. It would help merchants and their payment providers understand that accepting Bitcoin as payment does not mean they are offering a regulated dealing service.

Question 14: Do you agree with the FCA's interpretation of the legislative provisions proposed in the draft perimeter guidance in sections 18.8.25 to 18.8.35? If not, please explain why not.

We support the proposed technical services exclusion, which recognises that providing access to a financial service or decentralised protocol is not necessarily the same as arranging transactions. This is particularly relevant to non-custodial Bitcoin wallets. These allow users to manage their own Bitcoin and send transactions without handing control of their funds to the wallet provider. Clearer examples would help Bitcoin wallet providers and other technical services understand when the exclusion applies. The guidance should focus on what the provider actually does, including whether it controls assets, chooses transaction terms or plays a substantial role in arranging a deal.

A. Bitcoin as a decentralised protocol. Draft PERG 18.8.32 considers whether people maintain or adapt a protocol, earn money from services connected to it, or offer it for trading. Bitcoin is maintained by developers who propose and review changes to its software. Changes depend on adoption by independent node operators. No developer can impose new rules on the Bitcoin network. Businesses may earn money from services connected to Bitcoin but that does not mean they control the network.

We recommend that the FCA explain how these factors apply to Bitcoin. The guidance should make clear that maintaining open source software does not amount to controlling a decentralised protocol where changes depend on adoption by independent participants. Using Bitcoin as an example would also help non-custodial wallet providers understand how the technical services exclusion may apply when they allow users to access the network without controlling their funds or transactions.

B. Transfers and deals. Many non-custodial Bitcoin wallets allow users to send and receive Bitcoin without buying, selling or exchanging it. The user controls their funds and decides where to send them. Article 9Y concerns arrangements for buying, selling, subscribing for or underwriting cryptoassets. We recommend that the FCA explain how this applies to wallets that only allow users to transfer Bitcoin they already own, including payments made through the Lightning Network. The guidance should make clear when a wallet is simply providing the means to transfer Bitcoin and when its provider is arranging a regulated transaction.

C. Automated routing and fee selection. Draft PERG 18.8.30 identifies selecting transaction routes based on price, speed or costs as possible evidence of discretion. It also recognises that routing based on predetermined technical rules may not involve discretion. Bitcoin wallets routinely perform these functions. A Lightning wallet may calculate a route to send a payment to the recipient chosen by the user. An on-chain wallet may estimate the network fee needed to confirm a transaction. These are technical functions that help users complete their own payments. They do not necessarily involve the wallet provider choosing who receives the Bitcoin, changing the amount or making trading decisions. We

recommend that the FCA explain how its guidance applies to automated Bitcoin payment routing and fee estimation. Following technical rules to complete a user's instructions should not, by itself, be treated as exercising discretion over a regulated transaction. Whether the provider is carrying on an arranging activity would still depend on its actual role in the transaction.

D. Authorised persons. Draft PERG 18.8.33 states that authorised firms and payment service providers cannot rely on the technical services exclusion. This could create problems for Bitcoin businesses that offer several services. For example, a company authorised to hold Bitcoin for customers might also provide a separate non-custodial wallet. Although the wallet allows users to control their own funds, the company may be unable to rely on an exclusion available to an unauthorised competitor. The first consideration should be whether the wallet provider is arranging regulated transactions at all. A wallet that only allows users to transfer Bitcoin they already own may not be carrying on that activity. We recommend that the FCA explain how the rules apply when an authorised firm offers a separate non-custodial wallet. Authorisation for one activity should not, by itself, mean that every other service the firm provides requires additional permission. We recognise that the restriction on authorised firms is set by legislation. Any change to that restriction would therefore need to be considered by HM Treasury.

Conclusion

Bitcoin businesses should be regulated for the financial services they provide, not for participating in or maintaining the Bitcoin network. The FCA's proposed guidance provides a useful starting point but several areas need clearer wording. Developers, miners, node operators and non-custodial wallet providers should be able to understand when regulation applies to their activities. Businesses accepting Bitcoin payments also need clear guidance on their obligations.

Our recommendations would help prevent unnecessary compliance costs and protect smaller businesses from rules intended for financial intermediaries, without reducing consumer protection. BPUK would welcome the opportunity to discuss these recommendations with the FCA.

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