

18 October 2024

Rt Hon Tulip Siddiq MP
City Minister
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Dear Minister,

Thank you for your letter dated 1 October 2024 (**'your letter'**), responding to our request on 12 September 2024 (**'our letter'**) for a review of the regulation in the UK that restricts access to Bitcoin ETF and ETN products. We appreciate your response and the detail therein.

We note that the Government has committed to improving the conditions of innovation and growth for financial services within the UK, and are particularly pleased at the opportunity this may provide for more supportive regulation toward Bitcoin. As part of this, we once again urge the Government to address the two inconsistencies set out in our letter, being: 1) the differing regulatory treatment of Bitcoin ETFs as between the UK and the US; and 2) the regulatory position of the Financial Conduct Authority (**'the FCA'**) toward Bitcoin exchange traded products - by contrast with the fact that retail investors have free access to the underlying asset to which these financial products relate.

Any initiative by the Government to support and push for the growth of financial services within the UK should also be mindful of the success that the launch of the Bitcoin ETFs has had in the US. We have set out evidence of the commercial success of these ETF launches in Annex 1 to this letter.

We acknowledge that the FCA is an independent regulator and responsible for any decision in allowing the Bitcoin ETF and ETNs to be more widely available and accessible in the UK; and furthermore that the Government is supportive of their efforts to protect consumers from the risks associated with investing in cryptoassets.

However, as part of the assessment of such risk by the relevant policy team with whom our letter has been shared, we request that particular focus be placed upon the clear distinction between Bitcoin and all other cryptoassets.

Due to its unique inherent properties, Bitcoin is considered to be a commodity by the SEC. It is the only proof of work protocol that is wholly decentralised, distributed and whose protocol is largely immutable. This is in stark contrast to the vast majority of other cryptoassets that are predominantly considered by the SEC to be securities¹. It is this distinguishing feature of cryptoassets other than Bitcoin that significantly increases their risk to investors in the UK.

¹ The test, established by the U.S. Supreme Court case SEC v. W.J. Howey Co. in 1946, required there to be an investment of money in a common enterprise with an expectation of profits to be derived from the efforts of others. It is commonly held by the SEC that the majority of cryptoassets, with the notable exception of Bitcoin, meet the Howey test and would therefore be classed as securities.

We ask that Bitcoin be assessed in isolation from such risk, and closer to an analog of digital gold², any relevant risk being significantly reduced by Bitcoin's unique properties.

BPUK would be pleased to offer you and the relevant policy team any support or guidance as might be required during your review of Bitcoin regulation in the UK, which is a review that BPUK considers to be crucial and fundamental to the Government's overall initiative to improve the regulatory environment of financial services in the UK.

We remain at your disposal to assist in any discussion or the provision of any advice and expertise that you may require in relation to the matters raised in this letter.

Yours sincerely,

Freddie New

Co-Founder and Head of Policy
Bitcoin Policy UK

² <https://www.cnbc.com/2024/07/15/blackrocks-larry-fink-says-hes-a-major-believer-in-bitcoin.html>

Annex 1

[Bitcoin ETFs hit \\$1 billion inflows in three days, BlackRock and Fidelity lead \(cryptobriefing.com\)](#)

[US spot Bitcoin ETFs see \\$556M inflows in biggest day since June \(cointelegraph.com\)](#)

[BlackRock and Fidelity's Bitcoin ETFs Dominate the 2020s \(beincrypto.com\)](#)

[Bitcoin Breaks Above \\$65K On \\$BTC ETF Inflows, Improving Regulatory Outlooks | IBTimes](#)

[Glassnode: US Spot ETFs Drive 4% of Bitcoin Market Net Inflows \(crypto-news-flash.com\)](#)

[Bitcoin ETFs make 26% of BlackRock's 2024 inflows, 56% of Fidelity's \(cointelegraph.com\)](#)

[Goldman Sachs \(GS\) Joins Morgan Stanley \(MS\) in Holding Bitcoin ETF as Institutional Interest Grows: 13F Wrap \(coindesk.com\)](#)

[Institutional Bitcoin ETF ownership led by Wisdom Tree at 92%, IBIT at 47% | CryptoSlate](#)