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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

The Financial Services and Markets Act 2000  
(Financial Promotion) (Amendment) Order 2023

PART 2

Amendment of the Financial Promotion Order

**Amendment to Schedule 1, Part 2 (controlled investments)**

9. In Schedule 1, in Part 2 (controlled investments), after paragraph 26E (consumer hire agreements) insert—

**“Qualifying cryptoasset**

**26F.**—(1) Subject to sub-paragraph (3), a “qualifying cryptoasset” is any cryptoasset which is—

- (a) fungible; and
- (b) transferable.

(2) For the purposes of sub-paragraph (1)(b), the circumstances in which a cryptoasset is to be treated as “transferable” include where—

- (a) it confers transferable rights; or
- (b) a communication made in relation to the cryptoasset describes it as being transferable or conferring transferable rights.

(3) A cryptoasset does not fall within sub-paragraph (1) if it is—

- (a) a controlled investment falling within any of paragraphs 12 to 26E or, so far as relevant to any such investment, paragraph 27;
- (b) electronic money;
- (c) fiat currency;
- (d) digitally issued fiat currency; or
- (e) a cryptoasset that—
  - (i) cannot be transferred or sold in exchange for money or other cryptoassets, except by way of redemption with the issuer; and
  - (ii) can only be used in a limited way and meets one of the following conditions—
    - (aa) it allows the holder to acquire goods or services only from the issuer;
    - (ab) it is issued by a professional issuer and allows the holder to acquire goods or services only within a limited network of service

providers which have direct commercial agreements with the issuer; or

(ac) it may be used only to acquire a very limited range of goods or services.

(4) In this paragraph—

“cryptoasset” means any cryptographically secured digital representation of value or contractual rights that—

(a) can be transferred, stored or traded electronically, and

(b) uses technology supporting the recording or storage of data (which may include distributed ledger technology);

“digitally issued fiat currency” means fiat currency issued in digital form;

“electronic money” has the meaning given by regulation 2(1) (interpretation) of the Electronic Money Regulations 2011<sup>(1)</sup>.”

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<sup>(1)</sup> S.I. 2011/99; relevant amending instruments are S.I. 2017/752, 2018/1201.