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Crypto Within the Perimeter

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The UK Consults on How It Applies Its Regulatory Regime To Regulated Cryptoasset Activities

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On 23 January 2026, the UK's Financial Conduct Authority (**FCA**) published **Consultation Paper 26/4** (the **CP**) on remaining aspects as to how cryptoasset firms will be required to follow FCA Handbook requirements once they are brought within the FCA's regulatory remit following its imminent expansion. The CP covers the application of the Consumer Duty, the FCA's approach to Redress and Dispute Resolution (**DISP**), the application of parts of the Conduct of Business Standards Sourcebook, the use of credit to buy crypto, training and competence requirements, regulatory reporting, safeguarding rules, treatment of retail customers collateral and location policy guidance.

Notable points

1. The FCA proposes to apply the Consumer Duty to cryptoasset firms in the same way as it applies the Duty to other retail-facing firms, and is also consulting on non-Handbook guidance to clarify how the Duty works in the context of this asset class;
2. On DISP, the CP also proposes access to the Financial Ombudsman for consumers interacting with regulated cryptoasset regulated firms, including eligible consumers not based in the UK, but does not suggest expanding the scope of the protection of the Financial Services Compensation Scheme to cover compensation when a regulated cryptoasset firm is unable to meet its liabilities.
3. For conduct of business obligations, the starting point is a proposal to extend the Handbook definition of 'designated investment business' (**DIB**) to include future cryptoasset regulated activities, with the result that rules applying to DIB will apply to those activities. This is subject to relevant carve-outs, but means that regulated cryptoasset firms will be expected to follow regular rules and standards on client disclosures and communications, client categorisation, financial promotions, client agreements and appropriateness. Other conduct requirements will be set out in the new CRYPTO sourcebook.
4. The FCA has decided not to prohibit the use of credit (including credit cards) by retail customers for cryptoasset purchases.
5. Firms conducting the new regulated cryptoasset activities for retail clients that also perform traditional financial services activities subject to the FCA's existing training and competence (**TC**) requirements will be subject to TC requirements for those cryptoasset requirements. However, the FCA is not proposing to extend its TC regime to all other types of firms undertaking crypto asset activities without a corresponding traditional finance arm.
6. The CP proposes that cryptoasset firms should be subject to the existing regulatory returns regime, including new (proposed) reporting rules on operational resilience that include third-party reporting requirements. The FCA is also developing new returns specific to the cryptoasset sector.
7. In the case of firms that safeguard clients' cryptoassets, the FCA is now proposing that the protection of clients' ownership rights via a trust may permit the co-mingling of client and firm cryptoassets when the firm provides other services alongside cryptoasset custody and subject to guardrails. In addition, client crypto assets can be removed from the trust in certain specified instances.
8. The CP proposes a bespoke custody regime for 'Specified Investment Cryptoassets' (**SICs**). SICs are assets that meet the definition of both a cryptoasset and a specified investment such as an equity or a bond, and can be non-digitally native, or digitally native.
9. The CP confirms the FCA's earlier position that there is a case for allowing the operation of a Cryptoasset Trading Platform (which will be a regulated activity) in the UK through a branch of an overseas entity when this can facilitate access to global liquidity and better outcomes for clients.

Next steps

Comments are due by 12 March 2026.

Comptroller of the Currency Gould Floats Changes to Resolution Planning

January 29, 2026

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In **remarks** delivered on January 16, 2026, to the American Bar Association Banking Law Committee meeting in Washington, DC, Comptroller of the Currency Jonathan Gould offered a strong critique of the current U.S. bank resolution planning framework, questioning both its legal foundations and its practical value after more than a decade of implementation.

Comptroller Gould noted that his observations and recommendations draw on his experience as a regulator, servicer provider, policymaker, and FDIC board member, Gould argued that resolution planning has evolved into a costly compliance industry that may undermine — rather than enhance — the government's ability to resolve failed banks efficiently. Comptroller Gould noted the distinction between two resolution planning regimes: resolution plans required of insured depository institutions by the FDIC ("CIDI Plans") and resolution plans required of large bank holding companies under section 165(d) of the Dodd-Frank Act (codified to **12 U.S.C. § 5365(d)**) ("165(d) Plans"). Gould contended that these regimes differ materially in statutory footing, conceptual coherence, and policy justification.

CIDI Plans: Questionable Authority, Limited Value

Comptroller Gould's most pointed criticism was directed at CIDI Plans. Unlike 165(d) Plans, CIDI Plans are not expressly required by statute. The FDIC adopted the requirement through rulemaking shortly after Dodd-Frank, citing general supervisory and receivership authorities under the Federal Deposit Insurance Act. Gould questioned whether those provisions support a standing requirement that banks themselves design detailed plans for their own resolution, emphasizing that "Congress has shown that it knows how to clearly direct an agency to require resolution plans if it intends to do so, and, when you read the more general grants of authority in the FDI Act, that Congress 'does not hide elephants in mouseholes.'"

Beyond legal concerns, Comptroller Gould raised a conceptual objection — resolution of failed banks is a core statutory responsibility of the FDIC as receiver, and one that should not be outsourced — directly or indirectly — to regulated institutions. In his view, requiring banks to plan their own demise risks displacing agency expertise and blurring statutory roles. Gould further argued that CIDI Plans have not demonstrably improved outcomes. He pointed to the 2023 regional bank failures, noting that resolution planning did not prevent substantial losses to the Deposit Insurance Fund and that actual resolution strategies departed sharply from any plausible pre-failure plan. Comptroller Gould noted that post-mortem reviews, including an FDIC Office of Inspector General report, found the agency's readiness to resolve large regional banks insufficiently mature despite years of planning exercises. CIDI Plans, Comptroller Gould added, have also become a mechanism through which the FDIC influences banks' business-as-usual or BAU operations, including governance, management information systems, and organizational structure — sometimes at institutions for which the FDIC is not the primary federal regulator. In his view, this runs counter to Congress's carefully calibrated allocation of supervisory authority and reflects an excessively low tolerance for bank risk.

165(d) Plans: Statutory Basis, Procedural Drift

Comptroller Gould took a more nuanced position on 165(d) Plans. Unlike CIDI Plans, these are explicitly required by law and are conceptually aligned with bankruptcy, where management plays a central role in preparing and filing a plan. For that reason, Comptroller Gould acknowledged that resolution planning for bank holding companies "makes some sense." Even so, he argued that the implementation of section 165(d) has drifted far from its statutory anchor. In particular, Gould criticized the agencies' reliance on guidance — rather than notice-and-comment rulemaking — to impose effectively binding requirements. He highlighted the **2016 guidance** issued to U.S. global systemically important bank holding companies (GSIBs), which firms treated as mandatory due to the severe statutory consequences of noncompliance.

Comptroller Gould focused on a series of internally generated metrics and frameworks — RCAP, RCEN, RLAP, and RLEN — that now function as de facto capital and liquidity constraints despite lacking clear statutory or analytical grounding. He argued that such expectations, embedded in guidance and supervisory feedback, should not determine firm structure, liquidity posture, or bankruptcy triggers. He also questioned the practical utility of the plans themselves.

Citing Credit Suisse and SVB, Comptroller Gould observed that resolution plans are rarely followed in crisis conditions. Instead, they are lengthy, compliance-driven documents that are difficult for boards, management, or regulators to use in real time.

Comptroller Gould attributed the persistence of the current framework to institutional inertia, political risk aversion, and the growth of a “resolution planning industry” spanning regulators, banks, consultants, and advisors. While acknowledging that this ecosystem provides services and employment, he cautioned that regulatory compliance exercises should not exist for their own sake — particularly where they may impair agencies’ core statutory functions or divert bank resources from serving customers.

Proposed Reforms

Looking forward, Comptroller Gould called for a fundamental recalibration. For 165(d) Plans, he suggested substantially reducing submission frequency — potentially to once every five to ten years — with updates only for material changes. He urged agencies to identify and either rescind or formally promulgate any guidance-based requirements that operate as binding rules. With respect to CIDI Plans, Comptroller Gould was more direct — he sees little benefit, substantial cost, and no clear statutory mandate. He endorsed **recent FDIC steps** to scale back the program and advocated redirecting agency resources toward strengthening internal resolution execution capabilities rather than reviewing bank-authored plans.

In closing, Comptroller Gould framed the debate as one of institutional competence and legal discipline. The lesson of recent bank failures, he argued, is not that resolution planning should become ever more elaborate, but that regulators must rebuild their capacity to execute resolutions effectively when plans inevitably give way to reality.

While these issues are really FDIC issues and not OCC issues, it’s important to remember, that as Comptroller of the Currency, Comptroller Gould sits on the FDIC Board.