

Appendix 4

Definition of annual income for the calculation of fees

In this Annex, “cryptoasset” has the meaning given to it in regulation 14A(3)(a) of the *Money Laundering Regulations*.

Part 1 Definition of annual income

- (1) “Annual income” is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the *cryptoasset business’s* accounts during the reporting year in respect of, or in relation to, the provision in the *United Kingdom* of the activities for which it is registered as a *cryptoasset business* under the *Money Laundering Regulations*.
- (2) The figure should be reported without netting off the operating costs or business expenses (except under (3) below), but should include:
 - (a) all brokerages, commissions, fees, and other related income (for example, administration charges, overrides, profit shares etc.) due to the *cryptoasset business* in respect of, or in relation to, the provision in the *United Kingdom* of the activities for which it is registered as a *cryptoasset business* under the *Money Laundering Regulations* and which it has not rebated to clients or passed on to other registered *cryptoasset businesses* (for example, where there is a commission chain).
PLUS:
 - (b) any ongoing commission from previous business received by the *cryptoasset business* during the reporting year.
PLUS:
 - (c) the “fair value” of any goods or services the *cryptoasset business* provided to clients. This is the commission equivalent or an estimate of the amount the *cryptoasset business* would otherwise have received, but for which it has made a business decision to waive or discount its charges.
- (3) The following deduction should be made:
 - (a) The cost of purchasing a cryptoasset which is subsequently sold. This is to ensure parity between businesses which derive their income from fees and those which derive their income from the margins on sales.

Part 2 Guidance on reporting income

Calculating annual income

- (1) For the avoidance of doubt, the only revenue streams reportable are those which relate to the activities for which the fee payer is registered as a *cryptoasset business* under the *Money Laundering Regulations*. Other revenue streams that do not relate to these activities should not be reported.
- Reporting period
- (2) The “reporting year” is the *cryptoasset business’s* financial year end during the calendar year prior to the *FCA fee year*. The *fee year* starts on 1 April.
 - (3) The income that should be submitted to the *FCA* is the income that was recognised in the accounts of the relevant reporting year. This means that some income due may not be reported until the following year because it has not yet been recognised in the accounts, while other income may be carried forward from previous years.

Fair value

- (4) The *cryptoasset business* should report a “fair value” price for any services for which it has made a business decision not to charge to clients:
- (a) We consider fair value to refer to the amount at which goods or services could be exchanged in an arm’s length transaction between informed and willing parties, other than in a forced or liquidation sale.
 - (b) For example, where a *cryptoasset business* has forgone or discounted the commission or fee it would actually have charged but for the business decision to grant a discount in a particular case or on a temporary basis, it should report the amount it would have otherwise have charged for providing equivalent activities.
- Inclusions
- (5) Annual income should include:
- (a) all amounts due to the *cryptoasset business* arising out of the provision of the activities for which it is registered as a *cryptoasset business* under the *Money Laundering Regulations*, including regular charges and instalments due to it during the reporting year;
 - (b) any payment from a parent to facilitate the discounting or forgoing of any amounts that would otherwise be charged in full to a client, to the extent that the payment exceeds the “fair value” price reported in accordance with paragraph (4) above;
 - (c) administrative charges and any interest from income related to the activities for which it is registered as a *cryptoasset business* under the *Money Laundering Regulations*.
- Prohibited deductions
- (6) Deductions should not be made for:
- (a) bad debts;
 - (b) customer benefits such as cash rewards, complimentary travel insurance, air miles vouchers etc.;
 - (c) items such as general business expenses (e.g. employees’ salaries and overheads);
 - (d) fines or penalties levied against the *cryptoasset business*;
 - (e) commission a *cryptoasset business* pays another party to arrange a transaction with a client unless it receives a fee in respect of the same transaction;
 - (f) the difference (if positive) between the fee payable by a *cryptoasset business* to another party for arranging a transaction and the amount payable to the *cryptoasset business* by the end client in respect of that transaction (here, the *cryptoasset business* must net any excess payable by the end client to zero); and
 - (g) payments made to clients by way of redress.
- Exclusions
- (7) The following should be excluded from the calculation of annual income:
- (a) The cost of purchasing cryptoassets which are subsequently sold – see Part 1 Note (3).
 - (b) To avoid double-counting, amounts which have been passed on to other *cryptoasset businesses* registered under the *Money Laundering Regulations* may be excluded from the calculation of annual income, for example, where there is a commission chain. Transfers of income to other businesses may be especially common within *groups* where, to present a single interface to clients, all amounts due to the *group* may be collected by one business for subsequent redistribution to other businesses within the *group*. It is for *groups* themselves to decide the most convenient way to report such annual income - i.e. whether the business which receives the full amount should declare that full amount, or whether each business in the *group* should report its separate distribution.

- (c) Any payment from a parent to facilitate the discounting or forgoing of any amount that would otherwise be charged in full to a client should be excluded to the extent that the payment does not exceed or equal the "fair value" price reported in accordance with paragraph (4) above.
- (d) Rebates to customers and fees or commissions passed onto other *cryptoasset businesses* registered under the *Money Laundering Regulations*.

Apportioning annual income

- (8) Where a *cryptoasset business* cannot separate its income on the basis of activities, it may apportion the income on the basis of the proportionate split of business that the firm otherwise undertakes. For instance:
 - (a) A *cryptoasset business* may estimate the proportion of its business that is derived from activities for which it is registered as a *cryptoasset business* under the *Money Laundering Regulations* and split its income for individual invoices accordingly.
 - (b) If a *cryptoasset business* receives annual income from a platform-based business it may report this in line with a wider breakdown of its activities.
 - (c) A *cryptoasset business* may allocate ongoing commission from previous business on the basis of the type of business it receives the commission from. This avoids tracking back legacy business which may no longer match the provider's current business model.
 - (d) If a firm has invested income from the activities for which it has been registered as a *cryptoasset business* under the *Money Laundering Regulations*, then any interest received should be reported as income, in proportion to the volume of business it undertakes to avoid tracking back old payments.
- (9) It is for individual *cryptoasset businesses* to determine how they should calculate the appropriate split of income. The *FCA* is not prescriptive about the methodology. It requires only that:
 - (a) The approach should be proportionate - the *FCA* is looking for *cryptoasset businesses* to make their best efforts to estimate the split.
 - (b) The *cryptoasset business* must be able on request to provide a sound and clearly expressed rationale for its approach - for example, if all invoices were analysed over a particular period, it should be able to justify the period as representative of its business across the year.
 - (c) The methodology should be objective - for example, based on random sampling of invoices or random stratified sampling.
 - (d) The *cryptoasset business* must on request be able to provide an audit trail which demonstrates that the choice of methodology was properly considered at an appropriate level or in the appropriate forums within the business, and the decision periodically reviewed at the same level or in an equivalent forum.