July 15, 2024
Finance Canada
VIA EMAIL: QI-consultation-PA@fin.gc.ca

RE: Consultation regarding Qualified Investments for Registered Plans

Canadian Web3 Council (CW3) is pleased to participate in the consultation on qualified investment rules. CW3 is a non-profit trade association founded by industry leaders to work constructively with policymakers and to establish Canada as a leader in Web3 technology. CW3 represents organizations that have made a critical impact on the development of Web3 technologies across the globe, and who are committed to responsibly building and innovating in Canada. Our members have operations in Canada and abroad, and this diverse group ranges from providers of centralized and decentralized financial products and digital trading platforms, to digital asset custodians, liquidity providers, investors, and open-source blockchain projects. Our members operate in over 100 countries and are committed to the responsible development of the Web3 digital asset ecosystem.

This submission addresses Question 5 - *whether crypto-backed assets are appropriate as qualified investments for registered savings plans*.

We believe that it's appropriate for crypto-backed assets to continue to qualify as an investment for registered savings plans in Canada. We also believe that policymakers must consider and weigh the impact of tax policy on product innovation, technology innovation, parity of participation and capital allocation.

Our recommendations are guided by the following principles:

1. Registered Savings Plans are important wealth accumulation vehicles for helping Canadians achieve their financial goals;

2. Canadians should retain agency over the appropriateness of their investment decisions;

3. All Canadians should be able to access the asset class of their choice in pursuit of their investment objectives, whether they choose to invest through self-directed channels or through an advisory channel. More specifically, product choice should be determined by risk appetite/capacity, cost, and return, and not influenced by tax policy;

4. The direct and indirect impact of policy on industry and industry participants should also be understood and weighed; and

5. Policies (including the Canada Revenue Agency's ("CRA") Technical Interpretations and

positions[1]) regarding those investment assets eligible for inclusion as assets of registered tax deferred plans ("Qualified Investments" or "QI") need to be easily and consistently understood, applied and implemented.

Summary

We believe that it's appropriate for crypto-backed assets to continue to qualify as an investment for registered savings plans in Canada. We also believe that policymakers must consider and weigh the impact of tax policy on product innovation, technology innovation, parity of participation and capital allocation.

Crypto-backed assets are currently offered and distributed by regulated market participants and provide Canadians with familiar products to gain exposure to this asset class. While tax policy does not currently provide a definition for crypto-backed assets, we believe the following three types of crypto-backed assets fit under three existing types of Qualified Investments and should be permitted:

1. Crypto-asset Exchange Traded Funds ("ETFs") are listed securities;

2. Non-redeemable investment funds and open-ended mutual funds that invest in unbacked crypto-assets[2] are types of investment funds; and

3. Exchange traded options on unbacked crypto-assets are listed financial instruments.

For assets in the first group, the below table provides a snapshot of the relative size and activities of the Canadian versus U.S. crypto-asset ETF markets. The commentary that follows provides additional context.

Crypto ETF Data (Six months period ended June 30, 2024)	Canada[3]	U.S.[4]
First crypto-asset ETF launch date	February 2019	January 2024
Underlying investment/exposure	Bitcoin, Ether	Bitcoin
$ Assets under management	CAD$5.947 billion	USD$54 billion
$ Net inflows (outflows) during the period	CAD$(832) million	USD$43.4 billion
% of total ETF market (in each country)	1%	1%
Number of crypto ETF Providers	5[5]	11[6]

[1] For example Income Tax Folio S3-F10-C1, *Qualified Investments RRSPs, RESPs, RRIFs, RDSPs, FHSAs and TFSAs*
[2] *IFM Fintech Notes (authors Bains et al 2022a and 2022b refers to these as unbacked crypto-assets - crypto-assets that are issued on a decentralized blockchain, and whose value is determined by supply and demand. Another key characteristic of unbacked crypto-assets is that it does not represent a financial claim on, or a liability of, any identifiable entity (per the European Central Bank).*
[3] *Source: Canadian ETF Association, National Bank ETF Research and Analysis, April 2024 Table 1* Link Here
[4] *Source: Canadian ETF Association, National Bank ETF Research and Analysis, April 2024 Table 1* Link Here
[5] *Source: Canadian ETF database, CBOE* Link Here
[6] *Source: Morningstar ETF Insights* Link Here

Canada is a leader in crypto-asset product development but is losing market share to the U.S.

- The initial launch of crypto ETFs in the U.S. drew net inflows of USD $40.7 billion during the first four months, while Canada had net outflows of CAD $730 million during the same period.

- For Canada, the outflows experienced in the first four months continued into Q2 ending the first half of 2024 with CAD$832 million net outflows (compared with net inflows of USD$43.4 billion in the U.S. during the same period). According to National Bank, $36 million of the outflows in Canada was due to early investors of a closed-end fund opting for liquidity and fair NAV pricing following the conversion of the fund into an ETF. It's believed that some of the outflows may have gone to new, lower cost U.S. crypto ETFs[7].

- Crypto ETFs represent only 1% of the total ETF market in each country. U.S. regulatory filings in Q1 2024 showed large institutional investors make up almost 19% of the ETF holdings in the U.S. We note six of Canada's largest banks and/or their affiliates among the investors[8].

- Fewer Canadian retail investors held crypto-assets (or crypto-backed assets) compared to the prior year, according to a 2023 OSC survey.

For assets in the first two groups, we make the following suggestion to simplify tax administration: Finance Canada ("Finance") might consider using the term "Public Crypto-Asset Funds as defined in NI 81-102", once it is officially adopted, to describe one type of crypto-backed asset that is a Qualified Investment. We provide some suggested notes to help clarify what is (or what isn't) a crypto-backed asset in our detailed submission to provide clarity to stakeholders [See Tax Administration].

For listed option contracts on unbacked crypto-assets, we recommend that tax policy accommodate those options that are settled with fiat-backed stablecoins instead of cash. We believe this accommodation would provide a more cost effective and frictionless way of trading options on unbacked crypto-assets.

We note the consultation does not address whether "crypto-assets" are appropriate Qualified Investments for registered plans. This group includes unbacked crypto-assets (Bitcoin, Ether, etc.), fiat-backed stablecoins ("FBSCs"), and tokenized real-world assets. We believe that tax policy should address tokenized stocks, bonds, money-market funds etc as these asset types fall under this category. Tokenization activity is expected to accelerate and we recommend that Finance clarifies its tax policy on tokenized securities for stakeholders. In our view, if an asset class is currently a Qualified Investment, the tokenized version of that asset should also qualify as an investment for registered plans.

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[7] Source: Canadian ETF Association, National Bank ETF Research and Analysis, June 2024 Canada [Link Here]() and U.S. [Link Here]()
[8] Website tracking firms' public filing of 13F reports and holding Bitcoin ETFs [Link Here]()

While unbacked crypto-assets and FBSCs are out of scope, we recommend the following matters for future consideration:

- Amending policy to permit a crypto-asset as a Qualified Investment provided that such asset is listed/traded on a regulated crypto-asset trading platform ("CTP").

- Amending policy to recognize regulated CTPs who are members of the Canadian Investment Regulatory Organization ("CIRO") on par with a designated exchange.

These policy accommodations would create the conditions for achieving parity of participation between regulated crypto-asset service providers and their traditional finance counterparts. Furthermore, Canadians who seek exposure to this asset class could choose to hold unbacked crypto-assets directly or indirectly (using crypto-backed assets) according to personal preferences rather than tax policy. We note that countries like the U.S.[9] and Australia[10] do not specifically prohibit holding crypto-assets in an individual's pension plan. Asset allocation and product decisions should remain with the individual (and their advisor). We firmly believe that while financial products and services should be regulated, tax policy should not determine the outcome of asset allocation and/or product selection decisions.

We do not recommend disallowing crypto-backed assets as Qualified Investments in registered savings plans given the following adverse consequences:

- Triggering a deemed disposition for Canadians who currently hold crypto-backed assets (e.g., crypto ETFs) in their **registered accounts**. Any capital losses in registered accounts would not be available to offset any taxable capital gains.

- Disqualifying crypto-backed assets as Qualified Investments would impose immediate penalties[11] unless such assets are removed from registered plans.

- Removing crypto-backed assets from the existing QI will, in our view:

    - Send Canada in a different direction as compared with countries like the U.S. and Australia;

    - Impose a greater compliance burden on plan administrators as they may need to delve into the portfolio allocations of specific fund products to determine if the fund holds crypto-backed assets; and

    - Send a negative signal to participants in the Canadian crypto-asset ecosystem and institutional fund managers about this asset class. This negative sentiment is in stark contrast to the increased interest in this asset class by institutional investors and fund managers, and it has the potential to directly impact innovation in

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[9] See CFTC advisory on holding crypto currencies in Individual Retirement Accounts [Link Here]
[10] Australia Tax Office release on self-managed superannuation fund investment in crypto-assets [Link Here]
[11] Reference tax penalties

Canada by disincentivizing capital allocation to crypto investments and capital formation for crypto-related projects that will transform our financial/payment ecosystem and more.

Detailed Submission

Tax administration

In order to easily and consistently apply and administer this tax rule, it's important to clarify for all stakeholders[12] what crypto-assets[13] would be included in the category of "crypto-backed" assets. Clarification is essential since crypto-assets represent a broad asset class that can be further classified by sub-type, and this can result in increased regulatory compliance burden on stakeholders.

We will continue to advocate for adopting a common taxonomy for crypto-assets amongst federal and provincial regulatory agencies, and preferably using terms that are consistent with those suggested by international standard-setters.

Clarify what is (is not) a crypto-backed asset

The CRA rules specify the types of property that are QIs. However, it gives registered plan trustees the right to develop internal policies that may further limit the types of investments that may be held in registered plans they administer[14] since the obligation to monitor the investments to minimize the possibility of a plan holding a non-qualified investment rests with the registered plan trustee.

We believe that this asset class includes Public Crypto-Asset Funds[15] that invest in crypto-assets. These funds can be structured as non-redeemable investment funds, Exchange Traded Funds ("ETFs") or open-ended mutual funds. Under securities regulation, these types of assets are:

1. Classified as "alternative mutual funds" under National Instrument 81-102 *Investment Funds*, and
2. Subjected to the same regulatory framework as other publicly distributed investment

[12] Stakeholders include CRA, registered plan trustees, taxpayers and product issuers (and each of their service providers)

[13] According to the CRA website, a "crypto-asset can generally be described as a digital representation of value that relies on a cryptographically secured distributed ledger, or a similar technology, to validate and secure transactions. Common examples of crypto-assets include, but are not limited to: cryptocurrencies (payment/exchange tokens), utility tokens, security tokens, non-fungible tokens (NFTs)" Link Here

[14] According to paragraphs 1.5 and 1.7 Income Tax Folio S3-F10-C1, Qualified Investments – RRSPs, RESPs, RRIFs, RDSPs, FHSAs and TFSAs

[15] Public Crypto-Asset Fund is a new definition in the January 18, 2024 proposed amendment to NI 81-102

funds in Canada[16].

To help stakeholders distinguish between asset classes, and with tax administration, we provide the following notes to accompany the table of concordance that aligns the types of Qualified Investments with its crypto-asset counterparts (see attached Appendix A). We note that the provincial property laws may not consider all types of crypto assets to be property, and we recommend that the intended use of the term "property" in tax policy be clarified.

Crypto-assets. This asset class includes unbacked crypto-assets, fiat-backed stablecoins (discussed separately below) and tokenized real-world assets *are types of crypto-assets, and are not crypto-backed assets*. Tokenized real-world assets are any crypto-assets that are backed by real-world assets (i.e., tokenized real-world assets such as bonds, stocks, investment funds etc). While such assets are issued and transferred on a blockchain, activities involving clearing and settlement, and maintaining the share ownership registries is performed by centralized entities including transfer agents and/or central share depositories (e.g. Canadian Depository for Securities "CDS"). Currently, it is unclear whether Canadians can hold crypto-assets such as tokenized stocks, bonds or funds in a registered plan account. To simplify tax administration and to ensure the consistent application of the current rules, we recommend that the policy clarifies that if a real world asset is a qualified investment currently, its tokenized form should remain a qualified investment (e.g. tokenized bond, tokenized stocks, tokenized money market fund etc). Notably, participants from traditional finance are leading the product development for tokenized real world assets and showing an interest in collaborating with the crypto-asset industry. For example, U.S. fund managers Blackrock and Templeton have launched tokenized money-market/treasury funds using public blockchains, while London-based Fidelity International is using an Ethereum-based private blockchain. These funds target retail investors.

Crypto-backed assets, on the other hand, investment products or financial instruments that derive their value from unbacked crypto-assets such as Bitcoin, Ether etc. that are issued and recorded solely on-chain, (i.e., the blockchain is the official ledger, and whose price is driven by supply and demand). Examples of crypto-backed assets include:

- Public Crypto-Asset Funds as defined under NI 81-102. These include exchange traded funds ("ETFs") that invest directly or indirectly in unbacked crypto-assets. Since ETFs are qualified investments currently, an ETF investing in unbacked crypto-assets (e.g. Crypto ETFs) should remain a qualified investment.

[16] Per CSA SN 81-336, "this framework includes having a registered investment fund manager (IFM) and portfolio manager(s) under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103), distributing securities of the fund by way of a prospectus prepared in accordance with National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) or National Instrument 81-101 *Mutual Fund Prospectus Requirements* (NI 81-101), as well as being subject to the operational framework of NI 81-102, among other rules and instruments. Public Crypto Asset Funds must also compute a net asset value (NAV) on a daily basis that must be calculated in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106)". Canada issued its first prospectus receipt for a Canadian public crypto investment fund on April 1, 2020 following a panel decision of the Ontario Securities Commission.

- Option contracts on unbacked crypto-assets such as Bitcoin, Ether, etc.

A fiat-backed stablecoin ("FBSC")[17] is a unique type of crypto-asset that references a single fiat currency and that can be used as a settlement asset[18]. It is a substitute for cash, akin to electronic money ("e-money")[19], it is issued on blockchain rails), fully-backed by cash or cash equivalents, and used in blockchain applications. It provides new functionality, i.e., it is a form of programmable money that can be used in smart contracts and blockchain applications, and atomic settlement enables greater efficiency in peer to peer settlement.

While other jurisdictions such as the European Union treat FBSCs as e-money, fiat-backed stablecoins have not been given official e-money status in Canada. However, its redeemable qualities and its functions within the blockchain ecosystem would place an FBSC in a unique category amongst all crypto-assets. FBSCs function as a payment instrument used for on-line commerce and cross-border remittances, and they can also be used by crypto-currency traders for digital foreign exchange trading[20] and other blockchain applications. The utility of FBSCs within the crypto-asset ecosystem provides a compelling argument to treat it like a digital cash equivalent in registered plans:

- FBSCs provide a store of value and are used as a risk-off asset in times of volatility;
- FBSCs are used as collateral and as a settlement asset (e.g. in trading options); and
- FBSCs act as a bridge to transfer value between traditional fiat and blockchain rails. This utility is important particularly while we transition towards a modern financial and payment system. For example, investors can now purchase Templeton's tokenized money-market fund using USDC.

We note that Circle Internet Financial Inc., the issuer of the U.S. FBSC USDC, is the first global FBSC issuer to be issued an e-money license under the Markets in Crypto Assets Regulation ("MiCA") framework.[21] We believe that if fiat-backed stablecoins were regulated in Canada under payments, banking, or bespoke new laws, Canadian businesses and consumers would have greater choice and access to more options for portfolio rebalancing in their registered savings plans, and a more seamless way of buying digital assets.

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[17] There is currently no formal definition for a fiat-backed stablecoin - we offer this suggestion: a digital payment token (or settlement asset) that is redeemable at, or exchangeable for, its peg value, and fully reserved 1:1 with high quality and liquid referenced asset(s), and in the same currency (currencies) as the referenced asset(s). We believe that the issuer of such digital payment tokens should be a federally regulated entity.

[18] It can act as a digital money-equivalent. For example the European Union treats FBSCs as electronic money. The EU broadly defines electronic money (e-money) as an electronic store of monetary value on a technical device that may be widely used for making payments to entities other than the e-money issuer. The device acts as a prepaid bearer instrument which does not necessarily involve bank accounts in transactions. E-money products can be hardware-based or software-based, depending on the technology used to store the monetary value

[19] European Central Bank definition of electronic money Link Here

[20] We note that there are restrictions to perform FX trading or holding certain forex contracts in registered accounts. However, holding foreign currency is permitted.

[21] Circle is First Global Stablecoin Issuer to Comply with MiCA, EU's Landmark Crypto Law. Link Here

Tax Policy Objectives

We address Question 5 from multiple perspectives: the impact on Canadians and on innovation. A starting premise is that tax policy should strive to be neutral: Canadians should make investment decisions based on their investment merits, and tax policy should not influence access to, or choice of, financial product. We also believe that policymakers must consider and weigh the impact of tax policy on product innovation, technology innovation, parity of participation and capital allocation.

Registered savings plans ("RSPs") are important wealth accumulation vehicles. According to StatsCan, RSPs "make up the third pillar of the retirement income system in Canada and income from these vehicles play an important role in providing income for elderly Canadians"[22]. Historically, tax policy has encouraged Canadians to save, and registered savings plans are used by Canadians to accumulate wealth on a tax deferred basis. Tax-free compounding and reinvestment allow Canadians to reach their financial goals faster. The government gives up tax revenues during the time the assets accumulate and grow tax free in the plan, and receives tax revenues on a pool of assets (hopefully with higher values) when the funds are withdrawn.

An investment in crypto-backed assets or crypto-assets is an asset allocation decision that is best left to the individual. The purpose of registered savings plans is to encourage Canadians to save, either for retirement, education, or some other purpose. Asset allocation is an important investment decision that is best left to the individual and/or their advisor where applicable. An investor who invests in unbacked crypto-assets and/or crypto-backed assets seeks exposure to an alternative asset class commensurate with their risk appetite. According to a 2023 OSC survey,[23] investors of crypto-assets tend to be educated and employed males aged 25-44, with high financial knowledge and who are self-directed investors. Investors hold crypto-assets and/or crypto-backed assets in their investment accounts. Currently, investors can hold crypto ETFs (a type of crypto-backed asset) but not unbacked crypto-assets directly in registered plans. It would be unusual for tax policy to exclude specific types of investment funds from registered plans. The regulatory burden to administer any such policy cannot be underestimated.

Furthermore, current tax policy precludes crypto-savvy investors from directly investing in unbacked crypto-assets to accumulate wealth in their registered savings plans, which may put them at a tax disadvantage compared with Canadians who use advice channels. Indeed, we believe that Canadians and/or their registered advisers are better positioned to determine how best to achieve their financial goals, and all Canadians should be afforded the same opportunity to accumulate wealth in registered savings plans from direct or indirect exposure to this alternative asset class. For these reasons, tax policy should not limit product choice:

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[22] StatsCan, Income Research Paper Series, *Recent trends in families' contributions to three registered savings accounts,* released October 17, 2023.

[23] OSC Survey Results [Link Here]

Crypto-backed assets such as public crypto-asset funds and listed options on crypto assets should remain QIs. Tax policy should also consider the conditions under which unbacked crypto-assets would be QIs.

Policymakers should not decide how Canadian investors decide to allocate their capital or impede capital formation. Policymakers should support innovation by allowing Canadians to gain exposure to an emerging asset class. Rather than impeding technological progress and innovation, Canadian tax policy should instead support innovation with respect to crypto assets, a key industry sector, through policies that encourage innovation and participation in the crypto asset ecosystem. It is through the recognition and use of crypto assets as an investment, a payment instrument, and a digital equivalent to foreign currency that will allow this FinTech industry to grow and support other blockchain applications that will help to modernize the financial/payment ecosystem.

We submit that tax policy should be used to support innovation in this important and growing sector. While it's hard to measure the trickle down effect of restrictive policies on crypto-assets, capital formation supports innovation to modernize Canada's financial and payment ecosystem. Allowing crypto-backed assets as Qualified Investments would align an individual's wealth accumulation goals with government's goals to spur innovation and drive economic growth.

Impact on Canada - Individual Taxpayers, Institutional Product Development, Capital Markets and Economy

Canadian Individual Taxpayers

This proposal will directly impact Canadian taxpayers by limiting product choice and portfolio diversification for wealth accumulation for:

- Over 6.26 million Canadians who have self-directed retirement savings plans and also 16.1 million Canadians who have Tax Free Savings Accounts[24].
- According to an OSC survey of individual investors conducted in 2023,[25]
    - 10% of Canadians surveyed owned crypto-assets or crypto funds (down from 13% in 2022), and
    - 20% of Canadians surveyed planned to buy crypto-assets next year (down from 31% in 2022)

[24] These are 2023 figures from StatsCan
[25] OSC Survey Results Link Here

- A 2023 KPMG survey shows a pull-back from wealth management firms: only 14% of firms with crypto asset services are offering financial advice for crypto to their clients at year-end 2023, down from 42% from 2 years prior.

The attached **Appendix B** shows the types of products available to Canadians to obtain exposure to this asset class: As of July 8, 2024, there were 32 Public Crypto Asset Funds in Canada with aggregate net assets of approximately CAD$5.0 billion.

These figures are particularly salient given that historically it was retail interest in crypto-assets that provided price support but also contributed to its price volatility. According to CoinMarketCap,[26] the current global market cap of crypto-assets is $2.0+ trillion. Sustained retail interest together with clear regulations can help spur institutional adoption. With market maturity comes increased institutional participation which can further strengthen the crypto-asset ecosystem, and potentially reduce price volatility. We note for example, growing institutional interest in this asset class:

- A CFA Institute global survey[27] in April 2022 found that 62% of corporate defined benefit plans were putting capital toward the sector.

- According to the 2024 Q1 SEC 13F filings,[28]
  - Large institutional investors holding IBIT (Blackrock's spot Bitcoin ETF) include market makers, hedge funds, investment advisors, banks and pension funds. Link Here;
  - Of the total assets under management for spot Bitcoin ETFs, institutional investors had USD$11.06 billion exposure by the end of Q1 2024, representing 18.7% of the total spot Bitcoin ETF AUM, according to K33 Research[29] Link Here; and
  - Canada's top six banks are among the investors in Bitcoin ETFs[30] Link Here.

- According to KPMG, "Canada's institutional investors have re-embraced crypto, with 39% of respondents[31] having exposure to the asset class in 2023".[32] **Importantly, the survey also showed that a maturing market and custody infrastructure, together with**

[26] Coinmarketcap is a widely referenced crypto price tracking website. It is owned by Binance Capital Management, a global blockchain company. Link Here
[27] CFA Institute Survey released Enhancing Investors' Trust – the 2022 CFA Institute Investor Trust Study, April 2022 Link Here
[28] *Institutional investment managers with at least USD$100 million in assets under management are required by the U.S. Securities and Exchange Commission ("SEC") to make quarterly disclosures about their equity holdings. Firms that are considered institutional investment managers include mutual funds, hedge funds, trust companies, pension funds, insurance companies, and registered investment advisors. It also includes the companies that act as market makers and/or "authorized participants" (AP) for the Bitcoin ETF issuers.*
[29] *K33 Research is a Scandinavian owned "research-led digital asset brokerage."*
[30] *Canadian banks disclosed in SEC filings as of March 31, 2024, Bitcoin ETF holdings totalling USD$16.9 million. A complete list of entities filing 13F reports (containing "Bitcoin") can be found on EDGAR (the SEC's filing portal Link Here)*
[31] Respondents include hedge funds, family offices, pension funds, private equity and venture capital firms, among others
[32] KPMG 2023 survey results Link Here

strong market performance were the primary reasons driving the majority of investors to make their first investment in crypto-assets.

These developments demonstrate that crypto-assets are a "legitimate" asset class with longevity, and Canadians' asset allocation decisions should not be restricted through the use of tax policy. Furthermore, the legitimacy of this sector is also represented by Canadians with indirect exposure to the sector through investments in publicly traded crypto technology companies see Appendix B, such as:

- Galaxy Digital trading on TSX ($6.0+ billion CAD market cap, June 26, 2024),
- Hut8 Corp trading on NASDAQ ($1.9billion CAD market cap), and
- Purpose Ether Staking Corp. ETF (formerly Ether Capital Corp.) trading on NEO ($209 million CAD market cap).

Institutional Product Development - While Canada is a leader in institutional product development, it lost global market share in spot Bitcoin ETFs.

Canada has been and continues to be a leader in institutional product development, but Canada's share of the total crypto ETF market is being challenged by Greyscale, Blackrock and Fidelity. For example, Canada was among the first to offer a Bitcoin fund and more recently, a Canadian investment fund manager is seeking approval to launch the first Solana exchange traded product. These crypto-backed assets including crypto ETFs allow investors to get exposure to an alternative asset class through a familiar investment vehicle and through their broker or brokerage account.

However, recent data for the global spot Bitcoin ETF market revealed that Canada is losing market share to large U.S. firms. According to Coingecko Research[33], as of February 15, 2024, "the U.S. had 83% of the market share for Bitcoin ETFs, overtaking Canada. Canada which had previously led with 46.3% in market share now only has 7.4% of global market share. Out of the top ten spot Bitcoin ETFs, five are from the US, three are from Europe, and two are from Canada". Consider the following data published by Coingecko Research:

- In total, the top 10 spot Bitcoin ETFs account for a disproportionate 92.7% global market share.
- Spot Bitcoin ETFs leading with USD$ billions in total assets are:
  - Grayscale Bitcoin Trust (GBTC) at $22.8 billion,
  - iShares Bitcoin Trust (IBIT) at $5.19 billion,
  - Fidelity Wise Origin Bitcoin Fund (FBTC) at $3.93 billion,
  - Purpose Bitcoin ETF (BTCC) at $1.60 billion,
  - ETC Group Physical Bitcoin (BTCE) at $1.25 billion and
  - ARK 21 Shares Bitcoin ETF (ARKB) at $1.13 billion.

[33] Coingecko Research Article Link Here

Setting the criteria for “appropriateness”

We approach the question of “appropriateness” from an investment perspective. As noted above, the question of “appropriateness” is a decision best left to individuals and their advisers. We believe that an appropriateness assessment from an investment perspective is best left to securities or consumer protection regulatory frameworks, rather than through tax policy. For example, advisors consider the investors’ risk tolerance, risk capacity and also portfolio diversification to achieve their investment objectives. In addition, registered advisers and crypto-asset trading platforms are already obligated under securities regulations to satisfy investment suitability / account appropriateness requirements and to administer any investment limits imposed by the Canadian Securities Administrators (“CSA”) for certain crypto-assets. Using tax policy to impose further restrictions is unnecessary in our view.

However, if the goal of the consultation is to better understand the risk/returns associated with a direct or indirect investment in this asset class, we offer our observations on common characteristics that underlie the current list of qualified investments:

- They are listed on regulated exchanges, which offer:
    - liquidity and price discovery;
    - a reliable price for valuation, or through index providers;
    - market integrity;
    - segregated custodial wallets with regulated digital asset custodians; and
    - timely, ongoing and fulsome disclosure including a requirement for annual audited financial statements of the issuer.
- They are primarily bought/sold through regulated distribution channels (i.e., through registered advisors, or through regulated dealer platforms) where the registered advisor/investor is responsible for assessing the suitability of the investment in a particular asset class.
- There are generally accepted accounting principles to value and account for such assets, and independent auditors to attest to their financial statements and disclosures.

Crypto-backed assets such as crypto ETFs currently meet all of these common conditions, which lends support for its consideration as a Qualified Investment for registered plans. Public Crypto-asset Funds and investment fund managers are regulated under a robust securities regulatory framework (e.g. NI 81-102 *Investment Funds*, NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations)*. More importantly, the underlying crypto-assets that are held by the ETFs (along with their service providers) are increasingly being subject to regulation (see below discussion on risk). For this reason, we recommend that Finance consider permitting crypto-assets that are listed on a regulated CTP to be included as a Qualified Investment in registered plans. If implemented, this policy change would provide

Canadians who are knowledgeable about crypto-assets with the choice to invest directly in this alternative asset class in a cost effective manner[34] or through familiar vehicles such as Public Crypto-Asset Funds.

We make the case for regulated CTPs to be recognized on par with designated exchanges once they become members of CIRO. This policy accommodation would allow CTPs to provide Canadians with services to support registered account eligibility similar to their traditional finance counterparts. We ask you to consider the following developments that help to mitigate the risk of this asset class, and that are signs of industry maturity.

Regulating crypto-asset service providers

In Canada, regulated CTPs have been provided with a roadmap to become members of CIRO where they will be subject to CIRO oversight thus ensuring market integrity. Regulated CTPs are obligated to implement effective anti-money laundering programs and to report suspicious transactions to FINTRAC. Regulated CTPs are also subject to minimum capital requirements and are required to adopt stringent measures to safeguard client assets held in an exchange wallet. These include segregating client assets, a prohibition on rehypothecation, using an optimal combination of hot/cold wallets, multi-sig technology etc. Furthermore, other nations such as Singapore, European Union, the U.K., etc have developed/are developing regulatory frameworks for crypto-assets and their service providers. This is particularly relevant given that crypto-assets are a global asset class.

In Canada, qualified custodians must be regulated entities and meet minimum capital and insurance requirements. Where the regulated CTP provides a hosted wallet for customers, those crypto-assets are required to be held in segregated accounts with a regulated digital asset custodian. These custodians conduct SOC II Type II audits that typically cover systems security, availability, data privacy and confidentiality.

In this sense, certain crypto-assets are less risky than a direct investment in resource flow-through shares that require no custodian and where Canadians can acquire investments in shares of the issuer or in units of a limited partnership. While flow-through shares may be “qualified investments”, holding them in a registered account negates any immediate tax advantages (i.e., it may not be appropriate for registered accounts).

Industry-driven initiatives to encourage best practices and appropriate regulation

It’s important to note that ecosystem participants have also led the development of best practices to reduce the risk profile of crypto-assets. Examples include, conducting proof of reserves “audits” to demonstrate that there are sufficient assets to support an entity’s crypto asset holdings; smart contract audits to assess vulnerabilities. Furthermore, industry has led the way to address energy consumption through layer 2 protocols, and changing to proof of stake

[34] Investment funds charge a management fee.

from proof of work, and advocating for clarity to bring the use of fiat-backed stablecoins into the regulatory perimeter.

We believe these developments are signs of industry maturity. In addition to cost efficiency, these are other reasons for recommending that Finance consider broadening the pool of QIs to also include crypto-assets that trade on regulated crypto trading platforms, once they become members of CIRO.

Disallowing crypto-backed assets as QI may indirectly impact innovation in Canada by disincentivizing capital allocation to crypto-related projects.

We believe any policy change in this direction sends the wrong message to ecosystem participants who are working on projects that will not only transform financial markets but have wide-ranging applications beyond finance.

This may have a further trickle down effect on capital formation for technology companies involved in crypto-assets that are listed on Canadian exchanges (see Appendix B) as well as venture capital funding for private companies.

Other Tax Administration Considerations

We believe that policy should be sufficiently clear and easily understood. This would alleviate regulatory compliance burden on stakeholders, particularly, plan administrators.

Conclusion

To conclude, we would like to summarize and highlight our key points:

- We believe that it's appropriate for crypto-backed assets to continue to qualify as an investment for registered savings plans in Canada. We also believe that policymakers must consider and weigh the impact of tax policy on product innovation, technology innovation, parity of participation and capital allocation.

- We believe that Canadians should be given the same opportunity to accumulate wealth for their retirement, to have access to products that provide exposure to crypto assets as an emerging asset class, and to have agency over their investment allocation decisions. In this context, tax policy needs to be clear and easily understood, but remain outcome neutral. Furthermore, tax policy need not overlay additional obligations for determining appropriateness of asset allocation or product decisions.

- We also believe that tax policy should not favor traditional investment assets over crypto-assets, or traditional finance incumbents over their crypto-asset counterparts. For these reasons, we make the case for the inclusion of unbacked crypto-assets and FBSCs as QIs for registered savings plans.

- Further, rather than stifling innovation, tax policy should support nascent and/or critical industries as it has in the past with resource flow through shares. From this perspective, it's essential for Canada to recognize the importance of blockchain technology and the role that decentralized network assets, such as Bitcoin and Ether, play as we modernize our financial and payment infrastructure and more. For these reasons, we urge Finance to work with industry to discuss the conditions under which unbacked crypto-assets, and other crypto related financial instruments should qualify as an investment for registered savings plans.

It's also essential for Canada to remain a leader in product innovation that involves the crypto asset class, particularly for Canadians who use regulated advice channels, and to support innovation in a sector that will grow internet commerce and blockchain use cases beyond finance.

We hope you found our submission useful. Our members are available to provide further context and answer any questions you may have.

Appendix A

Table of Concordance - Qualified Investments / Crypto-asset Equivalents [35]

Column (1) lists the existing types of Qualified Investments. Based on our assessment, the term "crypto-backed assets" fits under 3 existing types of Qualified investments. Those types are highlighted in yellow in Column 1 and are the specific items of interest for this consultation.

Column (2) summarizes certain key conditions that must be met for the asset to qualify as an investment for registered plans as per existing tax policy. This compliance obligation falls to the registered plan trustee and tax policy should simplify the compliance obligation where possible.

Column (3) is a look to the future. It identifies "crypto-assets" that we believe to be equivalent to the existing types of QI in Column 1. While these items are out of scope for this consultation, we provide commentary and suggestions for future consideration for the following reasons:

- We believe that the tokenization of stocks, bonds, and investment funds will accelerate given recent announcements by large institutional money managers, e.g. Blackrock, Templeton etc. These are not "crypto-backed assets", rather, they are types of "crypto-assets". We believe that tokenized versions of existing Qualified Investments should also be permitted. Clarity is needed for tax administration.
- Canadian retail investors who are comfortable using self-directed trading accounts may choose to seek exposure to "crypto-assets" directly rather than invest in "crypto-backed assets". A change in policy is recommended in order to provide these Canadians with the opportunity to invest directly in crypto-assets rather than to seek exposure indirectly through publicly traded investment funds or through crypto technology companies. To effect this change will require collaboration with industry participants to ensure that crypto-asset service providers and registered plan trustees can fulfill monitoring and reporting obligations.
- Fiat-backed stablecoins function as digital cash equivalent, and can be used as a settlement asset. Its unique function in the crypto-asset ecosystem makes a compelling reason for allowing FBSCs issued by regulated issuers to be a Qualified Investment in registered plan accounts.

(1) Common Types of Existing Qualified Investments[36] "QIs"	**(2)Specified condition(s) / Additional clarification**	**(3)Crypto-assets / conditions that are akin to current QI**
For all types of QIs	General conditions, all categories ● The QI is property[37]	

[35]According to Para 1.6 and 1.7, CRA does not maintain a master list of specific investments that are qualified investments, nor does it make determinations as to whether a specific investment qualifies except in the context of an advance income tax ruling or audit. Registered plan trustees are responsible for monitoring investments to minimize the possibility of a plan holding a non-qualified investment and have the latitude to decide what instruments they will accept as Qualified Investments in the plans they administer.
[36]These are the minimum requirements. Registered firms can further limit the types of investments held in a registered plan.
[37] The intended use of the term property should be clarified in tax policy.

(1) Common Types of Existing Qualified Investments[36] "QIs"	(2)Specified condition(s) / Additional clarification	(3)Crypto-assets / conditions that are akin to current QI
	• Dealing at arm's length	
For QIs that are "listed securities or financial instruments	Listed and trades on a Designated Exchange	Listed and trades on a Regulated CTP in Canada
Money & Deposits (with regulated deposit-taking institutions)	Cryptocurrencies (BTC) are not money nor qualified investments (para 1.12)	Tokenized Deposits? Fiat-backed stablecoins (issued by regulated issuers)
Listed securities/financial instruments such as • Shares • Debt • ADRs • **Exchange traded funds ("ETFs")** • REITs • **Options**/warrants	Trades on a designated stock exchange Covered call options; Cash settled	A tokenized version of these types of listed securities, **including crypto ETFs** Settled with FBSCs Crypto-assets listed and traded on a regulated CTP in Canada?
Shares or Debt of public corporations	Prospectus/Reporting issuer requirements	
Investment funds such as • **Mutual fund trusts** • **Mutual fund corporations** • Prescribed labour sponsored funds • **Alternative mutual funds / Non-redeemable investment funds**[38]	Regulated under a securities regulatory framework	A tokenized version of these investment funds
Shares or units of a Registered Investment		
Shares of a Mortgage Investment Corporation	No debt with a connected person	
Debt obligations, such as • All levels of government • Public corporations	Issuer conditions Investment grade "BBB" min Regulated credit rating agencies	

[38]An alternative mutual fund is a mutual fund that invests in crypto-assets. The CSA's current proposal seeks "to restrict investment funds subject to NI 81-102 to investing only in crypto assets that are listed for trading on, or are the underlying interest for a specified derivative where that specified derivative trades on, an exchange that has been recognized by a securities regulatory authority in Canada".

(1) Common Types of Existing Qualified Investments[36] "QIs"	(2)Specified condition(s) / Additional clarification	(3)Crypto-assets / conditions that are akin to current QI
• Bankers Acceptances • Mortgage-backed securities		
Gold, Silver • Physical commodity • Coin (currency - legal tender) • Certificates re physical commodities	Special considerations include • Safe custody • Issued by Royal Canadian Mint/purity • Issuer/purity	
Small business investments/corporations		
Venture Capital Corporations		
Shares in certain Cooperatives		What about DAOs?
Installment receipts		Liquid staking receipts?

Appendix B

Impact on capital market activities in Canada & globally

Canadians can obtain exposure to crypto-assets in a variety of ways:

- Directly through crypto-assets purchased through regulated CTPs;
- Indirectly through crypto-backed assets offered by regulated participants (e.g. crypto ETFs, listed options etc.); and
- Indirectly through crypto related public companies

Asset Class (and restrictions, if any)	Where Listed	Distribution Channel	Market Cap[39]
Crypto-currencies (available to Canadians) No investment limits ● Bitcoin ● Bitcoin Cash ● Ether ● Litecoin All other crypto currencies, $30,000 CAD investment limit (where applicable)	Regulated CTP Regulated CTP	Regulated CTPs	 $1.2T USD $7.6B USD $420.8B USD $5.6B USD
Fiat-backed stablecoins that reference $CAD or $USD, top 2 by market cap ● USDC (issued by Circle Internet Financial under e-money license (MiCA)) ● USDT Condition: FBSC Issuers have until October 31, 2024 to submit to CSA jurisdiction, and to file an undertaking with the CSA. Delisting will result if the conditions are not met. [CSA SN 21-333]	Regulated CTP	Regulated CTPs (subject to Terms and Conditions)	 $32.5B USD $112.7B USD
Crypto-backed assets[40] ● 208 ETFs/ETPs, 16 countries ● 32 crypto ETFs trading on designated Canadian exchanges[41] No restrictions in Canada; only suitability /	Various Regulated Exchanges	Order Entry Only Platforms Registered Investment Dealers or Advisers	 $82.2B USD $5.0B CAD[33]

[39] Unless otherwise indicated, figures are as of June 2024

[40] According to independent research and consulting provider ETFGI, The Global Crypto ETFs and ETPs industry had 208 products, with 551 listings, assets of **$82.27 Bn**, from 47 providers listed on 20 exchanges in 16 countries. Following net inflows of $2.23 Bn and market moves during the month, assets invested in Crypto ETFs/ETPs listed globally increased by 16.7% from $70.47 Bn at the end of April 2024 to $82.27 Bn at the end of May 2024 (all figures in USD) .Link Here

[41] *Compiled using July 8, 2024 data from ETF Screener (provided by ETF Market Canada, CBOE) Link Here*

Asset Class (and restrictions, if any)	**Where Listed**	**Distribution Channel**	**Market Cap[39]**
account appropriateness obligations			
Examples of Public Technology Companies in the crypto ecosystem Listed in Canada ● Galaxy Digital Holdings ● WonderFi Technologies Inc. ● Purpose Ether Staking Corp. ETF (formerly Ether Capital Corp.[42]) ● Hut8 Mining Listed Globally ● Coinbase Global Inc. ● Hut8 Mining No restrictions: suitability/account appropriateness obligations apply	 TMX TMX NEO TMX NASDAQ NASDAQ	Order Entry Only Platforms Registered Investment Dealers or Advisers	 $5.5B CAD $137M CAD $209M CAD $1.89B CAD* $52B USD $1.38B USD*

**Dually listed shares show combined market cap*

[42] Ether Capital Corp, ('the Company'), "was founded to be an access point in the public markets for participation in the development of Ethereum and its ecosystem on a safe and secure basis". Following a strategic review, the Company proposed to convert into "a crypto-staking ETF **structured as a mutual fund corporation** to be managed by Purpose Investments Inc." The transaction was approved by shareholders on June 10, 2024. Link Here to Press Releases on *Business Wire dated* May 2, 2024 and [June 10, 2024]