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Digital Assets  
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# Regulating Staking: A Comparative Guide

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## What is happening

Many of the largest blockchain networks today are subject to a proof-of-stake (**PoS**) consensus mechanism, such as Ethereum, Solana, and Polygon, which are reliant on users participating in the activity of staking in order to validate transactions, maintain consensus, and ensure the security and integrity of the network.

Accordingly, as consumer engagement in cryptoassets continued to rise over the course of 2024, so has there been a growing adoption of staking — from a UK perspective, this is reflected in the FCA's [latest consumer research](#) published in November 2024. We are also witnessing rising institutional interest in offering staking services to clients (e.g. as part of a bundle of services related to cryptoassets).

## Why it matters

As new technologies and services may present new types of risk, regulators and policymakers are increasingly turning their attention to staking services.

Currently, in the vast majority of jurisdictions around the world, staking does not explicitly fall within scope of cryptoasset or financial services regulation. This guide aims to give a brief overview of staking services and relevant regulatory considerations.

## What is staking?

At its core, staking refers to the technological process of (1) **“locking up”** staked cryptoassets, typically as part of a validation process on a PoS blockchain, and (2) **earning rewards** for proposing and attesting transactions.

There are numerous variants of staking arrangements, and no fixed taxonomy for describing them—Table 1 below summarises a few key concepts.

Table 1. Staking concepts

	Direct staking	Intermediated staking / Staking as a Service	Staking pools <sup>1</sup>	Liquid staking
<b>Summary</b>	This involves a person staking their assets directly on the blockchain and maintaining their own validator node.	This is an umbrella term which refers to staking as a service ( <b>StaaS</b> ) products that stake client assets on their behalf, without clients having to run the necessary software themselves.  Such arrangements may leverage staking pools – see next column. StaaS providers may also offer custodial services, however this is not necessarily the case and it is important to note that the activity of custody is distinct from the technical activity of staking – see Table 2.	This involves pooling of assets from multiple users to meet minimum staking requirements (e.g. 32 ETH). Many staking pools offer liquid staking tokens ( <b>LSTs</b> ) — see next column.  Contributors to the pool are typically issued a token in exchange for a “share” of the pool (and associated profits).	This involves the issuance of a tokenised representation of staked assets (i.e. a LST) which may be used for other services while the underlying assets remain locked up.
<b>Examples</b>	Ethereum Solana Polygon	Kiln Binance Kraken Trust Wallet		Lido Rocket Pool
<b>Key features</b>	This has a high barrier to entry as it requires users to have a minimum holding (e.g. in the case of Ethereum, 32 ETH), specialist equipment, and certain technical expertise in order to run and maintain the validator node.	StaaS models vary widely – for example, centralised services may also involve custody of assets by the service provider, while decentralised services may act as an interface to the underlying protocols.	Decentralised pooled staking arrangements would involve the use of smart contracts which automate the pooling of funds and distribution of rewards.	This increases liquidity by allowing participants to continue to make use of the value of staked assets regardless of the relevant lockup period.

<sup>1</sup> For completeness, there are also custodial arrangements where client assets are held on an omnibus basis, and the custodian aggregates client assets to meet the minimum staking requirements. In contrast to “pooled” models, the ownership of the staked asset remains unchanged (in accordance with records maintained by the custodian) and users earn rewards based on the assets they own. For users who own sufficient amounts of the relevant cryptoasset to meet the minimum staking requirement, there may also be custodial services where individual client assets are held and staked on a segregated basis. Note that there are numerous staking models, and this Table 1 is not intended to be a complete list.

## Categorising staking services as a regulated activity

A key issue in regulating staking services is its definition and classification – in particular, staking activities may bear similarities with other existing regulated activities, thus giving rise to ambiguities. Table 2 below sets out some non-exhaustive examples:

*Table 2. Staking and other regulated activities*

Area of ambiguity		Distinction	
<b>Custody</b>	From a user's perspective, user assets are deposited and "locked up".	The depositing of assets into a staking protocol does not necessarily involve a service provider taking control over the relevant private keys.	Despite apparent similarities, and the fact that staking services may be provided alongside other activities (e.g. custody), the activity of staking and the provision of staking services are separate to, and not sufficiently captured by, such existing categories.
<b>Investment schemes</b>	Pooled staking arrangements may resemble an investment fund (e.g. in the UK, a "collective investment scheme" as defined under <a href="#">the Financial Services and Markets Act 2000</a> ) where user contributions and resulting income are pooled.	Depending on the StaaS model, there may be no "management" of collected client property.	
<b>Lending</b>	The process of locking up client assets which are then returned to the client after a certain period of time may resemble a lending arrangement.	Staking itself does not involve transfer of legal title of the asset, or the loaning of assets to a "borrower".	

### Risk considerations

Some key risks being considered by policymakers include:

- **Technical risk:** Risk of a malfunction in the staking process or cyber attacks;
- **Bankruptcy:** Legal uncertainty around the treatment of staked assets in case of insolvency of the staking service provider;
- **Money laundering / terrorist-financing (ML/TF):** In line with cryptoasset services more broadly, there may be ML/TF risks (for example, arising from the anonymous or pseudonymous nature of cryptoasset activities in the absence of customer due diligence measures, potential exposure to high-risk jurisdictions, etc.); and
- **Investor protection:** Risks of loss of staked customer assets (e.g. in cases of "slashing"), loss of value in staked assets throughout the lockup period, as well as market stability risks (e.g. where LSTs are used in leveraged positions).

### Staking supports security of DLT networks

It is important to note that staking is essential to supporting the security and integrity of transaction data stored on a proof of stake (PoS) blockchain.

Additionally, staking services reward users for their participation in validation activities, and greater participation helps to mitigate risks of centralisation (e.g. network security threats) as well as to improve efficiencies. Similarly, penalties such as slashing act as a deterrent of behaviours which threaten the security of the network (such as double signing, failing to validate transactions for extended periods of time, etc.).

Excessive regulation may disincentivise participation in staking which, in turn, may result in increased risks to the operation, stability and security of the relevant blockchain network.

For more of our guides, see also:

- [Tokenized Deposits, Stablecoins, and E-money: A Comparative Guide for the UK](#)
- [DLT and Innovations in Wholesale Settlement in Central Bank Money: A Comparative Guide for the UK](#)

## Regulatory treatment of staking

Few jurisdictions have specifically legislated for, or otherwise addressed, the regulatory approach to staking services — however, the regulatory landscape is evolving.

Table 3. Regulatory approaches to staking

### Summary of regulatory approach

<b>UK</b>	The Government has laid before Parliament a <a href="#">Statutory Instrument</a> which clarifies that arrangements for qualifying cryptoasset staking do not amount to a collective investment scheme and comes into force on 31 January 2025. Additionally, as per the <a href="#">FCA's indicative roadmap</a> , policymakers are undertaking exploratory work with stakeholders to further clarify the regulatory approach to staking. Anti-money laundering ( <b>AML</b> ) laws may also apply to the extent staking services involve the custody of client assets, and the <a href="#">financial promotions regime</a> will likely be relevant to communications which promote participation in staking activities involving qualifying cryptoassets.
<b>EU</b>	EU-level rules such as the <a href="#">Markets in Crypto-asset regulation</a> (MiCA) do not explicitly address (or prohibit) staking – however, depending on the facts of each case, requirements under MiCA on custody and administration of cryptoassets (including advising on the use of cryptoasset service), as well as AML laws, may apply to the extent staking services involve the custody of client assets. In a recent <a href="#">Joint Report on recent developments in crypto-asset markets</a> , the EBA and ESMA discuss different models of staking, highlighting (among other things) market volatility and liquidity risks in leveraged (liquid) staking and restaking activities, as well as consumer protection risks (e.g. due to inadequate disclosures) associated with staking services more broadly.
<b>Switzerland</b>	FINMA issued <a href="#">guidance on staking services</a> in December 2023. The document highlights the issues with applying the law relating to custody of cryptoassets to staking arrangements, and provides guidance which focuses on ensuring customer protection in the event of insolvency of the staking service provider.
<b>US</b>	The precise legal treatment of staking services is unclear — however, the SEC has historically taken an enforcement-led approach to the application of securities laws on cryptoasset activities, including staking services provided by centralised exchanges and issuers of LSTs.
<b>The Bahamas</b>	The <a href="#">DARE Act 2024</a> specifically regulates “staking services”, i.e. where an entity, by way of business, carries out staking of client assets, or operates a staking pool. In addition to registration and general reporting requirements applicable to all digital asset services under the DARE Act 2024, further requirements relating to client disclosures are specifically applicable to providers of staking services.
<b>Singapore</b>	The scope of the Payment Services Act 2019 (supported by the Payment Services Regulations 2019), which governs the licensing and regulation of payment services providers in Singapore, was in recent years expanded to cover services involving “digital payment tokens” (DPTs). Although there is no regulatory regime addressing the provision of staking services per se, there are restrictions on DPT service providers on facilitating lending and staking of DPT tokens by retail customers.

## Find out more



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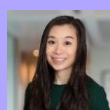
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