Cryptoasset Policy Team
HM Revenue & Customs
digitalassets@hmrc.gov.uk

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Subject: Response to the technical consultation on draft Finance Bill 2026-27 legislation — Taxation of Cryptoasset Loans and Liquidity Pools

Dear HMRC,

Aave Labs welcomes the publication of draft legislation on the taxation of cryptoasset loans and liquidity pools, and we are grateful to the HMRC team for the considerable work the draft reflects and for the opportunity to comment on it. New Part 4A of the Taxation of Chargeable Gains Act 1992 (TCGA) resolves, for individuals, a mismatch between tax treatment and economic substance that industry has pressed since the 2022 Call for Evidence, and it does so with a structure that reflects how these arrangements actually operate. Arriving at that structure required sustained engagement with a set of transactions that have no close analogue in existing law, and the quality of the drafting reflects the effort that has gone into it.

We write to suggest targeted refinements. Our first recommendation concerns a threshold condition in the definition of a lending arrangement which, read without reference to how these arrangements operate in practice, could put the relief out of reach for the most common form of onchain lending. We understand that is not the intended reading, and we ask only that the position be confirmed. Our second concerns the position of companies, which this measure does not address and which we understand is to be dealt with separately. Our comments there are directed at the timetable, and at the interval before corporate rules are in place.

Aave Labs is the core contributor to the Aave Protocol, the largest decentralized collateral protocol globally, with $18.4 billion in total value locked as of September 2026 across over fifteen blockchain networks. We have direct experience of how the transactions addressed by this measure operate in practice, and of where tax rules and protocol mechanics fail to meet.

We think it worth stating why the transactions addressed by this measure are foundational rather than peripheral. Lending and borrowing is the mechanism by which capital in any financial market moves from those who hold it to those who can put it to use, and onchain that function is performed by collateralised lending arrangements of the kind Part 4A describes. They establish the cost of capital onchain and so provide a reference rate against which other activity is priced; they supply the liquidity on which market making, settlement and the orderly functioning of secondary markets depend; and they allow a holder to obtain liquidity against an asset without disposing of it. For individual users they are also the principal means by which a holder of digital assets can earn a return on those assets, which encourages saving and the productive deployment of capital rather than passive holding.

The tax treatment of these transactions therefore does more than fix the liability arising on a particular disposal. As the United Kingdom's onchain financial market develops, matures and begins to intersect with tokenised securities, stablecoin payment infrastructure and institutional balance sheets, the treatment of lending and borrowing will be among the factors that determine whether that activity is conducted here or elsewhere. A rule that treats the supply of an asset to a lending arrangement as a disposal does not simply impose a charge on the transaction; it requires the participant to fund a liability by selling the asset they were seeking to retain, which operates as a disincentive to participation rather than as a tax on its rewards. The draft removes that disincentive for individuals, and we regard that as a significant step for the competitiveness of the United Kingdom as a venue for this activity. Our recommendations below are directed at ensuring that the relief reaches the transactions it describes, and at the participants on whom the depth of the market will ultimately depend.

We are responding separately on the proposed stablecoins tax measure. We note that the two drafts are interdependent: new section 380B of the Income Tax (Trading and Other Income) Act 2005, which appears in the stablecoins draft, takes the meaning of several defined terms from new section 151YB TCGA below.

Ⓐ Provisions we particularly welcome

We record at the outset that the draft resolves correctly the question of receipt tokens, and we would not wish to see that resolution altered in later drafting.

New section 151YA(3)(c) TCGA excludes a "tokenised asset" from qualifying cryptoassets but carves out, among other cases, a right in respect of another qualifying cryptoasset and a right in respect of returns under single cryptoasset lending arrangements, single cryptoasset borrowing arrangements or automated market making arrangements. Read with the exemption in new section 151YD, this achieves the result we sought in our May 2026 submission: a token evidencing a deposit is not taken outside the regime merely because it represents a claim, and its disposal is not chargeable where the invested cryptoassets were exempt cryptoassets at the time the interest was acquired.

This is the correct answer and it is well drafted. We note by way of comparison that the equivalent question remains unresolved in the United States, where the definition of "wrapped digital asset" in the Bill before the House Committee on Ways and Means would, as drafted, exclude both same-chain and non-rebasing receipt tokens. We have recommended to that Committee that the definition be widened. The United Kingdom drafting is materially ahead of it, and we say so in that forum.

One aspect of the treatment of such tokens is not dealt with here. The exemption for an interest in a cryptoasset, and the treatment of claims to eligible stablecoins held by companies as money debts, appear in the proposed stablecoins tax measure rather than in this one. We understand HMRC is already considering how the two fit together, and we do not press that point.

There is a separate question, which we do not think either measure answers. The exemption in section 151YD applies only to an interest in a single cryptoasset lending arrangement. If one of the conditions in section 151YB is not met, the arrangement is not of that kind, and the exemption does not apply. The holder of a token representing a claim to eligible stablecoins would then have to fall back on the exemption for an interest in a cryptoasset in the proposed stablecoins tax measure. It is not clear that this is available. We ask for confirmation in our response on that measure, and the point matters for the reason given in section B below.

We add one observation on the approach the draft takes. Part 4A proceeds on the basis that the interest acquired on depositing an asset is an asset in its own right, and relieves the disposal taken to arise on deposit, rather than treating the depositor as continuing to hold the asset deposited. We do not ask that this be revisited, and we accept that it produces the right outcome for arrangements within its scope. We would observe only that the alternative analysis, under which a token evidencing a deposit is disregarded and the depositor is treated as continuing to hold the asset, reaches the same destination without the need for relief. We set that analysis out more fully in our response on the proposed stablecoins tax measure.

Ⓑ Confirm that temporary liquidity constraints do not defeat the low-risk-of-loss condition

Arrangements are single cryptoasset lending arrangements only if, among other conditions, they satisfy either the low-risk-of-loss condition or one of the unconnected parties and widely available conditions. The low-risk-of-loss condition asks whether, considering all the characteristics of the arrangements, it is reasonable to conclude that there is "no significant risk" that the person will be unable to realise their entitlement to the eligible cryptoassets.

In a decentralized lending protocol, a depositor's entitlement to withdraw is satisfied from the liquidity available in the relevant reserve. Where borrowing demand is high relative to deposits, withdrawal of the full entitlement may be temporarily deferred until borrowings are repaid or further deposits are made. This is a normal and self-correcting feature of interest rate mechanics rather than an impairment of the entitlement: the rate rises as utilisation rises, which attracts deposits and induces repayment. The depositor's claim is not subordinated, reduced or contingent, and it does not depend on the solvency of a counterparty.

We are nonetheless concerned that a reader approaching the condition without that context could treat the possibility of temporary deferral as a significant risk that the entitlement cannot be realised. If that reading were adopted the arrangements would fall outside section 151YB entirely, and the consequences would not be confined to this condition. The no gain, no loss treatment on acquisition of the interest, the corresponding treatment on its disposal, and the exemption in section 151YD would all fall away, and every deposit and withdrawal would be a disposal at market value. The relief the draft is designed to deliver would be unavailable to the most common form of the transaction it describes.

We do not think that is the intended reading, and we recognise that arrangements failing the low-risk-of-loss condition may still qualify through the unconnected parties or widely available conditions. But eligibility for a relief of this significance should not depend on which limb a particular reader reaches first, nor on a factual judgement about protocol mechanics on which the draft offers no guidance.

Recommendation: We recommend that HMRC confirm, in guidance or by amendment, that a temporary constraint on the timing of withdrawal arising from the ordinary operation of an arrangement does not of itself constitute a significant risk that the entitlement cannot be realised, where the entitlement itself remains unimpaired. We have made the equivalent recommendation to the House Committee on Ways and Means in relation to the definition of "wrapped digital asset", proposing that a requirement of redemption "on demand" be replaced with one of ready redeemability, for precisely this reason. A consistent formulation across the two jurisdictions would assist taxpayers operating in both.

Ⓒ The position for companies, and the timetable for addressing it

Part 4A applies only where "a person other than a company" is party to the relevant arrangements, and the limitation is repeated in the introductory provision, in the definitions of single cryptoasset lending and borrowing arrangements, and in the automated market making provisions.

We understand that companies are not being excluded as a matter of policy, but that individuals and companies are being addressed sequentially, and that a provision along similar lines for companies is under consideration. We welcome that, and our comments are directed at the interval before it arrives and at the shape of the corporate provision rather than at the decision to proceed in stages.

The interval is not neutral. Until corporate rules are in place, a company that deposits ether or bitcoin into a lending arrangement continues to face a disposal on supply and a further disposal on withdrawal; it obtains no equivalent to the collateral disregard when it borrows; and it obtains no relief in respect of liquidity pool positions. Eligible stablecoins held by a company are addressed separately through the money debt and loan relationship provisions in Part 5 of the Corporation Tax Act 2009, and that treatment is welcome, but it operates by a different mechanism and does not reach assets other than eligible stablecoins. The economic analysis does not differ by reference to the identity of the participant: a company that supplies an asset and retains an unimpaired entitlement to its return has not disposed of it, for the same reasons that an individual has not.

Institutional participation in these markets is at present constrained less by regulatory uncertainty than by the absence of a workable tax analysis. The longer the two sides of the regime remain out of step, the longer that constraint persists, and the more likely it is that positions are structured around the difference rather than around the economics.

Recommendation: We recommend that HMRC publish an indicative timetable for the corporate provisions, so that companies can plan against a known date rather than an open one. We further recommend that those provisions be published in draft for technical comment, as this measure has been, and that consideration be given to whether they can be brought into effect at the same time as Part 4A so that the two do not diverge in the interim.

Ⓓ Reconsider the reporting requirement for no gain, no loss supplies

The draft amends section 8C of the Taxes Management Act 1970 to require separate disclosure of disposals attracting no gain, no loss treatment on the acquisition or disposal of an interest in lending or automated market making arrangements. The effect is that a person who supplies assets to such an arrangement must report a transaction which, by the operation of the same legislation, produces neither gain nor loss.

This question was put to HMRC at the consultation call of 14 July 2025, when it was asked whether transactions attracting no gain, no loss treatment would nonetheless require individual reporting. We understand the concern not to depart from established reporting frameworks. We would observe, however, that the substantive rule already departs from the previous position, and that participants in these arrangements may make supplies and withdrawals frequently. A reporting obligation attaching to each such transaction reintroduces on the compliance side much of the burden the substantive rule removes, and does so in respect of transactions that produce no tax.

Recommendation: We recommend that the requirement be removed, or in the alternative that it be capable of satisfaction by disclosure of the aggregate number and value of such transactions in the period rather than transaction by transaction, which would preserve the information available to HMRC at materially lower cost to taxpayers.

Ⓔ Address arrangements falling between the defined categories

Part 4A provides for three categories: single cryptoasset lending arrangements, single cryptoasset borrowing arrangements, and automated market making arrangements. The last requires that cryptoassets of at least two types be made available and that price be set by an automated protocol by reference to the total number of all types of invested cryptoassets in the pool.

Arrangements involving a single type of asset which are not economically equivalent to a lending transaction, and arrangements which do not set price by reference to pool composition, appear to fall within none of the three categories and to be governed by ordinary disposal rules. Single-sided pools and mechanisms which maintain the stability of an asset are examples. We do not suggest that every such arrangement should attract relief; we suggest that the boundary should be drawn by reference to whether the participant retains an unimpaired entitlement to the return of the assets supplied, rather than by reference to the number of asset types involved or the pricing mechanism used.

Recommendation: We recommend either a residual category for arrangements under which a participant retains an unimpaired entitlement to the return of the assets supplied, or a power for the Treasury to extend Part 4A by regulations to further descriptions of arrangement. We note that neither cryptoasset draft as published contains a power to amend the perimeter of the regime, which will make any misalignment difficult to correct without primary legislation in a field where product structures change quickly.

Ⓕ Withholding

In our response on the proposed stablecoins tax measure we ask HMRC to confirm that the characterisation of a return as interest does not import any duty to deduct a sum representing income tax under Part 15 of the Income Tax Act 2007. Because the return on a single cryptoasset lending arrangement within the meaning of section 151YB TCGA falls within that characterisation, and because the definitions relied on for that purpose are contained in this draft rather than in the stablecoins draft, we record the same request here. In a decentralized lending arrangement there is no person in the position of the borrower who is able to deduct, and no payer who makes a payment from which a sum could be withheld.

Recommendation: We recommend that guidance addressing the returns arising under Part 4A arrangements confirm that no duty to deduct arises in respect of them.

G Commencement

The rules take effect for transactions occurring on or after 6 April 2027. We ask that consideration be given to bringing them into effect earlier.

The reason is the position that has obtained until now. The impact note published alongside the draft records that the measure will affect "about 700,000 individuals that engage in cryptoasset loan and liquidity pool transactions", and that those individuals "will benefit from having a tax framework which is easier to understand and engage with" and one which "more closely aligns with the economic substance". We agree with each of those statements. Their necessary corollary is that the framework those same 700,000 individuals have been applying until now is harder to understand and less closely aligned with economic substance. That has not been a theoretical difficulty. It has meant that a person supplying an asset to a lending arrangement has had to determine, without clear guidance and often without software capable of the analysis, whether a transaction that left their economic position unchanged was nonetheless a disposal; and it has meant advisory costs, inconsistent filing positions across taxpayers in identical circumstances, and in some cases tax paid on transactions that the Government now accepts were not economic disposals at all.

We recognise the objection to retrospective tax legislation, and we are not asking the Government to set it aside. That objection is directed at retrospective charges — at legislation that increases a liability after the event, so that a taxpayer who ordered their affairs by reference to the law as it stood is penalised for having done so. What we propose raises no such concern, because it would relieve rather than charge, and because the Government's intentions have been public since the draft was published.

The same reasoning applies with more force to the transitional charge arising on commencement. As matters stand a holder is treated as disposing of and reacquiring an exempt interest at market value immediately before 6 April 2027, so that the gain accrued under the old regime crystallises on the first day of the new one. A person who has held a position throughout the period of uncertainty is therefore asked to pay, on entry into a regime designed to relieve them, a charge measured by reference to the very period in which the treatment was unclear. We address that provision in our separate response on the proposed stablecoins tax measure, and we would regard its removal as the single most valuable change that could be made for the individuals the impact note identifies.

Recommendation: We recommend that Part 4A be brought into effect from the date of announcement, or from the date of publication of the Finance Bill, rather than from 6 April 2027. Commencement from announcement is a well-established approach and would confine the period of uncertainty to the time before the Government's intentions were known. In the alternative, we recommend that HMRC confirm in guidance that it will not open or pursue enquiries into pre-commencement periods where a taxpayer has adopted a treatment consistent with Part 4A, and that no penalty will be sought in respect of a position taken on a reasonable view of an admittedly uncertain treatment. That second recommendation requires no legislation and could be given effect immediately.

We would welcome the opportunity to discuss any of the above, and would be glad to provide worked examples of the arrangements described, including illustrations of how the reliefs would operate in practice for a participant in a decentralized lending protocol. We are grateful to the officials who have worked on this measure, both for the care evident in the draft and for the openness of their engagement with industry through the consultation process and the industry roundtables. We recognise the difficulty of legislating in a field where the underlying arrangements continue to develop, and we hope these comments are of assistance.

Respectfully,

Linda Jeng
Chief Legal & Policy Officer, Aave Labs