



MC BORRELLI
ADVISORS
LIMITED

NON-FUNGIBLE TOKENS – COMPLIANCE COMPATIBILITY

SPEEDREAD

Understanding non-fungible tokens (NFTs) isn't as easy as it's made out.

NFTs are not easily exchangeable, both in terms of concept and substance. In an age of technological sophistication, it is extremely frustrating to have an asset with such revolutionary potential, yet a noted absence of clarity holds it back. They are the key to unlocking the doors to success.

Without knowledge of the compliance landscape, firms don't stand to benefit from the lucrative commercial opportunities on offer. This

Fear not, we are on hand to help nudge you in the right direction.

In this note, we answer the following questions:

1. What are NFTs?
2. Are NFTs within scope of the financial services regulatory perimeter?
3. How do I know if NFTs are in-scope?
4. Are there any examples of in-scope NFTs?
5. How can we help?



WHAT ARE NFTS?

A non-fungible token (NFT) is a unique, non-divisible token, often connected to an object (e.g. a collectable, or in-game asset), which uses blockchain technology to record ownership and validate authenticity. Fungible tokens, for example Exchange Tokens (e.g. Bitcoins), are not unique and therefore do not qualify as an NFT.

NFTs are cryptoassets, which are essentially database entries on a distributed ledger, created and recorded according to the properties of the underlying rules (token standard). They consist of metadata that defines their object by providing details referring to them. This typically includes, but are not limited to: (a) the name of the NFT; (b) the smart contract address which manages the ownership and transferability of the NFT; and (c) an associated asset (an Associated Asset).

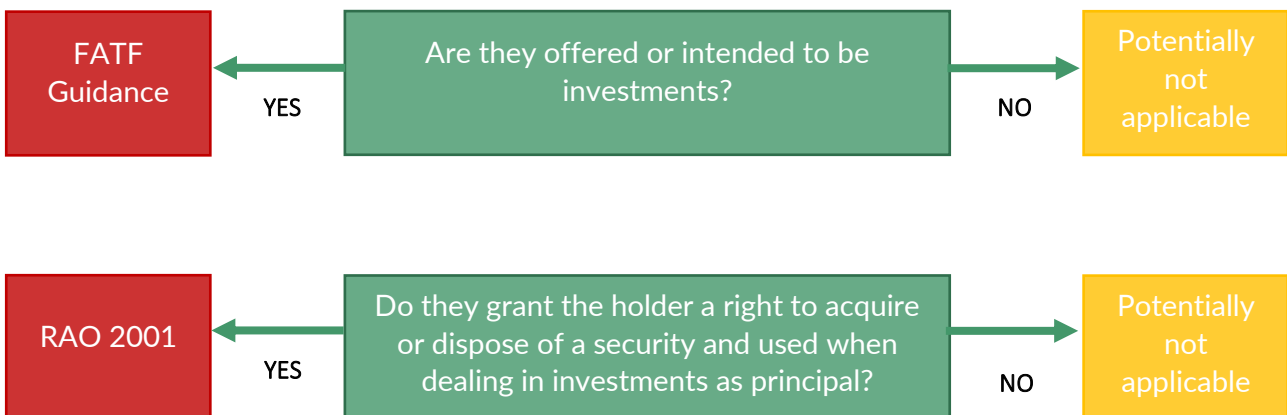


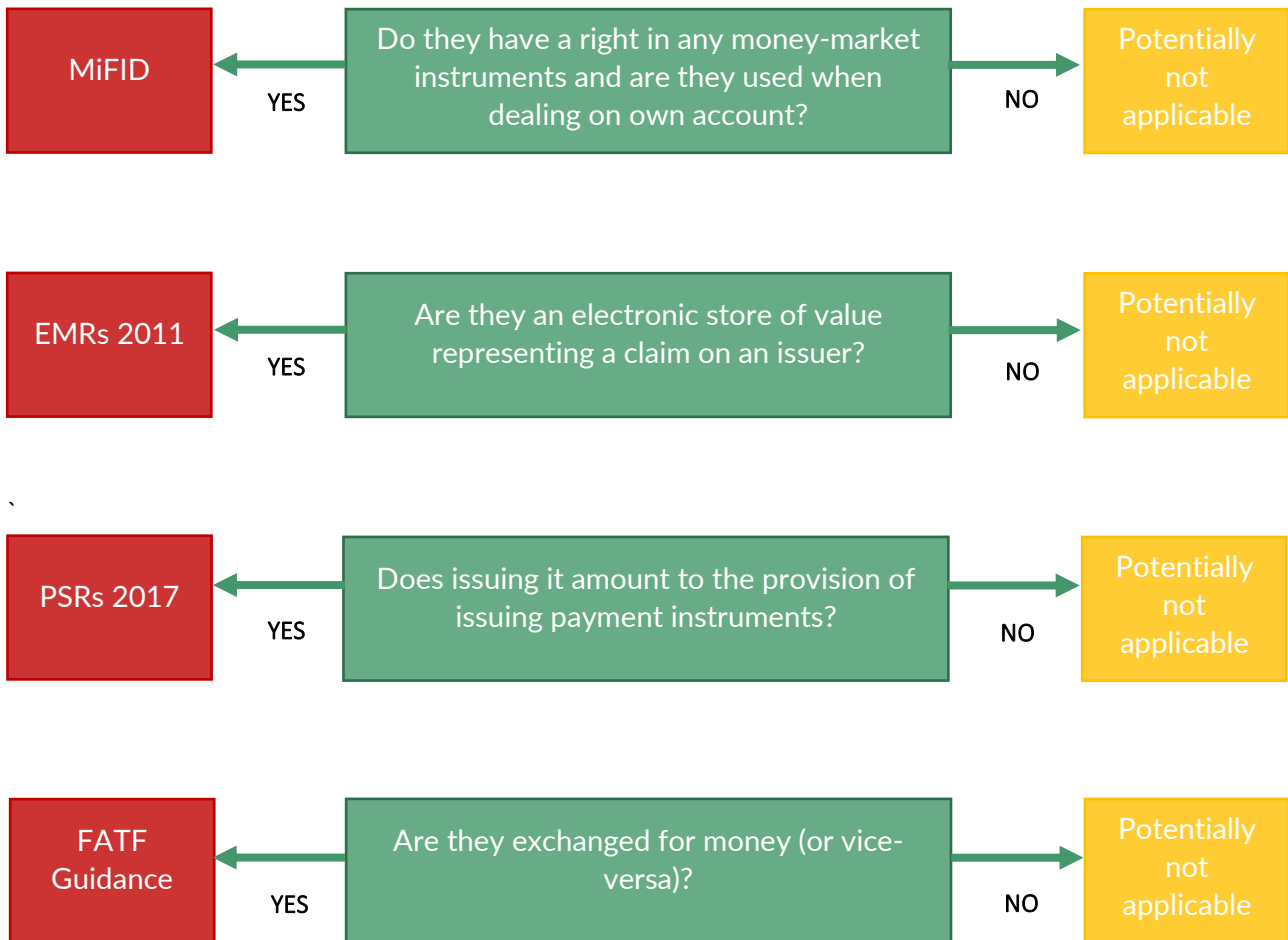
ARE NFTS WITHIN SCOPE OF THE FINANCIAL SERVICES REGULATORY PERIMETER?

The regulatory treatment of NFTs is potentially relatively wide. It depends on a combination of their use, rights attributable to it, form and the person using them or carrying on a business in relation to them. Similar to all other assets, NFTs must be assessed against the relevant criteria to applicable regulatory regime(s).

HOW DO I KNOW IF NFTS ARE IN-SCOPE?

Conducting a 'substance over form' test, similar to the 'cryptoasset business test' to determine whether an entity is conducting a regulated activity in the United Kingdom. The flowchart below also represents a method of 'process of elimination' in the determination process..



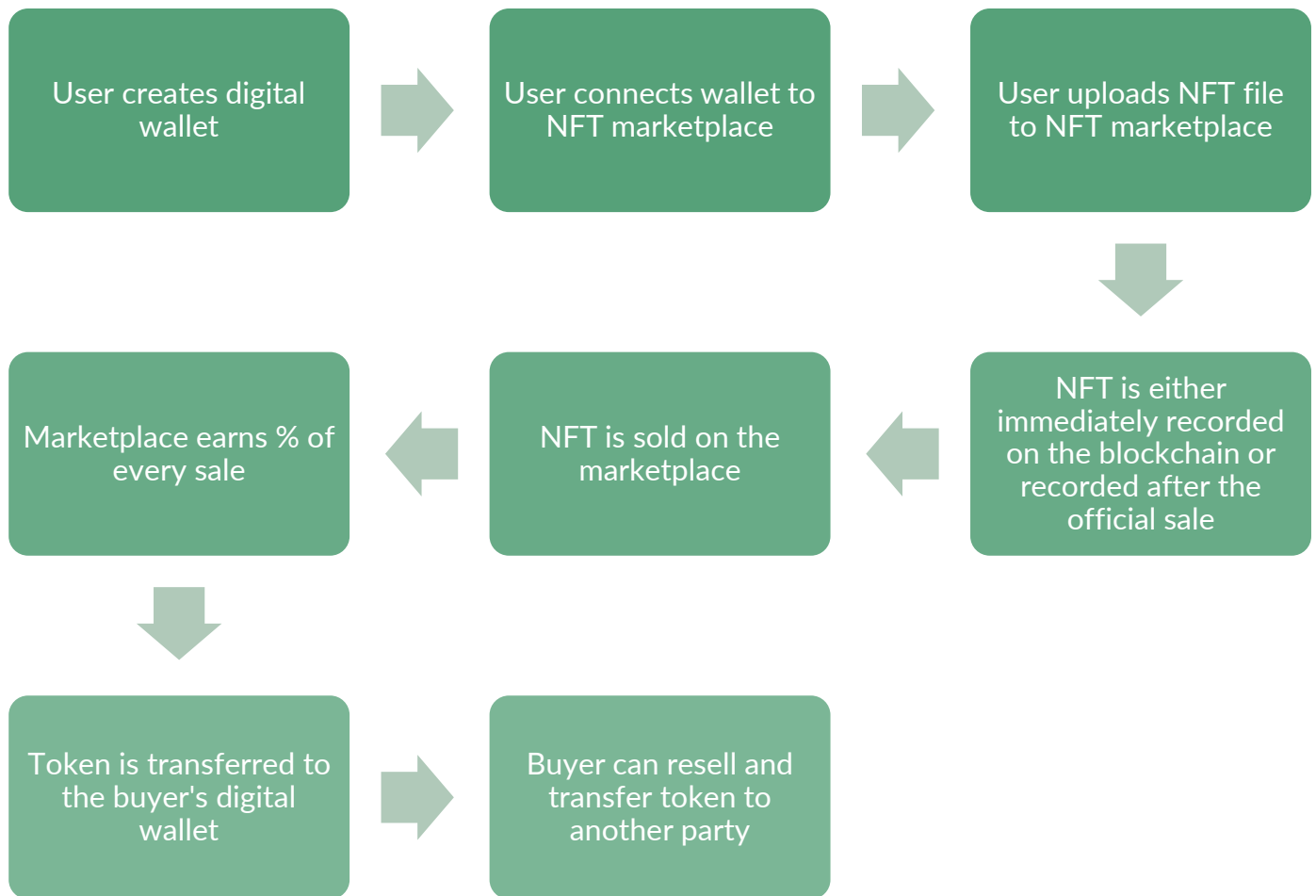


ARE THERE ANY EXAMPLES OF IN-SCOPE NFTS?

Any NFT marketplaces are likely to be considered a 'cryptoasset business' (subject to the qualifying criteria being met. Firms should be extremely careful when operating an NFT marketplace that it does not constitute operating a cryptoasset exchange (such as the exchange of NFTs for money (or vice-versa).

In this example, NFTs are sold on online NFT marketplaces for a fixed price or auctioned amount. It is a web-based platform for the sale and exchange of NFTs, akin to exchanges dedicated to cryptoassets. Certain NFT marketplaces accept payments in fiat currency, such as the great British pound, but most only accept cryptoassets. Additionally, owners can sell or trade NFTs without third-party intermediaries. Some NFT marketplace operators pay royalties to creators after each sale, facilitating continued income for artists and other content creators as NFTs of their content are transferred and re-sold. An example of a transaction process undertaken on an NFT marketplace is shown below.





HOW CAN WE HELP?

Our services (e.g. compliance advice, training, compliance audits and risk assessments) are supplied to cryptoasset ecosystem actors for all activities across all of the industry segments, particularly the **Exchange** segment.

Our clients benefit from comprehensive compliance coverage of the United Kingdom regulatory perimeter together with institutional grade policies, procedures and processes modelled on internationally recognised standards. For the benefit of our clients, we have an in-depth understanding of multiple domains of financial regulation, such as securities, derivatives, exchanges, investment management, bank supervision, financial crime and risk management.



WHO ARE WE?

MCBorrelli provides you with crypto compliance as a service.

At MCBorrelli we have combined decades of experience in financial regulation which has built the foundation of our understanding of the way that crypto is regulated and looks ahead to future regulation.

Our skill and experience mean that we can give you the crypto compliance service that you need.

We will work with you to identify the relevant issues, identify the best solution and then implement that solution. And along with that we will bring you up-to-date training and audit services. For all your staff and for all parts of your business.

For a **FREE CONSULTATION** email mb@mcb-ltd.co.uk

