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**Article**

# Article

# Artificial intelligence & Trusts and Trustees: a new dawn of investment opportunities and risks?

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## ABSTRACT

This article examines the opportunities and risks that can be created for trusts by generative artificial intelligence. In particular, the work is concerned with how AI investment tools may affect trusts, given their growing use in investment management. It is argued that trusts can be exposed to the risks and opportunities that this technology may create through the trustees' general investment power. However, currently, trustees can undertake appropriate risk management by exercising their section 4 and 5 duties relating to investment. The work ends by suggesting that targeted statutory reform and guidance is needed to deal with AI risks.

## INTRODUCTION

Intriguingly, in 2024, Phillips wrote a brief for the Roosevelt Institute, surmising that:

> One day soon, you may be able to ask Siri to pay your cell phone bill from funds in your checking account. Or ask Alexa to recommend investments tailored to your risk profile. Or tell Gemini to manage your investing portfolio so you can travel in retirement. Such capabilities will be possible thanks to generative artificial intelligence, or Generative AI.[1]

Inspired by this excerpt, this article explores the opportunities and risks that are created for trusts and trustees by the exponential growth of artificial intelligence (AI). In particular, the work is concerned, as Phillips suggests, with the type of AI known as 'generative AI.' A short description of AI is provided in a below section for context.

To achieve its purpose, this article focuses specifically on the growing integration of AI in the trustees' investment management function, arguing that risk and liability can emerge through the legal title holder's statutory general power of investment. It is hereby submitted that while AI's increased influence is inevitable and will likely lead to some opportunities for trust funds, trustees should nonetheless proceed with caution and be alert to their statutory and common law duties owed to their beneficiaries. With little reform or guidance on how trustees should use this new technology, this article argues particularly that risk management can be undertaken by following the trustees' statutory duties concerning investment, as laid down in the Trustee Act 2000.[2]

The author of this article acknowledges that AI could indeed impact trusts and trustees more broadly than simply investment. But the investment duty is a good starting point to assess the emerging opportunities and risks posed, as it is already clear that AI is being utilised in the investment management and financial services industries.[3] On the one hand, a trust fund can be rewarded by increased profits by the instigation of AI investing strategies and tools. On the other, poor investment management can lead to losses for a fund.

In April 2024, Latham wrote a blog for the Charity Commission covering this interesting, emerging subject.[4] In an area where specific literature on the subject matter is scant, Latham's Charity Commission blog has proven to be a very

[1] Todd Phillips, 'The Risks of Generative AI Agents to Financial Services' (Roosevelt Institute, 26 September 2024) <The Risks of Generative AI Agents to Financial Services—Roosevelt Institute> accessed 29 October 2024.

[2] Trustee Act 2000.

[3] 'AI and the Investment Management Industry' (November 2021) <https://www.theia.org/sites/default/files/2021-11/AI%20and%20the%20Investment%20Management%20Industry%20FINAL.pdf> accessed 29 October 2024.

[4] Paul Latham, 'Charities and Artificial Intelligence' (*gov.uk*, 2 April 2024) <https://charitycommission.blog.gov.uk/2024/04/02/charities-and-artificial-intelligence/> accessed 29 October 2024.

important influence for the writing of this article. Not only does the blog highlight that AI is currently being used by charities, but it also makes a point of reminding trustees of their duties and of the potential risks involved in using generative AI investment tools.[5] Nevertheless, this article seeks to build on that work by looking at trusts and trustees more generally through the statutory scheme regulating investment. As such, it provides a deeper exegesis of the law surrounding the power and duties relating to trustee investment than Latham does.

This article begins by explaining what AI is and what it can do in relation to investment management. This section is important because it shows that although AI has been extant for many years, it is the creation and growth of generative AI that is the concern. Ultimately, the capabilities of this new form of AI are much more far reaching than other derivative forms of AI, as Phillips' quote demonstrates above.

## WHAT IS AI?

IBM defines AI as 'technology that enables computers and machines to simulate human learning, comprehension, problem solving, decision making, creativity and autonomy.'[6] Therefore, it describes a machine's ability to think cognitively like a human.[7] The things that can be done by applications and devices equipped with this highly fascinating but somewhat dystopian technology are legion.[8] Indeed, the technology's capabilities range from understanding human language and making detailed decisions and recommendations on a plethora of subject matter, to allowing cars to 'self-drive.'[9]

Interestingly, Latham suggests that a form of machine learning, a derivative type of AI, 'has been used in the healthcare industry since the 1970s.'[10] In fact, IBM suggests that machine learning was first exhibited by machines as early as the 1950s.[11] Nevertheless, the recent, intense interest in this technology has emerged because of the breakthroughs that have been established in 'generative AI' (also known as 'gen AI'), e.g. the ChatGPT tool and other variants of that technology.[12] A detailed exploration of the workings of generative AI is perhaps unhelpful for this article, given the journal's audience and the legal focus of the work. However, the IBM website provides a very helpful breakdown of not only how generative AI works, but also how derivative forms of AI (e.g. 'machine learning' and 'deep learning') operate.[13]

## THE RISE OF AI IN TRUSTS

Succinctly, this subject is highly important because, while forms of AI have existed for some time, the application of generative AI is new and developing rapidly. There is evidence which suggests that AI is increasingly being used in trustee operations and is likely to increase still further in the future. While our ability to determine the use of AI in private trusts is scant, there is clear and recent evidence of an increased use of AI in the charity sector;[14] this perhaps serves as a good reflection of a paradigm that may affect trusts and trustees more generally.

Latham's research, which concerns charitable trusts specifically, demonstrates that as of 2023 '35% of charities were already using AI for certain tasks and that a further 26% had plans to do so in the future.'[15] The Charity Commission refers to a report, titled *Charity Digital Skills*,[16] which neatly demonstrates the impact that generative AI has, and will likely have, on the charity sector.[17] The *Charity Digital Skills* (2023) document states that 'The other big change of 2023 has been the rapid development of generative AI tools.'[18] The report goes on to opine that 'we have seen an explosion of interest in AI, with many charities asking what this could mean for them, how they could use these tools and whether they should.'[19] As such, already, just over 1 in 4 charities are now using AI operationally.[20]

Given the recent growth of AI in the charity sector, it is argued here that this will be replicated more broadly by private trusts and pension funds. Latham wisely suggests that trustees must 'Remain mindful of trustee duties and managing AI risks.'[21] He suggests that 'While there are opportunities, it is wise to proceed with caution as there are risks involved that need to be considered and managed.'[22]

## HOW IS AI USED BY INVESTORS IN INVESTMENT MARKETS?

The use of AI in investment markets is not a recent development.[23] What has changed in terms of AI technology's use is the exponential advancements in computing power and the growth of data volume.[24] The Consumer Federation of America has complied a useful report which provides an insight into how AI is used by investors in investment markets; this report is titled *Opportunities and Risks of Artificial Intelligence in Investment Markets*.[25] Of course, we must consider the jurisdictional differences (as the document is aimed at the United States), but the

5 ibid.
6 Cole Stryker and Eda Kavlakoglu, 'What is artificial intelligence (AI)?' (*IBM*, 16 August 2024) <What Is Artificial Intelligence (AI)? | IBM> accessed 29 October 2024.
7 n 4.
8 n 6.
9 ibid
10 n 4.
11 ibid.
12 n 6.
13 ibid.
14 n 4.
15 ibid.
16 ibid.
17 *Charity Digital Skills Report 2023* (2023) <Charity-Digital-Skills-Report-2023.pdf> accessed 29 October 2024.
18 ibid, 5.
19 ibid.
20 ibid, 15.
21 n 4.
22 ibid.
23 n 6.
24 Micah Hauptman, Opportunities and Risks of Artificial Intelligence in Investment Markets (Consumer Federation of America, September 2024) <https://consumerfed.org/wp-content/uploads/2024/10/Opportunities-and-Risks-of-Artificial-Intelligence-in-Investment-Markets-Formatted-Final.pdf> accessed 29 October 2024, 5.
25 ibid.

report's findings are nonetheless still interesting and relevant for trustees based in the UK.

AI is being used at several points. The technology is being used by firms during their investor-facing communications, to target potential customers and to further understand the investment interests of customers.[26] However, there is also an increasing use of AI during firms' investment processes.[27] The 2024 report states that:

> Firms are also using AI to identify and assess investment opportunities and risks, and manage portfolios. For example, some firms are using AI to buy and sell securities that have particular characteristics, or to design portfolio strategies. In addition, firms are using AI to route and execute trades more efficiently.[28]

The 2024 report acknowledges that AI 'has the potential to deliver opportunities for investors and investment firms.'[29] For instance, it states that AI technology allows investors to expand their 'access to higher-quality products and services, bring greater participation in markets, lower costs, improve the user experience, enhance decision making, and ultimately provide better outcomes.'[30] Thus, the use of AI technology is something that is very likely to increase for trustee-investors.

## WHAT ARE THE RISKS POSED BY AI?

The potential risks for investors posed by using AI technology during their investment decision making, for the purposes of this article, fall into three categories.

The first category of risks relates to AI technology and its use by investment firms and participants. This category of risks is ultimately capable of affecting investors broadly, and, as a corollary, trustees-investors will be impacted by the wider issues associated with using AI investment tools. Hauptman provides one of the best summaries of this type of AI risks as they relate to investment markets and investor participants.[31] They are as follows:

- AI washing.[32]
- Unsound investor-facing products and services.[33]
- 'Black box' risk, model risk, and data risk.[34]
- Lack of clear disclosures of AI-associated risks.
- Bias and conflicts of interest.[35]
- Privacy concerns and the misuse of sensitive information.[36]
- Inadequate due diligence and monitoring of third-party service providers.[37]

The second category of risks is broader still, affecting the financial and investment markets widely. Trust funds and trustees would, as would many other investors, be impacted by the wider market-based risks that could be created by generative AI. This category is often labelled as 'systemic risk,'[38] and is well explained in the following way:

> First, models may react with one another in unexpected ways. To the extent that the models make similar decisions based on similar data, it could lead to herd-like behaviour, which could increase systemic risk and market volatility, potentially leading to financial crises. [ … ] Second, the concentration of AI tools among a few systemically important provides may give rise to systemic risk. This could happen if a firm's failure would jeopardize the rest of the economy.[39]

The third category of risks is those that impact trustees specifically. As far as the author can foresee, the specific risks surrounding AI for trusteeship include:

- Personal liability to 'account'—should a trustee commit a breach of trust by incorrectly exercising their powers and duties using generative AI, he may have to reconstitute the losses incurred by the investment decisions.
- Regulatory risk—at the moment, there is a need for updated guidance and, where necessary, law reform, and trustees are exposed to regulatory gaps that could prove problematic.
- Reputational risk—this is particularly important for professional trustees, as using AI may create a reputational risk for some trustees that do not conduct the appropriate level of due diligence about the technology or firms using it.
- Ethical and governance risks—trustees must be aware that AI may not adopt the beneficiaries' desired ethical and governance strategies to achieve the desired outcomes.
- Fiduciary conflict—the use of AI may create conflicts in a trustee's fiduciary relationship with their beneficiaries.

Now that the risks have been outlined, the next section examines the sections of the statutory scheme.

## HOW CAN TRUSTEES INCUR AI OPPORTUNITIES AND RISKS DURING INVESTMENT?

This article argues that the trustee power of investment is a primary area where AI opportunities and risks may attach to

26 ibid.
27 ibid, 6.
28 ibid.
29 ibid.
30 ibid.
31 ibid.
32 ibid, 7: Defined as 'a term used to describe the practice of companies' exaggerating or misrepresenting their use of AI technology in their products, services, or operations to attract customers and increase revenues.'
33 ibid, 8.
34 ibid: Defined as 'where it is difficult, if not impossible, to understand or explain how models' function, including what drives the models' outputs and the data that the models rely upon to generate their outputs.'
35 ibid, 9.
36 ibid, 10.
37 ibid, 11.
38 ibid, 11.
39 ibid, 11-12.

trustees, and, as such, this is the article's focus. However, it is acknowledged that the use of AI in the administration of trusts is broader than merely making investments decisions. For instance, AI could be used to streamline most, if not all, of the administrative tasks of day-to-day trusteeship.[40]

Before looking in detail at the investment duty, it is necessary to set out the applicable duty of care that applies to the trustees' investment power.

### The duty of care

It is important to state that the statutory duty of care applies to the trustees' power of investment, and ultimately, it would be remiss of this work to omit some description of it.

The statutory 'duty of care' is outlined at Part I of the Trustee Act 2000.[41] Under section 1(1) a trustee 'must exercise such care and skill as is reasonable in the circumstances.'[42] Subsection (1) distinguishes between amateur and professional trustees, suggesting that the duty is applied differently to these two types of trustees.[43] Virgo, for instance, states that '[F]or example, a solicitor who acts as a professional trustee will be expected to comply with a higher standard of care than an amateur trustee, because of the knowledge and experience that it is reasonable to assume that the solicitor will have acquired.'[44] It is interesting to wonder how that distinction applies to the use of generative AI in trusteeship.

The presence of this legislative framework, however, does not impugn the ability of a settlor to limit the duty of care's use through the trust instrument.[45] Exception is made, however, with pension funds, as per section 33 of the Pensions Act 1955.[46]

### The power of investment

Directly following the duty of care, the power of investment for trustees is set out at Part II of the Trustee Act 2000. This article argues that this is where AI is likely to pose the greatest risk for trustees, since significant losses can be incurred to the trust fund by the introduction of poor investment strategies.

As with the duty of care, the general power of investment is subject to restriction or exclusion imposed by the trust instrument, or by the enactment or provision of statute.[47] This Part of the Act applies to all trusts, whether created before or after its commencement.[48] However, a provision in a trust instrument made before 3 August 1961 will not act to restrict or exclude the general power.[49]

Section 3 of the Trustee Act 2000 outlines the 'general power of investment.'[50] Subject to Part II's provisions, this section 3 power allows a trustee to make 'any kind of investment that he could make if he were absolutely entitled to the assets of the trust.'[51] Subsection (3) does not permit a trustee to make investments in land other than in loans secured on land, but this must be read in the light of section 8 of the 2000 Act.[52]

This article argues that the statutory scheme setting out a trustee's ability to invest trust property demonstrates an area of both opportunities and risk for trusts and trustees. The author is not arguing here that generative AI should not be used to assist trustees in making investment decisions for their beneficiaries. However, like Latham, it is advised that they should proceed with caution.[53] As outlined above, the section 3 power is significant because it gives trustees a significant oversight over the fund. As legal title holder to the property, affording the trustees such a power makes complete sense: their role is ultimately to administer the trust.

From an AI risk perspective, the section 3 power is potentially problematic because it provides trustees with a significant amount of discretion, and perhaps, a false sense of connection to the property. Trustees are of course in the unique position that they do not own the property absolutely and must act in the best interests of their beneficiaries. If a trustee uses AI to assist with their section 3 general power, it could lead to losses for the trust fund. Thus, trustees must think carefully about the equitable title holder's rights and ensure that the trust is not harmed by poor decision making through the power's exercise.

The section 3 general power is further accompanied by two statutory duties, contained in sections 4 and 5 of the 2000 Act. These duties are outlined further in a section below. It is argued in this article that a trustee must closely follow these duties, not only to reduce the likelihood of personal liability generally, but also to obviate the risks of relying on AI investment tools.

### Delegation to agents

The article has established that there is an increasing use of AI tools in the investment markets and amongst trusts. Not only could trustees deploy such tools themselves to make and review their trust investments, but they could also employ investment firms or other people with investment expertise to assist them with their section 3 general power.

A trustee's ability to hand over power to others is shown in the statutory provisions of the Trustee Act 2000 dealing with delegable functions. As delegation is made possible by the statutory scheme, the potential liability for the acts of agents

[40] 'Navigating the Generative AI Revolution: A Strategic Guide for Trustees and Family Offices' (*FIDUC-IA CORP*, 18 August 2024) <Navigating the Generative AI Revolution: A Strategic Guide for Trustees and Family Offices–FIDUC-IA CORP> accessed 29 October 2024.
[41] Trustee Act 2000, pt I.
[42] ibid, s 1(1).
[43] ibid, s 1(1)(a)-(b).
[44] Graham Virgo, *The Principles of Equity & Trusts* (5th edn, OUP 2023) 423.
[45] ibid.
[46] ibid, 428.
[47] Trustee Act 2000, s 6(1)(b).
[48] ibid, s 7(1).
[49] ibid, s 7(2).
[50] ibid, s 3(1)-(2).
[51] ibid.
[52] ibid, s 8.
[53] n 4.

must also be explored. Indeed, it is a possibility that an investment firm or other agent employed by a trust could use an AI investment tool to manage a trustee's portfolio.

Pursuant to Part IV of the Trustee Act 2000, trustees possess a statutory power to employ agents,[54] either one or more in number.[55] Section 11(1) states that trustees 'may authorise any person to exercise any or all of their delegable functions as their agents.'[56] Further, trustees have a power to appoint nominees[57] and custodians.[58] While acting for the trust, the trustees must review the arrangements under which the delegation has been put into effect,[59] and, where appropriate, exercise any power of intervention that they hold.[60]

Section 23(1) of the 2000 Act states that 'A trustee is not liable for any act or default of the agent, nominee or custodian unless he has failed to comply with the duty of care applicable to him.'[61] This duty of care applies when entering into the arrangements,[62] or in accordance with the duties under section 22.[63] Thus, the risk of personal liability for the acts of agents will be greatly reduced so long as a trustee complies with his duty of care.

## RISK MANAGEMENT

Having now established a principal area of AI risk for trusts and trustees, this section goes on to assess the various ways that trustees can manage their risks. As already established, this article does not reject AI as a tool for trustees. Nevertheless, it does advise proceeding with caution before using such fledgling technology to help make investment choices, either when selecting new investments or reviewing the trust portfolio.

To begin, the statutory scheme surrounding the section 3 general power of investment invokes two duties for trustees when making or reviewing investments. It will be shown that these duties can manage the risks posed to trusts and trustees by using AI.

### The standard investment criteria

The trustees' section 3 investment power is obviated by the 'standard investment criteria' (hereafter, 'SIC'), as set out in section 4 of the Trustee Act 2000.[64] This section explains how the SIC can help trustees to circumvent the risks posed to trustees from generative AI, but first a brief overview of section 4 is required.

According to this provision, trustees have a statutory duty to have regard to these criteria during their investment decision making.[65] Subsection (2) of this section states that trustees must 'from time to time' review the investments of their trusts.[66] In so doing, they must consider if the SIC should be regarded and whether the investments should be varied.[67] The two criteria that make up the SIC are outlined at subsection (3) as: (a) the suitability of the investments to the trust;[68] and (b) the need to diversify the trust's investments in so far as it is appropriate to do so.[69] Importantly, these criteria align with the modern investment approach, known as 'portfolio theory,' which describes the process of looking at the portfolio in the round and not at individual investments.[70]

In short, the need to follow the SIC is significant because it can obviate AI investment risk. For instance, if a generative AI investment tool is used by trustees to help understand and make investment choices, any information obtained from the technology should be looked at in the light of the SIC. Due diligence is therefore assured by the SIC because it forces trustees to think specifically about their own trust funds, based on investment suitability and the diversity of their respective portfolios. It is indeed hoped that the SIC will mean that trustees do not blindly follow AI investment technology recommendations, if this should become a significant and widely used tool in the future.

### The need to obtain and consider proper advice

Further, section 5 of the Act sets out the duty for trustees to consider 'advice' when making investment choices.[71] The legislation ordains the following in relation to this statutory duty:

> Before exercising any power of investment, whether arising under this Part or otherwise, a trustee must (unless the exception applies) *obtain and consider proper advice* about the way in which, having regard to the standard investment criteria, the power should be exercised.[72]

Additionally, this duty to obtain and consider proper advice extends to reviewing the investments of the trust.[73] The exception, outlined at subsection (3), states that if a trustee 'reasonably concludes' that obtaining advice is unnecessary or inappropriate in all the circumstances, then they are free of this duty.[74] 'Proper advice' is thereafter defined at subsection (4) as 'the advice of a person who is reasonably believed by

54 Trustee Act 2000, s 11(1).
55 ibid, s 12(1).
56 ibid, s 11(1).
57 ibid, s 16(1).
58 ibid, s 17(1).
59 ibid, s 22(1)(a).
60 ibid, s 22(1)(b).
61 ibid, s 23(1).
62 ibid, s 22(1)(a).
63 ibid, s 23(1)(b).
64 ibid, s 4.
65 ibid, s 4(1).
66 ibid, s 4(2).
67 ibid.
68 ibid, s 4(3)(a).
69 ibid, s 4(3)(b).
70 n 44, 430-431.
71 Trustee Act 2000, s 5.
72 ibid, s 5(1) [Italics added].
73 ibid, s 5(2).
74 ibid, s 5(3).

the trustee to be qualified to give it by his ability in and practical experience of financial and other matters relating to the proposed investment.'[75]

As with the trustees' section 4 duty, this article argues that section 5 affords trustees some degree of risk management against generative AI risks during their exercise of the section 3 general power. If a trustee uses an investment tool powered by generative AI, the section 5 duty requires trustees to still obtain and consider proper advice from a 'person.' Therefore, even if AI is used to assist making and reviewing investment decisions, the need to consult qualified people (or people that the trustees reasonably believe are qualified) is likely to insulate them from falling foul of personal liability and other risks.

The same conclusion can be made if trustees use an investment firm, which also uses generative AI to make its investment choices—in consulting the firm, the trustees have still discharged their statutory duties, and, as above, the statutory provisions concerning delegation allow liability transfer only under specified circumstances. Additionally, the section 5 duty would seem to act to reduce the risk of AI washing and unsound investor-facing products and services, since trustees must evaluate what is proper in the circumstances. Of course, it must be recognised that any risk when investing cannot be eliminated completely.

### Is there a need for new guidance?

Latham, in relation to AI and the regulatory landscape, suggests that the Charity Commission does not 'currently anticipate producing specific new guidance on the use of AI, preferring—as for cryptocurrency—to encourage trustees to apply our existing guidance to new technologies as they emerge.'[76] However, Latham goes on to say that the Commission will update their guidance where appropriate and undertake further work on AI to learn about the potential opportunities and risks involved.[77] To achieve this goal, the Charity Commission will work with the sector, central government and other regulatory bodies.[78]

In brief, this article agrees with the Charity Commission's conclusions on the necessary legal response to generative AI. Such a strategy, for instance, can be seen in the Law Commission's *Digital Assets Report* (2023), which outlines an approach that can be adopted for generative AI and trusts and trustees.[79] There, the Law Commission instigated a 'tripartite approach' to tackling the knotty legal issues surrounding digital assets, including cryptocurrencies.[80] The three-pronged recommendations of the Law Commission emphasised: (i) prioritising common law development; (ii) undertaking targeted statutory law reform; and (iii) garnering support from industry-specific technical experts.[81]

With respect to generative AI in trusts law, a similar strategy should be taken. At this point, it would be wrong, costly, and unnecessary to undertake widespread legislative changes. Encouragingly, the common law has proven itself resilient and robust enough to deal with a range of legal issues arising from digital assets.[82] However, targeted statutory law reform and guidance is required to more greatly protect trusts and trustees. This article is concerned with identifying the opportunities and risks, but future research could act to further investigate and recommend areas for law reform and new guidance.

This article believes that future guidance is required to highlight the range of opportunities and risks posed by generative AI to trusts and trustees. The importance of proper risk management and due diligence should also be explored and explained to the sector. Of course, given AI's complexity, any future guidance or reform would have to be undertaken with the support of people with recognised technical expertise, and this is particularly important given the rapid rate at which AI seemingly develops.

## CONCLUSION

This article has explored the opportunities and risks for trusts and trustees by way of the section 3 power of investment in the Trustee Act 2000. In so doing, it has shown that generative AI is increasing—and is likely to increase further still—as an investment management tool.

Generative technology is likely to be used by trustees themselves, or by the investment firms and other agents that are employed by trustees to undertake their delegable investment functions. This article has suggested that there are three categories of AI risks that trustees should be alert to, and these include: (i) risks to and from investment participants and firms; (ii) wider market-based risks or systemic risks; and (iii) trustee specific risks.

It has been shown here that trustees can be exposed to these risks through breaching their powers and duties contained in the statutory scheme relating to investment. Nevertheless, while the extent and nature of these risks are yet to be determined, this article has argued that trustees can currently insulate themselves from risk exposure by complying with their section 4 and 5 duties relating to investment making and review.

In considering whether law reform and guidance is required, the article agrees with the Charity Commission's approach outlined by Latham in 2023. This approach has been compared to the recent recommendations ('the tripartite approach') of the Law Commission in relation to how the law should deal with digital assets—that is, targeted statutory reform and guidance should be preferred over widespread regulatory overhaul, and industry experts should be consulted as and when it is necessary to do so.

## AUTHOR BIOGRAPHY

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75 ibid, s 5(4).
76 n 4.
77 ibid.
78 ibid.
79 Law Commission, *Digital assets: Final report* (Law Com No 412, 2023) <Law Commission Documents Template> accessed 29 October 2024.
80 ibid, 8-10.
81 ibid.
82 See, inter alia, *AA v Persons Unknown* [2019] EWHC 3556 (Comm).

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