

The United Kingdom Introduces New Rules for Marketing Cryptoassets

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The UK's Financial Conduct Authority ("FCA") has introduced robust new rules for those marketing cryptoassets to UK consumers. In [Policy Statement PS23/6](#), new requirements covering financial promotions for all firms aimed at UK consumers, regardless of where the promoter is based or what technology they use, designate cryptoassets as "Restricted Mass Market Investments." This means invitations or inducements to engage in investment activities in relation to "qualifying cryptoassets" will be subject to the restrictions outlined below. Broadly, a qualifying cryptoasset is any cryptographically secured digital representation of value or contractual rights that is transferable and fungible but does not include e-money (as defined), nor an existing controlled investment.

Legal Promotions of Cryptoassets

There will now be four ways to promote to UK consumers legally: (1) the communication is made by an FCA-authorized firm (whose authorisation is not solely under the Electronic Money Regulations nor the Payment Services Regulations); (2) the communication is approved by an authorised firm that has passed through a regulatory gateway legislation which is currently with Parliament; (3) the communication is made by or on behalf of a cryptoasset business that is registered with the FCA under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 but which is not otherwise authorised by the FCA; or (4) the communication falls under an exemption in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 ("FPO"). Note that existing FPO exemptions for promotions to high-net-worth individuals and self-certified sophisticated investors will not apply to cryptoassets, and the UK Government is also carving out exemptions for associations of high-net-worth or sophisticated investors and promotions in association with the sale of goods and supply of services.

Risk Warnings and Summaries

The new rules include requirements for risk warnings, including wording, prominence, and a link to a risk summary. Prominence is calibrated to different mediums – for example, digital promotions should not require consumers to take any further steps in order to see the full risk summary after they have clicked on the hyperlink in the risk warning.

Other Restrictions

1. Incentives to invest, such as “refer a friend” and new joiner bonuses, are now prohibited.
2. There must be a “cooling off” period of 24 hours between the consumer receiving a direct offer financial promotion and the consumer being able to invest.
3. There are new requirements for personalised risk warning pop-ups.
4. Appropriateness rules for promotions are now more robust, so consumers’ knowledge and experience are thoroughly vetted.

The rules are expected to have effect from 8 October 2023.

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