

04 July 2023

Cryptoasset firms marketing to UK consumers must get ready for the financial promotions regime by 8 October 2023

Dear Sir/Madam,

We write to inform you that the UK Government has now legislated to bring qualifying cryptoassets within scope of the financial promotion regime. From 8 October 2023 all firms marketing cryptoassets to UK consumers, including firms based overseas, must comply with the financial promotion regime.

The [definition of a financial promotion](#) is broad and applies in a technologically neutral way. A wide range of communications made by a firm are capable of being financial promotions including websites, mobile apps, social media posts and online advertising. Financial promotions communicated from outside the UK, but which are capable of having an effect in the UK, are within scope of the regime. This applies even if the promotion is not solely targeted at UK consumers. We expect that most, if not all, cryptoasset firms with UK retail customers will be within scope of the regime.

**Routes for legally communicating financial promotions to UK consumers**

When the regime comes into force on 8 October 2023, there will be four routes to lawfully communicate cryptoasset promotions to UK consumers:

1. The promotion is communicated by an [authorised person](#).
2. The promotion is made by an unauthorised person but approved by an authorised person.
3. The promotion is communicated by a cryptoasset business registered with the FCA under the [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (MLRs).
4. The promotion otherwise complies with the conditions of an exemption in The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 ("the Financial Promotion Order").

Promotions that are not made using one of these routes will be in breach of section 21 of the Financial Services and Markets Act 2000 (FSMA), which is a **criminal offence punishable by up to 2 years imprisonment, an unlimited fine, or both**. We will take robust action against persons illegally promoting to UK consumers. This may include, but it is not limited to, placing firms on our warning list, taking steps to remove or block any illegal financial promotions such as websites, social media accounts and apps, and enforcement action.

Promotions communicated through routes 1, 2 or 3 need to comply with FCA rules. Our rules for cryptoasset financial promotions are set out in our [Policy Statement \(PS23/6\)](#).

In line with the regulatory design principle of “*same risk, same regulatory outcome*” we have taken a consistent approach to cryptoassets to that taken for other high-risk investments. This requires firms to use specific risk warnings and positive frictions (such as a 24-hour cooling off period for first time investors) in their consumer journeys, in addition to the overarching requirement that their promotions are fair, clear and not misleading.

On 8 June 2023, we also published a [Guidance Consultation \(GC23/1\)](#). This aims to provide additional clarity for firms on the standards we expect so their financial promotions are fair, clear and not misleading. We welcome responses to the consultation by 10 August 2023.

## **Preparing for the financial promotions regime**

All cryptoasset firms marketing to UK consumers must get ready for the financial promotions regime by 8 October 2023. Our website sets out our [expectations](#) for how firms should prepare for this regime.

Unregistered or unauthorised cryptoasset businesses marketing to UK consumers should:

- Consider which of the four legal routes they will use to make their financial promotions, how they will meet the requirements of that route and the associated FCA rules that apply to cryptoasset promotions set out in [PS23/6](#).
- Carefully consider how they will deal with UK customers if they are unable to communicate financial promotions to them. We expect firms to clearly communicate any changes to services they will provide to UK consumers and give consumers adequate time to respond to any changes before they go into effect.
- If firms decide to no longer provide services to UK consumers, we expect them to have in place orderly wind-down plans to minimise any impact on UK consumers. Firms may find our [Wind-down Planning Guide](#) useful in considering their plans.

## **Registration under the MLRs**

We expect the main way cryptoasset businesses will be able to communicate financial promotions to UK consumers is by being registered with us under the MLRs. There is information on our website about the [anti-money laundering and counter-terrorist financing \(AML/CTF\) regime](#) and information for firms seeking [registration](#) under the MLRs.

If you apply for registration, we will ask for the information specified on our website and in our application form. This information is required in order to assess your application. When we review your application, we may also require additional information to help us complete our assessment. You should factor in this possibility and the time needed to gather any additional information that we request.

You will also need to pay a registration fee.

Once, and only once, we have all the information we need, we have up to three months to assess your application.

Prior to submitting a registration application, you should ensure that you have provided all of the information requested. We expect all documents to be final versions that have been reviewed thoroughly and appropriately signed off before submission.

We will not review or comment on draft documents as part of our assessment of an application and poor quality/incomplete submissions will be rejected. In this scenario, you will need to re-apply when you can provide all of the information required.

It is important that you fully disclose all relevant information. We take any non-disclosure of information that could impact our assessment very seriously, especially where there is an apparent attempt to mislead. If in doubt, it is better to disclose information rather than withhold it. We will refuse your application if false or misleading information is provided and may take further action if the false or misleading information was provided knowingly or recklessly.

While we are proactively highlighting that cryptoasset businesses that market to UK consumers will soon need to comply with the new UK financial promotions regime, it is not our role to work with applicants to prepare their applications. If you need help in preparing your application, you should seek independent compliance/legal advice.

There is further information regarding [good and poor quality applications](#) on our website. Firms should review this material before submitting an application.

If your firm is considering re-applying for registration after a previous unsuccessful application, we would expect your firm to have addressed all of our concerns and feedback prior to submitting another application. Where this is not the case, we will reject your firm's submission.

## Next steps

You should carefully consider this letter and how the financial promotions regime will impact your business. You should ensure your business is ready to comply with the financial promotions regime by 8 October 2023.

We will take robust action against persons illegally promoting to UK consumers. This may include, but it is not limited to, placing firms on our warning list **requesting take downs of websites, social media accounts, apps and all other promotions that are in breach, and enforcement action.**

## Please confirm receipt of this letter.

To help us understand what steps your firm is taking to prepare for this regime, **we request that you respond to the questions set out in the survey linked [here](#).** We would be grateful if you could submit your responses as soon as possible, but in any case, no later than **4 August 2023**. Please email [pda@fca.org.uk](mailto:pda@fca.org.uk) if you have any questions about the survey.

We will be arranging roundtables in July on our expectation of applicants seeking to register with the FCA under the MLR's. If you wish to attend please email [pda@fca.org.uk](mailto:pda@fca.org.uk) to express your interest.

Yours sincerely,

**Victoria McLoughlin**

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