

5 April 2023

Cryptoasset firms that market to UK consumers, including those based overseas, should be aware that they will soon need to comply with the new UK financial promotions regime.

In January 2022, the UK Government published a [consultation response](#) setting out its intention to legislate to bring the promotions of certain cryptoassets within the [FCA's](#) remit. Subsequently, on 1 February 2023, the Government published a [Policy Statement](#) on its approach to cryptoasset financial promotions regulation and we also published a [statement](#) on our website in response.

The new UK financial promotions regime will apply to all firms making financial promotions of qualifying cryptoassets to UK consumers regardless of whether the firm is based overseas.

A financial promotion is any invitation or inducement to engage in investment activity, for example, dealing in, arranging deals in, or advising on deals relating to, cryptoassets. This definition is technologically neutral and can apply to a broad range of communications made by a firm including its website, mobile apps, social media posts and online advertising.

Subject to UK Parliamentary approval, when the new financial promotions regime comes into force there will be four routes to communicating cryptoasset promotions to UK consumers:

- the promotion is communicated by an FCA authorised person.
- the promotion is made by an unauthorised person but approved by an FCA authorised person. Legislation is currently making its way through the UK Parliament which, if made, would introduce a [regulatory gateway](#) that authorised firms will need to pass through in order to approve financial promotions for unauthorised persons.
- the promotion is communicated by a cryptoasset business registered under [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (MLRs) with the FCA.
- the promotion otherwise complies with the conditions of an exemption in the [Financial Promotion Order](#) (FPO).

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 and/or a fine.**

We will publish our final rules for cryptoasset promotions once the relevant legislation has been made. Subject to any changes in circumstances, we expect to take a consistent approach to cryptoassets to that taken in our new rules, in place from 1 February 2023, for other high-risk investments. This would mean firms being required to use specific risk warnings and positive frictions (such as a 24-hour cooling off period) in their consumer

journeys, in addition to the overarching requirement that their promotions are clear, fair and not misleading. Further details are set out in our [Consultation Paper \(CP22/2\)](#) and [Policy Statement \(PS22/10\)](#) for high-risk investments.

If your firm intends to communicate financial promotions to UK customers once the new regime comes into force you should consider which of the four legal routes you will use to make these promotions. You should also consider how you will meet the relevant requirements of that route and the associated FCA rules that will apply to cryptoasset promotions. Acting now will help ensure you can continue to legally promote to UK consumers. We encourage firms to take all necessary advice as part of their preparations.

Registration 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.

We will ask your firm for the information we specify on our website and in our application form which is required in order to assess the application. When we review your application, we may require additional information so we can 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.

Information for applicants

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 any information that we ask for. 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 firms 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.

Implementation period

The UK Government intends to offer a four-month implementation period for the financial promotions regime, beginning after the legislation giving effect to it comes into force.

Once the implementation period has ended, all cryptoasset financial promotions to UK consumers will need to be made via one of the four routes set out above.

If your firm has not been successful in securing registration ahead of the end of the implementation period and does not meet the conditions to rely on one of the other routes, it will not be able to communicate financial promotions to UK consumers.

Next steps

You should review HM Treasury's [consultation response](#), [Policy Statement](#) and the draft [statutory instrument](#) alongside our [statement](#) and seek independent compliance/legal advice, if necessary, to understand the impact of the new regime on your firm.

If you intend to continue marketing to UK consumers once the regime comes into force, you should consider which route you will use to make these promotions. You should also consider how you will meet the relevant requirements of that route and the associated FCA rules that will apply to cryptoasset promotions.

In the next two weeks we will also send you a short on-line survey with some questions about your UK business (if any) and your plans in response to the UK's new financial promotions regime. In order to ensure that the survey is sent to the right person at your firm, please email pda@fca.org.uk with the email address we should use. While completing the questionnaire will be voluntarily, we would encourage you to respond.

We will also be hosting some roundtable events in late April/early May for potential applicants for registration. You will be able to express your interest in attending one of these via the survey.

You can also [contact us](#) if you have any questions.



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Authorisations