

## Marketing of Cryptoassets – UK’s Financial Conduct Authority Issues ‘Final Warning’

September 26, 2023

Regardless of whether you are in the UK, or the type of technology you use, companies marketing ‘qualifying cryptoassets’ to customers in the UK will need to comply with the financial promotions regime of the Financial Conduct Authority (FCA), the UK’s financial regulator. These measures will have a significant impact on how cryptoasset businesses, globally, market their products to customers in the UK, particularly crypto businesses which are not registered with the FCA.

We published a [Cooley client alert summarising the regime in March 2023](#).

The FCA has now [published a ‘final warning’](#) reminding companies promoting cryptoassets to UK consumers that they must get ready for the regime. The letter notes that the FCA has had constructive and productive conversations with some firms about how they can meet the requirements of the regime, but also mentions poor engagement from many unregistered, overseas cryptoasset firms with UK customers.

Notably, this ‘final warning’ is not only directed at cryptoasset firms. The FCA specifically highlights that it expects social media companies, search engines and app stores to play their part in ensuring that illegal financial promotions are not communicated to UK consumers by unregistered cryptoasset firms and stresses that these intermediaries will be at risk of committing money laundering offences under the Proceeds of Crime Act 2002 (POCA) if they support unregistered cryptoasset firms by, for example, communicating their ads. In the same vein, the FCA reminds these companies that illegal cryptoasset promotions will be considered ‘illegal content’ under the new Online Safety Bill – and that the FCA and Ofcom are working closely together on this topic.

The FCA’s letter warns that illegally promoting cryptoassets to UK consumers will breach the Financial Services and Markets Act 2000 and could lead to the FCA taking steps to remove or block websites, social media accounts and apps, and/or civil or criminal enforcement actions. Contracts resulting from unlawful promotions also may be unenforceable against UK consumers.

Companies marketing to customers in the US can expect to face a different regulatory regime, which continues to evolve.

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