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Newgate News

The FCA introduces tough new rules for marketing cryptoassets

https://www.fca.org.uk/news/press-releases/fca-introduces-tough-new-rules-marketing-cryptoassets

From the 8th October 2023, firms that market cryptoassets in the UK will need to introduce a cooling-off period from first time investors under new advertising rules announced by the FCA.

The new rules will mean that crypto firms must ensure that people have the appropriate knowledge and experience to invest in crypto. Those promoting crypto must also put in place clear risk warnings and ensure adverts are clear, fair and not misleading. The FCA's rules follow government legislation to bring crypto promotions into the regulator's remit.

'Refer a friend' bonuses will be banned under the new rules.

Sheldon Mills, Executive Director, Consumers and Competition, said:

"It is up to people to decide whether they buy crypto. But research shows many regret making a hasty decision. Our rules give people the time and the right risk warnings to make an informed choice.

"Consumers should still be aware that crypto remains largely unregulated and high risk. Those who invest should be prepared to lose all their money.

"The crypto industry needs to prepare now for this significant change. We are working on additional guidance to help them meet our expectations."

Suitable for: All Firms

FCA finds young investors are more likely to have long-term goals in mind when dating than when investing

https://www.fca.org.uk/news/press-releases/young-investors-more-likely-have-long-term-goals-mind-dating-when-investing

New research carried out by the FCA shows that young investors are thinking more long-term when dating in comparison than when they are investing. The research shows that just 31% of people were investing to earn more money that they would in a savings account, while almost half (48%) invest the time into dating to find a life partner. The research also highlighted that 18% of young investors are more likely to be influenced by social media when making investment decisions, than in their dating choices.

As use of online dating and investing platforms has grown among young adults, the FCA is exploring parallels to encourage better investment decisions. It surveyed 1,000 young investors, who also use online dating platforms to understand their influences, motivators, risk appetite and research in both parts of their life.

The research, to highlight the FCA's InvestSmart campaign, also explored how investors would react to a "red flag" when on a date in comparison when investing. The red flags included a date being rude to the waiting staff and arriving late, with 49% of men would be willing to continue the date compared with 39% of women. The research showed that 39% of men and 28% of women would be more likely to push on with an investment after identifying a warning sign, such as difficulty getting invested money out, or an investment opportunity only being available for a short time.

Scrolling through a date's social media was found to be the most popular way to prepare for a date (57%), although a third (33%) of those surveyed said they were able to ignore hype on a potential match's social profile.

By contrast, only a fifth (20%) of people said they were able to ignore hype about investments.

*All figures, unless stated otherwise, are from Censuswide, commissioned by the FCA to survey 1,000 UK 18-40 year olds who have invested, are thinking about investing, or have previously invested in one or more high-risk investment products.

Suitable for: All Firms

FCA sets out steps to improve whistleblower confidence

https://www.fca.org.uk/news/press-releases/fca-sets-out-steps-improve-whistleblower-confidence

Following a qualitative survey of whistleblowers, the FCA has set out actions to improve the confidence of whistleblowers – including sharing further information with whistleblowers on how it's acted on their information; improving the use of information provided by whistleblowers; and improving how it captures information from whistleblowers.

The FCA will:

- provide whistleblowers with more detail on what has been done with the information provided, or reasons for taking or not taking action;
- improve the use of whistleblowers' information across the FCA (e.g. making the best use of data and ensuring that end-to-end whistleblowing processes are as efficient as possible);
- enhance its webform – which is the most popular way for whistleblowers to contact the FCA – to fully capture every whistleblowers' disclosure; and
- engage with the Department for Business and Trade to support a review of whistleblower legislation to enhance the wider whistleblowing system.

Therese Chambers, Executive Director of Enforcement and Market Oversight, said:

"We need the intelligence whistleblowers provide to identify and act on problems in the firms we regulate. We want to make sure we're capturing and using the information provided by whistleblowers as effectively as possible, and to give them as much information as the law allows on how we have acted on their concerns."

Suitable for: All MiFID Firms

FCA proposes to simplify rules to help encourage companies to list in the UK

https://www.fca.org.uk/news/press-releases/fca-proposes-simplify-rules-help-encourage-companies-list-uk

The FCA have proposed to reform and streamline the listing rules in the UK to help attract a wider range of companies, encourage competition and improve choice for investors. The listing regime in the UK has been seen by some issuers and advisers as too complicated and onerous. This is why the FCA is proposing 'significant' changes to the listings rulebook. This will include replacing its existing 'standard' and 'premium' listings segments with a single category for equity shares in commercial companies. The FCA wants to make the listing regime "more effective and easier to understand".

The FCA has been acting to improve the UK's position for years. Within months of leaving the European Union, 2 years ago, the FCA significantly reformed the listing regime to boost growth and competitiveness.

While the UK has been Europe's biggest financial hub for many years, listings in the UK have reduced by 40% since 2008, according to The UK Listing Review.

The decision by a firm to list is based on many more factors than regulation alone, such as taxation and the availability of capital.

Under the proposals requirements would be focussed on transparency for investors to support decision making and sponsor oversight at the listing gateway to ensure companies can meet the FCA's standards.

If the proposals are passed, then a single equity category would remove eligibility requirements that the FCA believes can deter early-stage companies and be more permissive on dual class share structures and remove mandatory shareholder votes on transactions such as acquisitions to reduce frictions to companies pursuing their business strategies.

Nikhil Rathi, Chief Executive of the FCA, said:

"London is a major international market with a deservedly good reputation globally among companies aiming to raise capital.

"Our proposed reforms would significantly rebalance the burden of regulation to the benefit of listed companies and investors who are willing to set their own risk appetite and terms of engagement.

"While regulation plays an important part, a company's decision on whether, and where to list, is influenced by many factors so substantive change will require a concerted effort from government and industry as well.

"We want to encourage more companies to list and grow in the UK, versus other highly competitive international markets."

The FCA's work on listings is a key part of its commitment to strengthen the position of UK wholesale markets, which is a priority in its 3-year strategy.

In 2021, the FCA moved quickly to improve the listing regime by lowering free float levels, allowing certain forms of dual class share structures and introducing digital financial reporting.

Suitable for: Firms potentially looking to list.

Asset managers told to review liquidity management in funds

https://www.fca.org.uk/news/press-releases/asset-managers-told-review-liquidity-management-funds

The FCA has reviewed liquidity management in asset managers and found that firms need to increase their focus on liquidity risk. As things stand, gaps observed in liquidity management could lead to a risk of investor harm.

Camille Blackburn, Director of Wholesale Buy-Side at the FCA, said:

“We have seen examples in the market where liquidity risk has crystallised and the impact this can have on investors.

“This review should serve as a warning to all asset managers that they need to get this right. We expect boards to discuss our findings and assure themselves that their firms are not amongst the minority with serious gaps in managing liquidity risk.

“It’s vital the outliers take quick action. They risk regulatory intervention if they don’t take this opportunity to address weaknesses.”

The FCA’s review found:

- The building blocks and tools for effective liquidity management were usually in place at firms, but these lacked coherence when viewed as a full process and were not always embedded into daily activities.
- Many firms attach insufficient weight to liquidity risk management in their governance oversight arrangements, as well as insufficient challenge and escalation, particularly in volatile environments.
- A wide range of approaches to liquidity stress testing with some methodologies insufficient to assess actual liquidity of the portfolio, using assumptions that were not appropriately conservative. For example, some firms’ models assumed that they would always sell the most liquid assets, without ever giving regard to the liquidity of selling a

'vertical slice' of the portfolio.

- Firms typically had governance and organisational arrangements in place to meet large one-off redemptions but did not have sufficient arrangements in place to oversee cumulative or market-wide redemptions that could have a significant impact on a fund.
- Wide variations in the application of anti-dilution tools such as swing pricing, which could affect the price investors receive when redeeming.

The FCA noted that asset managers should take account of the findings, as many of the examples of good practice highlighted in the review and letter contribute to improved consumer outcomes and are consistent with the Consumer Duty, which comes into force on 31 July.

Suitable for: Fund managers; fund administrators; Liquidity Providers.

FCA welcome the consultation on a new Code of Conduct for Environmental, Social and Governance data and ratings providers

https://www.fca.org.uk/news/news-stories/we-welcome-consultation-new-code-conduct-environmental-social-and-governance-data-and-ratings

The FCA have welcomed the launch of the industry group's consultation on a voluntary Code of Conduct. In 2022, the FCA appointed the International Capital Market Association and the International Regulatory Strategy Group to convene an industry group to develop a voluntary code.

As part of the Code's development, the group engaged with standard-setters in other jurisdictions to ensure international consistency.

Sacha Sadan, Director of ESG, said:

"Today is an important step in increasing transparency and trust in the growing market for ESG data and ratings products. It's also vital that the Code has been developed with international consistency in mind. We thank the Secretariat for their hard work and encourage everyone to take part in the consultation."

The Code consultation will run for 3 months, until 5 October 2023. The Code will be updated and finalised by the end of 2023.

Suitable for: All Firms

The FCA and Practitioner Panel 2022/23 survey findings

https://www.fca.org.uk/news/news-stories/fca-and-practitioner-panel-2022-23-survey-findings

The FCA have published the findings of the FCA and Practitioner Panel 2022/23 panel, with the majority of responding firms providing a positive view of the FCA's performance over the last year.

The FCA however acknowledge that some firms have communicated areas where the FCA could be doing more, including:

- make sure the FCA acts proportionately, so that the costs imposed on firms are proportionate to the benefits gained;
- respond efficiently to innovation and new challenges;
- improve trust and confidence in the FCA and its supervisors;
- make sure there are ongoing improvements in the authorisations process in the service standards quarterly reporting; and
- look at how the use of data requests is fed back to firms.

The FCA say they have already began work on improving many of these areas through their 3-year Strategy. In response to some of the specific report findings, the FCA will be taking forward several actions and considerations over the coming months, including:

- the establishment of a new panel to provide advice on cost/benefit analysis, which will help demonstrate that the FCA uses their rule-making powers appropriately and proportionately;
- improving the FCA's Authorisations processing times through a programme of transformation work which will make their internal processes more efficient;
- introducing changes to the Information Governance Board process, inviting firms to provide feedback after each information request, including how long it took and how much it cost to complete and any suggestions on how to improve the request; and
- using the Innovation Advisory Group (IAG) to provide a regular forum for the FinTech and RegTech sector and the FCA to discuss issues and opportunities to inform their innovation work and review their Regulatory Sandbox services. They will also provide more opportunities for firms to get involved through their TechSprint events, which will double over the next year.

The FCA will continue to listen to feedback from firms and make further changes and improvements over the coming months.

Suitable for: All firms

Consumer Duty sets higher standards for financial services customers

https://www.fca.org.uk/news/news-stories/consumer-duty-higher-standards-financial-services

The new Consumer Duty came into force on 31 July for financial services firms which sets higher standards of consumer protection. The new Duty means you should get:

- the support you need, when you need it;
- communications you understand; and
- products and services that meet your needs and offer fair value.

Under the Duty, firms should be open and honest, avoid harm, and support consumers to pursue their financial goals. Through the Duty, consumers should be provided with:

- helpful and accessible customer support;
- timely and clear information;
- products and services that are right for consumers and that provide fair value; and
- firms will consider if the consumer is in a vulnerable situation.

The rules apply to all new and existing products and services that are currently on sale. For older products that are no longer on sale. The rules will apply from 31 July 2024.

Suitable for: The new Consumer Duty applies to Firms in relation to its regulated activities in connection with products and services offered to retail consumers. (Firms who do not have retail clients may also come under scope of the duty further down a product/services lifespan, i.e. if the professional client passes away and leaving his/her children as beneficiaries but the children will not meet the professional or elective professional client classification and will be treated as retail clients in this case) Newgate has developed a comprehensive Consumer Duty Tool Kit designed by our specialist team to assist your Firm with meeting the new Consumer Duty.

FCA sets out expectations for UK cryptoasset businesses complying with the Travel Rule

https://www.fca.org.uk/news/statements/fca-sets-out-expectations-uk-cryptoasset-businesses-complying-travel-rule

From 1 September 2023, cryptoasset businesses in the UK will be required to collect, verify, and share information about cryptoasset transfers, under the Financial Action Task Force (FATF)

Anti-Money Laundering and Counter-Terrorist Financing rules, known collectively as the Travel Rule.

This is in line with the FCA's consumer protection and competitiveness objectives and the Travel Rule, along with the Financial Promotions regime for Cryptoassets in October 2023 will help the FCA better protect people, the integrity of the markets, and support the sustained competitiveness of the cryptoasset sector in the UK.

The Travel Rule is designed to bring greater transparency in cryptoasset transfers, increasing the difficulty for criminals to utilise crypto for illicit activity. The Travel Rule is aimed at advancing anti-money laundering (AML) and counter-terrorist financing (CTF) efforts, as well as to aid crypto businesses in detecting suspicious transactions and conducting effective sanctions screenings.

The FCA will expect firms to take reasonable steps, conducting thorough due diligence to comply with the Travel Rule, including when using third-party suppliers. They also expect firms to fully comply when sending or receiving a cryptoasset transfer to a firm that is in the UK, or any jurisdiction that has implemented the Travel Rule. Firms are further reminded to regularly review the implementation status of the Travel Rule in other jurisdictions and adapt business processes as appropriate.

When firms send a cryptoasset transfer to a jurisdiction without the Travel Rule, the FCA will expect firms to take all reasonable steps to establish whether the firm can receive the required information. If the firm cannot receive the necessary information, UK cryptoasset Firms must still collect and verify the information as required by the Money Laundering Regulations (MLRs) and should store that information before making the cryptoasset transfer.

When Firms receive a cryptoasset transfer from a jurisdiction without the Travel Rule, if the cryptoasset transfer has missing or incomplete information, UK cryptoasset Firms must consider the countries in which the firm operates and the status of the Travel Rule in those countries. This should form part of a Firms risk-based assessment of whether to make the cryptoassets available to the beneficiary.

Suitable for: Cryptoasset Firms

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About Us

Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called the gateway©.

Newgate has an unrivalled combination of experienced professionals, many of whom are ex-regulators.

Our customer focused approach seeks to provide appropriate, pragmatic and flexible solutions to our clients helping them to meet both the regulator's rules but also the spirit, principles and culture of the regulatory regime.

We look to build long-term relationships with our customers helping to encourage business growth, productivity and innovation. Our proactive approach is tailored to each customer's needs changing to meet those needs as the customer progresses and develops.