

## Cabinet News and Views

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### Changes to UK Financial Promotion Rules



By **Michael Sholem**  
Partner | Financial Regulation

On August 1, the UK's Financial Conduct Authority ("FCA") published a [policy statement](#) on strengthening its financial promotion rules for high-risk investments and firms approving financial promotions (the "policy statement").

In its policy statement, the FCA summarises feedback on its January 2022 [consultation paper](#) and sets out its final policy and rules designed to strengthen the regime for the promotion of high-risk investments ("HRIs"). The FCA has previously provided examples of HRIs, such as cryptoassets, structured products, land banking schemes, contracts for difference and mini-bonds (sometimes called high interest return bonds). Currently, the final rules apply only to those HRIs that are already subject to marketing restrictions. The policy statement also contains the final rules and non-Handbook guidance for firms when communicating or approving financial promotions. The final rules are set out in the Financial Promotions and High-Risk Investments Instrument 2022 (FCA 2022/33), which is contained in Appendix 1 to the policy statement and was made by the FCA Board on July 29. The rules relating to risk warnings for financial promotions of HRIs take effect from December 1, 2022. All other rules take effect from February 1, 2023.

Respondents generally agreed with the FCA's proposals in its January 2022 consultation paper. In particular, they supported the behavioral testing the FCA conducted for the consumer journey proposals. Furthermore, there was support for the proposed changes to strengthen the role of authorized firms communicating and approving financial promotions. After considering the feedback, the FCA made several "targeted changes" to their proposals to avoid negative unintended consequences that were identified by respondents.

In the policy statement, the FCA notes that since the consultation paper in January, its work has become even more important due to current high inflation rates resulting in negative real returns for many mainstream investments. The FCA expects this to push consumers into HRIs in search of greater returns. Furthermore, the FCA's policy statement notes that the publication of consumer duty rules and

guidance in July also strengthened financial promotion rules and set a baseline for firms promoting HRIs.

Back in January, the Treasury confirmed its intention to legislate to bring certain cryptoassets into the scope of the financial promotion regime. The FCA confirmed that it will make final rules on the promotion of qualifying cryptoassets once the relevant legislation has been made. These will most likely follow the same approach as those for other HRIs as the FCA considers cryptoassets, when used as a speculative investment, to be high-risk.

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