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UK Financial Conduct Authority Consults on Its Financial Promotion Rules for Cryptoassets and Other High-Risk Investments

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On 19 January 2022, the UK Financial Conduct Authority ("**FCA**") published a consultation paper (CP22/2) (the "**Consultation**") setting out its proposals to strengthen its financial promotion rules for high-risk investments (including cryptoassets), as well as for authorised firms which approve and communicate such financial promotions. The Consultation builds on feedback received to its discussion paper (DP21/1) on how the FCA could strengthen financial promotion rules and also forms part of its ongoing work on addressing harm in the consumer investment sector, to pursue its Consumer Investments Strategy as published in September 2021.

The proposals set out in the Consultation relate to financial promotions for "high-risk investments," being those which are subject to marketing restrictions under the FCA rules. This includes investment based-crowdfunding, peer-to-peer agreements, other non-readily realisable securities, non-mainstream pooled investments and speculative illiquid securities. The FCA has also confirmed that these will also include cryptoassets once they are brought into scope of the FCA's financial promotions regime. Some of the key changes the FCA is seeking to implement, as set out in the Consultation, are as follows:

- a rationalization of the rules set out in Chapter 4 of the FCA's Conduct of Business Sourcebook ("**COBS 4**"), aimed at a clarification of what classifies as "high-risk investments" and the associated restrictions that apply;
- changes to the "customer journey" in relation to high-risk investments, including a package of measures to strengthen risk warnings, ban inducements to invest, improve client categorisation and provide stronger appropriateness tests;
- strengthening the financial promotion approval and communication regime, holding approvers of financial promotions to high standards; and

- applying its financial promotion rules to qualifying cryptoassets, which will need to comply with the COBS 4 requirements.

The Consultation will be of interest to a wide range of market participants, including a number of firms in the “Fin-Tech” sector. Amongst others, this will include authorised firms that approve or communicate financial promotions, issuers of high-risk investments, certain financial advisers, asset managers and intermediaries, as well as firms operating in the crypto-asset market. The FCA is seeking feedback on its proposals by 23 March 2022 and intends to publish its policy statement and final rules in summer 2022.

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