

# Global Blockchain Business Council

Monthly FinTech Updater | July 2023



## Upcoming changes

| UK   | Europe  |
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| <p><b>1 August</b></p> <p>FCA's Digital Sandbox becomes available permanently.</p>   | <p><b>31 August</b></p> <p>Deadline for responses to EBA consultation on changes to guidelines on AML and CTF risk factors under MLD4 to include cryptoasset service providers.</p> |
| <p><b>4 August</b></p> <p>Deadline for responding to FCA survey on preparations for new cryptoasset promotion rules.</p>                   | <p><b>6 September</b></p> <p>Deadline for responses to European Commission's consultation on Digital Euro proposal.</p>   |
| <p><b>10 August</b></p> <p>Deadline for responses to FCA guidance consultation (GC23/1) on financial promotion rules for cryptoassets.</p> | <p><b>11 September</b></p> <p>Deadline for responses to ESAs' consultation on the first set of RTS and ITS under DORA.</p>  |
| <p><b>21 August</b></p> <p>Deadline for responses to HM Treasury consultation on the Digital Securities Sandbox.</p>                       | <p><b>20 September</b></p> <p>Deadline for responses to ESMA's consultation on the first set of RTS and ITS under MiCA.</p>   |
| <p><b>25 August</b></p> <p>Deadline for comments on proposed changes to JMLSG guidance on cryptoasset transfers.</p>                       | <p><b>30 September</b></p> <p>Deadline for EBA to provide advice on classification of asset-reference tokens and e-money tokens and related fees under MiCA.</p>                    |
| <p><b>11 September</b></p> <p>Deadline for responses to FCA guidance consultation (GC23/2) on financial promotions on social media.</p>    | <p><b>2 October</b></p> <p>Deadline for responses to EBA consultation on MiCA technical standards relating to asset-referenced tokens.</p>  |
| <p><b>8 October</b></p> <p>New FCA financial promotion rules for cryptoassets take effect.</p>   |   |

## Global, EU, UK and US Regulatory Developments

| UK   |  |
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| <p><b>FCA publishes letter to cryptoasset firms on the financial promotions regime</b></p> | <p>On 4 July 2023, the FCA published a <a href="#">letter</a> addressed to cryptoasset firms, warning them that they must get ready for the financial promotions regime by 8 October 2023.</p> <p>The letter explains that the UK Government has now legislated to bring qualifying cryptoassets within scope of the financial promotions regime and reminds firms that once the regime comes into force, all firms marketing cryptoassets to UK consumers, including firms based overseas, must comply with the financial promotions regime.</p> <p>The FCA's near-final rules on cryptoasset promotions are set out in <a href="#">Policy Statement 23/6: Financial promotion rules for cryptoassets (PS23/6)</a>, published in June.</p> <p>In the letter, the FCA outlines the four routes that will be available for firms to lawfully communicate cryptoasset promotions to UK consumers, and flags that 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, which is a criminal offence punishable by up to 2 years imprisonment, an unlimited fine, or both.</p> <p>In order to prepare for the financial promotions regime, the letter states that unregistered or unauthorised cryptoasset businesses marketing to UK consumers should:</p> <ul style="list-style-type: none"> <li>• Consider which of the four legal routes they will use to make their financial promotions, how they will meet the requirements of that route and the associated FCA rules that apply to cryptoasset promotions set out in PS23/6.</li> <li>• Carefully consider how they will deal with UK customers if they are unable to communicate financial promotions to them. The FCA expects firms to clearly communicate any changes to services they will provide to UK consumers and give consumers adequate time to respond to any changes before they go into effect.</li> <li>• If firms decide to no longer provide services to UK consumers, the FCA expects them to have in place orderly wind-down plans to minimise any impact on UK consumers.</li> </ul> <p>The FCA expects that the main way cryptoasset businesses will be able to communicate financial promotions to UK consumers is by being registered with the FCA under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (<b>MLRs</b>). The letter briefly outlines the registration process, including the timeframes involved and the need to fully disclose all relevant information within the application. The FCA is planning to arrange roundtables during July to explain its expectations of applicants seeking to register under the MLRs.</p> <p>The letter advises firms to carefully consider the letter and how the financial promotions regime will impact their business, and to ensure they are ready to comply by 8 October 2023. The FCA intends to take robust action against persons illegally promoting to UK consumers, which may include placing firms on its warning list; requesting take-downs of websites, social media accounts, apps and all other promotions that are in breach; and enforcement action.</p> <p>Firms are asked to confirm receipt of the letter. In addition, to understand what steps firms are taking to prepare for the regime, they are asked to respond to the questions set out in a <a href="#">survey</a> by 4 August 2023 at the latest.</p> <p><b>4 July 2023</b></p> |
| <p><b>Text of Financial Services and Markets Act is published</b></p>                      | <p>On 7 July 2023, the text of Financial Services and Markets Act was published.</p> <p>Please see <a href="#">here</a> for the Act.</p> <p><b>7 July 2023</b></p>   |
| <p><b>HM Treasury consults on Digital Securities Sandbox</b></p>                           | <p>On 11 July 2023, HM Treasury published a <a href="#">consultation paper</a> on the first financial market infrastructure sandbox, referred to as the Digital Securities Sandbox (DSS).</p> <p>The consultation sets out HM Treasury's proposed approach to delivering a DSS, which will be the first financial market infrastructure sandbox delivered under the powers granted as part of the Financial Services and Markets Act 2023.</p>   |

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|  | <p>The DSS is intended to facilitate the testing and adoption of digital securities across financial markets. Through the DSS, industry will be able to set up financial market infrastructures that utilise digital asset technology, which can perform a number of activities in relation to digital securities under a temporarily modified legislative and regulatory framework.</p> <p>As well as inviting feedback from industry on the approach to the DSS and some further policy and legal issues, the consultation also invites respondents to formally express their interest in using the DSS, on the basis that conversations with potential applicants should begin as early as possible.</p> <p>The deadline for feedback to this consultation is 21 August 2023.</p> <p><b>11 July 2023</b></p>   |
| <p><b>HM Treasury publishes the Financial Services and Markets Act 2023 (Commencement No.1) Regulations 2023</b></p>                         | <p>On 11 July 2023, HM Treasury published <a href="#">the Financial Services and Markets Act 2023 (Commencement No.1) Regulations 2023</a>, a statutory instrument (SI) setting out the first commencement regulations made under the Financial Services and Markets Act 2023. The <a href="#">explanatory note</a> to the SI provides further information on those provisions of the Act that are being brought into force.</p> <p>Among the measures being brought into force by the SI on 29 August 2023 are provisions providing HM Treasury with the power to make regulations relating to digital settlement assets.</p> <p><b>11 July 2023</b></p>   |
| <p><b>FCA publishes feedback statement on potential competition impacts of Big Tech entry and expansion in retail financial services</b></p> | <p>On 12 July 2023, the FCA published <a href="#">Feedback Statement 23/4: The potential competition impacts of Big tech entry and expansion in retail financial services (FS23/4)</a>. FS23/4 summarises feedback to the FCA’s October 2022 discussion paper (<a href="#">DP22/5</a>) which aimed to stimulate conversation on areas where Big Tech entry is likely to create the biggest competition benefits for consumers and where there is the greatest risk of significant harm if competition does not develop effectively.</p> <p><b>Feedback</b></p> <p>DP22/5 assessed the potential competition benefits and harms arising from Big Tech entry and expansion in four retail financial services sectors: payments, deposits, consumer credit, and insurance.</p> <p>Following the FCA’s analysis in DP22/5, a webinar held in November 2022 and industry roundtable events in December 2022, five key themes emerged:</p> <ul style="list-style-type: none"> <li>• <b>Differing Big Tech business models and strategies:</b> Most respondents raised that Big Tech firms may have differing business models and strategies, and therefore they should not be considered as one. Some noted that Big Tech firms’ incentives for entering or expanding in financial services may vary, depending on their ecosystem of core products and services. Some respondents also suggested that the FCA’s ‘Big Tech’ definition should include large fintech firms that have to potential to grow and impact competition.</li> <li>• <b>Refining the FCA’s analytical framework:</b> Some respondents felt that, while DP22/5 explored the most appropriate sectors, the analysis could be broadened to incorporate further sectors where Big Tech firms may have incentives to enter such as investment management, wealth management, micro-credit and crowdfunding services. A few respondents also stressed the importance of making a distinction between (a) the technology and its potential to improve financial services for consumers; and (b) the business model through which the technology is provided and its effect on competition in the financial services sector.</li> <li>• <b>Data access and data sharing:</b> Given the competitive data advantages Big Tech firms have, various respondents raised that the FCA should consider data access and data sharing in greater detail, and highlighted that Big Tech firms have access to unique datasets (for example browsing data, social media data and biometrics) which other financial services providers do not. Other respondents highlighted that issues such as data privacy and data ethics may also need to be considered further.</li> <li>• <b>Big Tech activity at or beyond the regulatory perimeter:</b> Respondents flagged that the FCA may need to consider how it addresses potential challenges with Big Tech firms operating at the boundary or outside the regulatory perimeter, which may include entering into partnerships. For example, where Big Tech firms provide technology to enable digital payment services or digital credit solutions, they should be regulated appropriately to ensure that consumers are protected, competition benefits are harnessed, and harms are mitigated.</li> </ul> |

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|   | <ul style="list-style-type: none"> <li>● <b>Overlaps with regulators and other regimes:</b> Respondents highlighted that the FCA needs to continue coordinating with domestic regulators to address common challenges in digital markets, citing potential issues arising from the Big Tech firms’ ‘gatekeeper’ status and data advantages. Given the global nature of these firms, respondents also suggested that the FCA should continue to engage with international regulators as it develops its competition regulatory framework.</li> </ul> <p><b>Next steps</b></p> <ul style="list-style-type: none"> <li>● The FCA’s strategy commits to shaping digital markets to achieve good outcomes, including its work on open banking and open finance, the development of regulatory approaches for critical third parties (CTPs) and artificial intelligence (AI).</li> <li>● Following the feedback received to DP22/5 and to complement its ongoing programme of work in relation to digital markets, the FCA proposes to take three additional steps:</li> <li>● <b>Launch, by the end of 2023, a Call for Input on Big Tech firms as ‘gatekeepers’</b> and key drivers including the role of data sharing asymmetry between Big Tech firms and financial services.</li> <li>● <b>Review its supervisory approach for Big Tech firms</b>, given that they are active across different financial sectors with complementarities between them and with the Big Tech firms’ core products and services.</li> <li>● <b>Continue its work with the government and the Digital Markets Unit (DMU)</b> as the new Digital Markets, Competition and Consumers Bill passes through Parliament; and, at the appropriate time, set out the detail of how the FCA will implement the regulatory coordination provisions in the Bill through a memorandum of understanding with the DMU.</li> </ul> <p><b>12 July 2023</b></p>  |
| <p><b>FCA publishes speech on its emerging regulatory approach to Big Tech and AI</b></p> | <p>On 12 July 2023, the FCA published a <a href="#">speech</a>, delivered by Nikhil Rathi, Chief Executive, on the FCA’s emerging regulatory approach to Big Tech and Artificial Intelligence (AI), given at Economist Impact in London.</p> <p>Key points covered in Mr Rathi’s speech include the following:</p> <ul style="list-style-type: none"> <li>● The FCA welcomes the government’s call for the UK to be the ‘global hub’ of AI regulation and plans to open its AI sandbox to firms wanting to test the latest innovations.</li> <li>● In addition to its recently published feedback statement on Big Tech financial services and call for input on the role of Big Tech firms as gatekeepers of data, the FCA is also considering the risks that Big Tech may pose to operational resilience in payments, retail services and financial infrastructure and is mindful of the risk that Big Tech could pose in manipulating consumer behavioural biases.</li> <li>● Together with the Bank of England and the Prudential Regulation Authority, the FCA will be regulating critical third parties and setting standards for their services, including AI services, to the UK financial sector.</li> <li>● As AI is further adopted, investment in fraud prevention and operational and cyber resilience will have to accelerate at the same time, and the FCA will take a robust line on this – full support for beneficial innovation alongside proportionate protections.</li> <li>● The FCA’s outcomes and principles-based approach to the regulation, including the Senior Managers Regime and Consumer Duty, should mean firms have scope to innovate while protecting consumers and market integrity. The FCA will only intervene with new rules or guidance where necessary.</li> <li>● There are many opportunities and benefits of AI, including its ability to boost productivity, to help improve financial models and cut crime through use of generative AI and synthetic data, to provide more accurate information to everyday investors and tackle the ‘advice gap’, to hyper-personalise products and services to people, and to tackle fraud and money laundering more quickly and accurately and at scale.</li> <li>● The FCA is training its staff to make sure they can maximise the benefits from AI. It has also invested in its tech horizon scanning and synthetic data capabilities, and this summer established its Digital Sandbox. Internally, the FCA has developed its supervision technology and is using AI methods for firm segmentation, the monitoring of portfolios and to identify risky behaviours.</li> </ul> |

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|  | <ul style="list-style-type: none"> <li>The global techsprint on the identification of Greenwashing will be hosted in the FCA's Digital Sandbox, and it will be extending this global techsprint approach to include AI risks and innovation opportunities.</li> </ul> <p><b>12 July 2023</b></p>   |
| <p><b>FCA publishes guidance consultation on financial promotions on social media</b></p>    | <p>On 17 July 2023, the Financial Conduct Authority (FCA) published <a href="#">Guidance Consultation 23/2: Financial promotions on social media (GC23/2)</a>, aimed at ensuring firms understand how its rules apply and its expectations for financial promotions on social media.</p> <p>The FCA notes that it has seen a substantial increase in financial influencers on social media promoting financial products, particularly investment and credit products. Many of these promotions target younger consumers, who are likely to trust the information influencers provide them with.</p> <p>As such, the FCA wants unauthorised influencers to think carefully before promoting financial products or services and to understand their obligations when advertising through their social media channels.</p> <p>So that the FCA's expectations when communicating about financial promotions and services on social media are clear and reflect the current and future social media landscape, the FCA is updating its existing guidance on social media and customers communications (FG15/4). The FCA will be retiring FG15/4 when the new guidance is finalised. The proposals for new social media guidance will modernise the information firms should use when promoting financial products or services online.</p> <p>The deadline for feedback to this guidance consultation is 11 September 2023.</p> <p><b>17 July 2023</b></p>   |
| <p><b>FCA announces launch of permanent Digital Sandbox</b></p>                              | <p>On 20 July 2023, the FCA <a href="#">announced</a> the launch of its permanent Digital Sandbox. The Digital Sandbox, which has until now only been available temporarily to those participating in pilots and TechSprints, will be made available permanently on 1 August 2023 following two successful pilots.</p> <p>The Digital Sandbox is a testing environment which allows the FCA to support firms at the early stage of product development by enabling experimentation through proof of concepts. Alongside innovators, the permanent Digital Sandbox also welcomes data providers to apply to list their data on the platform and gain traffic and insights on its usage.</p> <p>The FCA explains that participants in the Digital Sandbox will have permanent access to:</p> <ul style="list-style-type: none"> <li><b>High-quality datasets and Application Programme Interfaces (APIs)</b> – covering payments and transactions data, social media data, investment, Companies House and credit data.</li> <li><b>Robust data security protection</b> – the platform has an integrated development environment to allow experimentation while safeguarding the data assets on the platform.</li> <li><b>A collaborative platform</b> – intended to facilitate diversity of thought, share learnings and foster an ecosystem between teams, observers and mentors.</li> <li><b>An observation desk</b> – to enable interested parties such as regulators, incumbents and others to observe in-flight testing at a technical level.</li> </ul> <p>From 1 August 2023, firms will be able to apply for the permanent Digital Sandbox under any of the listed themes: banking, investment, lending, payments, insurance, pension, wholesale buy-side, wholesale sell-side or cross-sectors. Applications will be assessed against a set of criteria: in scope, genuine innovation, consumer benefit, readiness, and need for support.</p> <p>The approval process is intended to take a maximum of 4 weeks.</p> <p><b>20 July 2023</b></p> |
| <p><b>Treasury Committee publishes government's response to Regulating Crypto report</b></p> | <p>On 20 July 2023, the House of Commons' Treasury Committee <a href="#">published</a> the government's response to its report on Regulating Crypto. In the report, which was published in May 2023, the cross-party Committee of MPs called for consumer trading in unbacked crypto to be regulated as gambling.</p> <p>The Committee had outlined concerns that the government's proposals to regulate consumer crypto trading as a financial service would create a 'halo' effect, leading consumers to believe it is a safe and protected activity when it is not.</p>   |

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|  | <p>In its response, the government disagrees with the Committee’s recommendation and reaffirms its intention to regulate retail trading in unbacked cryptoassets as a financial service.</p> <p>It notes that regulating retail trading and investment activity in unbacked cryptoassets as gambling would ‘run completely counter’ to globally agreed recommendations from international organisations and standard-setting bodies, including the International Organization of Securities Commissions (IOSCO) and the G20 Financial Stability Board. These recommendations are grounded in the principle of ‘same activity, same risk, same regulatory outcome’, meaning that any cryptoasset activity that performs a similar function, and poses similar risks, to those in the traditional financial system (for example, operating a trading platform or providing custody services) are subject to regulation that ensures equivalent outcomes.</p> <p>The response also notes that a system of gambling regulation could fail to appropriately mitigate many of the critical risks that were discussed in HM Treasury’s recent consultation on cryptoasset regulation, including those associated with market manipulation, inadequate prudential arrangements, and deficiencies in core financial risk management practices.</p> <p>The appendix to the response letter reflects on the Committee’s suggestions in further detail.</p> <p><b>20 July 2023</b></p>  |
| <p><b>JMLSG consultation – cryptoasset transfers</b></p>                                 | <p>On 28 July 2023, the Joint Money Laundering Steering Group published <a href="#">proposed amendments</a> to Sector 22 (Cryptoasset providers and custodian wallet providers) in Part II of its Guidance. The proposed addition of Annex I to Sector 22 takes account of amendments relating to cryptoasset transfers, as introduced by The Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022.</p> <p>The deadline for comments on the proposed changes is 25 August 2023.</p> <p><b>28 July 2023</b></p>   |
| <p><b>Europe</b></p>   |   |
| <p><b>EBA publishes speech on FinTech and the future of financial intermediation</b></p> | <p>On 4 July 2023, the European Banking Authority (<b>EBA</b>) published a <a href="#">speech</a> by Jose Manuel Campa, Chairperson of the EBA, at the Central Bank of Cyprus, where he discussed FinTech and the future of financial intermediation.</p> <p>In his speech, Mr Manuel Campa made the following remarks:</p> <ul style="list-style-type: none"> <li>• The EBA’s regular innovation monitoring work shows that, to date, the emergence of genuinely novel types of products and services has been rather limited, albeit the EBA certainly expect an uptick in cryptoasset issuance and service provision, following the entry into force of the Markets in Crypto-assets Regulation (<b>MiCA</b>).</li> <li>• In order to leverage the opportunities that FinTech offers responsibly, industry, supervisors and regulators need to be proactive in identifying, monitoring and mitigating risks that are often multi-faceted and inter-related.</li> <li>• The use of digital channels to market and provide access to financial products and services may pose risks to consumer protection in the event of ineffective disclosures of product features.</li> <li>• Risks may also arise in the context of product and service bundling, resulting in the sale of unsuitable or unduly costly products and services to consumers.</li> <li>• Operational risk can be elevated through increased dependencies on technologies, including those provided by third parties.</li> <li>• The EBA expects financial institutions who are increasing their reliance on innovative technologies to implement a commensurate ‘skilling up’ on technology, risks, and risk mitigation techniques at the level of the management body and throughout institutions. The EBA also expects financial institutions to have in place updated and robust risk management frameworks.</li> <li>• The EBA is taking action to ensure that money laundering and terrorist financing (<b>ML/TF</b>) risks are tackled holistically across the cryptoasset sector. Notably, this means that the EBA will revise its existing anti-money laundering and counter terrorist financing guidelines, including the fund transfers guidelines and the ML/TF risk factor guidelines.</li> </ul> |

|  | 4 July 2023  |
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| <p><b>ESMA and EBA consult on technical rules under MiCA</b></p> | <p>On 12 July 2023, the European Securities and Markets Authority (<b>ESMA</b>) and the European Banking Authority (<b>EBA</b>) published for public consultation various draft technical standards that they are mandated to develop under Regulation (EU) 2023/1114 on markets in crypto-assets (<b>MiCA</b>). Whilst the draft rules published by ESMA focus on the relevant requirements for crypto-asset service providers (<b>CASPs</b>) and financial institutions providing services in crypto-assets, the draft set of technical standards published by the EBA mainly addresses requirements for the issuers of asset-referenced tokens (<b>ARTs</b>). In addition, the EBA published a <a href="#">statement</a> encouraging financial institutions and other undertakings intending to undertake activities concerning ARTs and e-money tokens (<b>EMTs</b>) to take timely preparatory steps towards the application of the MiCA regime, which in respect of ARTs and EMTs is 30 June 2024.</p> <p>The following sets out a high-level overview of the draft technical standards that are subject to consultation.</p> <p>ESMA's <a href="#">consultation paper on the technical standards specifying certain requirements of MiCA</a> covers the following key areas:</p> <ul style="list-style-type: none"> <li>• <b>Content and template for notifications for certain financial entities providing services in crypto-assets:</b> By way of background, MiCA provides for a framework allowing certain financial entities to provide services in crypto-assets, subject to submitting a notification to their home national competent authority (<b>NCA</b>). MiCA sets out the types of information that need to be provided in the notification and these are further specified in the draft regulatory technical standard (<b>RTS</b>). The overall objective is that where the relevant information is already available at the relevant NCA, and where the provision of crypto-asset services does not call for changes to the organisational structure and procedures of the notifying entity, the information does not have to be re-submitted.</li> <li>• <b>Content and templates for the application for authorisation by crypto-asset service providers (CASPs):</b> MiCA requires non-regulated persons that wish to provide services in crypto-assets in the EU to become authorised; to this end it sets out information that the authorisation application must include and in particular how the relevant organisational, conduct and prudential requirements must be met. The draft RTS further specifies the details of the information that will be required to be provided in the application process, including a programme of operations, proof that the applicant meets the prudential requirements, a description of the governance arrangements and other requirements. In this context, ESMA also points out to lessons to be drawn from recent collapses of various international crypto-service providers.</li> <li>• <b>Complaints-handling procedures of CASPs:</b> MiCA requires CASPs to establish and maintain effective and transparent procedures for the prompt, fair and consistent handling of complaints received from clients and to publish descriptions of those procedures; the draft RTS further specifies the requirements, templates and procedures for handling complaints.</li> <li>• <b>Identification, prevention, management and disclosure of conflicts of interest by CASPs:</b> MiCA requires that CASPs must implement and maintain effective policies and procedures to identify, prevent, manage and disclose conflicts of interest as well as disclose to their clients and prospective clients, on a prominent place on their website, the general nature and sources of conflicts of interest and the steps taken to mitigate them. It also details the types of conflicts that should be covered by such policies and disclosed; the draft RTS sets out the relevant details. In terms of managing the conflicts of interest, ESMA highlights that is essential for CASPs to dedicate adequate resources (a sufficient number of staff but also adequate technical resources) to the implementation, maintenance and review of the policies and procedures meant to identify, prevent, manage and disclose conflicts of interest as these are critical to the investor protection and to the sound management of CASPs.</li> <li>• <b>Assessment of intended acquisition of a qualifying holding in a CASP:</b> By way of background, MiCA requires any natural or legal person who intends to acquire or to increase a qualifying holding in a CASP, to notify the NCA of that CASP in writing and provide specific information to enable the relevant NCA to assess the proposed acquisition or increase of an existing qualifying holding, it also establishes the criteria against which the NCA should evaluate the suitability of the proposed acquirer. In the draft RTS ESMA sets out the detailed content of the information for</li> </ul> |



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|   | <p>the assessment of proposed acquisitions of qualifying holdings in CASPs. As ESMA aims to achieve consistency with the similar rules applicable in other areas of the European financial sector, the proposed requirements are aligned with the procedures, timelines and criteria applicable on the acquisition of qualifying holdings across the financial sector.</p> <p>The EBA's <a href="#">consultation paper on technical standards specifying information for ARTs authorisation</a> covers the following:</p> <ul style="list-style-type: none"> <li>• <b>Authorisation to offer to the public or to seek admission to trading of ARTs:</b> In accordance with MiCA, the offer to the public or the admission to trading of ARTs is reserved to legal persons or other undertakings established in the EU which have been granted authorisation in or to credit institutions subject to the publication of a white paper. To this end, the draft RTS covers the comprehensive list of information to be provided in an application by legal persons or other undertakings seeking to obtain the authorisation and specify the content of the information required. The information set out in the draft RTS on information for authorisation complements that contained in the white paper which has to be submitted together with and is part of the application for authorisation.</li> <li>• <b>Information to be included in an application for authorisation to offer to the public or to seek admission to trading of ARTs:</b> The accompanying draft implementing technical standard (ITS) clarifies the modalities to file an application with the NCA (electronic form, upload on the competent authority's portal, paper form, which may be required for certificates on criminal records etc ...), the steps to be followed in case of incomplete application and when an application has to be considered complete.</li> </ul> <p>In addition, the EBA's <a href="#">consultation paper on information necessary to carry out the assessment of a proposed acquisition of qualifying holdings in issuers of ARTs</a> specifies information required for the prudential assessment of such proposed acquisition; such prudential assessment must be performed by the NCAs against the prescribed criteria (reputation of the proposed acquirer, suitability of the persons who will direct the business of the target undertaking, financial soundness of the proposed acquirer, compliance with prudential requirements of the target undertaking and reasonable ground to suspect an attempt or increase in the money laundering or terrorist financing risk by the proposed acquisition). The draft RTS sets out the information request against the relevant assessment criteria.</p> <p>In terms of the next steps, the ESMA and EBA await stakeholders' input respectively until 20 September 2023 and 12 October 2023. The EBA will also host two public hearings on 21 September 2023, one on <a href="#">authorisation of ART issuers and RTS on qualifying holdings</a> and the other on <a href="#">complaints handling procedures</a>.</p> <p><b>12 July 2023</b></p> |
| <p><b>USA</b></p>   |   |
| <p><b>Proposed new Crypto-Asset National Security Enhancement and Enforcement Act introduced to US Senate</b></p> | <p>On 19 July 2023, a bipartisan group of US Senators <a href="#">introduced</a> proposed new legislation, the Crypto-Asset National Security Enhancement and Enforcement (<b>CANSEE</b>) Act to the US Senate.</p> <p>The new legislation would require decentralised finance (<b>DeFi</b>) services to meet the same anti-money laundering (<b>AML</b>) and economic sanctions compliance obligations as other financial companies, including centralised crypto trading platforms, casinos and even pawn shops. It would also modernise key Treasury Department AML authorities and set new requirements to ensure that 'crypto kiosks' do not become a vector for laundering the proceeds of illicit activities.</p> <p>Under the proposed requirements:</p> <ul style="list-style-type: none"> <li>• DeFi services would be forced to meet basic obligations, most notably to maintain AML programs, conduct due diligence on their customers, and report suspicious transactions to the US Financial Intelligence Unit (<b>FinCEN</b>).</li> <li>• If a sanctioned person uses a DeFi service to evade US sanctions, then anyone who controls that project will be liable for facilitating that violation. If nobody controls a DeFi service then, as a backstop, anyone who invests more than \$25 million in developing the project will be responsible for these obligations.</li> </ul>   |

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|   | <ul style="list-style-type: none"> <li>• Operators of crypto kiosks (also known as crypto ATMs) would be required to improve traceability of funds by verifying the identities of each counterparty to each transaction using a kiosk.</li> <li>• The Treasury Department’s authority to require participants in the US financial system to take special measures against money laundering threats would be updated and expanded, to enable the Treasury to ‘crack down’ on illicit financial activity that may occur outside the banking sector.</li> </ul> <p><b>19 July 2023</b></p>   |
| <p><b>US House Committees introduce ‘Financial Innovation and Technology for the 21<sup>st</sup> Century Act’</b></p>   | <p>On 20 July 2023, the US House Committees on Financial Services and Agriculture <u>introduced</u> ‘landmark legislation’ intended to establish a functional regulatory framework that will protect consumers and keep innovation in the US.</p> <p>The proposed legislation, referred to as the ‘Financial Innovation and Technology for the 21<sup>st</sup> Century Act’, is <u>intended</u> to address existing ‘regulatory gaps’ by creating a functional framework tailored to the specific risks of different digital asset-related activities.</p> <p>The Act would:</p> <ul style="list-style-type: none"> <li>• Provide the Commodity Futures Trading Commission (<b>CFTC</b>) with jurisdiction over digital commodities.</li> <li>• Clarify the Securities and Exchange Commission’s (<b>SEC</b>) jurisdiction over digital assets offered as part of an investment contract.</li> <li>• Establish a process to permit the secondary market trading of digital commodities, if they were initially offered as part of an investment contract.</li> <li>• Impose robust consumer protections on all entities required to be registered with the SEC and CFTC.</li> </ul> <p>A transition period is provided for in the Act, enabling entities to come under temporary oversight of both the SEC and CFTC immediately while the Commissions are writing final rules to bring comprehensive oversight to these markets. Existing digital assets are eligible for a safe harbour under which they are permitted to trade during this period, until the SEC or CFTC issues a notice to the trading venue that they are not digital commodities.</p> <p><b>20 July 2023</b></p> |
| <p><b>US House Financial Services Committee considers Blockchain Regulatory Certainty Act</b></p>                       | <p>On 26 July 2023, the US House Financial Services Committee <u>considered</u> the proposed new ‘Blockchain Regulatory Certainty Act’, a piece of non-partisan legislation which specifically deals with which blockchain-related entities qualify as money transmitters across the country.</p> <p>Commenting on the proposed legislation, Majority Whip Tom Emmer noted that: ‘Major discrepancies in the state-by-state framework on this issue have stifled innovation and confused the marketplace on how to comply with money transmission requirements.’</p> <p>The Blockchain Regulatory Certainty Act is intended to clarify the position by affirming for the blockchain community that if you do not custody consumer funds, you are not a money transmitter. Mr Emmer added that: ‘A clear and consistent regulatory landscape will ensure we don’t drive this transformative technology overseas or drive American consumers to bad actors. This bill will allow blockchain innovation to flourish right here in the US...’</p> <p><b>26 July 2023</b></p>  |
| <p><b>US House Financial Services Committee passes legislation on digital assets to the House for consideration</b></p> | <p>On 27 July 2023, the US House Financial Services Committee <u>passed</u> a number of pieces of legislation to the full House for consideration, including proposed Acts that establish a regulatory framework for payment stablecoins and protect self-custody for digital assets.</p> <p>The ‘<u>Clarity for Payment Stablecoins Act of 2023</u>’ creates a regulatory framework for the issuance of payment stablecoins. It is intended to protect consumers by establishing necessary federal guardrails, while at the same time fostering innovation in the US through a tailored approach for new entrants into the marketplace.</p> <p>The ‘<u>Keep Your Coins Act of 2023</u>’ seeks to ensure that consumers are allowed to maintain custody of their digital assets in self-hosted wallets. This is a key tenet of blockchain technology as it allows consumers to avoid the risks associated with centralised, third-party custody.</p> <p><b>27 July 2023</b></p>   |

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| <p><b>HKMA announces publication of report on digitalisation of financial services in Hong Kong</b></p> | <p>On 12 July 2023, the Hong Kong Monetary Authority (<b>HKMA</b>) <a href="#">announced</a> the publication of a report, produced by the Hong Kong Institute for Monetary and Financial Research (<b>HKIMR</b>), on ‘The Digitalisation of Financial Services in Hong Kong: Recent Experience, Regulatory Developments and Considerations for Sustainable Innovation and Growth’.</p> <p>The report:</p> <ul style="list-style-type: none"> <li>• Reviews market and policy factors that have accelerated the digitalisation of financial services in Hong Kong in the past few years.</li> <li>• Discusses the implications of digitalisation for financial inclusion and environmental sustainability, as well as the associated risks for consumers, featuring insights from local financial institutions based on interviews commissioned by the HKIMR.</li> <li>• Highlights the measures implemented both in Hong Kong and internationally to mitigate the potential risks and enhance consumer protection.</li> <li>• Concludes with considerations for sustainable innovation and growth in the digitalisation journey for financial services in Hong Kong.</li> </ul> <p><b>12 July 2023</b></p>  |
| International organisations   |   |
| <p><b>BIS report on the crypto ecosystem: key elements and risks</b></p>                                | <p>On 11 July 2023, the Bank for International Settlements (<b>BIS</b>) published a <a href="#">report</a> on the crypto ecosystem: key elements and risks.</p> <p>The report reviews the key elements of the crypto ecosystem and assesses its structural flaws. It also discusses the risks that it poses and the options for addressing them. It also identifies data gaps and the ways to alleviate them.</p> <p>The report provides the following three key takeaways:</p> <ul style="list-style-type: none"> <li>• Due to underlying economic incentives, the crypto ecosystem is highly fragmented and characterised by congestion and high fees.</li> <li>• Despite an original ethos of decentralisation, crypto and decentralised finance (DeFi) often feature substantial de-facto centralisation, which introduces various risks. An example concerns stablecoins, which piggyback on the credibility of the central bank’s unit of account and may pose risks to monetary sovereignty.</li> <li>• While DeFi mostly replicates services offered by the traditional financial system, it does not finance any activity in the real economy but amplifies known risks. Moreover, as DeFi does not finance activity in the real economy, its growth is driven by the speculative influx of new users, with substantial risks to investors.</li> </ul> <p><b>11 July 2023</b></p>  |
| <p><b>BIS report on lessons learned on CBDCs</b></p>  | <p>On 11 July 2023, the BIS published a <a href="#">report</a> on the lessons learned on central bank digital currencies (<b>CBDCs</b>). The report shows how the BIS Innovation Hub is helping central banks as they step up efforts to prepare the ground for CBDCs either as digital cash (retail) or tokenised reserves (wholesale), and discusses the lessons learned so far.</p> <p>For the different types of CBDC, the report finds:</p> <ul style="list-style-type: none"> <li>• Wholesale CBDCs will be driven by the public and private sector’s quest to shape the future of trading and settlement.</li> <li>• A retail CBDC is a complex undertaking, and not only for the central banks. The Hub’s projects focus on individual aspects to shed light on these complexities. In particular, they are experimenting with (i) the most promising CBDC model, a two-tier model with public-private partnership; (ii) the most fundamental feature, privacy, and (iii) the greatest challenge, cyber security.</li> <li>• Cross-border CBDC arrangements are novel territory, and more complicated than their domestic counterparts. Common platforms are likely to have more upside and bring potential operational efficiencies compared with current arrangements, but ‘hub-and-spoke’ designs provide more flexibility for domestic systems and are thus easier to contemplate at least in the short run. By leveraging new technologies,</li> </ul> |

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|   | <p>central banks can provide new solutions to many "old" operational challenges and policy questions.</p> <p><b>11 July 2023</b></p>  |
| <p><b>FSB publishes letter from Chair to G20 Finance Ministers and Central Bank Governors</b></p>   | <p>On 13 July 2023, the Financial Stability Board (<b>FSB</b>) published a <a href="#">letter</a> from its Chair, Klaas Knot, to G20 Ministers and Central Bank Governors, ahead of their meeting on 17-18 July 2023.</p> <p>The letter sets forth the following:</p> <ul style="list-style-type: none"> <li>• The global financial system continues to face a challenging outlook. With most major economies having transitioned out of a low interest rate environment, amid ongoing inflation concerns, the prospect of more muted economic growth and further bouts of financial market volatility looks large.</li> <li>• The FSB and other standard setting bodies are working closely together to draw out lessons from the recent banking-sector turmoil.</li> <li>• Developing a global regulatory framework to address the vulnerabilities in crypto-asset markets and activities has been a key priority of the FSB. The FSB and the International Monetary Fund (<b>IMF</b>) will deliver a joint paper to the G20 in September, synthesising the policy findings from IMF work on macroeconomic and monetary issues and FSB work on supervisory and regulatory issues.</li> <li>• The FSB's work to enhance the resilience of the non-bank financial intermediation (<b>NBFI</b>) sector remains as important as before. A progress report on the FSB's work programme to enhance the resilience of the NBFI sector, which will include an updated programme for future work, will be sent to G20 leaders in September.</li> <li>• The FSB's policy toolkit for enhancing third-party risk management and oversight, published for consultation last month, aims to reduce fragmentation in regulatory and supervisory approached across jurisdictions and sectors, and strengthen financial institutions' ability to manage third-party risks.</li> <li>• Progress has been steady across all four block of the FSB's Roadmap to address climate-related financial risks. The FSB has delivered to the G20 an updated Roadmap, also published on 13 July.</li> </ul> <p><b>13 July 2023</b></p>                               |
| <p><b>FSB announces finalisation of global regulatory framework for crypto-asset activities</b></p> | <p>On 17 July 2023, the Financial Stability Board (<b>FSB</b>) announced that it has finalised the <a href="#">global regulatory framework for crypto-asset activities</a> by publishing two distinct sets of recommendations. Both sets of recommendations are addressed to financial regulatory, supervisory and oversight authorities.</p> <p><b>High-level recommendations for the regulation, supervision and oversight of crypto-asset activities and markets.</b></p> <ul style="list-style-type: none"> <li>• The recommendations are: <ul style="list-style-type: none"> <li>• <b>Recommendation 1: Regulatory powers and tools</b> – Authorities should have and utilise the appropriate powers and tools, and adequate resources to regulate, supervise, and oversee crypto-asset activities and markets, and enforce relevant laws and regulations effectively, as appropriate.</li> <li>• <b>Recommendation 2: General regulatory framework</b> – Authorities should apply comprehensive and effective regulation, supervision, and oversight to crypto-asset activities and markets – including crypto-asset issuers and service providers – on a functional basis and proportionate to the financial stability risk they pose, or potentially pose, and consistent with authorities' respective mandates in line with the principle "same activity, same risk, same regulation".</li> <li>• <b>Recommendation 3: Cross-border cooperation, coordination and information sharing</b> – Authorities should cooperate and coordinate with each other, both domestically and internationally, to foster efficient and effective communication, information sharing and consultation in order to support each other as appropriate in fulfilling their respective mandates and to encourage consistency of regulatory and supervisory outcomes.</li> <li>• <b>Recommendation 4: Governance</b> – Authorities, as appropriate, should require that crypto-asset issuers and service providers have in place and disclose a comprehensive governance framework with clear and direct lines of responsibility</li> </ul> </li> </ul> |

and accountability for all functions and activities they are conducting. The governance framework should be proportionate to their risk, size, complexity and systemic importance, and to the financial stability risk that may be posed by activity or market in which the crypto-asset issuers and service providers are participating. It should provide for clear and direct lines of responsibility and accountability for the functions and activities they are conducting.

- **Recommendation 5: Risk management** – Authorities, as appropriate, should require crypto-asset service providers to have an effective risk management framework in place that comprehensively addresses all material risks associated with their activities. The framework should be proportionate to the risk, size, complexity, and systemic importance, and to the financial stability risk that may be posed by the activity or market in which they are participating. Authorities should, to the extent necessary to achieve regulatory outcomes comparable to those in traditional finance, require crypto-asset issuers to address the financial stability risk that may be posed by the activity or market in which they are participating.
- **Recommendation 6: Data collection, recording and reporting** – Authorities, as appropriate, should require that crypto-asset issuers and service providers have in place robust frameworks, including systems and processes, for collecting, storing, safeguarding, and the timely and accurate reporting of data, including relevant policies, procedures and infrastructures needed, in each case proportionate to their risk, size, complexity and systemic importance. Authorities should have access to the data as necessary and appropriate to fulfil their regulatory, supervisory and oversight mandates.
- **Recommendation 7: Disclosures** – Authorities should require that crypto-asset issuers and service providers disclose to users and relevant stakeholders comprehensive, clear and transparent information regarding their governance framework, operations, risk profiles and financial conditions, as well as the products they provide and activities they conduct.
- **Recommendation 8: Addressing financial stability risks arising from interconnections and interdependencies** – Authorities should identify and monitor the relevant interconnections, both within the crypto-asset ecosystem, as well as between the crypto-asset ecosystem and the wider financial system. Authorities should address financial stability risks that arise from these interconnections and interdependencies.
- **Recommendation 9: Comprehensive regulation of crypto-asset service providers with multiple functions** – Authorities should ensure that crypto-asset service providers and their affiliates that combine multiple functions and activities, where permissible, are subject to appropriate regulation, supervision and oversight that comprehensively address the risks associated with individual functions and the risks arising from the combination of functions, including but not limited to requirements regarding conflicts of interest and separation of certain functions, activities, or incorporation, as appropriate.

**Revised high-level recommendations for the regulation, supervision and oversight of ‘global stablecoin’ arrangements (GSCs).**

- The revised recommendations are:
  - **Recommendation 1: Authorities’ readiness to regulate and supervise global stablecoin arrangements** – Authorities should have and utilise the appropriate powers and tools, and adequate resources, to comprehensively regulate, supervise, and oversee a GSC arrangement and its associated functions and activities, and enforce relevant laws and regulations effectively.
  - **Recommendation 2: Comprehensive oversight of GSC activities and functions** – Authorities should apply comprehensive and effective regulatory, supervisory and oversight requirements consistent with international standards to GSC arrangements on a functional basis and proportionate to their risks insofar as such requirements are consistent with their respective mandates.
  - **Recommendation 3: Cross-border cooperation, coordination and information sharing** – Authorities should cooperate and coordinate with each other, both domestically and internationally, to foster efficient and effective communication, information sharing and consultation in order to support each other in fulfilling their respective mandates and to ensure comprehensive regulation, supervision, and

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|  | <p>oversight of a GSC arrangement across borders and sectors, and to encourage consistency of regulatory and supervisory outcomes.</p> <ul style="list-style-type: none"> <li>• <b>Recommendation 4: Governance structures and decentralised operations</b> – Authorities should require that GSC arrangements have in place and disclose a comprehensive governance framework with clear and direct lines of responsibility and accountability for all functions and activities within the GSC arrangement.</li> <li>• <b>Recommendation 5: Risk management</b> – Authorities should require that GSC arrangements have effective risk management frameworks in place that comprehensively address all material risks associated with their functions and activities, especially with regard to operational resilience, cyber security safeguards and AML/CFT measures, as well as “fit and proper” requirements, if applicable, and consistent with jurisdictions’ laws and regulations.</li> <li>• <b>Recommendation 6: Data storage and access to data</b> – Authorities should require that GSC arrangements have in place robust frameworks, including systems and processes for the collecting, storing, safeguarding and timely and accurate reporting of data. Authorities should have access to the data as necessary and appropriate to fulfil their regulatory, supervisory and oversight mandates.</li> <li>• <b>Recommendation 7: Recovery and resolution of the GSC</b> – Authorities should require that GSC arrangements have appropriate recovery and resolution plans.</li> <li>• <b>Recommendation 8: Disclosures</b> – Authorities should require that GSC issuers and, where applicable, other participants in the GSC arrangements provide all users and relevant stakeholders with comprehensive and transparent information to understand the functioning of the GSC arrangement, including with respect to the governance framework, any conflicts of interest and their management, redemption rights, stabilisation mechanism, operations, risk management framework and financial condition.</li> <li>• <b>Recommendation 9: Redemption rights, stabilisation, and prudential requirements</b> – Authorities should require that GSC arrangements provide a robust legal claim to all users against the issuer and/or underlying reserve assets and guarantee timely redemption. For GSCs referenced to a single fiat currency, redemption should be at par into fiat. To maintain a stable value at all times and mitigate the risks of runs, authorities should require GSC arrangements to have an effective stabilisation mechanism, clear redemption rights and meet prudential requirements.</li> <li>• <b>Recommendation 10: Conformance with regulatory, supervisory and oversight requirements before commencing operations</b> – Authorities should require that GSC arrangements meet all applicable regulatory, supervisory and oversight requirements of a particular jurisdiction before commencing any operations in that jurisdiction and adapt to new regulatory requirements as necessary and as appropriate.</li> </ul> <p><b>17 July 2023</b></p> |
| <p><b>FMSB transparency draft – Statement of good practice for the application of a model risk management framework to electronic trading algorithms</b></p> | <p>On 18 July 2023, the Financial Markets Standards Board (<b>FMSB</b>) published a <a href="#">transparency draft</a> of a statement of good practice for the application of a model risk management framework to electronic trading algorithms.</p> <p>The purpose of the statement is to support firms in applying model risk management frameworks in a proportionate manner to models deployed in their electronic trading algorithms taking into account the nature, scale and complexity of such models as well as existing systems and risk controls intended to mitigate associated market, conduct, credit and operational risks. The statement does not detail a comprehensive model risk management framework nor does it address all risk types. Instead, it addresses a sub-set of issues associated with model risk management focussing on where market practitioners, including first line risk owners and second line risk managers, have identified that the nature of model use in electronic trading algorithms merits a differentiated approach compared with other model types.</p> <p>The FMSB invites comments on the transparency draft by 22 September 2023.</p> <p><b>18 July 2023</b></p>   |

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