

# Consumer Protection in Crypto Markets

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## Executive Summary

Consumer protection frameworks for cryptoassets have undergone a decisive shift from laissez-faire permissiveness to prescriptive regulation across major jurisdictions. The UK's FCA financial promotions regime (October 2023) imposed strict rules on crypto marketing; the EU's Markets in Crypto-Assets Regulation (MiCA) introduced standardized whitepapers and conduct-of-business requirements effective June 2024; Australia's ASIC consolidated retail crypto marketing guidance under INFO 225; Singapore's MAS banned retail crypto promotion for most tokens; and the US SEC escalated enforcement against Coinbase and Kraken over alleged failures to disclose material risks and unregistered securities offerings. These regimes share common principles—mandatory risk warnings, suitability assessments, clear product disclosures, and advertising restrictions—but diverge significantly on permissible distribution channels, approved product categories, and remediation pathways. Compliance officers face a patchwork of overlapping obligations, heightened liability for misleading statements, and intensifying coordination between consumer protection agencies and AML/securities regulators.

## Background

Prior to 2021, most jurisdictions treated cryptoasset consumer protection as an extension of general consumer law or advertising standards, with limited sector-specific rules. The collapse of retail-targeted projects (Luna/Terra in May 2022, FTX in November 2022, and widespread token project failures throughout 2023–2024) catalyzed regulatory intervention. Governments identified systemic information asymmetries: consumers lacked baseline financial literacy for assessing cryptoasset risks, marketing materials inflated return expectations without disclosing volatility or counterparty risk, and issuers operated without disclosure obligations equivalent to securities prospectuses.

By mid-2023, the global policy consensus coalesced around three pillars:

1. **Marketing restrictions:** Curtailing speculative promotion and requiring balanced risk warnings.
2. **Disclosure standardization:** Mandating whitepapers, product information statements, or registration documents reviewed by regulators.
3. **Conduct obligations:** Imposing suitability, appropriateness, or client categorization requirements on intermediaries.

This briefing examines how five leading jurisdictions operationalize these pillars and the compliance implications for entities serving retail consumers.

## Current Landscape (2026)

### United Kingdom: FCA Financial Promotions Regime

The Financial Conduct Authority extended the Financial Services and Markets Act 2000 (FSMA) financial promotions regime to "qualifying cryptoassets" effective **8 October 2023**. Under the regime:

- **Scope:** Applies to communications inviting or inducing engagement in cryptoasset activity, covering exchange tokens, utility tokens offered with investment characteristics, and non-fungible tokens (NFTs) marketed as investments.
- **Approval requirement:** Promotions must be approved by an FCA-authorized firm or comply with exemptions (e.g., high-net-worth individuals, sophisticated investors, certified self-certified sophisticated investors).
- **Risk warnings:** Mandatory on-screen warnings stating cryptoassets are unregulated, high-risk, and may result in total loss. Cooling-off periods (24 hours for first-time users) apply.
- **Content standards:** Promotions must be clear, fair, and not misleading. Comparisons to regulated products are prohibited. Expected returns cannot be stated unless substantiated by historical data with appropriate caveats.
- **Restrictions on incentives:** Referral bonuses, prize draws tied to trading volume, and "fear of missing out" messaging are banned.

In February 2024, the FCA published *Policy Statement PS24/1*, clarifying that promotions targeting UK consumers via social media require geofencing or user verification. By Q1 2026, the FCA had issued 14 public censures and fines totaling £8.7 million for breaches, targeting both offshore exchanges and UK-based influencers.

### European Union: MiCA Whitepaper and Marketing Rules

The Markets in Crypto-Assets Regulation (Regulation (EU) 2023/1114) entered into force with phased implementation:

- **Whitepaper requirement** (Article 4–13, Title II): Issuers of asset-referenced tokens (ARTs) and e-money tokens (EMTs) must publish a whitepaper approved by the national competent authority before public offer. For other cryptoassets, a whitepaper is required but not pre-approved unless the offer exceeds €1 million over 12 months or targets more than 150 persons.
- **Content:** Whitepapers must include issuer identity, governance, technology description, rights and obligations of holders, risk factors, tokenomics (supply, distribution, burn mechanisms), and environmental impact disclosures for proof-of-work tokens.
- **Marketing communications** (Article 88–89, Title VI): All marketing must be identifiable, balanced, and consistent with the whitepaper. Key information must be presented with equal prominence to promotional content.
- **Conduct of business** (Article 77–78): Crypto-asset service providers (CASPs) must conduct appropriateness tests for complex products, act honestly and professionally, and provide clear information on fees, conflicts of interest, and safeguarding arrangements.

**MiCA enforcement began June 2024.** By May 2026, ESMA published three opinions on whitepaper deficiencies, flagging inadequate risk disclosures (Opinion ESMA70-459-846), misleading claims about regulatory status (Opinion ESMA70-460-201), and failure to disclose affiliated market makers (Opinion ESMA70-461-119). National competent authorities in France (AMF), Germany (BaFin), and Italy (CONSOB) have commenced investigations into 23 issuers and suspended five public offers.

### Australia: ASIC INFO 225

The Australian Securities and Investments Commission consolidated retail crypto marketing guidance in **INFO 225** (updated September 2025). Key provisions:

- **Product categorization:** Cryptoassets that are financial products under the Corporations Act 2001 are subject to Australian Financial Services License (AFSL) requirements. Many tokens are classified as managed investment schemes or derivatives.
- **Disclosure:** Issuers must provide a Product Disclosure Statement (PDS) or Prospectus for regulated products. For non-financial product tokens, general consumer law prohibits misleading or deceptive conduct (Australian Consumer Law s18).
- **Advertising standards:** Ads must not downplay risk, create urgency to invest, or use testimonials implying guaranteed returns. Influencer promotions require clear disclosure of material connections and remuneration (ASIC Regulatory Guide 234).
- **Target market determinations:** Distributors must define target markets and ensure products are distributed only to consumers within those parameters (Design and Distribution Obligations, effective October 2021).

ASIC's March 2026 enforcement update reported six infringement notices totaling AUD 1.3 million against offshore exchanges for misleading social media ads and failure to file target market determinations. ASIC also issued stop orders against three token issuers for inadequate risk disclosure in offer documents.

### Singapore: MAS Retail Promotion Restrictions

The Monetary Authority of Singapore (MAS) implemented sweeping retail promotion restrictions:

- **January 2022 guidelines:** MAS banned crypto service providers from advertising to the general public via broadcast, print, digital, or physical channels. Providers may advertise only on their own websites or apps, provided users acknowledge risk warnings before proceeding.
- **Token classifications:** Payment tokens are not securities but are subject to the Payment Services Act. Digital Payment Token (DPT) service providers must be licensed. Securities tokens fall under the Securities and Futures Act (SFA) and require prospectuses.
- **Suitability and knowledge assessments:** DPT service providers must conduct knowledge assessments before onboarding retail customers, ensuring they understand risks including total loss, volatility, and lack of recourse.
- **Staking and yield products:** In November 2023, MAS clarified that retail offers of staking-as-a-service or yield-bearing products may constitute collective investment schemes (CIS) under the SFA, requiring prospectuses and fund management licenses.

By mid-2026, MAS revoked two DPT licenses and issued prohibition orders against four individuals for promoting speculative tokens via Telegram groups. MAS emphasized that offshore entities targeting Singapore residents remain subject to Singapore law and will face civil or criminal penalties.

### United States: SEC Enforcement and Retail Disclosures

The U.S. Securities and Exchange Commission has pursued an enforcement-first strategy:

- **Coinbase enforcement** (June 2023 complaint, ongoing litigation as of June 2026): SEC alleges Coinbase operated as an unregistered broker, exchange, and clearing agency, listing tokens that are unregistered securities. The complaint emphasizes Coinbase's failure to provide SEC-compliant

disclosures (Forms S-1, 10-K) for tokens offered to retail investors. Coinbase denies tokens are securities and contests the SEC's application of the Howey test.

- **Kraken settlement** (February 2023): SEC charged Kraken's staking-as-a-service product as an unregistered securities offering. Kraken paid \$30 million and ceased U.S. staking services. The SEC noted Kraken had not provided disclosure documents explaining pooling mechanics, validator selection, slashing risks, or Kraken's economic interest.
- **Coinbase appeal and disclosures** (April 2024 motion to dismiss denied; discovery ongoing): Coinbase argues SEC has not provided fair notice of which tokens are securities. SEC counters that Coinbase's own marketing materials (emphasizing profit from others' efforts, managerial control by token teams) satisfy Howey.
- **Retail investor harm allegations:** SEC complaints cite specific investor losses and emphasize the absence of periodic financial reporting, audited financials for token projects, and standardized risk factor disclosures as per Regulation S-K.

The SEC's stance is that platforms listing tokens must either (a) register as national securities exchanges and require token issuers to register offerings, or (b) limit listings to non-securities. No major platform has pursued registration. Retail disclosure gaps remain the SEC's primary leverage point.

Separately, the **Consumer Financial Protection Bureau (CFPB)** issued a consent order in January 2026 against a payments-focused crypto firm for unfair practices under the Consumer Financial Protection Act, related to failure to disclose account freezing risks and lack of FDIC insurance.

## Jurisdiction Snapshots

### United Kingdom (FCA)

- Promotions regime applies to most tokens except pure utility tokens with no investment characteristics.
- Mandatory risk warnings, cooling-off periods, approval by authorized firms.
- 14 public enforcement actions (Q1 2026); ongoing scrutiny of influencer marketing.
- No statutory compensation schemes (FSCS) for crypto losses.

### European Union (MiCA)

- Whitepaper requirement for ARTs, EMTs, and large offers (>€1M or >150 persons).
- CASPs must conduct appropriateness tests, provide clear fee disclosures, and ensure marketing consistency with whitepapers.
- ESMA published three opinions on deficient whitepapers (May 2026); 23 investigations underway in France, Germany, Italy.
- Passporting rights for authorized CASPs across EU27 expected to streamline compliance by Q4 2026.

### Australia (ASIC)

- Many tokens are financial products; PDS/prospectus required.
- Design and Distribution Obligations (DDO) require target market determinations.

- Six infringement notices (March 2026) for misleading ads and DDO breaches.
- ASIC relies on Australian Consumer Law s18 (misleading conduct) for non-financial product tokens.

### Singapore (MAS)

- Blanket ban on public advertising of DPT services; ads permitted only on provider's own platforms with risk acknowledgments.
- Knowledge assessments mandatory for retail customers.
- Staking/yield products may trigger CIS licensing requirements.
- Two license revocations, four prohibition orders (H1 2026).

### United States (SEC)

- No crypto-specific consumer protection statute; enforcement via securities laws.
- Coinbase and Kraken cases pivot on unregistered securities offerings and inadequate disclosures.
- No clarity on which tokens are securities beyond case-by-case litigation.
- CFPB active on payments-related crypto under unfair/deceptive practices authority.

## Key Risks & Enforcement Signals

1. **Misleading marketing materials:** Regulators scrutinize social media posts, influencer endorsements, and promotional videos. Common violations include overstating returns, omitting risk factors, and using non-compliant risk warnings.
2. **Whitepaper deficiencies:** Under MiCA, incomplete tokenomics, vague governance descriptions, and failure to disclose affiliated liquidity providers or market makers are enforcement priorities.
3. **Unregistered securities offerings:** SEC enforcement targets platforms listing tokens without registration. Retail disclosure gaps amplify liability.
4. **Cooling-off and suitability failures:** UK and EU regulators enforce cooling-off periods and appropriateness tests. Failure to implement technical controls (e.g., 24-hour lockouts) invites sanctions.
5. **Cross-border targeting:** Offshore entities advertising to UK, EU, Singapore, or Australian consumers are subject to local law. Regulators issue cease-and-desist orders, block websites, and pursue civil penalties.
6. **Yield product classification:** Staking, lending, and yield aggregators are increasingly classified as securities (U.S.), CIS (Singapore), or ARTs/EMTs (EU), triggering registration and disclosure obligations.

## Implications for Compliance Officers

- **Multi-jurisdictional approval workflows:** Marketing materials must be reviewed for compliance with UK FCA rules, MiCA, ASIC guidelines, and MAS restrictions before publication. Separate review tracks are needed for each jurisdiction.
- **Whitepaper governance:** Establish a cross-functional whitepaper committee (legal, product, risk, marketing) to ensure accuracy, consistency with marketing, and completeness. MiCA whitepapers must be updated for material changes within seven days.

- **Risk warning integration:** Implement technical controls ensuring risk warnings appear on-screen at required prominence and duration (UK: 24-hour cooling-off for first-time users; EU: key information alongside promotional content).
- **Influencer and affiliate oversight:** Document all influencer agreements. Ensure influencers disclose material connections and use approved risk warnings. Monitor affiliate channels for off-script promotions.
- **Product classification analysis:** Conduct legal analysis of whether products are securities (U.S.), financial products (Australia), CIS (Singapore), or ARTs/EMTs (EU). Document analysis in legal memoranda.
- **Target market determinations (Australia):** Define target markets for each product, document distribution restrictions, and monitor for sales outside target markets.
- **Knowledge assessments (Singapore):** Implement pre-onboarding quizzes; users must pass before access to trading. Retain quiz results and user acknowledgments for audit.
- **SEC disclosure gap analysis (U.S.):** For platforms listing tokens, conduct Howey analysis for each token. If tokens are securities, assess disclosure gaps vs. Regulation S-K. Consider de-listing or limiting to accredited investors.
- **Whistleblower programs:** Establish internal whistleblower channels. SEC, FCA, and ASIC offer financial incentives for whistleblowers reporting consumer protection violations.

## Recommended Actions

1. **Conduct a cross-border marketing audit:** Review all promotional materials (website, social media, press releases, influencer content) for compliance with UK FCA, MiCA, ASIC, MAS, and SEC/CFPB standards. Remediate deficiencies within 30 days.
2. **Implement jurisdiction-specific risk warnings:** Deploy geofencing or IP detection to serve jurisdiction-compliant risk warnings. UK users must receive FCA-mandated warnings; EU users must see MiCA key information summaries.
3. **Establish a whitepaper working group:** Draft or update whitepapers for MiCA compliance. Engage external counsel in target EU member states for pre-submission review.
4. **Develop suitability and appropriateness testing protocols:** For EU CASPs, implement Article 77 appropriateness tests. For Singapore DPT providers, deploy knowledge assessments. Document test design and results.
5. **Review product classifications quarterly:** Regulatory guidance evolves. Quarterly legal review of product classifications (securities, CIS, financial products, ARTs/EMTs) ensures timely adjustments to compliance programs.
6. **Train marketing and product teams:** Conduct training on prohibited marketing practices (urgency messaging, return guarantees, misleading comparisons). Require quarterly attestations from marketing managers.
7. **Monitor offshore affiliate and influencer channels:** Deploy social listening tools to detect unauthorized promotions. Issue takedown notices promptly.

8. **Engage with regulators proactively:** For novel products (e.g., staking, yield aggregators), consider pre-launch consultations with FCA, ESMA, ASIC, MAS, or SEC staff (no-action letter requests or informal guidance).

9. **Prepare for SEC litigation discovery:** U.S. platforms should anticipate SEC document requests. Organize internal communications, marketing approvals, and product classification analyses in litigation-ready formats.

10. **Establish consumer redress mechanisms:** Consider voluntary compensation schemes or alternative dispute resolution (ADR) for consumer complaints, demonstrating good faith and potentially mitigating regulatory penalties.

## Sources & Further Reading

### United Kingdom

- Financial Conduct Authority, *Policy Statement PS23/6: Financial Promotion Rules for Cryptoassets* (June