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UK Financial Insights from Katten

November 2023

Artificial Intelligence and Machine Learning Across the UK, EU and US: Bridging the Regulatory Divide

By Neil Robson, Ciara McBrien, Sara Portillo

On 8 November 2023, Financial Markets and Funds partner Neil Robson moderated a panel discussion on the regulatory divide for artificial intelligence (AI) across the UK, EU and US, with a focus on providing legal and compliance insights for the asset management industry. The panel and subsequent advisory explore the existing regulatory framework of AI within the UK financial services industry, make a brief comparison against the global landscape and attempt to predict what lies ahead. [Read key takeaways from the panel discussion.](#) [Read Katten's advisory.](#)

Latest Transatlantic Developments Webinar: Compliance With and Potential Risks of Climate Disclosures for Private and Public Companies

Presented by Katten

Katten will present "Latest Transatlantic Developments Webinar: Compliance With and Potential Risks of Climate Disclosures for Private and Public Companies" at 12:00 p.m. (ET) on Tuesday, December 5. Presenters Chris Cole, partner and chair, Advertising, Marketing and Promotions; Neil Robson, Financial Markets and Funds partner; Alexa Rollins, Capital Markets associate; and Brigitte Weaver, Employment Litigation and Counseling senior associate, will discuss the need for private and public companies to start assessing their climate footprints and making public disclosures under new laws and guidance that are going into effect soon. These requirements will expose environmental, social and governance (ESG) backsliders to public scrutiny and litigation and make "greenhushing" difficult. While some companies are going quiet on public pronouncements regarding ESG, they increasingly recognize the need to make progress on ESG metrics. [Register for the "Latest Transatlantic Developments Webinar: Compliance With and Potential Risks of Climate Disclosures for Private and Public Companies" webinar.](#)

(mis)Conduct, Money & Reputation Podcast Explores 'DWS, Sustainability & Disclosure'

Hosted by Neil Robson

ESG, specifically sustainability, is an increasingly controversial topic for investment managers, with diverging regulation in Europe, the US and the UK, and rising numbers of reputational

hazards to navigate. Many fund companies are removing phrases like "ESG" and "sustainable" from product names while downgrading these funds' obligations to the principles of ESG. At the same time, many investment businesses have been overstating their sustainability credentials, and at least two firms have been fined over \$25 million in recent years for making false claims.

In this latest [\(mis\)Conduct, Money & Reputation](#) podcast episode, Katten's Neil Robson, Lansons Asset Management Lead David Masters and Lansons ESG Lead Sam Sharpe explore the increasingly widespread issue of misconduct surrounding ESG, from the companies that have fallen afoul of the regulations and the regulatory trends, to the challenging act of maintaining a good reputation in an environment where ESG appears to have as many detractors as it has advocates. [Read about this \(mis\)Conduct, Money & Reputation podcast episode.](#)

UK Regulators Publish Updates for the Regulation of Fiat-Backed Stablecoins

By Neil Robson, Ciara McBrien, Sara Portillo, Nathaniel Lalone, Carolyn Jackson, Christopher Collins

On 6 November 2023, the Bank of England (BoE) published a discussion paper on the "Regulatory Regime for Systemic Payment Systems Using Stablecoins and Related Service Providers" (the Discussion Paper). The Discussion Paper has been published alongside (1) the Financial Conduct Authority (FCA) discussion paper "Regulating Cryptoassets Phase 1: Stablecoins", detailing their regulatory approach to stablecoin issuers and custodians (DP23/4); (2) a letter from the Prudential Regulation Authority (PRA) to bank chief executive officers on "Innovations in the Use by Deposit-takers of Deposits, E-money and Regulated Stablecoins" (the Letter); and (3) a "Cross-authority Roadmap on Innovation in Payments" (the Roadmap), issued by the BoE, PRA and FCA (jointly, the Regulators) [Read about regulatory plans for fiat-backed stablecoins.](#)

UK FCA Publishes Marketing Guidance for Cryptoasset Firms

By Neil Robson, Ciara McBrien, Sara Portillo, Christopher Collins

On 2 November 2023, the FCA published final, non-handbook guidance on cryptoasset financial promotions in the United Kingdom (FG23/3) together with a press release to further support cryptoasset firms complying with the new marketing rules. FG23/3 provides information on, and sets out the FCA's expectations of, the communication and approval of financial promotions relating to qualifying cryptoassets. Qualifying cryptoassets are defined broadly to mean any cryptographically secured digital representation of value or contractual rights that are transferable and fungible. [Read about cryptoasset marketing guidance.](#)

UK Confirms Proposals for the Future Financial Services Regulatory Rules for Cryptoassets

By Neil Robson, Ciara McBrien, Sara Portillo, Nathaniel Lalone, Carolyn Jackson, Christopher Collins

On 30 October 2023, HM Treasury (HMT) published a response to its February 2023 consultation and call for evidence on its proposals for the future financial services regulatory framework for cryptoassets used within financial services (the Consultation). The Response summarises the 131 comments received by HMT following the Consultation and sets out policy decisions based on such feedback. [Read about the HMT's Consultation.](#)

UK Government Publishes a Response to its Consultation – Failure or Success?

By Neil Robson, Sara Portillo, Christopher Collins

On 30 October 2023, HM Treasury (HMT) published a response to its May 2022 consultation (the Consultation) on its approach to managing the failure of systemic digital asset (including

stablecoin) firms (the Response). The Consultation sought views on the proposed application of a modified Financial Market Infrastructure Special Administration Regime (FMISAR) to systemic payment systems, and service providers of systemic importance to those systems, that use digital settlement assets (DSAs). [Read about the proposed modified FMISAR.](#)

UK FCA Publishes Statement on Common Cryptoasset Marketing Issues

By Neil Robson, Christopher Collins, Ciara McBrien, Sara Portillo

On October 25, the FCA published a statement warning about common issues with cryptoasset marketing in the UK. The FCA has been supervising firms' compliance with its new cryptoasset financial promotions regime since it went into effect on October 8. The FCA identified several common issues with cryptoasset financial promotions. [Read more about regulatory concerns for cryptoasset marketing.](#)

UK Regulators Publish Policy Statement on the Bonus Cap Removal

By Neil Robson, Carolyn Jackson, Nathaniel Lalone, Christopher Collins, Ciara McBrien, Sara Portillo

On October 24, the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) (together, the Regulators) published their joint policy statement to remove the existing limits on the ratio between fixed (i.e., salary) and variable (i.e., bonus) components of total remuneration (the Bonus Cap). This follows the Regulators' joint consultation on the Bonus Cap in December 2022 and comes nearly a year after Liz Truss' short-lived government first announced plans to abolish the Bonus Cap to boost the attractiveness of the UK financial services sector. [Read more about the policy statement.](#)

Reuters, CityWire Wealth Manager Talk With Nathaniel Lalone on the UK FCA's Concerns for Fund Sustainability Labeling

Nathaniel Lalone shares his thoughts with *Reuters, CityWire Wealth Manager*, among others, on a report from the UK Financial Conduct Authority (FCA) indicating that numerous retail investment funds lack accuracy in labeling their sustainability features. This comes as trillions of dollars have been invested in funds emphasizing their environmental, social, and governance (ESG) credentials, raising concerns among regulators about 'greenwashing.' Nate indicated that trusting sustainable funds is critical for reaching Britain's net-zero targets. "This report shows that while progress has been made, much work remains to be done. Market participants should be prepared for the FCA to have little patience for poor behaviors in this space." [Read about Nate's comments.](#)

Nathaniel Lalone Shares Insight With Risk.net on Post-Brexit Clearing Rules

Financial Markets and Funds partner Nathaniel Lalone spoke with Risk.net on the Bank of England (BoE)'s plans to codify the regulatory framework for central counterparties in a single post-Brexit rulebook. With international coordination among regulators being critical for compliance, it is not likely that the UK rules will differ from EU regulations. Nate stated that the BoE's approach should be "celebrated," as the UK will be able to respond to ongoing market events more nimbly. Using the 2022 energy market crisis following Russia's invasion of Ukraine as an example, Nate noted that the lengthy EU legislative process for expanding eligible collateral led to prolonged uncertainty and liquidity pressures. [Read about Nate's comments.](#)

Fraud, Reform and the Registrar: Economic Crime and Corporate Transparency Act 2023

By Charlotte Sallabank, Edward Tran, Oliver Williams, David Wood, Omar Malek, Alex Potten, George Warren, Christy Wilson

A year and a half after the Economic Crime (Transparency and Enforcement) Act 2022 received Royal Assent, the Economic Crime and Corporate Transparency Act 2023 (Act) came into law on 26 October 2023. Although the Act does contain some amendments to its predecessor in relation to overseas entities, it is more far-reaching than that, with an apparent fundamental emphasis on the reduction of and protection against corporate fraud. Amongst wide-sweeping reforms to the powers of the Registrar of Companies House (Registrar) and enhanced verification and regulation of the information recorded therein, the Act also introduces a "failure to prevent fraud" offence and makes significant updates to the legal test for corporate liability. [Read Katten's advisory.](#)

Is the Financial Services and Markets Bill 2022 really the UK's "Big Bang 2.0"?

The UK Government introduced the Financial Services and Markets Bill into Parliament on 20 July 2022. The Bill comes with high hopes, and has been described as a "once in a generation opportunity" to improve the UK's financial regulatory framework, and to make the UK's financial services sector more competitive in a post-Brexit world. In a Lexology Masterclass led by members of the Katten UK regulatory team — Carolyn Jackson, Nathaniel Lalone, Neil Robson, Alice D'Mello and Christopher Collins — discuss what the proposed Bill will mean for financial trading and markets firms and whether it really could be the UK's "Big Bang 2.0." [Register to watch the recording of this Lexology Masterclass.](#)

CONTACTS

For questions about developments in the [Financial Markets and Funds](#) industry, please contact any of the following Katten lawyers.



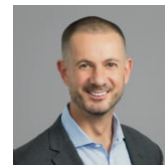
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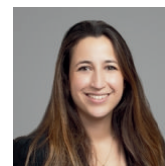
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