

LIBOR, Brexit and Cryptoassets: Summer Takeaways From Katten's CFWD Podcasts

August 21, 2020

Katten's London affiliate office launched its weekly fireside chat on May 5, 2020 and each week has covered a wide range of interesting UK and EU financial services regulatory topics. We have received some fantastic feedback from clients on the podcast sessions and now present three key trends that firms should continue to consider in Q3 and Q4 of 2020:

1. LIBOR – the Financial Conduct Authority's (FCA) Expectation

On August 7, 2020, Carolyn Jackson discussed the FCA's expectation for all market participants to prepare for the end of the London Inter-bank Offered Rate (LIBOR). Although LIBOR is due to cease at the end of 2021, the FCA stresses the need for action by market participants over the next four to six months. The LIBOR transition has not been delayed due to the COVID-19 pandemic and the FCA only anticipates using the transitional powers granted to it to introduce a synthetic LIBOR in very limited circumstances to protect market integrity and consumers. Consequently, firms should act now in order to be prepared for the new alternative risk-free rate. In particular, firms should adhere to the International Swaps and Derivatives Association (ISDA) Protocol (ISDA Protocol) for legacy contracts. The ISDA Protocol is soon to be published and firms should ensure that they adhere to the ISDA Protocol within four months from the date that it is published.

[View the podcast on the FCA's expectation of LIBOR.](#)

2. Brexit – the End of the Transition Period is Near

Despite the ongoing COVID-19 pandemic delaying preparations for many new regulations, the end of the Brexit transition period on December 31, 2020 has been left unchanged. There have been a number of Brexit regulatory updates published in Katten's *Corporate & Financial Weekly Digest*, and key takeaways from our podcasts are set out below:

- On June 26, 2020, Carolyn Jackson, Nathaniel Lalone and Neil Robson explained the implications of a number of recent UK Government announcements regarding its proposals to make certain financial services regulatory reforms before the end of the Brexit transition period. In particular, a House of Commons statement appears to suggest that the UK will not follow upcoming EU regulations on how financial transactions must be settled; instead firms should continue to apply the industry's standards rather than the EU rules. Additionally, HM Treasury published a statement demonstrating their intention to implement a new prudential standards regime for banks and other credit institutions.
 - On July 10, 2020, Neil Robson addressed the September reopening of the UK's Temporary Permissions Regime registration window for EU/EEA firms. By signing up to the regime between September 10, 2020 and December 31, 2020, EU/EEA firms can continue to operate and market in the UK for an interim period.
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- On July 17, 2020, Chris Collins discussed the updated European Commission Brexit notices which can be used as Brexit preparatory checklists for affected firms if an agreement has not been reached by the EU and UK at the end of the Brexit transition period. The notices generally help firms with answering questions on passporting, the importance of informing customers and clients how firms are managing Brexit, and the outsourcing implications of Brexit.

[View the June 26, 2020 podcast.](#)

[View the July 10, 2020 podcast.](#)

[View the July 17, 2020 podcast.](#)

3. Cryptoassets – Regulation and FCA Registration

Cryptoassets have been catching the attention of many clients, market participants and regulators, particularly the increasing discussions around central bank digital currencies. Consequently, regulators are introducing measures so that consumers are protected from this relatively new asset class. Two key measures for firms to be aware of that were included in the podcasts are set out below:

- On June 26, 2020, Carolyn Jackson explored the FCA's approach to cryptoasset regulation. Firms that are in this space or would like to enter this space should consider whether they would need to register with the FCA if their business is carrying out cryptoasset activities (i.e., the firm is either a crypto asset exchange provider or a custodian wallet provider) in the UK under the Money Laundering Regulations. For further information to determine if your firm needs to be FCA registered in respect of cryptoassets, please see the FCA's cryptoassets: anti-money laundering/counter terrorist financing webpage available [here](#). Any businesses which began engaging in such activities after January 10, 2020 must be registered with the FCA before carrying out such business. Any businesses that started carrying out the activities before January 10, 2020 and are not registered with the FCA by the January 10, 2021 deadline will have to cease carrying on such activities.
- On July 24, 2020, Neil Robson discussed proposed changes to the UK Financial Promotions/investment advertising rules, including a proposal to include cryptoassets within such regime. HM Treasury intends to bring the relevant cryptoasset activities into scope of the financial promotion regime by amending the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (FPO) to include certain unregulated cryptoassets in the list of controlled investments and amend a number of the current controlled activities. The government considers that applying the financial promotion regime to too wide a range of cryptoasset activity could stifle innovation without a proportionate benefit to consumer protection. Accordingly, the proposed definition of "qualifying cryptoassets" (that is, the unregulated cryptoassets to be covered by the FPO as controlled investments) includes only those cryptoassets that are both fungible and transferable.

[View the June 26, 2020 podcast.](#)

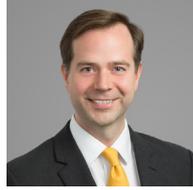
[View the July 24, 2020 podcast.](#)

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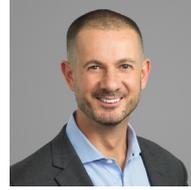
As always, Katten's [Financial Markets and Funds](#) lawyers are happy to answer any questions that you may have in connection with these topics.



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