

NOTE

Monday, 23 January 2023

The Advertising Regulatory Board (ARB) has added a new clause that deals with crypto currency products, to the Code of Advertising Practice. The new rules are aimed at protecting consumers from being misled by unethical advertisers and are the result of consultation and agreement with the crypto currency industry.

<https://arb.org.za/index.html#codes>

The new clause is clause 17 of Section III, and the full text follows:

17.1 Advertisements must expressly and clearly state that investing in crypto assets may result in the loss of capital, as the value is variable and can go up as well as down. The wording should be, or should communicate the same, as the following example: "Investing in crypto assets may result in the loss of capital."

17.2 Advertisements must comply with Clauses 2 and 4.2.1 of Section II In particular:

17.2.1. The overall message of the advertisement must not contradict the warning statements set out in Clause 17.1 above.

17.2.2. An advertisement for a particular crypto asset service or product must explain the relevant product or service in a way that is easily understandable for the intended target audience.

17.2.3 Advertisements must give a balanced message about the returns, features, benefits and risks associated with the product or service.

17.2.4 Rates of return, projections and forecasts must be supported by adequate substantiation that complies with the requirements of Clause 4.1 of Section II. It must be communicated how any rate of return, projection or forecast is calculated and what significant conditions apply.

17.2.5 Information presented about past performance must make it clear that the past performance is not indicative of future performance. Any historical period or past performance should not be presented in such a way that it creates a favourable impression of the advertised product or service.

17.3. Advertisements by crypto asset service providers who are not registered credit providers should not encourage the purchase of crypto assets on credit. This does not preclude advertisements providing information about the payment methods offered by crypto asset service providers.

17.4. Where influencers or ambassadors are used to promote a crypto asset product or service, the requirements of Appendix K must be complied with. In particular, the influencer or ambassador may share factual information only. Influencers and ambassadors may not offer advice on trading or investing in crypto assets and may not promise benefits or returns.

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