

How crypto advertising is now regulated in South Africa

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2 Feb 2023

Crypto asset advertisements are now regulated in South Africa, and crypto advertisers should be aware of the new requirements applicable to them. The broadening of the ambit of the South African Advertising Regulatory Board's (ARB) Code of Advertising Practice (ARB Code) was announced on Monday, 23 January 2023 and comes hot on the heels of the Financial Sector Conduct of Authority's declaration in October last year, announcing the classification of crypto assets as a financial product.



Image source: RODNAE Productions from [Pexels](#)

The ARB Code lays down a number of general principals relevant to all forms of advertising, and provides for principles applicable to specific categories of advertising in section III. According to the newly inserted clause 17 of section III, advertisements for crypto assets in South Africa must now clearly state that investing in crypto assets may result in the loss of capital, and this warning must not be contradicted by the overall message of the advertisement.

Crypto advertisements must be easily understandable for their target audience and provide a balanced message about returns, features, benefits and risks. Rates of return, projects and forecasts must be supported by adequate substantiation, including how these are calculated. Where information is presented about past performance, it must be clear that the past performance is not indicative of future performance. Advertisers who are not registered credit providers must not encourage the purchase of crypto assets on credit, although crypto asset providers are still able to provide information regarding the payment methods that they offer.

Finally, "influencers" or "ambassadors" who promote crypto on their social media platforms are required to comply with the rules set out in the Social Media Code. "Influencer" advertisements are increasingly popular and are notably misleading because of their proliferation through social media. Influencers who promote crypto assets on behalf of crypto asset service providers must present factual information and may not offer advice on crypto trading and investing, or the benefits associated with trading and investing.



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Crypto scams

These new requirements put in place by the ARB have come at a fitting time, as the growing demand for crypto assets over the last few years has brought with it a litany of crypto asset related scams, which lure vulnerable consumers with the promise of prosperity. For instance, last year it was revealed that Mirror Trading International (MTI) succeeded in performing the largest cryptocurrency scam in South African history, defrauding investing South African consumers of over R4.7bn.

Cryptocurrency scams such as these are typically thinly-veiled schemes which seek to beguile millions of unsuspecting consumers. A particularly infamous case was the BitConnect scheme which presented itself as a "high-yield investment program". In 2022, a grand jury indicted the founder of BitConnect for \$2.4bn on the basis that he had orchestrated a global Ponzi scheme. Fraudulent investment programs such as these are not limited to cryptocurrency, though, and non-fungible tokens have also been found to be utilized for similar ends in the last two years.



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Ashlin Perumall 20 Oct 2022



Crypto scams typically require advertisements to succeed and gain adoption, typically targeting inexperienced consumers. These advertisements are easily spread through social media, and have a wide and susceptible audience, resulting in the need for better rules to regulate crypto advertising standards.

Compliance with the ARB's new advertising standards rules should be a priority for crypto asset advertisers, as facing an ARB complaint can result in an adverse finding by the ARB, and although these rulings are not binding, they are generally accepted by the advertising and advertisement publishing community. Perhaps more importantly, an ARB complaint can result in reputational consequences for crypto asset advertisers. These changes to the ARB Code, along with the regulation of crypto assets announced last year, are a clear indication that the crypto regulatory environment is gaining rapid momentum in South Africa.

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