

30.09.2020

NEWS

10 tips to help you avoid ASIC's advertising axe

ASIC is cracking down to ensure investment advertising is 'true-to-label'. ASIC says its recent targeted surveillance of 37 managed funds identified two significant concerns: firstly, products inappropriately labelled as 'cash' funds, and secondly, withdrawal features not matching the liquidity of funds' underlying assets.

As senior associate Kristy McCluskey recently [reported](#), ASIC has put fund managers on notice that they must ensure advertising of managed investment products is 'true-to-label' and is clear, balanced and accurate. Here, Kristy McCluskey provides 10 tips to help you avoid ASIC's advertising axe.

TEN TIPS

The following tips will help you comply with your legal obligations to ensure your products are 'true-to-label', by not making false or misleading statements or engaging in misleading or deceptive conduct. While ASIC's focus so far has been on retail fund managers, these tips are based on the general obligation not to mislead or deceive, meaning they apply equally to wholesale fund managers.

1. Do not use terms suggesting risk-free investing. For example, do not use the words 'safe', 'secure', 'guaranteed', 'certain', 'free', or their derivatives. Only use words such as 'cash fund', 'cash plus', and 'cash enhanced' to label funds that invest predominantly in cash or cash equivalents. ASIC considers such terms are not appropriate and are confusing if used to describe funds with asset holdings more akin to bond or diversified funds, which have higher risk and less liquidity than funds that invest in traditional cash funds.
2. Balance benefits advertised with risk disclosure. For example, if a rate of return is stated and is market-linked, then your advertisement should also state the expected return may not arise and investors' balances may fall.
3. If you advertise a benefit which may change if circumstances change, then state clearly circumstances may change.
4. If you advertise past performance information, then include a past performance warning. For example, 'past performance is not indicative of future performance'.
5. Disclose returns net of fees and costs where possible, and include the assumptions underlying your calculations.
3. Ensure representations about the ability of investors to withdraw from the fund are consistent with the liquidity of the fund's assets, particularly where short redemption terms are offered.
7. Ensure information in the advertisement is consistent with the fund's offer document.
3. Include an appropriate general disclaimer, including a general advice warning.
3. Ensure your promotion does not include false or misleading statements and is not misleading or deceptive in all circumstances.
-]. Establish controls for reviews of promotional material to ensure compliance with the law and ASIC policy. For example, if there becomes a mismatch between a fund's redemption terms and the underlying assets, then you need to revise the

terms or offer less frequent withdrawals, if appropriate. In this circumstance, you would need to update your advertising accordingly.

WHAT SHOULD YOU DO NEXT?

We can help you establish internal controls for reviewing your advertisements and we can review your advertisements for compliance with the law and ASIC policy.

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