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ALERT

ASIC tightens the screws on fund advertising

In March 2022, ASIC announced it would continue its review of the marketing of managed funds, this time with a focus on misleading performance and risk representations. In a sign the regulator is becoming increasingly focused on modern advertising channels, it is carrying out this surveillance in conjunction with a dedicated cyber team who consider the marketing material along with the underlying search terms nominated by fund managers. ASIC has been clear it intends to broaden its net beyond retail investor activity to also scrutinise products targeting unsophisticated wholesale investors.

FORM AND SUBSTANCE

ASIC has just published what is likely to be the first in a series of [media releases](#) detailing the changes made by various trustees or responsible entities to marketing following approaches from ASIC. In a marked difference to previous media releases, ASIC has named each of the fund managers, as well as the products, in addition to detailing its concerns and the actions taken to address those concerns. Analysis shows ASIC has raised a wide variety of issues with both the form and substance of marketing material, including—

- inconsistency in the method of calculation of past returns
 - absence and placement – location, clarity and prominence – of warnings
 - use of comparisons or performance benchmarks not matching a fund's strategy or asset profile
 - representations about past returns which were out of date
 - use of potentially confusing images, graphs and tables.
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WHAT SHOULD YOU DO?

Given ASIC's activism, it is important fund managers regularly review their advertising to ensure it remains current and meets best practice. It is not sufficient that constituent parts of the advertising are correct; fund managers must ensure the overall impression created is not misleading.

Reach out to our [Funds Management team](#) who can assist by undertaking a proactive review of your advertising, deliver training sessions, or respond to notices issued by ASIC.

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