

# Regulation on the distribution of virtual currencies to consumers in Belgium

FSMA



FINANCIAL  
SERVICES  
AND  
MARKETS  
AUTHORITY



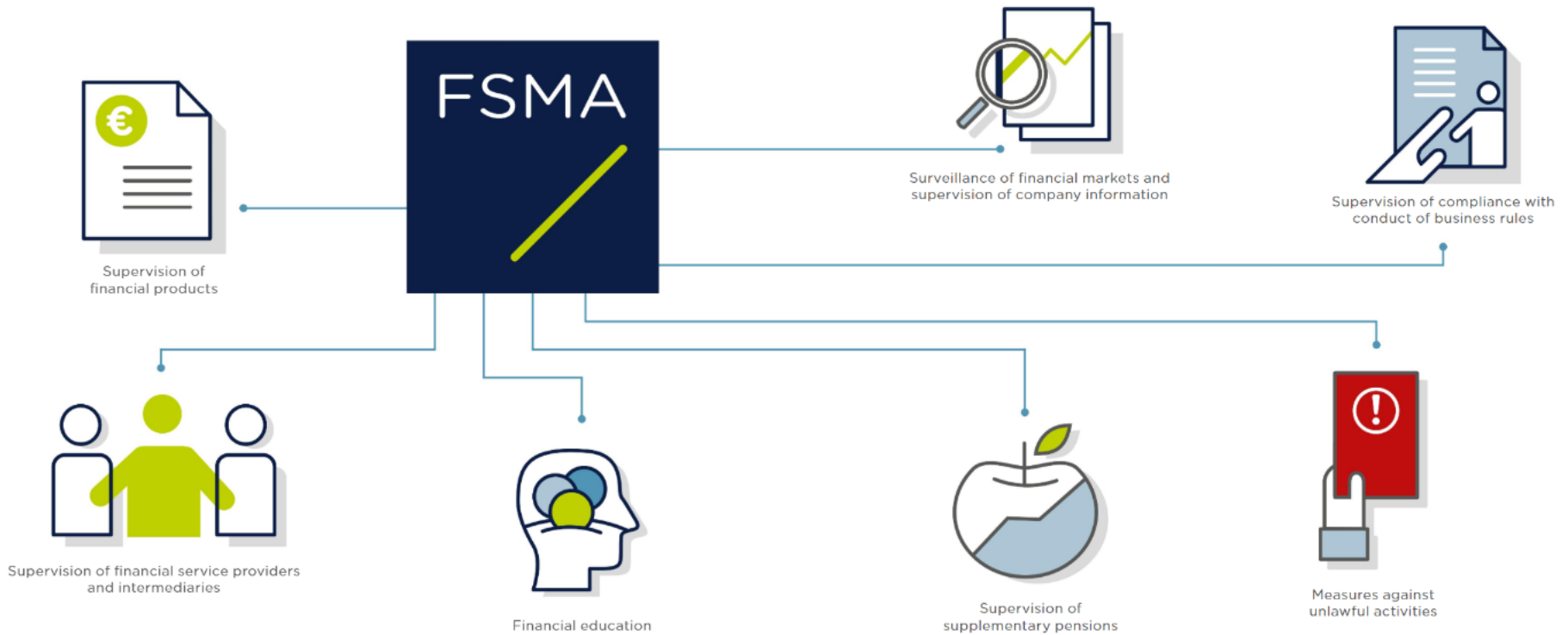
Webinar 19 April 2023

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# 1. Who is the FSMA ?



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## 2. Why has the FSMA issued this Regulation?



Very popular with consumers

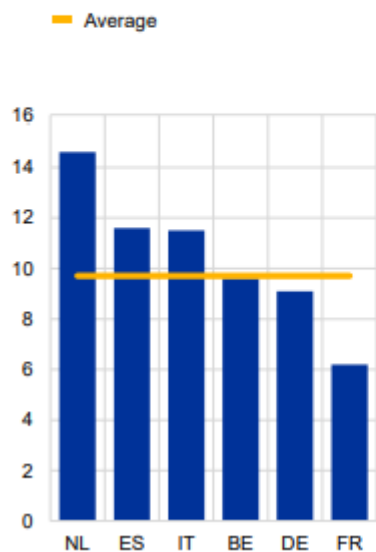


A particularly risky investment asset

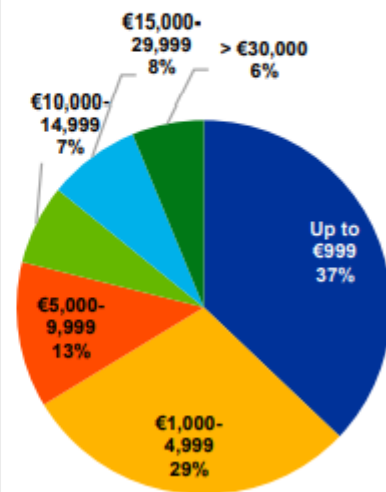
# Very popular with consumers

a) Share of respondents who reported that they or anyone in their household own crypto-assets

(percentages)



b) Crypto-asset owners' estimated holding values



most Googled investing question

*How do I invest in cryptocurrency?*

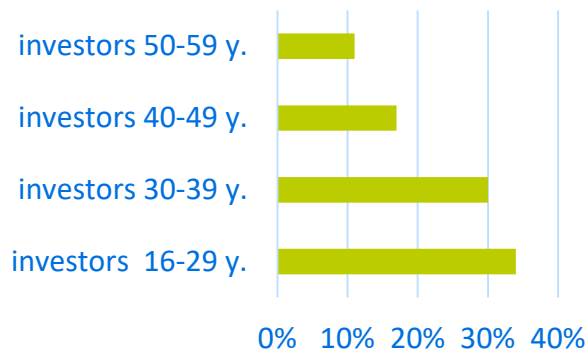
150,400 times  
each month

Research by Investing Reviews (source: Trends, 16 February 2023, p. 68)

Source: ECB, Financial Stability Review, May 2022, p. 117.

# Very popular with consumers

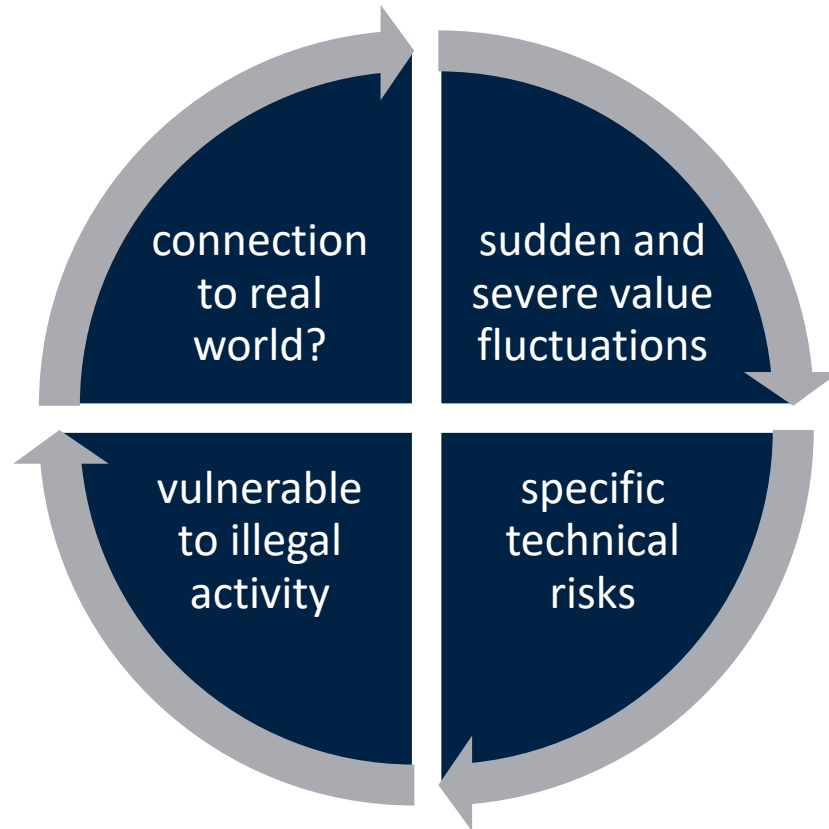
- ❑ Mainly younger investors.



- ❑ For smaller amounts: 60% < 2,500 euros (of which 31% < 500 euros); only 15% > 10,000 euros.
- ❑ Quick profit (43%) and fun and excitement (36%).
- ❑ The crypto winter and FTX's bankruptcy have hardly undermined faith in virtual currencies.

Source: FSMA study of investor behaviour in November 2022 (in collaboration with Ipsos; sample of 1000 investors)  
(<https://www.fsma.be/en/news/virtual-currencies-fsma-steps-its-action-protect-consumers>)

# A particularly risky investment asset





### 3. What has been the legislative process ?

Mandate from legislator to FSMA  
by law of 5 July 2022

FSMA Regulation of 5 January  
2023

Approval of FSMA Regulation by  
Royal Decree of 8 February 2023

Publication in Belgian Official  
Gazette on 17 March 2023



## 4. When does the Regulation enter into force?

17 May 2023

New advertisements disseminated after the entry into force

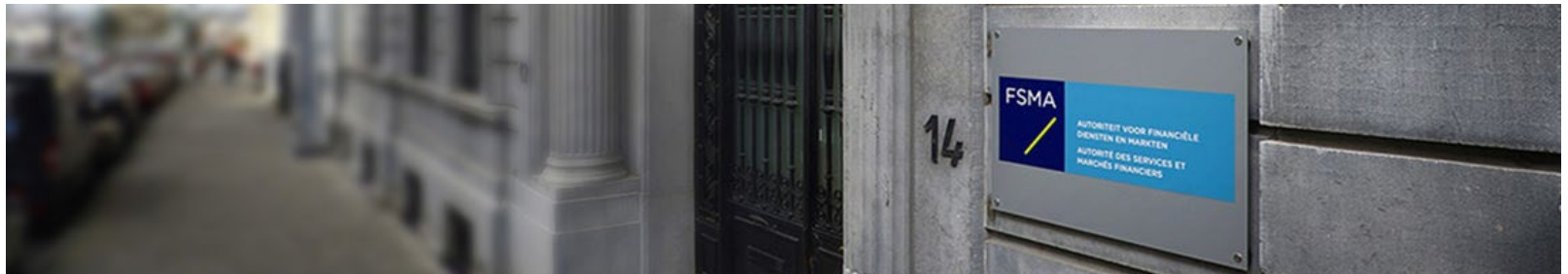


17 June 2023

Advertisements ongoing at the time of the entry into force,  
e.g. websites or mobile applications

## 5. What is the scope of the Regulation?

The Regulation applies to advertisements disseminated to consumers when distributing virtual currencies in Belgium as a regular professional activity or on an occasional basis for compensation.



# Distribution



the presentation of a virtual currency with a view to encouraging a client to purchase a currency.

a virtual currency promoted by an influencer on social media  
a trading platform that presents virtual currencies on its website in order to encourage consumers to buy



# Advertisement



a communication specifically intended to promote the purchase of a specific virtual currency or of virtual currencies in general

posters or billboards, website or app, posts on social media



advertisements for reputation marketing are out of scope (enhance general name recognition)

# Virtual currency



virtual assets that function as a means of exchange or payment

e.g. bitcoin and ether



assets with only a utility function, securities and financial instruments, NFT's

# In Belgium

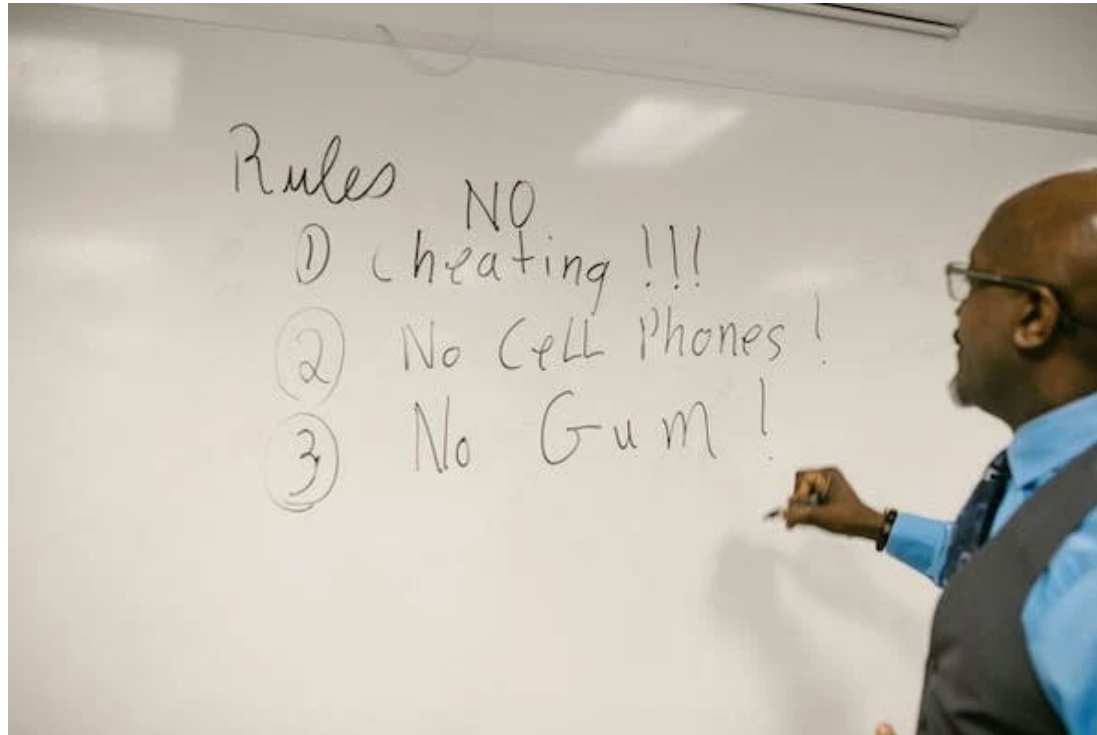


the distribution is addressed specifically to consumers in Belgium; this is a factual question and is assessed on a case-by-case basis

e.g. advertisement in Dutch/French; website .be; contact person in Belgium; affiliate, influencer or other intermediary in Belgium; image of well-known person in Belgium; bancontact; advertisement for reputation marketing in Belgium; fees to social network to display advertisement specifically to public in Belgium



## 6. Which content rules and mandatory statements apply?





# Content rules

- not misleading or incorrect
- clearly recognizable as such (“advertisement”)
- consistent with the mandatory statements (e.g. no impression of security)
- no emphasis on advantages without indication of risks and limitations (balanced!)
- no emphasis on characteristics that are not relevant for the good understanding (e.g. allusion to an extraordinary performance)
- no statement about future value or return (including in news items or blog posts)
- non-technical wording
- no reference to the supervision performed by the FSMA

# Mandatory statements

***“Virtual currencies, real risks. The only guarantee in crypto is risk”.***



## **Warning**

- *the value of your virtual currencies can rise or fall sharply, and your initial investment may be lost completely;*
- *virtual currencies are not covered by the guarantee funds that cover bank deposits;*
- *there is no legal mechanism on the virtual currencies market to prevent market manipulation or insider dealing;*
- *virtual currencies depend entirely on a specific computer technology and infrastructure, which in certain cases may be very recent and not yet adequately tested;*
- *if one loses the identification code or password giving access to the virtual wallet in which the virtual currency is stored, the currency held therein will be irretrievably lost;*
- *virtual currencies are currently accepted as a means of payment to a limited extent, and in most countries there is no legal obligation to accept them;*
- *for more information about the risks associated with an investment in virtual currencies, we advise you to read the Wikifin page [What is a cryptocurrency? | Wikifin](#).*



***[if applicable]: [Name of the natural or legal person] has received remuneration from [name of the natural or legal person] for the dissemination of this advertisement.***

# Mandatory statements

- ❑ in a readable, visible and comprehensible manner and in the same form as the rest of the advertisement
- ❑ in the same language as the advertisement
- ❑ at the beginning of each advertisement; in the case of a website, the information must appear at the top of each web page.

Only for the extended risk warning: if due to the format impossible to include the warning, a link or reference that gives access to the warning can be added instead.



## 7. What does the prior notification for mass media campaigns entail?



# Mass media campaign

## dissemination of advertisements to at least 25,000 consumers

visible from the public road or from an infrastructure or website that is accessible to the public



dissemination via a social network by a person who has at least 25,000 followers on that network



dissemination via a social network by a person who pays the social network for the dissemination

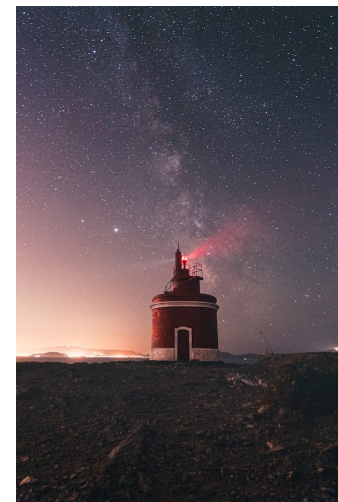


→ Prior notification to the FSMA 10 days before the dissemination, in the form in which it will be disseminated.

# Guide to the prior notification to the FSMA

- obligation on the person who determines the content of the advertisement
- new advertisement or changes to advertisements that are already being disseminated as part of an ongoing mass media campaign (websites!)
- in official language in Belgium if advertisement is made in such a language; if advertisement is only in English, notification in English
- template for standardized and recurring advertisements: update of factual information based on the same data source without altering any data that contain an element of judgment; requires prior consent of the FSMA
- [crypto.pub@fsma.be](mailto:crypto.pub@fsma.be)
- a notification form is made available.

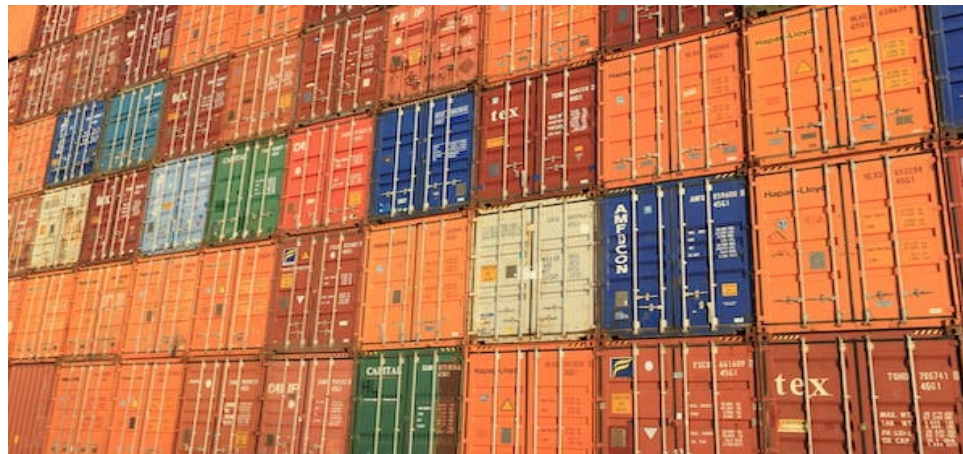
Prior notification  $\neq$  prior approval





## 8. Which information needs to be stored during at least one year?

- applicable to the person who disseminates the advertisement
- a copy of the advertisement, in the form in which it has been disseminated
- the list of the media via which the advertisement has been disseminated
- a copy of the agreements entered into for purposes of the dissemination of the advertisement, in particular contracts between:
  - a platform and a person (e.g. an influencer) who disseminates advertisements for the acquisition of virtual currencies via the platform;
  - the person who disseminates the advertisement and the person whose image is used in the advert and who receives payment in return.



# 9. How will the FSMA supervise the Regulation?

