

**5 January 2023**  
**Regulation of the Financial Services and Markets Authority placing  
restrictive conditions on the distribution of  
virtual currencies to consumers, approved by the Royal Decree of 8  
February 2023**

(Belgisch Staatsblad/Moniteur belge [Belgian Official Gazette], 17 March 2023)

**Disclaimer**

**This text is an unofficial translation and  
may not be used as a basis for solving  
any dispute**

The Financial Services and Markets Authority,

Having regard to the Law of 2 August 2002 on the supervision of the financial sector and on financial services, Article 30*bis*, first paragraph, 1°/1;

Having regard to the opinion of the Special Consumer Advisory Commission, issued on 21 November 2022;

Having regard to the opinion of the Supervisory Board, issued on 13 December 2022;

Hereby decrees:

**Article 1 Subject and scope**

§ 1. This Regulation imposes certain obligations that must be complied with in connection with the advertisements disseminated to consumers when distributing virtual currencies in Belgium as a regular professional activity or on an occasional basis for remuneration.

§ 2. This Regulation applies regardless of the form of the advertisement or the way in which it is disseminated.

§ 3. This Regulation does not apply to the distribution of virtual currencies that are investment instruments as defined in Article 3 of the Law of 11 July 2018 on offers to the public of investment instruments and the admission of investment instruments to trading on a regulated market.

**Article 2 Definitions**

For the purpose of this Regulation, the following definitions apply:

1° advertisement: any communication that is specifically intended to promote the purchase of or subscription to one or more virtual currencies, regardless of the channel by which or the way in which this is done;

2° mass media campaign: the dissemination of advertisements to at least 25,000 consumers.

For the purpose of the first paragraph, 2°, the dissemination of advertisements that are visible from the public road or on an infrastructure or website accessible to the public and the dissemination of advertisements via a social network by a person who has at least 25,000 followers on that network at the beginning of the dissemination or by a person who pays the social network for their dissemination are considered mass media campaigns;

3° consumer: a consumer within the meaning of Article I.1, first paragraph, 2° of the Code of Economic Law.

### **Article 3 Rules governing content**

The information included in the advertisements may not be misleading or incorrect.

Advertisements must meet the following conditions in particular:

1° each advertisement must be clearly recognizable as such;

2° the advertisement must be consistent with the warnings referred to in Article 4, § 1, 1° and 2° and may not conceal, downplay or obscure them;

3° the advertisement may not emphasize the potential advantages of a virtual currency without also giving an accurate, clear and balanced indication of the risks, limitations or conditions associated with the virtual currency in question;

4° the advertisement may not emphasize characteristics and may not make comparisons that have little or no relevance for a good understanding of the nature and risks of the virtual currency in question;

5° the advertisement may not contain any statement about the future value or return of the virtual currency in question;

6° the information is to be presented in non-technical wording that is comprehensible to the consumer.

### **Article 4 Mandatory information**

§ 1. Each advertisement must

1° contain the following statement: "Virtual currencies, real risks. The only guarantee in crypto is risk.";

2° contain the following warning or, if the format of the advertisement does not make it possible to include the warning, a link or reference that gives access to the warning:

#### **"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](#)”;

3° contain the following statement if a natural or legal person who is mentioned in an advertisement or whose image is used in the advertisement receives remuneration or some other advantage for this service:

“[Name of the natural or legal person] has received remuneration from [name of the natural or legal person] for the dissemination of this advertisement.”

§ 2. The information referred to in paragraph 1 must be presented in a readable, visible and comprehensible manner and, subject to paragraph 1, 2°, *in fine*, in the same form as the rest of the advertisement.

It must be written in the same language as the advertisement.

The information referred to in paragraph 1 must be included at the beginning of each advertisement. In the case of a website, the information must appear at the top of each web page.

#### **Article 5 Supervision by the FSMA**

§ 1. Each advertisement that is intended to be disseminated as part of a mass media campaign must be notified to the FSMA at least 10 days before its dissemination, in the form in which it will be disseminated among consumers in Belgium.

The notification must explain how and on what date the advertisement will be disseminated.

The FSMA defines the procedures for said notification. In so doing, it takes into consideration the content of the advertisement as well as whether the documents in question may be standardized and recurrent in nature.

§ 2. The advertisement may not refer to the supervision performed by the FSMA.

§ 3. The persons who disseminate the advertisement must store the following information for at least one year after the beginning of the dissemination:

- 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.

#### **Article 6 Entry into force**

§ 1. This Regulation enters into force two months after the publication of the Royal Decree approving it in the Belgian Official Gazette.

§ 2. The advertisement whose dissemination began before the entry into force of the Regulation must be brought into line with this Regulation within three months after the publication of the afore-mentioned Royal Decree in the Belgian Official Gazette.

Brussels, 5 January 2023

Jean-Paul SERVAIS

Chairman of the Financial Services and Markets Authority