

Financial Advertising Code

Effective 1 March 2022 for new ads

Effective 1 June 2022 for all ads

Every ad a responsible ad

www.asa.co.nz

Advertising Standards Code

The Principles and Rules set out in the [Advertising Standards Code](#) apply to all advertising in all media. When applying the Advertising Standards Code to Financial Advertising, a high standard of social responsibility is required.

Financial Advertising Code

In addition to the Advertising Standards Code, the Financial Advertising Code (the Code) applies to all Financial Advertising. The purpose of the Code is to ensure that all facets of Financial Advertising are conducted in a manner that demonstrates a high standard of social responsibility. The Code requires all Financial Advertising to be socially responsible with particular regard to protecting non-expert consumers. To support this, the high standard of social responsibility applies to all Principles and Rules in the Code.

All Financial Advertising must be legal, decent, honest and truthful and respect the principles of fair competition. The Advertising Standards Authority (ASA) Codes are a part of the regulatory framework that applies to the advertising of Financial Products or Services. There are a number of Acts that restrict advertising, and these are enforced by government agencies. Advertisers must observe the legal restrictions and requirements applicable at the time of advertising, along with any Financial Markets Authority guidance and the Responsible Lending Code.

Attention is drawn to the:

- [Financial Markets Conduct Act 2013](#)
- [Guidance note: Advertising offers of financial products under the Financial Markets Conduct Act 2013](#)

- [Credit Contracts and Consumer Finance Act 2003](#)
- [Credit Contracts and Consumer Finance Regulations 2004](#)
- [Responsible Lending Code](#)

Application of the Financial Advertising Code

The Code, along with the Advertising Standards Code, applies to all advertising of Financial Products or Services placed in any media, including but not limited to: television (including on-demand television), radio, print, out of home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content), influencers, videos, apps, advergames, addressed and unaddressed mail, brochures and point-of-sale material.

Ultimately, the responsibility to comply with all aspects of advertising regulation is shared between all the parties to an advertisement, including the advertiser, agencies and media organisations.

The Code is made up of three parts:

- Principles: the standards expected in advertising
- Rules: how the Principles are to be interpreted and applied
- Guidelines: information and examples to explain a Rule

Interpreting the Financial Advertising Code

Social responsibility is embodied in the Principles and Rules of the Code. In interpreting the Code, emphasis must be placed on compliance with both the spirit and intention of the Code.

It is possible for advertising to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule.

In determining whether a Principle or Rule has been breached, the Complaints Board will have regard to all relevant matters, including:

- generally prevailing community standards;
- previous decisions;
- the consumer takeout from the advertising;
- the context, medium and intended audience; and
- the product or service.

For the avoidance of doubt, where relevant legislation that affects this Code has been updated and if a conflict occurs in relation to legislative and Code requirements, legislative requirements will prevail.

Definitions for the purposes of this Code

Financial Product or Service means any product or service relating to insurance, banking, credit, investment, payment services, financial or risk management, funds management, foreign exchange, or advice or educational services in relation to any of those things, including but not limited to:

- All insurance products, services and advice, including but not limited to:
 - › Life insurance
 - › Health insurance
 - › Income protection insurance
 - › Insurance for homes and contents, vehicles and other things you own
 - › Liability insurance
 - › Travel insurance
 - › Pet insurance
 - › Funeral insurance
- All banking, debt or credit products and services and advice, including but not limited to:
 - › Mortgages (including reverse mortgages) and other loans
 - › Credit cards, payday lenders and other registered or unregistered lending or credit services or facilities
 - › Buy now, pay later (BNPL) products
 - › Deposits and bank accounts, including term deposits and other monetary investments
 - › Debt management and debt consolidation products, services and advice

- All investments products, services and advice, including but not limited to:
 - › Share investments
 - › Managed funds, including KiwiSaver funds
 - › Services offered by non-bank deposit takers
 - › Discretionary Investment Management Services (DIMS)
 - › Real estate investment (properties or schemes)
 - › Syndicated investments such as forestry partnerships and property investment
 - › Timeshares
- Peer-to-peer investment
- All payment products, services and advice
- All financial or risk-trading or management products, services and advice, including but not limited to:
 - › Foreign exchange trading services
 - › Share trading platforms
 - › Cryptocurrencies
 - › Derivatives
 - › Binary options
- Financial training or courses directed to consumers, including courses on investments, foreign exchange, derivatives or share trading and wholesale investments, whether conducted by licensed or unlicensed service providers.
- For the avoidance of doubt, a Financial Product or Service includes any product the Financial Market Conduct Act 2013 or

Credit Contracts and Consumer Finance Act 2003 or any other legislation defines as a Financial Product or Service.

Financial Advertising means any message, the content of which is controlled directly or indirectly by the Advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed and is for the purpose of promoting a Financial Product or Service.

Principle 1

Social Responsibility

Financial Advertising must be prepared and placed with a high standard of social responsibility to consumers and society.

Rule 1 (a)

Social responsibility

Financial Advertising must be easily understood by consumers.

Guidelines

1. Information and claims in Financial Advertising must be easily understood by consumers. All relevant and required information must be disclosed.
2. Key information must be legible and/or audible with care taken to ensure the level of disclosure is in proportion to the importance of the information. Examples include:
 - i. Written text must be large enough, clear enough and present long enough to be easily read.
 - ii. Spoken language must be clear and at a speed able to be understood by consumers.
3. Financial Advertising content posted online or otherwise distributed by individuals or entities who are not licensed financial advice providers (e.g. influencers and other content creators) must also comply with the Principles and Rules in this Code.

Financial advice (for example, recommending particular Financial Products or producing a personalised investment plan) may only be included in Financial Advertising content from those individuals or entities who operate under a licence granted by the Financial Markets Authority.

Advertisers and their agents, including influencers or other content creators, have primary responsibility for ensuring user-generated comments, reviews, testimonials and endorsements comply with the Principles and Rules in this Code when they are part of the advertisement.

Principle 2

Truthful Presentation

Financial Advertising must be truthful, balanced and must not be misleading.

Advertising Standards Code

Additional Guidelines for Financial Advertising

Rule 2 (b)

Truthful presentation

Financial Advertising must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. Misleading may be by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

Guidelines

See the full Guidelines for this Rule in the [Advertising Standards Code](#).

Exception to the Advertising Standards Code, for the Financial Advertising Code.

1. Obvious untruths, exaggeration, puffery or deliberate hyperbole must not be used in relation to financial claims.

In addition to the Advertising Standards Code, for the Financial Advertising Code.

2. The content of Financial Advertising must not take advantage of consumers' inexperience, lack of knowledge or financially vulnerable situation.

Rule 2 (c)

Use of data

Advertisements must not use tests, surveys, research results or quotations from technical and scientific literature in a manner that is misleading or deceptive.

Guidelines

See the full Guidelines for this Rule in the [Advertising Standards Code](#).

In addition to the Advertising Standards Code, for the Financial Advertising Code.

1. Financial Advertising must not
 - i. portray unrealistic or exaggerated financial expectations or outcomes; or
 - ii. provide incomplete information such that the advertising is misleading, e.g. by omitting to include complete information such as the losses, negatives or risk in any investment; or
 - iii. state or imply that Financial Products or Services are safe or free from risk or understate the level of risk associated with them.
2. Financial Advertising that uses examples of past performance must make it clear this is not a reliable indicator of future performance. Examples of exceptional performance or offers of higher-than-average returns must be clearly identified as such.
3. Technical language and statistics are acceptable in Financial Advertising, provided they are relevant and used in a way easily understood by non-expert consumers without specialist knowledge. Publication of research results must identify the researcher, the reference period and source references.

About the Advertising Standards Authority (ASA)

The ASA is the organisation that sets the standards (Advertising Codes) for responsible advertising in New Zealand. The ASA also runs the advertising complaints processes. The ASA is funded by the advertising industry and has 14 member organisations representing advertisers, agencies and the media.

Making a complaint

Anyone can complain about any advertisement.

All complaints must be received using our online complaints form, via email or via post. Our process requires that we deal with the consumer's concerns in their own words. Our online complaint form is available at www.asa.co.nz. Complaints can be emailed to asa@asa.co.nz or posted to PO Box 10675, Wellington 6143.

Competitor complaints

Competitor complaints are dealt with via a user-pays process with adjudication hearings. Costs for a hearing range from \$10,000 to \$15,000 excluding GST. The process aims to give fast and thorough consideration to conflicts between competitors.

Responding to a complaint

All parties associated with an advertisement are expected to respond to the ASA following a complaint. This includes the advertiser and may also include the agency and the media where the advertisement was placed. The ASA website www.asa.co.nz provides guidance on how to respond to a complaint.

Decisions

The Advertising Standards Complaints Board makes decisions about complaints following responses from parties. Decisions may be appealed and if there are grounds for an appeal, the Appeal Board will re-consider the complaint. The ASA membership has no involvement in the work of the Complaints and Appeal Boards.

Decision outcomes have the following meanings:

No Grounds to Proceed: This means the Chair of the Complaints Board has reviewed the complaint and has ruled a Code has not been breached, and there are no grounds for the complaint to proceed. This outcome may occur when a complaint is based on an extreme interpretation or is trivial or vexatious, or if there is a precedent decision that relates to the same or similar advertising.

Upheld: This means the Complaints Board agreed with the issues raised by the complainant and the advertiser is asked to amend or remove the advertisement.

Settled: When an advertiser either withdraws an advertisement or makes immediate changes (that the Chair considers satisfactory) to address the issues raised by the complainant the complaint can be settled by the Chair. A settled decision achieves the same outcome as an upheld decision – removal or amendment of the advertisement.

Not Upheld: This means the Complaints Board does not find the advertisement in breach of the Advertising Codes in relation to the complainant's concerns.

No Jurisdiction: Sometimes a complaint is outside the jurisdiction of the ASA. The ASA deals with complaints about any advertisement that is targeted at NZ audiences. Matters of law or complaints about advertisements from outside of NZ, which are not targeting NZ consumers, are outside the ASA's jurisdiction.



All ads, all media