

**ASIC**

Australian Securities &amp; Investments Commission

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## 18-122MR ASIC takes action on misleading or deceptive conduct in ICOs

ASIC is focused on misleading or deceptive conduct in the marketing and selling of digital or virtual tokens via initial coin offerings (ICOs). These offers can involve significant risks for investors that are often not disclosed or well understood.

### How the law can apply

Misleading or deceptive conduct is prohibited under the Australian Consumer Law and the ASIC Act.

ASIC is issuing inquiries to ICO issuers and their advisers where we identify conduct or statements that may be misleading or deceptive. This is in addition to our inquiries where we identify potentially unlicensed conduct. As a result of our inquiries, some issuers have halted their ICO or have indicated the ICO structure will be modified.

On 19 April 2018, ASIC received delegated powers from the Australian Competition and Consumer Commission (ACCC) to take action under the Australian Consumer Law relating to crypto-assets. The delegation from the ACCC enables ASIC to take action against misleading or deceptive conduct in marketing or selling of ICOs, even if the ICO does not involve a financial product.

ASIC Commissioner John Price said, 'If you are acting with someone else's money, or selling something to someone, you have obligations. Regardless of the structure of the ICO, there is one law that will always apply: you cannot make misleading or deceptive statements about the product. This is going to be a key focus for us as this sector develops.'

### How ASIC is using the law

In one recent example, ASIC took action to protect investors where we identified fundamental concerns with the structure of an ICO, the status of the offeror and the disclosure in its white paper. In addition to potentially misleading statements in the white paper, the offer was an unregulated managed investment scheme. This means the offeror would have been in breach of the relevant provisions of the *Corporations Act* had the offer proceeded, potentially leading to serious penalties under the Act.

### Additional resources

ASIC has updated [Information Sheet 225: \*Initial coin offerings and crypto-currency\*](#).

ASIC's MoneySmart website has also published guidance for investors on the risks of [investing in initial coin offerings](#).

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