

Legal Update

Focus on unauthorised Financial Adverts

The European Securities and Markets Authority (“ESMA”), the lead European financial regulatory and supervisory authority, has recently issued formal letters (the “Letters”) to many of the key social media and platform companies urging them to take proactive steps to prevent the promotion of unauthorised financial services.

Background

The increasing spread of online scams targeting retail investors through digital platforms has come to be viewed as a serious risk to both investors and to financial markets. Some recent frauds even featured materials claiming to be issued by ESMA itself!. As a result, the International Organization of Securities Commissions (“IOSCO”) recently launched an initiative highlighting related global concerns and the Letters from ESMA both reference this and bring the issue to the direct attention of the key social media firms.

Addresses of the Letters

The Letters were sent to X, Meta, TikTok, Alphabet, Telegram, Snap, Amazon, Apple, Google and Reddit). Interestingly the business focussed site LinkedIn was not (yet) a recipient of a Letter!

Contents of the Letters

The Letters note that they are being sent on behalf of both ESMA and the National Competent Authorities (“NCA’S”) of all member states of the European Union.

They note that certain platforms have already implemented measures to restrict financial services advertising to authorised entities and urges proactive steps be taken to prevent the promotion of unauthorised financial services in order to assist in protecting European consumers from financial harm.

The Letters invite interaction with the team at ESMA to assist in developing effective safeguards.

How Clerkin Lynch Can Help

Clerkin Lynch’s financial services regulatory team can advise on the applicable law pertaining to advertising financial services and products in Ireland as well as on the authorisation status of potential advertisers. This can assist firms to carry out due diligence, avoid infringing relevant requirements and potentially incurring related liabilities. We can also assist firms in interacting with regulatory or supervisory bodies including ESMA and in terms of formulating appropriate policies and procedures to ensure ongoing compliance.

Contact us for more information.



Mark Browne
Partner
email:
markbrowne@clerkinlynch.com
Phone: 01 611 4400



