

ASIC Acts on Initial Coin Offerings and Crypto-Asset Funds

Article By:

Jim Bulling

In a [statement](#) issued today, the Australian Securities and Investments Commission (**ASIC**) revealed that it has prevented five Initial Coin Offerings (**ICOs**) from raising capital and will be taking further action in respect of one completed ICO. The ICOs have been put on hold and some will be restructured to comply with relevant laws and regulations. ASIC has also issued a final stop order in respect of a Product Disclosure Statement (**PDS**) issued by Investors Exchange Limited for units in the New Dawn Fund, which proposed to invest in a range of cryptocurrency assets.

ASIC Commissioner John Price said: *“It is the legal substance of your offer – not what it is called – that matters. You should not simply assume that using an ICO structure allows you to ignore key protections there for the investing public and you should always ensure disclosure about your offer is complete and accurate”*.

ASIC’s actions and statements are consistent with its [Information Sheet 225](#) updated in May this year which encourages potential ICO issuers to consider if the nature of their ICO resembles a financial product. It is likely that ASIC will increase its enforcement activities in this area due to a boost in government funding and its new cost recovery system via industry funding.

Accordingly, ICO issuers should give serious consideration and seek advice about how to comply with the relevant regulations or otherwise undertake a restructure of their ICO. We note that in many cases it may be worthwhile to obtain an Australian Financial Services Licence (**AFSL**), be appropriately authorised by an AFSL holder or prepare a prospectus, particularly if the value of the ICO depends on the features that cause it to be a financial product.

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National Law Review, Volume VIII, Number 263

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