



THE POWER
OF INDEPENDENT ADVICE

IN THIS ISSUE

“Desperate investors are still trusting sophisticated investment fraudsters and losing their hard-earned savings to illegal, unregulated investments. However, there are many ways to identify a potentially illegal unregulated investment.”

–Iniel van Zyl

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BEWARE OF UNREGULATED INVESTMENTS

By Iniel van Zyl, an Admitted Attorney and Financial Planner at Brenthurst

In 2018, one of the largest Bitcoin scams to hit South Africa prompted MyBroadband to lead with an article that headlined, “You should have seen that BTC Global was a scam from a mile away”. The Hawks reported that over 50 million US dollars was lost in this scam – with South Africans each losing between R16 000 and R1.4m. Millions that could have been saved with vigilant and assiduous background research.

Fast track to three years later and unassuming, desperate investors are still trusting sophisticated investment fraudsters and losing their hard-earned savings to illegal unregulated investments in the hope of making a quick fortune to support them during challenging economic times. Just last year the Crowd1 scheme made news headlines and was the topic of a [BBC documentary](#) of how people were misled.

The BTC ordeal alone nabbed over 27 000 victims from South Africa, Australia and the USA. More recently, [Africrypt](#), the Relative Value Arbitrage Fund (RVAF), Mirror Trading International, Madoff and Hamilton have been in the news for all the wrong reasons. The reality is that cryptocurrency scams are evolving and becoming more difficult to identify as scamsters are becoming more sophisticated and even more relentless in their pursuits.

WHAT EXACTLY IS AN UNREGULATED INVESTMENT?

Unregulated investments take the form of alternative investments such as hedge funds or unapproved collective investment schemes. **Law Insider** defines [unregulated funds](#) as investment funds that are not regulated and, as a result, may not provide a level of investor protection equivalent to schemes authorised under South African law and subject to South African regulations and conditions. It is important to understand that an unregulated investment is not necessarily always an illegal investment. It is, however, illegal for a Ponzi Scheme to claim that it is a legal, unregulated investment.

PYRAMID SCHEME VERSUS PONZI SCHEME – WHAT IS THE DIFFERENCE?

Many people get confused about the difference between pyramid schemes and Ponzi schemes. According to Investopedia, with [Pyramid Schemes](#), “The initial schemer recruits other investors who, in turn, recruit other investors and so on. Late-joining investors pay the person who recruited them for the right to participate or sell a certain product”. With [Ponzi Schemes](#), “Investors give money to a portfolio manager. Then, when they want their money back, they are paid out with the incoming funds contributed by later investors”. All that the so-called portfolio manager is doing, in essence, is robbing Peter to pay Paul without actually investing any of their money.

A LEGAL PERSPECTIVE

The law states that “Any person providing asset management business in South Africa or abroad, whether discretionary or non-discretionary, must be licensed as a Financial Service Provider (FSP) under the Financial Advisory and Intermediary Services Act (FAIS).”

In addition, collective investment schemes are now regulated under the Collective Investment Schemes Control Act (CISCA). Since not all unregulated investments are illegal, you can still invest in unregulated investments by making sure your broker or FSP is licenced with the Financial Service Conduct Authority (FSCA). You can take it another step further by ensuring your broker works through regulated third-party administrators and service providers. In April 2019, the FSCA imposed a fine of R350 000 on an asset management company for contravening section 65(3) of the Collective Investment Schemes Control Act by soliciting investments in unapproved funds by published information about these funds on their website.

SPOTTING AN ILLEGAL UNREGULATED INVESTMENT

There are many ways to identify a potentially illegal unregulated investment. With these checks and balances in place, you will not easily fall prey to these crafty fraudsters:

TIP #1

Do not be fooled by complicated and verbose investment methodologies and strategies. Scamsters are typically highly intelligent people, and they often use abstruse words to over complicate their offerings and leave you confused and embarrassed to ask questions. Ask all the questions you require and make sure you know exactly where your money is going.

TIP #2

Ask your broker or advisor if they are registered with the Financial Service Conduct Authority (FSCA). Even if they say they are, you still need to check this for yourself on the [FSCA's website](#).

TIP #3

Google the company that the broker or advisor works for. If there is no website or the website does not look legitimate – stay far away. BTC Global is a good example of this. After the scam was uncovered many articles profiling this story referred to the illegitimacy of their website.

TIP #4

Commissions and fees should be discussed and disclosed upfront if you are dealing with a legitimate company. Reputable companies do not charge copious amounts for their services as the products and services they offer, sell themselves. However, on the other hand, if the promised returns are excessively high – that is also a major red flag. As the saying goes – if it sounds too good to be true, it probably is.

TIP #5

Good returns can never be guaranteed. No one could have expected Covid-19 and the economic instability it caused. Even the world's best investors were unprepared for the months that followed the worldwide hard lockdowns.

TIP #6

Take a good look at the company's marketing material. If you are bombarded by pictures of luxury items such as sports cars and beach mansions, you are knocking on the wrong door. Legitimate companies promote financial well-being – they will not try to tempt you into living the high life.

TIP #7

Never accept decision deadlines. If a company is offering you a once-in-a-lifetime opportunity but only if you buy their product within, for example 24 hours, you are more than likely being scammed. Genuine companies will present you with options and give you all the time you need to make an informed decision.

TIP #8

Avoid making any deals without meeting the broker or advisor face-to-face, and better still, at the advisor's offices. After that first meeting you can cross-check the advisor and his or her team members out on LinkedIn and Facebook for extra peace of mind.

TIP #9

Stay away from anyone who offers referral commissions or fees. This is not how a legitimate financial services provider brings in business. Reputable investment companies who genuinely have your best interests at heart will present themselves to you in a professional and dexterous manner. They will take the time to understand your unique personal circumstances, your vision for the future and your financial objectives.

Do not to take anything at face value. Do your homework. Cross-check everything the advisor tells you until you are 100% satisfied that they are legitimate. Scamsters do not only take your money, they strip you of your dignity too – especially if they get away with large sums of money!

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