

The CNMV warns that some managers and distributors of collective investment schemes do not comply with advertising legislation

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The Spanish Securities Market Authority (abbrev. CNMV) has identified on its website several practices contrary to legislation on the advertising of collective

investment schemes (abbrev. IIC) conducted by managers and distributors thereof:

PRACTICE	MAIN RULE INFRINGED	REASON
Include past-performance data obtained prior to a substantial change in the IIC's investment policy.	Article 4 Order EHA 1717/2010 Article 60.4 RD 217/2008	Leads to confusion because the investment policy substantially differs from the current one.
Only provide past performance for the last year or the ongoing year.	Article 60.3 RD 217/2008	Insufficient information as at least annual returns (for twelve-month periods) in the preceding five years or, if the IIC has been alive for less time, since it exists, are due, provided that the IIC has not substantially changed its investment policy ¹ .
Include cumulative past performance over periods exceeding twelve months.	Article 60.3 RD 217/2008	Non-compliance with the obligation to use complete twelve-month periods and is contrary to legislation regulating prospectuses and periodic public disclosure.
Give prominence to the positive elements without informing on the IIC's risks.	Article 4 Order EHA 1717/2010 Article 60.1 RD 217/2008	Insufficient information.
Give prominence to performance over other elements.	Article 60.3 RD 217/2008	Past performance cannot be the most prominent element.
Include highlighted comments that may be unclear or misleading.	Article 60.3 RD 217/2008 Article 4 Order EHA 1717/2010	Inadequate inasmuch as they do not reflect the risks assumed with the investment and could lead to confusion ² .
Use simulators or videos that calculate the potential return based on the IIC's past performance since its formation.	Article 60.5 RD 217/2008	Future results cannot be based on past performance, but on reasonable assumptions supported by objective data. Must include a visible warning that the predictions are not a reliable indicator of future results.

¹ The inclusion of information on cumulative performance for the ongoing year and non-annualized quarterly performance for the previous four calendar quarters is acceptable, provided the IIC's investment policy has not substantially changed.

² For example, comments that suggest that investing in a fund entails no risk for the investor or that with some funds a higher return will be obtained compared to other financial products.