



Influence and Investment: Navigating the Legal Terrain of Finfluencer Regulation in India

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Abstract

The rapid rise of financial influencers, commonly known as “finfluencers,” has reshaped the investment landscape in India, democratizing access to financial knowledge while simultaneously posing significant regulatory challenges. Leveraging the power of social media, these influencers impact investment decisions, often without formal qualifications or accountability mechanisms. This phenomenon has prompted growing concerns over misinformation, conflicts of interest, and the potential for market manipulation, necessitating a robust legal framework to safeguard Investor Interests.

This paper critically examines the regulatory environment governing finfluencers in India, with a special focus on the role of the Securities and Exchange Board of India (SEBI). SEBI's recent advisories and guidelines seek to curb misleading financial advice by mandating disclosures and promoting transparency. However, regulatory ambiguities persist regarding the classification of financial advice versus generic information, thereby complicating enforcement actions. To elucidate these challenges, the paper analyses key case studies involving SEBI's interventions against influential financial content creators. These cases highlight the limitations of existing laws and the need for more precise definitions of regulated activities. The paper argues for a balanced regulatory approach that encourages financial literacy and innovation while ensuring accountability and investor protection. Policy recommendations include the establishment of a certification mechanism for finfluencers, enhanced disclosure norms, and collaborative efforts between SEBI and social media platforms to monitor financial content effectively.

By navigating the complex legal terrain of finfluencer regulation, this paper contributes to the evolving discourse on digital finance and underscores the need for a dynamic regulatory architecture capable of addressing the challenges posed by the convergence of social media influence and investment advisory in India.

Key Words : *finfluencers, SEBI. Investment advisors, research analysts, social media*

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I. Introduction

The deep proliferation of social media, especially among the youth, has drastically transformed the manner of creation, dissemination, and consumption of information globally. Out of the total global population of 8.1 billion, 5.64 billion individuals have access to the internet, and there are 5.31 billion social media user identities.¹ India, which is one of the fastest-growing economies, has not been left untouched by the social media revolution. The digital revolution in India, which has been further supported by affordable access to the internet and widespread use of smartphones, has led to the emergence of a new class of content creators, termed “influencers”. Though there is no univocal definition of the term influencers, they can be defined as “a network of individuals who typically have a large online presence and create social media content based on niche topics that they share with their online audiences.”² Among these influencers, a special category called “finfluencers” has gained remarkable prominence. The term finfluencers is a combination of the words financial and influencers, and are individuals who use social media platforms such as Instagram, You Tube, X etc to provide its viewers financial advice in the form of either stock market commentary, investment advice or strategy etc and in most cases without any formal qualification or regulatory approval.³

The growth of these influencers has increased access to financial information, more particularly regarding the stock markets, for the younger population and first-time investors. This growing phenomenon comes with its own serious concerns. Most of these finfluencers operate outside the regulatory ambit, which raises concerns related to potential market manipulation, misinformation, conflict of interest, and non-transparent promotional content.⁴ These finfluencers may give financial advice that is misleading or inaccurate, which can have significant financial consequences, especially in a country like India, where financial literacy

¹ Digital 2025 April Global Statshot Report Data Report al, http://datareportal.com/?utm_source=Global_Digital_Reports&utm_medium=Article&utm_campaign=Digital_2025 (last visited April 12, 2025).

² CFA Inst., The Finfluencer Appeal: Investing in the Age of Social Media (July 25, 2023), <https://rpc.cfainstitute.org/sites/default/files/2023-07/industry-research/finfluencer-report.pdf> (last visited May 11, 2025).

³ Vivek Kaul, The Rise of Finfluencers: Financial Advice in the Age of Instagram and YouTube, *The Econ. Times* (Mar. 23, 2023), <https://economictimes.indiatimes.com/wealth/earn/the-rise-of-finfluencers-financial-advice-in-the-age-of-instagram-and-youtube/articleshow/98940857.cms> (last visited April 12, 2025).

⁴ Securities & Exch. Bd. of India, Consultation Paper on Association of SEBI-Registered Intermediaries/Regulated Entities with Unregistered Entities (Aug. 25, 2023), https://www.sebi.gov.in/reports-and-statistics/reports/aug-2023/consultation-paper-on-association-of-sebi-registered-intermediaries-regulated-entities-with-unregistered-entities_75210.html (last visited April 12, 2025).

remains relatively low.⁵ As the influence of these finfluencers expands, so does the need and the urgency to regulate these finfluencers.

Keeping in mind the issues that cropped up and the potential of possible damage to innocent investors, the Securities and Exchange Board of India (SEBI) has initiated a series of measures which are aimed at regulating and curbing malpractices among finfluencers.⁶ Despite the measures taken, the regulatory framework remains fragmented, and there are significant ambiguities that persist relating to the application of the existing laws to this new category of influencers. A clear, consistent, and enforceable legal approach is therefore imperative to protect investors while preserving the positive potential of digital financial education.

This paper undertakes a detailed examination of the evolving legal landscape concerning finfluencers in India. The paper is divided into four chapters. Chapter 1 deals with defining finfluencers and understanding the problems associated with them. This chapter conceptualises the term finfluencers and identifies the major risks and challenges associated with their activities. Chapter 2 analyzes in detail the legislative and regulatory framework governing finfluencers, which includes the SEBI regulations, the Securities Contracts (Regulation) Act, 1956, the Investment Advisers Regulations, 2013, and relevant provisions of the Consumer Protection Act, 2019. Chapter 3 examines the case studies of prominent influencers and the action SEBI took against these unregulated financial influencers for investor protection. Chapter 4 includes the suggestions and conclusion and proposes regulatory reforms and mechanisms aimed at ensuring greater accountability, transparency, and investor protection.

II. Chapter 1

Understanding Finfluencers and the Imperative for Regulatory Oversight

⁵ Nat'l Ctr. for Fin. Educ., Financial Literacy and Inclusion Survey (NCFE-FLIS) 2022, <https://www.ncfe.org.in/research/ncfe-flis-2022> (last visited April 12, 2025).

⁶ Securities & Exch. Bd. of India, Press Release No. 16/2023, SEBI Advisory to Curb Misleading Financial Influencers (Aug. 23, 2023), https://www.sebi.gov.in/media/press-releases/aug-2023/sebi-advisory-to-curb-misleading-financial-influencers_75207.html (last visited April 15, 2025).

As discussed above, the term finfluencers is derived from the terms "finance" and "influencer," which denote an individual who shares financial advice, opinions, or promotions across social media platforms.⁷ As per the 'Guidelines for Influencer Advertising in Digital Media' released by Advertising Standards Council of India, 'influencer' means "someone having access to an audience and power to affect such audiences' purchasing decisions or opinions about a product, service, brand or experience, because of the influencer's authority, knowledge, position, or relationship with their audience".⁸ While SEBI in its 2023 Consultation Paper states that "Financial influencers, commonly called 'finfluencers', are persons who provide information and/or advice on various financial topics such as investing in securities, personal finance, banking products, insurance, real estate investment, etc. through social/digital media platforms/channels, and have the ability to influence the financial decisions of their followers."⁹ These finfluencers are generally not registered with the regulators and may not be qualified or have expertise in the subject on which they give advice. These finfluencers directly or indirectly promote services, products, or securities and may induce clients to avail the services or products promoted by them. In return of such promotion, the finfluencers may take compensation from the platform; or charge a referral fee for the usage of the channel, product, platform or services which are advertised by them and such fees may be variable(per user or use) or be fixed; or they may take non cash benefits in the form of free usage of product or service; or may base revenue on a profit sharing model.¹⁰ Since social media is largely unregulated, perhaps anyone can create an account and upload content. This makes it easy for them to approach a large population with virtually no or very little investment.

As per a report named 'Finfluencer Appeal: Investing in the Age of Social Media' published by the CFA, there are several factors which have driven the recent generation to absorb content which is uploaded by these finfluencer. These factors include a lack of financial literacy, an inclination to seek information from the internet, and their inability to engage,

⁷ Shilpa Phadnis, Finfluencers: Who Are They and Why Is SEBI Worried?, The Times of India (Aug. 31, 2023), <https://timesofindia.indiatimes.com/business/india-business/finfluencers-who-are-they-and-why-is-sebi-worried/articleshow/103246820.cms> (last visited April 15, 2025).

⁸ Advertising Standards Council of India, Press Release: ASCI Issues Final Guidelines for Influencer Advertising on Digital Media (May 27, 2021), <https://www.ascionline.in/wp-content/uploads/2022/09/press-release-influencer-guidelines-2021.pdf> (last visited April 15, 2025).

⁹ Supra 4

¹⁰ Id.

interact, and connect with registered financial advisors.¹¹ This free and unfiltered financial knowledge shared by these finfluencers poses several problems. These finfluencers provide investment advice without SEBI registration. Under SEBI (Investment Advisers) Regulations, 2013, offering investment-related advice without registration is illegal.¹² Financial advice from unregistered persons poses risks since it bypasses the regulatory mechanism that ensures that the advisors are competent and possess integrity; unregistered advisors may expose the investors to misleading and unverified information. This is evident from the fact that investors have suffered substantial losses on following the recommendations of finfluencers related to trading in high-risk penny stocks or derivative trading strategies without correct risk disclosures. Further, the promotional activities which these finfluencers engage in lead to relations which are in most cases not disclosed transparently and contravene the consumer protection and advertising norms.¹³ Cases related to pump and dump schemes where influencers have artificially inflated prices of stocks by recommending stocks and holding them have emerged globally, and in India, which have alarmed the regulators.¹⁴

These unregistered finfluencers are not bound by any code of conduct, nor do they have any fiduciary duties towards the investors who follow their recommendations. Resultantly, when their advice results in financial damage, the aggrieved investors have very limited means of redress. Further, to add to the problems, the information that is uploaded online is transient in nature and can be modified or deleted at any time. Finfluencers, by virtue of their large follower bases, can inadvertently or deliberately catalyze herd behaviour, leading to volatility and systemic risks in capital markets.¹⁵

The challenges that the finfluencers post have far-reaching effects on investor wealth and market integrity, necessitating their regulation. The retail investors in India are less financially literate and are vulnerable to being persuaded easily by online content.¹⁶ Further, the unregulated activities of finfluencers of providing market recommendations, suggestions,

¹¹Serena Espeute & Rhodri G. Preece, CFA, *The Finfluencer Appeal: Investing in the Age of Social Media*, CFA Inst. Research & Pol’y Ctr. (2024), <https://rpc.cfainstitute.org/research/reports/2024/finfluencer-appeal> (last visited April 15, 2025).

¹² Securities & Exch. Bd. of India (Investment Advisers) Regulations, 2013, reg. 3(1)

¹³ Supra 8

¹⁴ SEC v. Kim Kardashian, No. 22-cv-07996 (S.D.N.Y. filed Oct. 3, 2022).

¹⁵ Hersh Shefrin, *Behavioral Corporate Finance*, 14 J. Applied Corp. Fin. 8 (Fall 2001), <https://ssrn.com/abstract=288257> (last visited April 15, 2025).

¹⁶ Supra 5

and tips may contribute to market volatility, manipulation, and consequently erosion of investors' trust in the markets. Another important issue is that the registered intermediaries are subject to strict regulation by the SEBI, which obligates them to provide regular disclosures, compliances, etc., whereas the unregulated influencers are not subject to any scrutiny and evade the law in most cases, which results in uneven playing fields. Further, globally, all developed nations are moving towards regulating influencers regulation. The United States' Securities and Exchange Commission (SEC) has enforced obligations on the celebrities to make disclosures relating to the investment products which they promote,¹⁷ whereas Australia's ASIC has also issued guidelines which have warned the influencers against providing financial advice without licenses.¹⁸ All of the aforementioned concerns entail that SEBI, in the interest of investor protection, to prevent market volatility and manipulation, ensure level playing fields, and to ensure global standards are met, must bring out provisions for regulation of influencers.

III. Chapter 2

Navigating India's Regulatory Landscape for Digital Financial Influence

The unprecedented growth of influencers in India has raised significant regulatory concerns since unlike the traditional market intermediaries, these influencers operate in a grey area. There are several regulations which have provisions which can bring influencers under their ambit and SEBI has amended a few to regulate the growing menace of influencers. The existing regulatory framework applicable to influencers is discussed below in detail.

III.1. The Advertising Standards Council of India Guidelines for Influencer Advertising in Digital Media

As a result of the growth of digital media and influencers in India, the Advertising Standards Council of India (ASCI) introduced the Guidelines for Influencer Advertising in Digital

¹⁷ U.S. Sec. & Exch. Comm'n, Press Release No. 2022-183, SEC Charges Kim Kardashian for Unlawfully Touting Crypto Security (Oct. 3, 2022), <https://www.sec.gov/news/press-release/2022-183> (last visited April 18, 2025).

¹⁸ Austl. Sec. & Invs. Comm'n, Information Sheet 269: Discussing Financial Products and Services Online (Mar. 21, 2022), <https://asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/information-sheet-269-discussing-financial-products-and-services-online/> (last visited April 18, 2025).

Media in May 2021 (ASCI Guidelines)and revised the same in 2022 and 2023.¹⁹ The guidelines seek to bring in accountability, transparency, and enhance consumer protection into the domain of influencer marketing, which is a growing area of concern, especially where the advertisements are disguised as independent recommendations or personal opinions.²⁰

The ASCI Guidelines were formulated with the objective of ensuring transparency in digital marketing, protecting consumers from disguised or misleading promotional content, mandating clear disclosures for paid collaborations, and standardising best practices across platforms.²¹ The ASCI Guidelines define influencers as “someone who has access to an audience and the power to affect their audience’s purchasing decisions or opinions about a product, service, brand or experience, because of the influencer’s authority, knowledge, position, or relationship with their audience.”²² These guidelines become crucial for influencers since they fall within the category of influencers who give financial information.

The key provisions of the ASCI Guidelines are as follows²³:

1. Influencers must mandatorily disclose any material connection that they may have with brands such as free products, payments, discounts, or other such related incentives when they promote the services/products of the said brands.
2. The disclosure terms, such as “sponsored,” “ad,” “collaboration,” “partnership,” and “free gift,” must be displayed upfront, prominently, and must not be hidden in the comments, bios, or at the end of the posts.
3. The disclosures must appear at the beginning of a caption or in the first few seconds of the video and in a language that is understood by the majority of the audience of the influencer.
4. It is the responsibility of the influencer to verify the claims that are made in the content that they are promoting, and a failure to do so may be considered a violation of the ASCI Code and attract scrutiny by the regulator, which may include action under the Consumer Protection Act, 2019.

¹⁹ Supra 8

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

The ASCI, however, is a self-regulatory body that is not empowered to impose penalties; however plays a significant role in highlighting content that is not compliant, directing removal or modification of posts which are misleading, and sharing complaints with the statutory authorities such as the Central Consumer Protection Authority (CCPA).²⁴ The CPCA is empowered to impose penalties of Rupees 10 lakh for first-time violations and Rupees 50 lakh for subsequent ones.²⁵

III.2. Securities and Exchange Board of India Act, 1992

The Securities and Exchange Board of India Act, 1992 (SEBI Act) is an umbrella legislation governing the securities market in India. The SEBI Act deals with laws related to investor protection and the provisions empower SEBI to formulate rules, regulations, and guidelines to regulate the securities market. While the SEBI Act does not directly deal with finfluencers, it has several provisions and regulations framed under it which apply to activities that regulate the activities related to research analysis, investment advisory, or promotional conduct by persons.

SEBI, under Section 11 of the SEBI Act, is duty-bound to protect the interest of the investors and to promote the development of and regulate the securities market. SEBI is empowered to take measures such as “prohibiting fraudulent and unfair trade practices” and “prohibiting fraudulent and unfair trade practices”.²⁶ Section 12 of the SEBI Act states that no person can carry on the business of a stock broker, sub-broker, portfolio manager, investment adviser, or research analyst without obtaining a certificate of registration from SEBI.²⁷ Finfluencers who provide investment advice in the form of specific recommendations related to buying or selling stocks or conducts research analysis and provides target prices or stock reports, etc. to investors, they may fall in the domain of SEBI (Investment Advisers) Regulations, 2013 or SEBI (Research Analyst) Regulations, 2014. Further, providing such advice without registration and license is a violation of the provisions of Section 12 of the SEBI Act. Undertaking activities akin to research analysts or investment advisors without registration

²⁴ The Consumer Protection Act, 2019, § 21; Ministry of Consumer Affairs, Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, June 9, 2022.

²⁵ Id.

²⁶ SEBI Act, 1992, § 11.

²⁷ Id. §12(1).

may attract imprisonment of up to 10 years or a fine of up to Rs. 25 crore or both.²⁸ Additionally, indulging in unfair or fraudulent trade practices can attract a penalty of up to Rs. 25 crore or three times the profit made in the trade, whichever is higher.²⁹

III.3. SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003

The SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (PFUTP Regulations) is another set of regulations that curd market misconduct. These regulations are broad, and the language is inclusive to make them applicable to a wide range of deceptive practices, such as fraudulent, deceptive, and manipulated practices in the securities markets.³⁰ The PFUTP Regulations define fraud to include acts, expressions, omissions, and concealment which are knowingly committed to induce persons to deal in securities.³¹ The definition of fraud is wide and has an illustrative list of actions that can be termed to be fraudulent.³²

The PFUTP regulations are wide to bring within their ambit the activities of influencers and bring their acts to a stop. Regulation 3 of the PFUTP Regulations is an umbrella clause that prohibits any person from buying, selling, or dealing in securities in a fraudulent manner or to induce others through misleading statements. Further, Regulation 4 states that no person should indulge in fraudulent, manipulative, and unfair trade practices in the securities market.³³ Regulation 4 specifically makes “knowingly indulging in an act which creates false or misleading appearance of trading in the securities market”³⁴; “inducing any person for dealing in any securities for artificially inflating, depressing, maintaining or causing fluctuation in the price of securities through any means including by paying, offering or agreeing to pay or offer any money or money's worth, directly or indirectly, to any person”³⁵; “disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or

²⁸ Id. §24

²⁹ Id. § 15HA

³⁰ SEBI v. Tejas Khoday & Ors., WTM/AB/EFD-1/DRA-4/13/2022-23 (Jan. 25, 2023)

³¹ PFUTP Regulations, Regulation 2 (c)

³² Id.

³³ Id., Regulation 4(1)

³⁴ Id., Regulation 4(2)(a)

³⁵ Id., Regulation 4(2)(d)

careless manner and which is designed to, or likely to influence the decision of investors dealing in securities”³⁶ “fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income”³⁷; “knowingly, planting, false or misleading news which may induce sale or purchase of securities”³⁸.

The above-stated activities are all those which influencers indulge in, such as making false or misleading recommendations, pump and dump activities, misleading or exaggerated claims related to stocks, earning referrals by recommending trading platforms, providing stock tips, etc. Hence, the PFUTP regulations are wide enough to incorporate activities which are undertaken by influencers. In fact, SEBI has in numerous cases relied on the PFUTP Regulations to impose penalties on influencers who have manipulated stock markets.³⁹

III.4. SEBI (Research Analyst) Regulations, 2014

The SEBI (Research Analyst) Regulations, (RA Regulations)2014, are another set of regulations that play a crucial role in curbing the unregulated dissemination of securities research by ensuring accountability, transparency, and competence. The RA Regulations were introduced under Section SEBI 11 of the SEBI Act, 1992, which empowers SEBI to protect investors and regulate intermediaries. The objectives of the regulation are to standardize the conduct of research analysts, promote independent and objective analysis in the securities market, prevent conflict of interest between the public that invests and the research analysts, and regulate the dissemination of research through various channels, which includes digital media.⁴⁰

The RA Regulations define research analysts as “research analyst” means a person who, for consideration, is engaged in the business of providing research services and includes a part-time research analyst”.⁴¹ Further, a research report is defined as “research report means

³⁶ Id., Regulation 4(2)(k)

³⁷ Id., Regulation 4(2)(o)

³⁸ Id., Regulation 4(2)(r)

³⁹ Supra 30

⁴⁰ Securities & Exch. Bd. of India, Consultation Paper on RA Regulations (2013), https://www.sebi.gov.in/reports/reports/nov-2013/consultation-paper-and-draft-sebi-research-analyst-regulations_25792.html (last visited April 22, 2025).

⁴¹ RA Regulations, Regulation 2(u)

any written or electronic communication that includes research analysis or research recommendation or an opinion concerning securities or public offer, providing a basis for investment decision.”⁴² The RA Regulations also define research services as “research services means the following services provided by research analyst:

- i. preparation or publication of the research report or content of the research report; or
- ii. providing or issuing a research report or research analysis; or iii. making 'buy/sell/hold' recommendation; or
- iii. giving a price target or stop-loss target; or
- iv. offering an opinion concerning a public offer, or
- v. recommending a model portfolio; or
- vi. providing trading calls; or
- vii. any other service of similar nature or character, with respect to securities that are listed or proposed to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' to the clients or other persons or group of persons or general public”⁴³

All of the above-mentioned activities are those which are undertaken by finfluencers. Hence, arguably, finfluencers fall under the category of research analysts who publish research reports and provide research services. Hence, the RA Regulations must apply to them. As per the RA Regulations, any person who acts as a research analyst or holds himself out as one must obtain a certificate of registration from SEBI.⁴⁴ The RA Regulations also prescribe the eligibility criteria for obtaining registration as a research analyst, which ensures that only those who are educationally and financially capable and have adequate experience are registered as research analysts so that investors are protected. Under the RA regulations in order to be registered as a research analyst, a person must hold a professional qualification or a post graduate diploma or degree in finance, business management, accountancy, commerce, financial services, capital markets, economics or related fields from a recognised institution in India or abroad and must have at least five years of experience in activities related to securities, financial products or portfolio/fund management.⁴⁵ The applicant must also have a NISM-Series-XV: Research Analyst Certification or any other certification as recognised by

⁴² Id., Regulation 2(w)

⁴³ Id., Regulation 2(wa)

⁴⁴ Id., Regulation 3(1)

⁴⁵ Id., Regulation 7(1)(e)

SEBI from time to time.⁴⁶ Further, the RA Regulations also mandate a minimum of Rs. 1 lakh as minimum tangible assets for individual research analysts or partnership firms and Rs. 25 lakh as minimum net worth for LLPs or Body Corporates.⁴⁷ The applicant must also have adequate office infrastructure, IT facilities, etc,⁴⁸ and should be a fit and proper person as per the SEBI(Intermediaries) Regulations, 2008.⁴⁹ Further, a person or entity that applies for an RA registration, cannot provide investment advice until he/she/it get registered as an investment adviser and shall not engage in stock broking, portfolio management services, or merchant banking activities unless it complies with conflict of interest rules and maintains Chinese wall mechanisms.⁵⁰

Finfluencers who regularly publish/give recommendations in the form of videos/blogs/messages must get themselves registered under the RA Regulations, failing which they are in violation of the law and may face a penalty.

III.4. Investment Advisers Regulations, 2013

Finfluencers, in most cases, offer stock tips, investment strategies, and market opinions, and the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 ("IA Regulations"), which govern aspects related to the qualification, conduct, and obligations of those who offer investment advice. The IA Regulations were notified by SEBI with an intent to regulate the persons who provide investment advice, enhance the competence and accountability of persons who influence investors ' decisions, and ensure there is disclosure, transparency, and avoidance of conflict of interest.⁵¹

The IA Regulations define investment adviser as ““investment adviser” means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes a part-time investment adviser or any person who holds out himself as an investment adviser, by whatever name called.”⁵² Further, investment advice is defined as “investment advice” means advice relating to investing in, purchasing, selling or otherwise dealing in securities and advice on investment portfolio

⁴⁶ Id., Regulation 7(1)(f)

⁴⁷ Id., Regulation 7(1)(g)

⁴⁸ Id., Regulation 7(1)(d)

⁴⁹ Id., Regulation 7(1)(a)

⁵⁰ Id., Regulation 24

⁵¹ Securities & Exch. Bd. of India, Consultation Paper on Review of Regulatory Framework for Investment Advisers (IA) (Jan. 15, 2020), https://www.sebi.gov.in/reports-and-statistics/reports/jan-2020/consultation-paper-on-review-of-regulatory-framework-for-investment-advisers-ia-_45685.html (last visited April 22, 2025).

⁵² IA Regulations, Regulation 2(m)

containing securities whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning”.⁵³ However, the proviso to the definition of investment advice clarifies that any advice given through magazines, newspapers, broadcasting, electronic or telecommunication media that is available widely to the public is not considered to be investment advice. Hence, this proviso excludes those influencers who make recommendations on platforms such as YouTube or Instagram, but can bring into its ambit those influencers who give recommendations privately to investors on a subscription basis. The IA Regulations mandate that no person can act as an investment adviser without registering themselves with SEBI.⁵⁴ Further, the consideration that an investment advisor receives is not limited to payment in monetary terms but can be indirect in the form of barter or brand collaborations. It has been categorically held by SEBI that in cases where investment advice leads to indirect financial benefits, then even non-explicit monetary gains would amount to consideration.

Influencers, in most cases, label their content as informational or educational to circumvent the IA Regulations. Further, another problem in bringing influencers under the IA Regulations is that the regulations mandate that advice must be personalised in nature and not available to the public at large which in most cases is not the case with influencers who publish their information on social media which is available to public at large thereby escaping the rigours of the IA Regulation.

III.5. SEBI Consultation Paper, 2023

SEBI on August 25, 2023, issued its “Consultation Paper on Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Influencers)” in an attempt to enact regulation and provide a framework to deal with the risks which are posed by the unregulated influencers. The Consultation paper aims to propose concrete steps to restrict harmful affiliations, to allocate responsibility, and enhance transparency. The consultation paper came in the wake of the rise in the participation of retail investors in the securities market, who account for almost 45% of the total trades that were conducted in the equity segment as of 2023.⁵⁵ Along with this, there has been an increase in the reliance on

⁵³ Id., Regulation 2(f)

⁵⁴ Id., Regulation 3(1)

⁵⁵ Supra 4

digital media before making investment decisions. SEBI noted that though influencers play a significant role in financial education for the general public, yet may offer implicit or explicit investment advice without holding the requisite registration as required under SEBI regulations.⁵⁶ Further, another concerning fact highlighted by SEBI is that several of these influencers receive referral bonuses, affiliate commissions, or indirect incentives from the trading platforms and brokers, thereby lining up their interests such trading platforms and brokers rather than the investor's interest.⁵⁷

Core Proposals

1. Prohibition on association: SEBI proposed that the regulated entities and the registered intermediaries, such as RIAs, AMCs, brokers, etc, must not formally or informally associate with unregistered influencers, whether in the form of advertisement or promotion of their products or services, or in monetary or non-monetary terms.⁵⁸ They must also not pay any trailing commission, which is based on the number of referrals.⁵⁹ They must also take appropriate action to bring to the notice of appropriate enforcement agencies to take action in cases where required.⁶⁰
2. Non-disclosure – the entities that are regulated or registered with SEBI/AMFI/Stock exchanges must not share any confidential information relating to their clients with unregistered entities, which includes influencers.⁶¹
3. Disclosures – influencers who are registered with SEBI/AMFI/Stock exchanges in any manner must display their details, such as registration number, contact information, investor grievance redressal number, and also make disclaimers and disclosures on posts made by them.⁶²
4. Compliance – the entities regulated or registered with SEBI/AMFI/Stock exchanges must comply with the advertisement guidelines which are issued by SEBI or Stock Exchanges and bodies which are recognised by SEBI from time to time.⁶³

⁵⁶Id.

⁵⁷ Id., Para 3

⁵⁸ Id.,Para 4.3

⁵⁹ Id.,Para 4.6

⁶⁰ Id.,Para 4.8

⁶¹ Id., Para 4.3

⁶² Id.,Para 4.4

⁶³ Id.,Para 4.5

III.6. Amendments made post the Consultation Paper

In order to extend the SEBI's July 2024 Consultation Paper into SEBI on August 26, 2024 into an enforceable law, notified the amendments to the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Fourth Amendment) Regulations, 2024, the SEBI (Depositories and Participants) (Second Amendment) Regulations, 2024, and the SEBI (Intermediaries) (Amendment) Regulations, 2024 to amend the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018, the SEBI (Depositories and Participants) Regulations, 2018, and the SEBI (Intermediaries) Regulations, 2008 which came into force in on August 29, 2024. The amendments in all these regulations inserted a chapter that deals with "Restriction in dealing with unregulated/other entities".

The Amendments brought to these inserted chapters⁶⁴ to restrict the clearing corporations, recognised stock exchanged, depositories and persons regulated by the SEBI and/or agents of all these entities to have any direct or indirect association with persons who provide recommendation or advice related to securities or make claims with respect to performance or return on stocks unless they are registered with SEBI or permitted to do so. Further, the proviso exempts the application of the above-mentioned restrictions with respect to association through "specified digital platform"

SEBI circular dated January 29, 2025 restricted the use of real-time data by unregistered and unregulated entities. However, a person who is "solely engaged in education" is exempt from the above-stated restrictions. The circular further clarifies that a person who is "solely engaged in education" shall mean any person who is not engaged in any of the two restricted activities. Further, such persons must not use market price data of the three preceding months to talk/speak/display the name/code of securities in his/her speech /talk, ticker, video, screenshare, etc., indicating the recommendation, advice, or future price related to the securities.⁶⁵ For activities to be considered "educational" what is to be taken into

⁶⁴ Chapter VIA, inserted through the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Fourth Amendment) Regulations, 2024; Chapter VIIA, inserted through the SEBI (Depositories and Participants) (Second Amendment) Regulations, 2024; Chapter IIIA, inserted through the SEBI (Intermediaries) (Amendment) Regulations, 2024.

⁶⁵ Securities & Exch. Bd. of India, Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2025/11, Details/clarifications on provisions related to association of persons regulated by the Board, MIIs, and their agents with persons engaged in prohibited activities (Jan. 29, 2025),

consideration is not the label attached to the content, but the intent, substance and the ultimate effect. SEBI on the basis of international and national jurisprudence relies on a multi-factor analysis to determine what falls in the category of educational content. This includes factors such as specificity of the securities involved, the level of personalisation involved and whether there are any inducements or compensation structures involved in the content which is created.

These regulatory changes were brought in to tighten the noose around the neck of finfluencers. Finfluencers are now restricted from using real-time data to give recommendations and levels for trading.

IV. Chapter 3

SEBI's Enforcement Crusade Against Finfluencers

Apart from the regulatory changes, SEBI has come down heavily on finfluencers. Between October 2022 and March 2023, SEBI, in collaboration with social media companies, took down 70,000 misleading handles of unregistered entities/advisors.⁶⁶ SEBI has also taken action against a number of unregistered finfluencers under various provisions of SEBI Regulations in order to protect investor interest and to keep a check on the growth of unregistered financial advisors.

SEBI, in the case of *SEBI v. Manish Mishra and Ors.*,⁶⁷ took action against a group of YouTubers who manipulated stocks by creating false demand for stock through campaigns run on social media. It was alleged by SEBI that several YouTube channels were creating misleading videos, and simultaneously, the entities that were accused sold the shares recommended at inflated prices. SEBI found that the accused entities had made unlawful gains worth lakhs of rupees and used fake identities, misleading thumbnails, and coordinated trading activities. SEBI froze the bank accounts of the accused under Section 11(4)(d) of the

https://www.sebi.gov.in/legal/circulars/jan-2023/details-clarifications-on-provisions-related-to-association-of-persons-regulated-by-the-board-miis-and-their-agents-with-persons-engaged-in-prohibited-activities_91356.html (last visited May April 22, 2023).

⁶⁶ Anishaa Kumar, *Sebi Took Down Over 70,000 Misleading Handles of Unregistered Advisors in Six Months*, Money Control (May 7, 2023), <https://www.moneycontrol.com/news/business/markets/sebi-took-down-over-70-000-misleading-handles-of-unregistered-advisors-in-six-months-12971456.html> (last visited April 22, 2023).

⁶⁷ Securities & Exch. Bd. of India, *In the Matter of Manish Mishra & Ors.*, Order No. WTM/ASB/CFID/CFID-SEC2/26206/2022-23 (Mar. 2, 2023)

SEBI Act and passed directions restraining them from accessing the securities market. In a case, Mohammad Nasiruddin Ansari was operating under the name of “Baap of Charts”, provided stock market recommendations on social media platforms and messaging apps such as YouTube, WhatsApp, and Telegram, and claimed to offer educational courses which promised assured returns. SEBI, upon investigation, found that Mr. Ansari had provided investment advisory services without being registered with SEBI and collected approximately Rs. 17.2 crores over a period of two years. He further misrepresented his stock trading success when, in reality, he had incurred personal losses of Rs. 2.89 crores while assuring clients guaranteed profits. He was found violating provisions of the IA Regulations and the PFUTP Regulations, and SEBI imposed a year-long ban on Mr. Ansari from accessing the securities market, ceased all promotional activities related to investment courses, and refund the money collected from clients.⁶⁸ In another case, P.R. Sundar, a YouTuber and a prominent options trader with more than a million followers on YouTube, offered investment advisory services through social media and his website without SEBI registration. Upon investigation, SEBI found that Mr. Sundar’s firm collected around Rs. 6.07 crore from its clients for advisory services providing trading strategies and stock recommendations without the SEBI registrations and approvals. Mr. Sundar was banned from trading in the securities market for a year. He further agreed to settle with SEBI and paid Rs. 46.80 Lakh and disgorged Rs. 6 crores to cover both the profits and interests made.⁶⁹

SEBI in another important case, where SEBI initiated action against 31 entities, which included a famous Bollywood actor, Arshad Warsi, and his wife, for their alleged involvement in a scheme related to stock manipulation of Sadhna Broadcast Ltd. The investigation done by SEBI revealed that several misleading videos were uploaded on channels such as “Moneywise” and “The Advisor” on YouTube, which promoted the stocks of Sadhna Broadcast with false claims such as contracts with American Companies and a possible takeover by Adani Group. Such videos led to an increase in the stocks trading volume and thereby an increase in the stock price, which attracted retail investors. Mr. Warsi and his wife were categorised by SEBI as individuals who created “Volume Creators” who contributed to the artificial inflation of the trading volume in stock. SEBI alleged that Mr. Warsi made a profit of 29.43 lakhs and his wife made a profit of Rs. 37.56 lakhs by trading in

⁶⁸ Securities & Exch. Bd. of India, Final Order in the Matter of Unregistered Investment Advisory Activities by Baap of Chart, WTM/AB/IMD/IMD-II/24947/2024-25 (Dec. 2, 2024),

⁶⁹ Securities & Exch. Bd. of India, Settlement Order in Respect of Mansun Consultancy Private Limited, Mr. P.R. Sundar and Ms. Mangayarkarasi Sundar, WTM/AB/EFD-1/DRA-4/64/2023-24 (May 25, 2023)

the shares of Sadhna Broadcast Ltd. during the manipulation period. SEBI, in its interim order, restrained all 31 entities from accessing the securities market and impounded the illegal gains of Rs. 41.85 crore.⁷⁰ They were ordered to deposit the amount into an escrow account within 15 days. Post the order, Mr. Arshad Warsi and his wife appealed against the SEBI order to the Securities Appellate Tribunal (SAT). SAT in its order noted that there was an absence of evidence which linked Mr. Warsi and his wife with the creation and dissemination of the misleading videos. However, SAT directed them to deposit 50% of the unlawful gains in an escrow account and submit an undertaking that the remaining amount pending the investigation by SEBI.⁷¹ In the case of a Telegram Channel called “Bull Run Investing”, SEBI demonstrated its capability of using digital evidence and forensics to unearth manipulations by finfluencers. In this case, SEBI found Tejas Khoday, who is the co-founder of FYERS Securities, using Telegram channels to spread misleading and false information to manipulate stock prices. SEBI investigated into unregistered investment advisory activities on platforms like Telegrams where anonymous or pseudonymous users were running a pump and dump scheme involving purchasing of certain stocks at lower prices, spreading false or exaggerated claims about companies to create a buying pressure on the stocks, and later selling these shares at inflated prices. Mr. Tejas Khoday and his associates were the administrators of the Telegram channel “Bull Run Investing,” which orchestrated the above-stated scheme and failed to disclose the personal stakes in the stocks that they were recommending. By creating such false demands, they made profits. SEBI used digital forensics and data analytics to establish a connection between the digital IP address, which was used to operate the Telegram Channels, and Khoday’s professional credentials, which clearly established that the activities were not for educational purposes but for manipulation of the stock market. SEBI impounded Rs 2.84 crores, which was gained unlawfully, and also restrained Mr Tejas and his associates from accessing the securities market for a period of two years.⁷² In one of the most recent cases, SEBI banned YouTuber Asmita Patel – “She- Wolf of Stock Market” and the “Options Queen” as she was popularly known, and six other entities connected with her from accessing the capital market till February 2025. The action was taken against her following complaints made by 42 investors

⁷⁰ Securities & Exch. Bd. of India, Interim Order in the Matter of Stock Recommendations Using YouTube in the Scrip of Sadhna Broadcast Limited, WTM/ASB/CFID/CFID-SEC1/23910/2022-23 (Mar. 2, 2023).

⁷¹ Securities & Exch. Bd. of India v. Arshad Warsi & Ors., Misc. App. Nos. 1229, 1230 & 1256 of 2023 in Appeal Nos. 284 & 285 of 2023, Securities Appellate Tribunal (Oct. 4, 2023).

⁷² Securities & Exch. Bd. of India, Order in the Matter of Tejas Khoday and Others, WTM/GM/EFD/67/2022-23 (Dec. 2022).

alleging unauthorised investment advisory activities. SEBI stated that these investors were “misled with exaggerated promises of profits and coerced into paying high fees for minimal or ineffective trading education.” SEBI directed disgorgement of Rs. 53.60 crores, which was collected as fees from participants in the various courses offered by her.⁷³

V. Chapter 4

Suggestions and Conclusion

Today, we see mushrooming of the finfluencers ecosystem where these financial influencers are operating unhindered through social media and causing a significant impact on the securities market. On the one hand, these financial influencers have been able to attract public even at the grass root level and have somewhat helped in “democratize” financial information, their credibility, absence of accountability, compliances and fiduciary duties have resulted in the retail investors being victims of the finfluencers orchestrated scheme of manipulating the market. The preceding chapters have analysed in detail the meaning of finfluencers and the issues pertaining to them, the regulatory framework that exists to regulate the finfluencers, as well as the action taken by SEBI against them.

Despite there being a regulatory framework that exists at present, which attempts to regulate the activities of finfluencers, they often escape the noose. There are several gaps in the existing framework, which have resulted in the mushrooming of finfluencers and thereby increasing losses of retail investors. The current SEBI regulatory regime lacks any regulation that is specifically tailored to meet the nature and the operations of finfluencers. SEBI has brought about amendments in the existing legislation, which are not as effective since they were originally not made to regulate finfluencers and hence lack on several fronts to control them. Further, the exceptions made by SEBI for educational purposes have become a means through which these finfluencers circumvent the rigours of registration and SEBI mandates. Further, most finfluencers use encrypted platforms and pseudonymous identities, which makes it difficult for SEBI to trace them. By collaborating indirectly to promote products, finfluencers, in most cases, bypass the restrictions on advertising placed on them. All this is coupled with limited SEBI infrastructure to deal with social media platforms and AI-powered

⁷³ Securities & Exch. Bd. of India, Order in the Matter of Asmita Patel Global School of Trading Private Limited, WTM/KV/MIRSD/MIRSD-SEC-5/31188/2024-25 (Feb. 6, 2025).

tools poses serious problems that need to be addressed in a time-bound manner so that the menace of influencers can be curbed.

SEBI should enact a comprehensive regulation that deals specifically with influencers and their regulations under its powers under Section 11 of the SEVI Act. The said regulation must provide, firstly, a comprehensive definition of influencers. Further, there must be a threshold that must be prescribed for influencers with respect to their subscribers and revenue from social media platforms for regulatory purposes. SEBI must also clearly lay down the scope of advice and educational purposes so as to lay stringent guidelines for the influencers. All the registered investment advisors and research analysts who engage with social media influencers must disclose the nature of their engagement, arrangement, and ensure due diligence. There must be a mandate to maintain an audited time stamp for all their promotional activities for a minimum period of seven years. SEBI should also enter into agreements with social media platforms to enable flagging content which is violative of SEBI regulations, enabling the taking down such content, and create mechanisms where financial influencers need to provide SEBI registration details before allowing such content creation. SEBI should develop informant mechanisms similar to those under SEBI (Prohibition of Insider Trading) Regulations, 2015, to enable whistleblowing. SEBI should also take guidance from international best practices such as those in the United States, Australia, the United Kingdom, and Singapore, which have developed mechanisms to keep influencers in check. The U.S. Securities and Exchange Commission (SEC) mandates that the influencers who provide recommendations with respect to securities by charging consideration must be registered as investment advisors whereas the Federal Trade Commission under its Endorsement Guides mandate disclosure of all material connections.⁷⁴ In the Information Sheet 269 (INFO 269) issued by the Australian Securities and Investments Commission (ASIC) clarifies that influencers who encourage trading activities or promote financial products are required to take Australian Financial Services Licence (AFSL). Further, the Financial Conduct Authority (FCA) in U.K. states that the promotion of financial products by

⁷⁴ U.S. Sec. & Exch. Comm'n, *Investment Advisers Act of 1940*, 15 U.S.C. § 80b-1 et seq.; Federal Trade Comm'n, *FTC Endorsement Guides: What People Are Asking* (2023), <https://www.ftc.gov/business-guidance/resources/ftcs-endorsement-guides-what-people-are-asking>.

finfluencers falls within the domain of the Financial Services and Markets Act 2000 (FSMA) and requires approval of firms authorised by FCA to ensure compliance.⁷⁵

SEBI must also actively work on investor education to enable retail investors to understand the problems associated with unregistered entities. For this, SEBI can collaborate with academic institutes for the said purposes.⁷⁶

SEBI's recent actions on curbing malpractices by influencers are commendable, however, it is the need of the hour to create a robust system to develop a framework that ensures preservation of market integrity and protection of retail investors. Such a framework will ensure that India not only protects its investors but also meets the global standards of a developing regulatory framework to govern finfluencers.

⁷⁵ Australian Sec. & Investments Comm'n, *Information Sheet 269: Discussing financial products and services online* (Mar. 2022),

<https://asic.gov.au/regulatory-resources/find-a-document/regulatory-documents/info-sheets/info-269/>.

⁷⁶ U.K. Fin. Conduct Auth., *Guidance on Social Media and Customer Communications*, FG15/4 (Mar. 2015), <https://www.fca.org.uk/publication/finalised-guidance/fg15-04.pdf>.