LEGAL LOCK JOURNAL

2583-0384

VOLUME 4 || ISSUE 1

2024

INDIA'S INFLUENCERS SNAG AND THE ROAD AHEAD

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ABSTRACT

The rise of social media and emergence of Finfluencers or otherwise known as social media influencers who create, and post finance investment related videos online has posed a unique regulatory challenge in the Indian Market. From the Sadhna Broadcast limited scam, PR Sundar inquiry, to many other Telegram frauds, SEBI has been facing a regulatory challenge in dealing with these new type of financial advisors who can influence the decisions of lakhs if not crores of investors by simple posting a 'stock recommendation' video. This paper highlights this regulatory challenge and analysis the pre and post outcomes of the August 2023 consultation paper. Our research has also delved into the present-day regulatory framework in various other jurisdictions namely the USA, the UK, the European Union, Canada, Australia, and New Zealand. Our work has examined each jurisdiction's approach to combat online scams, enhance transparency and collaborate with social media platforms. We have identified three key pillars of regulating finfluencers: clear and fair advertising communications, supervisory expectancies, and disclosure of economic arrangements. The paper shows how India can analyze from the regulatory frameworks and excellent practices of other jurisdictions to decorate its very own method, by using enhancing transparency, selling economic literacy, and making sure the duty of finfluencers. The paper also proposes some progressive answers, including leveraging RegTech answers to beautify efficiency, accuracy, and effectiveness in tracking finfluencers, and establishing effective collaboration between the regulatory authorities and social media platforms to fight online scams and disinformation campaigns. The paper concludes that striking the proper stability between innovation and investor protection is critical for a triumph engagement with this new virtual era.

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INTRODUCTION

The age of the internet and the growing audience on social media has opened a door to a new form of market threat. One that does not require a Bank, CEO or any other research analyst but rather a simple retail investor who makes his videos public. Who are these people who have the ability to influence the masses and manipulate the market? These people are known as Finfluencers.

Finfluencers, also known as Finance influencers, are individuals who create financial videos and post them on various social media platforms. Finfluencers have played a phenomenal role in promoting financial literacy and encouraging investment in India. Finfluencers provide investment advice, discuss financial instruments, and earn money by endorsing products. By simply posting a video of stock recommendations, these Finfluencers can reasonably influence the financial decisions of thousands, if not lakhs, of people. Their business model requires them to recommend certain stocks or other instruments that are volume sensitive. The masses of retail investors that act on market sentiment fall prey to this very scheme. What is important to note is the fact that there exists a trust relationship between the Finfluencers and his audience. However, this trust is blurred by making endorsements where potential risks are downplayed and expected returns are inflated.

Even when making an honest stock recommendation, there exists a certain risk because an influencer who believes in a certain company/instrument may have purchased the product based on his own true analyses, but by advising others on the same, he draws his followers' attention to the stock. In a price sensitive market that reacts on change in volume, he draws more attention to the script. Due to their ability to influence their followers and high reach these influencers can easily abuse their position.

In light of this enigma, our paper attempts to analyse the current framework under which the Securities and Exchange Board of India can regulate these Finfluencers and offers potential solutions to solve problems arising out of the current framework by drawing comparisons from other jurisdictions across the world.

1.0 CURRENT FRAMEWORK

1.1 PRE-CONSULTATION PAPER POSITION

There is no particular legislation that controls Finfluencers.[3] S. 12-A of the SEBI Act and Regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), 2003, [4] nevertheless, provide extensive regulations for influencers. It states that "any statement which is knowingly false, or misleading made to influence the investment decisions of investors will amount to manipulative fraudulent or an unfair trade practice" and that "no person shall directly or indirectly engage in any act, practice, course of business, which is fraudulent, misleading, or manipulative with respect to transactions on the stock exchange."

The National Stock Exchange ("NSE") announced in a circular dated February 2, 2023 that any payment made by brokers to influencers or bloggers would need exchange permission in advance and would need to contain a standard disclaimers.[5]

It also important to note that in 2016, SEBI had amended the Investment Advisors regulations, 2013 so as to extend the scope of Investment advice to include all forms of communication.[6] The paper recommended outright banning anybody who isn't an investment professional from offering trading advice or stock recommendations over email, WhatsApp, or other platforms.[7] This paper created a lot of criticism for regulatory overreach by the SEBI. Thus, SEBI decided not to implement the consultation paper. This regulation of Finfluencers

[3] Namita Shetty and Adya Garg 'End of the Party for Sin (Fin) Fluencers? SEBI's Regulatory Crackdown on Finfluencers' *Cyril Amarchand Mangaldas* (September 13, 2013). https://corporate.cyrilamarchandblogs.com/2023/09/end-of-the-party-for-sin-fin-fluencers-sebis-regulatory-crackdown-on-finfluencers/#_ftn.

[4] S. 12A SEBI Act, 1992 & Regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), 2003.

[5]Sashind Ningthoukn, Sebi's Buch on finfluencer regulation: 'Something is cooking' *Mint.com* (31 March 2023) https://www.livemint.com/money/personal-finance/sebis-buch-on-finfluencer-regulation-something-is-cooking-11685510312515.html , National Securities Exchange circular NSE/COMP/55481 'code of advertisement,' 2nd February, 2023 https://www.nseindia.com/trade/members-code-of-advertisement.

[6] *Shetty* (n 1), SEBI (investment advisors) Regulation Amendment on 21st January 2016 https://www.sebi.gov.in/sebi_data/attachdocs/1358779330956.pdf.

[7] *Shetty* (n 1).

still remains a tricky road to balance between free speech and protection from dissemination of biased information.

Additionally, in its Circular dated April 5, 2023, SEBI established an advertisement code for Investment Advisors (IAs) and Research Analysts (RAs), outlining the mandatory contents of the advertisement as well as specific prohibitions and prerequisites for prior approval from SEBI prior to the advertisement.[8]

SEBI has repeatedly interpreted Finfluencers into two sets of regulations: the SEBI (Research Analysts) Regulations, 2014 and the SEBI (Investment Advisors) Regulations, 2013. Therefore, before sharing any kind of content, including advertising, Finfluencers must meet certain professional requirements.

In the cases of Sadhna Broadcast Limited and Sharpline Broadcast Limited, the promoters created fictitious interest in the scrip by disseminating fraudulent and deceptive information in association with certain YouTubers.[9] The videos encouraged viewers to purchase the company's stock immediately and forecasted exponential development. The companies behind the films sold the stock to investors at a huge profit after they had invested in it.[10] According to SEBI's interim ruling, this fraudulent activity artificially drove up the script's price, greatly benefiting major shareholders, promoters, and some key staff.[11]

Similar to this, a Telegram channel was frequently used to disseminate untruths and influence the market in order to benefit illegally.[12] Their plan was to buy shares in a firm first, and then convince Telegram channel users to buy stock in the same company. The influencers made

[8] Pritha Lahiri and Ria Agrawal 'The Rise of Finfluencers: Call for Responsible Regulations' *Centre or business and commercial* https://cbcl.nliu.ac.in/contemporary-issues/the-rise-of-finfluencers-call-for-responsible-regulations , SEBI circular SEBI/HO/MIRSD/MIRSD-PoD-2/P/CIR/2023/51, Advertisement code for Investment advisors and Research Analysts, (April 5 2023).

[9] *Shetty* (n 1), Yash Jain, 'SEBI order in Sadhna Broadcast and Sharpline Boardcast just the start of clampdown on misuse of social media,' *CNBC TV 18* < https://www.cnbctv18.com/market/stocks/sebi-order-in-sadhna-broadcast-and-sharpline-boardcast-just-the-start-of-clampdown-on-misuse-of-social-media-youtube-16079851.html>.

[10] *Shetty* (n 1).

[11] *Shetty* (n 1).

[12] *Shetty* (n 1*)*, Dhananjay Khatri, 'SEBI bars 6 persons for stock manipulation using Telegram,' CNBC TV 18, (April 23 2023) < https://www.cnbctv18.com/market/stocks/sebi-bars-3-for-stock-manipulation-via-telegram-slaps-penalty-of-rs-56-crore-16510181.htm#:~:text=According%20to%20the%20SEBI%2C%20it,prices%20and%20make%20illegal%20profits>.

money when they sold their shares as the stock price increased.[13] In its interim ruling, SEBI fined INR 5.68 crore and suspended the entities from the securities market.[14]

Recently, SEBI conducted an investigation against Mr. P.R. Sundar and Mansun Consultancy Private Limited for allegedly offering advisory services in exchange for advising fees without first acquiring the required registration from SEBI.[15] SEBI penalized Mr. PR Sundar and his business for breaking the IA Regulations. In the end, SEBI paid INR 6.07 crore in disgorgement and INR 46.80 lakh in settlement for regulatory infractions.[16] As part of the settlement order, Mr. PR Sundar and his business committed to not purchasing, selling, or dealing in securities for a year from the date of the order.[17]

1.2 POST CONSULTATION PAPER OUTCOMES:

Only unfair and deceptive trading practices are addressed under the current regulatory framework. It is ill-prepared to handle the myriad problems brought on by unregistered and unregulated influencers who operate in the grey area.[18] The current legal framework is needed to be adjusted to shield investors from the dangers and damages of influencing.[19]

The consultation paper prohibits unregistered Finfluencers to work with regulated entities whether directly or indirectly. Thus, disrupting the manner of business of unregulated Finfluencers. Unregulated Finfluencers are those that operate without any registrations, licenses and permits.[20]

SEBI bars these entities from paying any sort of commission to Finfluencers.[21] For instance, if a customer buys a mutual fund product on the recommendation/referral of the influencer,

[13] *Shetty* (n 1).
[14] *Shetty* (n 1).
[15] *Shetty* (n 1), PR Sundar settles SEBI advisory case, to not deal with securities for a year,' *Mint*, (May 26 2023), < https://www.livemint.com/market/stock-market-news/pr-sundar-settles-sebi-advisory-case-to-not-deal-with-securities-for-a-year-check-details-11685113868529.html>.
[16] *Shetty* (n 1), SEBI Settlement order in respect of Mansun Consultancy Private Limited, Mr. P.R.Sundar and Ms. Mangayarkarasi Sundar (May 25 2023) < https://www.sebi.gov.in/enforcement/orders/may-2023/settlement-order-in-respect-of-mansun-consultancy-private-limited-mr-p-r-sundar-and-ms-mangayarkarasi-sundar_71701.html.>
[17] *Shetty* (n 1).
[18] *Shetty* (n 1)..
[19] *Shetty* (n 1).
[20] Felix Pflücke, Rethinking the Regulation of Financial Influencers, Verfassungsblogout (May 23, 2023) https://verfassungsblog.de/finfluencers/
[21] *Ibid.*

then such a Finfluencers cannot charge or accept any payment from the Mutual Fund company. However, this bar is not applied on retail investors, creating confusion if Finfluencers can take this route and claim to fall within the scope of retail investors.

Registered Finfluencers are required to abide by the code of conduct and give appropriate disclosures before making any advertisements.[22] SEBI mandates them to display their registration number, contact details, investor grievance redressal helpline, etc.[23] However, this raises the question, the scope of registered Finfluencers limited to Investment Advisers, Research Analysts, Stock Brokers, etc..

Alongside this consultation paper, SEBI has also released another consultation paper in the manner of collecting fees for Investment Advisers and Research Analysts possibly to isolate and eliminate unregistered Finfluencers.[24] The Advertising Standard Council of India (ASCI) has also issued the 'ASCI influencer Guidelines 2023,' according to which Finfluencers are required to have necessary qualifications.[25] However, the said guidelines are vaguely drafted and do not provide any clarity on the same.

Finfluencers promoting investment products and services of their own or those of third parties can be viewed to be providing a 'service' under the Consumer Protection Act, 2019 (CPA). The CPA and its rules and regulations prohibit false and misleading advertising. Furthermore, the CPA recently issued a guide on 'Endorsements Know-hows! - for celebrities, influencers, and virtual influencers on social media platforms' (Endorsements Guide) to prevent misleading advertisements on social media platforms led by celebrities, influencers, and virtual influencers. The guide imposes two types of restrictions on influencers: transparency and disclosure requirements, as well as due diligence requirements. It should be noted that, while the aforementioned consumer protection regulations primarily

[22] *Felix* (*n* 19).
[23] *Felix* (*n 19).*
[24] SEBI, Consultation Paper on mechanism for fee collection by SEBI registered Investment Advisers and Research Analyst, 25 August 2023, < https://www.sebi.gov.in/reports-and-statistics/reports/aug-2023/consultation-paper-on-mechanism-for-fee-collection-by-sebi-registered-investment-advisers-and-research-analysts_75933.html>.
[25] Advertising Standard Council of India, ASCI places additional responsibility on health and financial influencers, extends influencer guidelines', 17 August 2023 < https://www.ascionline.in/wp-content/uploads/2023/08/Health-and-Finance-Guidelines-Update-Press-Release.pdf>.

apply to finfluencers promoting their own or third-party investment products and services, they may not apply to all types of influencers.

The issue lies in fact is that SEBI excludes finfluencers who profited from unsponsored posts and the sale of educational content from its scrutiny, highlighting a potential gap in the regulatory framework. This gap includes finfluencers who deceive the public by selling financial courses and earning substantial profits without endorsing any specific brand. One such example is "Baapof Chart," which enticed consumers by making claims like "bas 5 minutes me profit surakshit karo," "Make 5 lakh -10 lakh profit."

As a result, registration should be made mandatory for all finfluencers offering financial advice. Primarily because, like sponsored finfluencers, unsponsored finfluencers can deceive and defraud the public. Second, such an approach would be fair to RIAs, who cannot provide the same investment advice without mandatory registration.

To sum up the above chapter, the SEBI consultation paper and ASCI guidelines require Finfluencers to undertake certain registration requirements.[26] However, the specifics of the same are not mentioned. SEBI is operating on an assumption that Finfluencers may operate as investment advisors and research analysts only and Finfluencers who do not fall within this category are perhaps left out. Thus, it leaves out the regulation of Finfluencers who compensated by market entities but still hold the same power to deceive through their financial courses. SEBI has failed to carve out Finfluencers as a category separate from investment advisors and research analysts and has tried to interpret certain Finfluencers as IAs and RIAs.

Moreover, the current finfluencer regulatory framework falls short of comprehensive regulation because it only applies to finfluencers associated with SEBI-registered entities, leaving unsponsored finfluencers unrestrained and unregulated. The consultation paper also falls short of addressing how SEBI would regulate the financial arrangement between a Finfluencer and a registered entity, particularly given social media's vast reach. Furthermore, it does not provide clarity on the situation of Telegram channels, which, while not operated by finfluencers, have the potential to influence the public's financial decisions and are managed by anonymous individuals from across the country.

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[26] *Ibid.*

2.0 COMPARATIVE ANALYSIS

This section of the paper delves into what kind of regulatory frameworks have other jurisdictions incorporated, the challenges they faced while incorporating them, and thereby what the Indian regulatory body can learn from this.

To briefly summarize the steps taken in various jurisdictions include combating online scams and disinformation, enhancing transparency in advertisements, data sharing for investigation, etc. Further emphasizing upon regulatory authorities having worked with social media platforms to combat online scams and disinformation campaigns. They have established partnerships to facilitate the reporting and removal of fraudulent content and to improve the detection of fake accounts and suspicious activities. These collaborations aim to protect users from financial scams and misleading information.

Moreover, some regulatory authorities have collaborated with social media platforms to enhance transparency in advertisements. They have implemented measures to ensure that advertisements are accurate and comply with regulatory requirements. This collaboration helps reduce the potential for fraudulent or misleading advertisements that can deceive consumers and potential investors.

The United Kingdom has established strict regulations to govern finfluencers, focusing on clear disclosure requirements, certifications, and accountability.[27] The Financial Conduct Authority (FCA) in the United Kingdom has been proactive in monitoring and regulating promotions by finfluencers, encouraging enhanced transparency and ethical practices. [28]

Additionally, in the European Union, it has introduced directives to enhance financial literacy and transparency in financial content shared by influencers. The Regulatory Bodies, such as the European Securities and Markets Authority (ESMA), have focused on collaborative actions to set clear guidelines for finfluencers across the EU member states.[29] There are also

[27] Felix Pflücke, Rethinking the Regulation of Financial Influencers, Verfassungsblogout (May 23, 2023) https://verfassungsblog.de/finfluencers/

[28] Tim Hitchcock, Under the influence: Regulatory responses to financial promotions by social media influencers, *Thomson Reuters* (June 6, 2023) https://www.thomsonreuters.com/en-us/posts/investigation-fraud-and-risk/finfluencers-regulatory-response/

[29] European Securities and Markets Authority, ESMA's Statemnt on Investment Recommendations on Social Media (October 28, 2021),

proposals to replace certain financial services directives to reflect the digitalization of financial services.[30]

In the United States, the US Securities and Exchange Commission (SEC) has implemented robust regulations governing social media influencers' financial conduct. There are specific guidelines for influencers providing financial advice, and compliance with the Investment Advisors Act which is already enforced.[31]

The SEC has taken the lead in taking action against finfluencers who advertise cryptocurrency assets. Famous examples include the $1.26 million sentence imposed on popular TV celebrity Kim Kardashian for endorsing EMAX tokens without appropriately declaring her Ethereum Max payment. The actress Lindsay Lohan and YouTuber Jake Paul were among the eight other celebrities who the SEC reportedly sued with illegally advertising crypto asset securities.[32]

In an effort to more effectively control testimonials and endorsements, the SEC revised its marketing regulation under the Investment Advisers Act. When investing in the financial goods that are being sold, investors must now be informed of the material risks that are linked to the possible rewards, according to the marketing regulation. New endorsement criteria have also been established by the Federal Trade Commission (FTC) in response to the expanding influencer marketing trend.

On the other side, the Canadian regulatory authorities have implemented strict measures to ensure that influencers providing financial advice are appropriately licensed or registered and have clear guidelines for disclosures. Educational initiatives on financial literacy and risks

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https://www.esma.europa.eu/sites/default/files/library/esma70-154-2780_esmas_statement_on_investment_recommendations_on_social_media.pdf

[30] Tim Hitchcock, Under the influence: Regulatory responses to financial promotions by social media influencers, *Thomson Reuters* (June 6, 2023) https://www.thomsonreuters.com/en-us/posts/investigation-fraud-and-risk/finfluencers-regulatory-response/

[31] Bianca Ascolese, Regulating Influencer Marketing: A Comparative Analysis of Laws Across the World, *National Law Review* (September 13, 2023) https://www.natlawreview.com/article/regulating-influencer-marketing-comparative-analysis-laws-across-world

[32] Oliver Bell, Charlottee Roxen & Doneld Shelkey, Global Financial Regulators Turn their Attention to Social Media 'Finfluencers', Morgan, Lewis & Bockiys LLP Blog (August 17, 2023) https://www.morganlewis.com/blogs/sourcingatmorganlewis/2023/08/global-financial-regulators-turn-their-attention-to-social-media-finfluencers

associated with influencers promoting financial content have also been an integral part of the Canadian regulatory framework.

Australia has taken steps to regulate finfluencers by emphasizing strict transparency and discourse requirements, ensuring that consumers are well informed about any potential conflicts of interest or affiliations.[33] The Australian Securities and Investment Commission (ASIC) has played a key role in promoting ethical influencer practices in the financial domain.

Also, the Financial Market Authority (FMA) of New Zealand published a "Guide to Talking About Money Online" to offer advice on how to better manage risks and frauds for users and social media influencers involved in related activities.[34]

Some countries, such as Belgium, Spain, and France, have introduced stricter rules on mass marketing and advertising of virtual currencies and investments. For example, the Belgium regulator FSMA has implemented new rules on advertising virtual currencies, while French politicians have drafted a law to ban influences from promoting investments or digital assets.[35] Furthermore, Belgium's FSMA and the FCA, are implementing financial education campaigns and providing guidance to both finfluencers and investors to prevent corporate fraud. They aim to educate finfluencers on their obligation and risks and work with them to ensure compliance with the law.

In Singapore, comparable strategies have been seen to be implemented. The Monetary Authority of Singapore (MAS) and the Singapore Exchange Regulations (SGX RegCo) closely monitor market activities for indications of misconduct and fraudulent activity. They have also established that trading accounts of individuals suspected of engaging in such

[33] Australian Securities and Investments Commission, Discussing financial products and services online (March 21, 2022) https://asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/discussing-financial-products-and-services-online/

[34] Financial Markets Authority, A guide to talking about money online (June 28, 2021) https://www.fma.govt.nz/library/articles/guide-to-talking-about-money-online/

[35] Tim Hitchcock, Under the influence: Regulatory responses to financial promotions by social media influencers, *Thomson Reuters* (June 6, 2023) https://www.thomsonreuters.com/en-us/posts/investigation-fraud-and-risk/finfluencers-regulatory-response/

misconduct may have restrictions placed on them, and relevant securities may be placed under designation or suspicion.[36]

Through this comparative analysis, it is clear at the outset that there are three aspects which form the pillars of regulating finfluencers, them being, Clear and fair marketing communications, Supervisory expectations, and Disclosure of financial arrangements. Additionally, effective collaboration between the regulatory authorities and social media platforms can be a key takeaway for Indian regulatory bodies to address corporate fraud and protect investors.

2.1 PILLARS OF REGULATING INFLUENCERS

India can learn from other jurisdictions' regulatory frameworks on finfluencers to enhance its own approach. It can first start with establishing the three strong pillars as established through the comparative analysis.

The first pillar is with respect to clear and fair marketing communications which is ensuring that the marketing communications are clear, fair, and not misleading, regardless of the channel through which they are distributed. This aims to promote transparency and help consumers make informed financial decisions. Then comes the supervisory expectations which are to prevent risks and benefits in a balanced way and include key product characteristics, such as the risk of loss. This ensures that finfluencers provide accurate and comprehensive information to their audience. Lastly, disclosure of financial arrangements emphasis on the importance of clear disclosure regarding the financial arrangements between finfluencers and the platforms they promote. This is aimed at raising awareness of both supervised firms and the finfluencers that they currently use.

The main concern pertains to the challenges while incorporating these founding pillars. Regulators have faced several challenges in effectively implementing and enforcing financial literacy initiatives for finfluencers. These challenges include the difficulties in monitoring and regulating the vast amount of financial content on social media, ensuring that finfluencers

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[36] Monetary Authority of Singapore, MAS and SGX: Beware of risks related to trading incited by online discussions (February 2, 2021) https://www.mas.gov.sg/news/media-releases/2021/beware-of-risks-related-to-trading-incited-by-online-discussions

disclose their compensation and qualifications, addressing the lack of transparency and potential conflicts of interests in financial advice provided by finfluencers, and navigating the balance between promoting financial education and safeguarding investors while addressing regulatory gaps and ensuring responsible behaviour among finfluencers.

These challenges thereby highlight the complexities involved in regulating and overseeing the activities of finfluencers to ensure that they adhere to ethical practices and provide accurate financial information to their audience. The regulatory frameworks in the other jurisdictions offer valuable insights into implementing the three pillars. Learning from this, India can strengthen its regulatory framework by enhancing transparency, promoting financial literary, and ensuring the accountability of finfluencers.

3.0 ESTABLISHING PROPER MECHANISM IN INDIA

The ground level mechanism is that Finfluencers are subject to legal requirements from two directions, general advertising requirements and financial market requirements.[37] They need to comply with labeling obligations, disclose any remuneration or sponsorships, and ensure transparency in their investment recommendations. Failure to comply with these requirements should result in fines and legal consequences.

Furthermore, companies, including fintechs, that collaborate with the finfluencers can also be held liable for any violations of the legal requirements. They may be sued for injunctive relief and face claims for damages. It is important for fintechs to contractually define the requirements for collaborations with finfluencers, monitor their advertising statements, and take corrective actions when necessary.[38]

As the SEC in United States has established marketing rules regarding what you can and cannot do on social media platforms, to make sure everyone is communicating about investments with fairness and transparency a similar approach can be adopted by India. Furthermore, innovative solutions such as training courses, digital software for reporting

[37] Legal requirements for finfluencers and why compliance is also important for fintechs, Osborne Clarke (February 17, 2022) https://www.osborneclarke.com/insights/legal-requirements-finfluencers-and-why-compliance-also-important-fintechs

[38] *Ibid.*

channels, case management, and speak up awards have been proposed to address these challenges and create a more effective internal whistleblower mechanism.[39]

Moreover, advancing RegTech solutions to improve efficacy, accuracy, and efficiency in financial influencer monitoring. Intelligent language processing, machine learning techniques, and advanced analytics may all help identify potential infractions and identify fraudulent activity. While financial influencers can, to a certain extent, contribute to the general public's increased financial literacy, they also pose a number of threats to consumer protection and financial stability, which are the two main areas of attention for financial regulators.

According to SEBI, the only way for Finfluencers to continue is by getting registered i.e obtaining a RIA license. But will this solve all problems? RIAs don't get involved in scams? Will getting a RIA license put an end to this? The answer is of course no, there have been a number of scams in Indore, Mumbai and all across the country where RIA have been involved in misleading retail investors. Even the torchbearers of credibility i.e pink newspapers like Economic Times and Business Standard or stockbroking apps like money control and zerodha offer stock recommendations and even intra-day suggestions that almost always result in losses.

In such a situation, there no one to blame but the investor. The solution doesn't lie in professional qualification but in investor education. Instead of heavily cracking down on Finfluencers, there is a need to teach investors to conduct their own research and invest on their own satisfaction instead of word of mouth. It's high time that retail investors start acting on their own analysis rather their placing their trust on random stock recommendations on YouTube or Telegram. Sebi can only protect the investors from unfair practices not from their own folly. Therefore, striking the right balance between innovation and investor protection is essential for successful engagement with this new digital era.[40]

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[39] Caitlin Maslen, Responses to common challenges encountered when establishing internal whistleblowing mechanisms, Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelson Institute (February 26, 2023) https://www.u4.no/publications/responses-to-common-challenges-encountered-when-establishing-internal-whistleblowing-mechanisms

[40] Right balance between innovation and investor protection is essential, Loyens Loeff (November 27, 2023) https://www.loyensloeff.com/insights/news--events/news/right-balance-between-innovation-and-investor-protection-is-essential/

In short, authorities are increasing their efforts to shield consumers from possible harm as financial advertisements via social media grow more common. The objective is to achieve equilibrium between endorsing financial items and protecting the welfare of customers by means of concentrating on finfluencers and enforcing norms for transparency and disclosure. Influencers and financial institutions must keep up with the most recent rules and follow best practices as the market continues to change in order to guarantee ethical and impartial advertising of investment products on social media.

Establishing a proper mechanism is possible when the most basic and simple aspects have been regulated in airtight laws and regulations so as to take a step towards mitigating corporate fraud. Making untrue or deceptive claims about a company's performance, finances, or prospects ought to be against the law. For example, it would be quite inappropriate to tweet false information about your automobile manufacturer's upcoming release of a flying vehicle.

Sharing material, non-public information that can affect investment decisions is also strictly forbidden. For example, don't reveal your impending executive team termination on LinkedIn beforehand. That information can unfairly alert your followers to the need to sell their investment. Furthermore, using manipulative techniques to artificially inflate or deflate securities values ought to be prohibited. For example, engaging in a "pump and dump" plan, which involves working with your buddies to create a lot of enthusiasm around a brand-new cryptocurrency called "Barbiecoin" so that everyone buys it and you finish up selling it for more than it is actually worth.

It is better to prevent than to treat. Thus, the main focus of the talks should be on avoiding anything that might result in corporate fraud, such as avoiding disclaimers and providing accurate, balanced, and timely disclosures. When posting ideas or investing advice on social media, it may be made clear that the content is not meant to be financial advice by including the appropriate disclaimers. For example, make sure to tell your followers that this is simply your opinion and not financial advice before sharing your excitement over a new stock that was recently bought.

Furthermore, making certain that any relevant data provided on social media platforms is factual, impartial, and does not leave out any significant information that might influence investment choices. Put another way, before discussing a new mutual fund on Instagram Stories, conduct some personal research and make sure you discuss it fairly, weighing the benefits and drawbacks.

Public corporations are subject to the same regulations as traditional communication channels when it comes to the timely disclosure of critical information on social media platforms. A piece of information is deemed "material" if it has the ability to affect the market value of a share or the way an investor makes decisions. This contains any data that might affect how investors see the company's prospects, such as financial results, mergers and acquisitions, important contracts, regulatory events, or other data.

CONCLUSION

In conclusion, even though SEBI’s consultation paper has helped avert certain situations, it is still not a solution to all problems at hand. Mandatory registration should be enforced for all Finfluencers and not just sponsored Finfluences. Mere registration and giving disclosure does not solve the root problem of investor ignorance. SEBI lies in a position so critical that it stands to either take away the right to livelihood and freedom of expression of these Finfluencers or risk the dissemination of biased information. I believe the best solution in this snag is twofold, first to control the spread of unethical information and ensure transparency and second to promote investor education. SEBI can learn from the SEC and financial regulatory bodies of Canada and Spain to promote transparent and ethical marketing communication and shift focus to investor awareness programs. SEBI should harness it's resources into developing regulatory technology that can detect lack of transparency at a faster pace.