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# **FINFLUENCERS AND INVESTOR PROTECTION: REDEFINING THE EDUCATION-ADVICE BOUNDARY IN SEBI REGULATION**

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## **I. Introduction**

The emergence of financial influencers, commonly known as ‘finfluencers’, as significant actors in shaping retail investor behaviour has created a novel regulatory challenge for securities regulators globally. Operating primarily through social media platforms such as YouTube, Instagram, Telegram, and TikTok, finfluencers disseminate content spanning financial literacy, trading strategies, market commentary, and investment recommendations to audiences often comprising first-time investors with limited institutional market access. What distinguishes finfluencers from traditional financial intermediaries is their conspicuous location outside formal regulatory categories. Unlike registered investment advisers, research analysts, or stockbrokers, finfluencers typically function as unregistered content creators, often claiming educational rather than advisory status, yet their material frequently contains security-specific recommendations, return claims, and trading signals that substantively resemble regulated investment advice.

This regulatory ambiguity exists at the intersection of three distinct policy objectives: investor protection, financial literacy, and market integrity. On one hand, documented evidence of fraudulent finfluencers including cases involving guaranteed return schemes, undisclosed conflicts of interest, and inflated performance claims, demonstrates genuine harm to retail investors and justifies regulatory intervention. On the other hand, the role of finfluencers in improving financial literacy, particularly among younger and underserved cohorts, and their capacity to democratise market participation, suggests that blanket prohibition would be inefficient and potentially counterproductive. The doctrinal challenge for regulators, therefore, lies not in whether finfluencers warrant scrutiny, but in how to construct frameworks that effectively distinguish predatory conduct and unregistered advice from legitimate educational content.

India's Securities and Exchange Board of India (SEBI) has responded to this challenge through a distinctive gatekeeping approach codified in the Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024, and operationalised through a series of circulars and enforcement orders. Rather than directly licensing or registering finfluencers as a regulatory class, SEBI has prohibited regulated entities, including brokers, mutual funds, investment advisers, and exchanges, from associating with unregistered finfluencers engaged in advice or performance claims, thereby shifting compliance responsibility to intermediaries and incentivising finfluencers either to register as formal advisers or to restrict their content to permissible educational categories. This indirect regulatory strategy reflects pragmatic recognition that direct regulation of finfluencer speech raises constitutional and administrative difficulties, yet it has generated significant jurisprudential gaps. Through a series of enforcement orders, SEBI has applied a retrospective test that conflates fraudulent conduct, unregistered advisory activity, and monetised educational content into an undifferentiated liability zone, leaving educators and regulated entities uncertain about prospective boundaries between lawful education and prohibited advice.

This paper examines these gaps against comparative regulatory practice from Australia, the United Kingdom, the United States, and global consensus articulated by the International Organisation of Securities Commissions (IOSCO). Across these jurisdictions, regulators have developed more granular, function-based tests that distinguish education from advice ex ante, reducing enforcement uncertainty while maintaining investor protection. The paper argues that SEBI's current framework, while addressing genuine risks, risks collapsing legitimate educational activity into the enforcement perimeter through a doctrine that emphasises suspicion-based labelling as disguise rather than substantive content analysis. It concludes that a refined Indian approach, integrating clear prospective guidance, layered regulatory pathways for different forms of engagement, and calibrated penalties distinguishing fraud from unregistered advisory from association violations, would better serve both investor protection and market development objectives while aligning Indian practice with international regulatory consensus.

## **II. Who Are Finfluencers?**

The term financial influencer or finfluencer is not expressly defined under Indian securities law. In practice, however, it refers to individuals or entities who use digital platforms such as YouTube, Instagram, Telegram, X (Twitter), or blogs to disseminate content relating to

financial markets, investing, trading strategies, or personal finance, often to a large and engaged audience. Their influence derives not from formal regulatory status, but from social media reach, perceived expertise, and the trust they command among retail investors. Finfluencers operate across a broad spectrum. At one end are creators who focus on general financial literacy, explaining concepts such as asset classes, risk diversification, market mechanics, or long-term investing philosophies. At the other end are individuals who provide stock-specific commentary, trading strategies, or real-time market views, sometimes accompanied by claims of past performance or financial success. Many finfluencers also monetise their presence through paid courses, subscription-based groups, affiliate marketing, advertising revenue, or collaborations with financial intermediaries.

What distinguishes finfluencers from traditional market participants is that they often function outside the conventional regulatory categories of investment advisers or research analysts, even though the substance of their content may resemble regulated investment advice. Unlike SEBI-registered intermediaries, finfluencers are not subject to uniform qualification requirements, fiduciary duties, disclosure obligations, or supervisory oversight, yet their content may significantly shape retail investor behaviour, particularly in an environment marked by increased participation by first-time investors and widespread reliance on social media for financial information. This blurring of lines between education, opinion, promotion, and advice has made finfluencers a regulatory concern, not merely because of their growing influence, but because of the difficulty in clearly categorising their activities within existing legal frameworks. It is against this backdrop that SEBI's regulatory response has focused not on defining or licensing finfluencers as a class, but on restricting how regulated market entities may associate with them, a shift that marks a distinctive approach to managing the risks posed by financial influence without directly regulating speech itself.

### **III. SEBI's prohibition on association with regulated market entities**

The emergence of finfluencers, as a significant force in shaping retail investor decision-making has prompted the Securities and Exchange Board of India (SEBI) to adopt a distinctive gatekeeping strategy that targets distribution channels rather than attempting to regulate each influencer individually through registration-based requirements. Instead of imposing direct obligations on finfluencers, SEBI has prohibited SEBI-regulated entities, such as brokers, mutual funds, asset managers, market infrastructure institutions, and other intermediaries, from associating with unregistered finfluencers who provide investment advice or make

performance-related claims about securities, thereby shifting the compliance burden to regulated entities and incentivizing influencers either to register or desist from advisory conduct.

### **Regulatory evolution and codification**

Prior to 2023, influencers largely operated in a regulatory gray zone, even though the SEBI (Investment Advisers) Regulations, 2013, on their terms, applied to any person providing investment advice ‘for consideration’,<sup>1</sup> a requirement many influencers argued was not met by ostensibly ‘free’ social media content framed as entertainment or education. In the absence of specific guidance demarcating permissible financial education from impermissible unregistered advisory activity, SEBI initiated a formal regulatory process through a Consultation Paper on associations between SEBI-registered intermediaries or regulated entities and unregistered entities, including influencers, which highlighted risks such as unqualified advice, undisclosed conflicts of interest, misleading return claims, and the reputational and legal exposure of regulated entities that sought to leverage influencers’ reach. On 27 June 2024, SEBI’s Board approved a framework imposing a blanket prohibition on associations between regulated entities and unregistered influencers engaged in advice or performance claims (subject to narrow educational and platform-based exemptions), and this was subsequently codified via the Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024,<sup>2</sup> extending the regime to stockbrokers, investment advisers, portfolio managers, exchanges, clearing corporations, depositories, mutual fund AMCs, AIF, REIT and InvIT managers.

### **Expanded notion of “association”**

The notion of ‘association’ has simultaneously been broadened from its earlier, more confined understanding under provisions such as regulation 16A,<sup>3</sup> which focused on financial transactions, client referrals, and shared IT systems, to an expansive concept detailed in SEBI’s

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<sup>1</sup>Securities and Exchange Board of India, SEBI (Investment Advisers) Regulations 2013 (Regulations, 21 January 2013) <<https://www.sebi.gov.in/legal/regulations/jan-2013/sebi-investment-advisers-regulations-2013-last-amended-on-december-08-2016-34619.html>> accessed 12 January 2026.

<sup>2</sup>Securities and Exchange Board of India, Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024 (Regulations, 29 August 2024) <[https://www.sebi.gov.in/legal/regulations/aug-2024/securities-and-exchange-board-of-india-intermediaries-amendment-regulations-2024\\_86338.html](https://www.sebi.gov.in/legal/regulations/aug-2024/securities-and-exchange-board-of-india-intermediaries-amendment-regulations-2024_86338.html)> accessed 14 January 2026.

<sup>3</sup> Securities and Exchange Board of India (Intermediaries) Regulations 2008, reg 16A.

October 2024 circular<sup>4</sup> and later clarifications. Association is now understood to include direct or indirect financial transactions such as fees, sponsorships, or other monetary benefits, client referrals that route investors between regulated entities and finfluencers, sharing of technology infrastructure like APIs and interoperable data systems, co-branded marketing or joint promotional campaigns, revenue or profit-sharing structures, and any other association of similar nature or character, a catch-all formulation designed to capture the full spectrum of commercially meaningful relationships. To operationalize this shift, SEBI mandated that all regulated entities terminate existing contracts or arrangements with unregistered finfluencers within three months, by 22 January 2025,<sup>5</sup> thereby converting policy guidance into an immediate compliance obligation, and further clarified that financial educators cannot use price data from the preceding three months when discussing specific securities or strategies, on the theory that near-current price references function as timing-specific advice and must therefore be rendered non-actionable through a temporal lag.

### **Prohibited finfluencer conduct**

Within this architecture, SEBI's circulars identify three principal categories of prohibited conduct by unregistered finfluencers that trigger the association bar for regulated entities.

First, the direct or indirect provision of advice or recommendations regarding securities includes explicit buy, sell, or hold calls on specific scrips, advice on position-taking and exit points, strategy recommendations tied to named securities, portfolio allocation advice, and derivative strategies, with indirect advice covering coded signals, cryptic tips, performative trading, and comparative statements that implicitly urge reallocation.

Second, explicit or implicit claims of returns or performance encompass statements suggesting expected or historical returns, testimonials, profit screenshots, promises of financial independence or replacement income, and backward-looking 'what if' narratives that normalise particular gain profiles, even when framed hypothetically.

Third, under the January 2025 clarifications, educators are prohibited from using price data from the preceding three months in relation to specific securities or strategies,<sup>6</sup> on the basis that

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<sup>4</sup> SEBI, 'Association of persons regulated by the Board and their agents with certain persons' (Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/143, 22 October 2024) <[https://www.sebi.gov.in/legal/circulars/oct-2024/association-of-persons-regulated-by-the-board-and-their-agents-with-certain-persons\\_87837.html](https://www.sebi.gov.in/legal/circulars/oct-2024/association-of-persons-regulated-by-the-board-and-their-agents-with-certain-persons_87837.html)> accessed 15 January 2026.

<sup>5</sup> Ibid, para 6.

<sup>6</sup> Securities and Exchange Board of India, 'Details/Clarifications on Provisions Related to Association of Persons Regulated by the Board, MIIs, and Their Agents with Persons Engaged in Prohibited Activities'

contemporaneous prices embed entry or exit cues; this effectively compels reliance on historical data with at least a three-month lag, significantly attenuating the immediacy and pedagogical granularity of ostensibly educational content, even though it remains framed as a measure targeting disguised real-time tips.

### **Obligations and enforcement against regulated entities**

SEBI's framework imposes a series of affirmative obligations on SEBI-regulated entities, positioning them as gatekeepers responsible for policing their own associative ecosystem. Regulated entities must conduct verification and enhanced due diligence to identify whether customers, partners, or influencers with significant social media presence are engaged in influencing, confirm their registration or authorization status with SEBI where such activity is suspected, and document these assessments, notwithstanding the practical difficulties posed by anonymous or pseudonymous actors on platforms such as Telegram or Reddit. They must also ensure termination of all existing relationships with unregistered influencers by the stipulated deadline, refrain from entering into new associations with persons engaged in prohibited activities, incorporate contractual safeguards that restrict partners to genuine investor education and reserve a right of termination upon breach, and monitor partners' ongoing content and public conduct so that any drift from education to advice is promptly detected and addressed. Non-compliance attracts a robust enforcement toolkit including substantial monetary penalties, suspension or cancellation of registration, debarment of entities and responsible officers, disgorgement of profits earned through non-compliant associations, and significant reputational damage arising from public enforcement actions, all of which reinforce strong incentives for over-compliance and drive regulated entities to act as effective filters against unregistered influencer activity.

### **Exemptions and Safe Harbors**

SEBI's framework limits its association prohibitions by recognizing limited exemptions and safe harbours designed to preserve legitimate financial education and enable controlled commercial engagement. Associations with entities engaged solely in investor education are expressly permitted, provided such entities do not offer investment advice, make recommendations on specific securities, or present any claims relating to returns or

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(Circular No SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2025/11, 29 January 2025) <  
[https://www.sebi.gov.in/legal/circulars/jan-2025/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](https://www.sebi.gov.in/legal/circulars/jan-2025/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) > accessed 14 January 2026.

performance.<sup>7</sup> Within this general education exception, permissible content includes explanations of market mechanics, basic financial concepts such as asset classes and diversification, behavioural finance, generic strategy frameworks for example, value or momentum investing, without naming specific securities, risk-management theory, hypothetical scenarios using dummy data or generic placeholders, and historical case studies with a significant time lag so that they do not carry actionable implications. At the same time, SEBI makes clear that educational status cannot be used to launder advisory content: educators cannot blend strategy discussions with references to current securities, make performance-linked claims even in a pedagogical wrapper, provide personalised or one-on-one guidance, accept client funds for managed accounts or trading signals, or cultivate ongoing relationships that in substance amount to investment advisory services, and regulators will look to the economic and behavioural effect of content rather than the labels used by its creator.

A second safe harbour is constructed around ‘specified digital platforms’ (SDPs), which are digital platforms that SEBI may recognise as having robust preventive and curative mechanisms to ensure they are not misused for unauthorised advisory or performance-claim activities by third parties.<sup>8</sup> Associations routed through such SEBI-specified platforms are exempted from the general prohibition, on the premise that the platform implements front-end content moderation systems, automated detection of prohibited language (such as explicit buy/sell calls and return claims), pre-publication screening or takedowns, user agreements prohibiting advisory content, and verification or ‘badge’ systems to distinguish SEBI-registered persons from unregistered actors, as well as back-end curative tools like rapid post-publication removal, account suspension or termination for repeat violators, accessible complaint channels, and periodic compliance audits. The governing standard is that these safeguards must operate ‘to the satisfaction of the Board, leaving SEBI with discretion both to confer and to revoke SDP status based on demonstrated effectiveness rather than mere formal existence of policies. In practice, platforms with sophisticated moderation and advertiser-side controls, or with strong professional or editorial oversight, are more likely to be able to design SDP-compliant frameworks than privacy-first or lightly moderated channels such as encrypted messaging applications, though SEBI has yet to publish a definitive list of recognised SDPs and has clarified that no platform is obliged to seek such recognition, which creates an interim zone of uncertainty for regulated entities.

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<sup>7</sup> Ibid.

<sup>8</sup> SEBI Circular 2024 (n 4) para 3.

A third, conceptually distinct, exemption lies in the status of SEBI-registered intermediaries themselves: influencers who register as Investment Advisers (IAs) or Research Analysts (RAs) are not treated as unregistered entities for the purpose of the association prohibition and may therefore enter into relationships with SEBI-regulated entities, subject to the ordinary IA/RA regulatory framework. To access this route a influencer must satisfy the eligibility and capital-adequacy criteria applicable to IAs or RAs, including minimum net worth or net tangible asset thresholds (for example, higher net-worth thresholds for body corporates and lower but non-trivial requirements for individuals), and must comply on an ongoing basis with duties of disclosure and conflict management, arm's-length fee practices, record-keeping and client documentation norms, restrictions on personal trading, and, in many cases, professional indemnity insurance and periodic audits. While this pathway is formally open, the cost of building and maintaining compliance infrastructure, covering specialised staff, legal and compliance functions, systems for monitoring advice and trades, insurance, regulatory reporting, and exposure to enforcement risk, renders registration unattractive for many content-driven influencers, with the result that the ecosystem tends to bifurcate into a relatively small cohort of registered, heavily regulated advisers and a much larger pool of unregistered actors who either reconstitute themselves as constrained "educators" within the narrow safe harbour or exit advisory activity altogether.

#### **IV. SEBI's crackdown on Influencers: Does it risk broader culpability of seemingly harmless investment advice?**

SEBI's recent enforcement actions against influencers expose a significant jurisprudential gap, as Whole-Time Member (WTM) orders frequently treat educational content as unregistered investment advisory activity without articulating a principled, prospective test that clearly distinguishes permissible investor education from prohibited advice. SEBI has not defined the scope of influencers, creating confusion between influencers, investment advisers, and research analysts, and that in the "absence of a definition of 'advice'" influencers who are in substance educators may nonetheless feel compelled to register as investment advisers. SEBI is marking boundaries retrospectively through enforcement orders rather than prospectively through clear standards, with a chilling effect on legitimate educational content. The culpability of influencers who do not associate with regulated entities is under IA/RA regulations read with PFUTP regulations.<sup>9</sup>

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<sup>9</sup> Securities and Exchange Board of India, SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (Regulations, S.O. 816(E), 17 July

## Case Studies

In the Baap of Chart matter, involving Mohammad Nasiruddin Ansari, SEBI's interim and final orders record that Nasir offered trading courses such as 'Expiry Strategy,' 'Bank Nifty Trading,' and 'Options Trading System,' within which he provided specific buy/sell recommendations, entry and exit prices, stop-loss levels, and even quantity guidance to paying subscribers.<sup>10</sup> He charged tiered subscription fees of roughly Rs. 5,000-50,000, promised 200-300% guaranteed returns and 100% profit guaranteed, and reportedly collected about Rs. 17.2 crore over two years, leading SEBI to characterise the entire activity as an unregistered investment advisory business disguised as education, noting that he had gone 'to great length to lend a cloak of legitimacy' by labelling advisory activity as educational in nature and, under the guise of imparting educational content, offering buy/sell/hold recommendations.

The order's implicit test for unregistered advisory appears to hinge on four elements,

- a. security-specific recommendations,
- b. consideration,
- c. assured or near certain profit claims, and
- d. personalised guidance through private groups.

However, the order does not explain what would count as permissible educational content, leaving unanswered whether Nasir could lawfully teach options frameworks without naming trades, explain position-sizing theory without prescribing rupee amounts, or teach momentum concepts using only stale data, and thus conflating the course label with the substantive vice.

The Asmita Patel / Global School of Trading order follows a similar pattern in which while Asmita Patel offered paid programs such as MPAT, OM, and LMIT, SEBI's emphasis fell on her live Telegram signals providing real-time entry and exit calls, intra-day instructions which included telling participants an 'entry is wrong', and the brokerage commissions she earned as an authorised person while running these 'educational' programs.<sup>11</sup> SEBI observed that chart study became a camouflage for trading recommendations for the WhatsApp setup that was

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2003) <[https://www.sebi.gov.in/legal/regulations/jun-2024/sebi-prohibition-of-fraudulent-and-unfair-trade-practices-relating-to-securities-market-regulations-2003-last-amended-on-june-28-2024-\\_85901.html](https://www.sebi.gov.in/legal/regulations/jun-2024/sebi-prohibition-of-fraudulent-and-unfair-trade-practices-relating-to-securities-market-regulations-2003-last-amended-on-june-28-2024-_85901.html)> accessed 14 January 2026

<sup>10</sup> *In the matter of Mohammad Nasiruddin Ansari (Baap of Chart)* (Interim Order cum SCN) SEBI WTM/AS/MIRSD/MIRSDSEC-6/78333/2023-24 (25 October 2023) <[www.sebi.gov.in/enforcement/orders/oct-2023/interim-order-cum-scn-in-the-matter-of-unregistered-investment-advisory-activities-of-mohammad-nasiruddin-ansari-baap-of-chart\\_78333.html](https://www.sebi.gov.in/enforcement/orders/oct-2023/interim-order-cum-scn-in-the-matter-of-unregistered-investment-advisory-activities-of-mohammad-nasiruddin-ansari-baap-of-chart_78333.html)> accessed 15 January 2026.

<sup>11</sup> *In the matter of Asmita Patel Global School of Trading Private Limited* (Interim Order) SEBI WTM/KV/MIRSD/MIRSD-SEC-5/31188/2024-25 (6 February 2025).

charging fees and expressly acknowledged a ‘twilight zone’ between education and advice in which influencers operate, yet it again declined to define how that zone might be exited, failing to clarify whether pre-recorded chart analysis without live signals would be treated as education, whether non-security-specific chart-reading frameworks are permissible, or what volume of technical analysis can remain on the educational side of the line, thereby illustrating regulatory intuitions but not a stable doctrinal test.

### **Doctrinal Gaps in SEBI’s Approach**

Across these and similar cases, at least five gaps appear in SEBI’s reasoning. First, there is no explicit definition of ‘advice’ versus ‘education’ on a spectrum since unregistered advisory is implicitly treated as recommendations about specific securities plus consideration plus promises of results, while education is defined only negatively meaning no advice, no performance claims, creating uncertainty around activities such as teaching technical analysis concepts, explaining support and resistance using 12-month-old charts, discussing win-rates of historical patterns, or teaching position-sizing in percentage terms.

Second, the orders often treat educational labelling itself as evidence of disguise or fraud rather than focusing on content, interaction model, actionability, and disclosure quality; in *Baap of Chart*, theatrical marketing and aspirational branding are read as proof that the entire course structure is fraudulent, a logic that would equally catch a qualified CFA or CA using aggressive marketing for concept-heavy courses.

Third, SEBI tends to treat all unregistered educators alike regardless of qualifications, candour, or risk disclosure. In *Nasir’s* case, the authority itself found he suffered a net trading loss of roughly Rs. 2.89 crore from January 2021 to July 2023 while promoting guaranteed high returns, classic PFUTP-type misconduct, but the orders rarely disaggregate that fraud from the separate wrongs of unregistered advisory and mere monetisation of education, and thus fail to acknowledge that a qualified, honest educator teaching similar concepts might commit neither.

Fourth, the interaction model is under-theorised. Paid courses are treated as a single category without distinguishing one-to-many broadcasts, closed groups with one-way content, closed groups with interactive Q&A, and one-on-one mentoring with ongoing position management, even though it is precisely the presence of live, personalised signals in the *Asmita Patel* case that pushes the conduct into advisory territory.

Finally, SEBI offers little guidance on explicit versus implicit recommendations. While orders

and circulars refer to ‘direct or indirect’ advice, they do not say whether, for example, teaching an RSI-based strategy while mentioning that Bank Nifty’s current RSI is elevated amounts to advice, and although SEBI has tried to address this by prohibiting the use of price data from the preceding three months in educational content, it still leaves unresolved whether commentary on patterns that happen to match current conditions is to be treated as advisory.

A useful way to visualise this indeterminacy is through borderline examples:

Activity	SEBI’s Test Unclear?	Reason
Teaching technical analysis concepts.	Yes	It is unclear whether explaining chart patterns, without applying them to a specific security amount to advice or remains purely educational.
Explaining support and resistance using historical examples using 12 month old data.	Yes	The boundary between a historical illustration and an actionable trading signal is not clearly defined.
Teaching channel breakouts that have historically shown a 40% win rate.	Yes	It is uncertain whether presenting statistical success rates of past patterns could be interpreted as an implied recommendation.
Teaching position sizing as a percentage of capital in theory without any figures.	Probably unclear	It is unclear whether discussing capital allocation in percentage terms makes the content sufficiently specific to be treated as investment advice.

**An ‘Actionability and Personalization’ Test and Safe-Harbor Activities -**

To address these jurisprudential deficits, a more nuanced actionability and personalization framework is needed, grounded in whether content can be immediately acted upon and whether it is tailored to individual circumstances.

Under a five-factor test, concept driven versus security driven content is the first axis where material that teaches financial ideas without naming specific securities, such as portfolio diversification, risk-return trade-offs, behavioral biases, microstructure, or generic meanings of support and resistance, should be classified as education, whereas material that recommends buying, selling, or holding named securities at current or near-current prices should be treated as advice, with a middle category where educators use named securities only as historical

illustrations with adequate time-lag and explicit disclaimers that the analysis is retrospective and not a trade signal.

Second, actionability and specificity focus on whether learners are engaged in education through analytical frameworks that require judgement and further research or are instead being given advice in the form of ‘plug-and-play’ packages of particular securities, entry and exit prices, stop-losses, timeframes, and allocations.

Third, interaction and personalization distinguish one-to-many videos, podcasts, webinars, or recorded courses with no portfolio-specific feedback (education) from one-on-one coaching, small groups with personalised guidance, or live chats where positions are actively adjusted (advice), while closed groups receiving only one-way content should not be deemed advisory solely due to their closed nature.

Fourth, return and performance claims differentiate between acceptable discussions of long-run historical returns or hypothetical back-tests with robust caveats and, on the other hand, inherently misleading assurances of fixed or near-certain returns, which should be sanctioned as fraud regardless of registration status.

Fifth, educator qualifications and standards suggest a tiered approach. Tier 1 covers basic literacy open to any educator, Tier 2 covers advanced strategy teaching by professionals (CFA, CA, MBA) under strong disclaimer and time-lag conditions, without personalization, and Tier 3 comprises personalised portfolio guidance that must be confined to registered intermediaries. On this basis SEBI could define a safe-harbor set of educational activities that require no registration, including instruction in market plumbing, mutual fund mechanics, core financial concepts, behavioral finance, high-level investment philosophies, and risk-management theory, while allowing, with safeguards, technical analysis using only stale data, case studies of concluded episodes, and transparent back-testing, and reserving security-specific recommendations, live signal services, guaranteed-return schemes, and personalised portfolio management for the registered advisory and research space.

### **Doctrinal Hooks and Regulatory Recommendations**

The existing statutory architecture already provides a basis for this framework. The definition of ‘investment advice’ in Regulation 2(1)(l) of the SEBI (Investment Advisers) Regulations, 2013,<sup>12</sup> requiring advice or guidance in respect of investing in, purchasing, selling or otherwise

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<sup>12</sup> Securities and Exchange Board of India (Investment Advisers) Regulations 2013, reg 2(1)(l).

dealing in securities, can reasonably be read as targeting action-oriented recommendations, not the neutral teaching of concepts and frameworks. SEBI's July 2024 Board proposal on association of regulated persons with finfluencers also includes an express exemption for persons engaged in investor education who do not provide advice or make explicit or implicit performance claims, which, properly interpreted, recognises a substantial non-advisory educational space. Building on these hooks, SEBI could issue a clarificatory circular enumerating permissible educational topics, formally separating fraud enforcement from unregistered-advisory enforcement, creating a 'qualified educator' track for advanced but non-personalized content, and stating that communications become actionable advice when they name specific securities at contemporaneous prices, supply concrete entries, exits, or stop-losses, or provide individualized guidance on trades or allocations.

IA Regulations can be amended to expressly exclude genuinely educational, concept-driven, non-security-specific and non-guaranteed communications from the definition of investment advice, codify an actionability and personalization test in statutory language, and introduce a graduated penalty structure that distinguishes sharply between fraudulent conduct deserving of strict sanctions, unregistered advisory that warrants registration and proportionate penalties, while allowing technical or borderline infringements to be addressed through compliance-oriented directions rather outright prohibitions. Such reforms would move SEBI away from ex post line-drawing through headline orders and towards a transparent, prospective regime that both protects investors from predatory conduct and preserves a robust, compliant space for genuine investor education.

## **V. Learnings from other jurisdictions.**

The uncertainty and over-breadth evident in SEBI's finfluencer enforcement mirrors regulatory challenges encountered globally, yet several jurisdictions have developed more nuanced frameworks that distinguish educational content from regulated advice, offering valuable lessons for a refined Indian approach. An examination of the United Kingdom's Financial Conduct Authority (FCA), Australia's Australian Securities and Investments Commission (ASIC), and the United States Securities and Exchange Commission (SEC) reveals that while enforcement concerns are broadly similar, the doctrinal clarity provided in these jurisdictions is notably sharper than in India's current framework.

### **Australia: The ASIC Model and the Importance of Prescriptive Guidance**

ASIC has taken a particularly instructive approach, one that combines enforcement action with

prospective guidance. In June 2025, as part of a coordinated global action, ASIC issued warning notices to 18 influencers suspected of unlawfully promoting high-risk products and providing unlicensed advice, focusing on patterns where unlicensed educators invite consumers to closed communities promising to teach 'secrets to success' or enable trade-copying. This enforcement posture mirrors SEBI's, identifying conduct that blurs education and advisory.<sup>13</sup> However, crucially, ASIC issued detailed guidance in March 2022 through its INFO 269 fact sheet, titled "Discussing financial products and services online," which provides prospective clarity on what unlicensed educators can lawfully discuss and what triggers regulatory liability.<sup>14</sup>

ASIC's framework distinguishes between factual information, which unlicensed individuals may share without triggering financial services licensing requirements, and recommendations or advice, which are regulated. The boundary turns on whether content recommends or discourages investment in a product or class of products. This test, while not perfectly sharp, provides considerably more ex-ante clarity than SEBI's approach under which an educator can assess whether their content crosses into recommendations and adjust accordingly.

Importantly, ASIC also recognizes that certain persons may register as Authorized Representatives of financial services licensees, a middle tier that permits engagement with financial services while subject to oversight. Complementing enforcement, ASIC emphasizes that influencers offering paid content should hold suitable qualifications (at minimum, a relevant diploma) and that financial services licensees who work with influencers must conduct robust due diligence and ongoing monitoring to ensure no unlicensed advice is being provided.<sup>15</sup> The effect is a layered regime as pure factual information is open to anyone, recommendations trigger licensing, and firms partnering with influencers face accountability for the influencers' conduct, mirroring aspects of SEBI's association framework but with much sharper boundaries at each layer.

### **The United Kingdom: The FCA's Emphasis on Clarity and Disclosure**

The UK's Financial Conduct Authority has similarly grappled with influencer regulation and, like ASIC, has coupled enforcement with attempts at doctrinal clarity. The FCA's Advice

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<sup>13</sup> Australian Securities and Investments Commission, 'ASIC cracks down on unlawful influencers in global push against misconduct' (12 June 2025) <<https://www.asic.gov.au/about-asic/news-centre/news-items/asic-cracks-down-on-unlawful-influencers-in-global-push-against-misconduct/>> accessed 14 January 2026.

<sup>14</sup> Australian Securities and Investments Commission, 'Discussing financial products and services online' (INFO 269, March 2022) <<https://www.asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/discussing-financial-products-and-services-online/>> accessed 14 January 2026.

<sup>15</sup> Ibid.

Guidance Boundary Review acknowledges that a significant portion of consumers access 'guidance', described as general, factual, and non-personalized information from firms or other sources, in contrast to regulated 'advice,' which is personalized to individual circumstances.<sup>16</sup> This distinction provides a clear doctrinal hook as content that remains general and factual is not regulated as advice, whereas content tailored to an individual's circumstances crosses the line. The FCA has also issued warnings about finfluencers promoting high-risk products, unauthorized trading schemes, and forex educators who post unauthorized financial promotions, and notably, it has joined international enforcement efforts against rogue finfluencers, resulting in arrests and website takedowns.<sup>17</sup>

Critically, however, the FCA's approach recognizes that finfluencers can play a positive role in investor education, particularly in reaching younger audiences with otherwise inaccessible financial literacy. The FCA's research acknowledged that finfluencers have reduced attention spans to fractions of a second, making it necessary to package complex concepts in digestible, engaging ways. Rather than viewing this as inherently predatory, the FCA's framework acknowledges that genuinely educational content, even if engaging and delivered via social media, serves a market need. This has led to a more calibrated approach due to which enforcement targets false or misleading claims, unlicensed advice, and conflicts of interest, while educational content, including high quality advice on passive investing, index funds, and generic financial planning, remains expressly outside the enforcement perimeter. The emphasis is on clarity and disclosure as finfluencers must disclose whether advice is being given, whether they are compensated, and what expertise they possess. This is fundamentally different from SEBI's approach, which tends to conflate the mere offering of a paid educational course with disguised advice.

### **C. The United States: The SEC's Advice Test and Its Emphasis on Personalization**

In the United States, the SEC's framework for distinguishing 'investment advice, which triggers regulatory liability, from general information, education, and guidance relies on a functional test centred on the provision of advice about specific securities and the existence of a client relationship implying ongoing personalised guidance. The SEC and the Financial Industry Regulatory Authority (FINRA) have long held that a person does not provide "advice" merely

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<sup>16</sup> Financial Conduct Authority, 'Advice Guidance Boundary Review' (DP23/5, 2023) <<https://www.fca.org.uk/publication/discussion/dp23-5.pdf>> accessed 14 January 2026.

<sup>17</sup> Financial Conduct Authority, 'Finalised Guidance on Financial Promotions on Social Media' (FG24/1, 26 March 2024) <<https://www.fca.org.uk/publication/finalised-guidance/fg24-1.pdf>> accessed 14 January 2026.

by discussing investment concepts, historical returns, or analytical frameworks; the critical element is whether the person provides guidance tailored to the recipient's circumstances and intended to influence the recipient's investment decisions regarding specific securities.

Importantly, the SEC recognises investor education as a distinct good and has invested substantially in educational initiatives through its Office of Investor Education and Advocacy, which offers resources on how to invest wisely and avoid fraud, without claiming to advise on what investments to make. This separation of educational function from advisory function is institutional since the SEC does not treat education as a suspicious or fraudulent guise for advice, but rather as a complementary protective mechanism. The International Organisation of Securities Commissions (IOSCO) has surveyed global regulators and found broad consensus that investor education plays a crucial role in mitigating risks from finfluencers and that most regulators believe finfluencers can play a positive role in education and, importantly, that education is not merely a disguise for unregistered advice but a separate category of activity with independent protective value.<sup>18</sup> The SEC's approach, in particular, focuses enforcement on specific violations such as false claims, undisclosed conflicts, advice to specific persons about specific securities without registration rather than treating the mere labelling of activity as educational as presumptive evidence of fraud.

#### **D. The IOSCO Report: A Consensus on Education - Advice Boundaries**

The 2024 IOSCO Final Report on Finfluencers, compiling evidence from 34 securities regulators globally, reflecting converging regulatory concerns across jurisdictions such as while enforcement against fraudulent and unlicensed advisory must be strict, regulators recognise a need for clearer boundaries between permissible education and regulated advice. Drawing from distinctions notes in the report, finfluencers may fall into three groups, registered professionals, unregistered individuals hired by financial firms, and independent unregistered individuals, and suggests that different regulatory treatment may be appropriate for each. Critically, the report emphasises that education initiatives, including those by finfluencers where content is genuinely educational and properly disclosed, can serve to mitigate investor harm and raise financial literacy, particularly among younger retail investors. The IOSCO report recommends that regulators focus on several elements to distinguish education from advice; (1) the clarity and conciseness of disclosures about whether advice is being given and

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<sup>18</sup> IOSCO, 'Final Report on Finfluencers' (FR01/2024, May 2024) <<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD795.pdf>>accessed 14 January 2026.

whether the finfluencer is compensated; (2) ongoing and proactive education for both investors and finfluencers about the boundaries of regulated activity; (3) emphasis on the quality and verifiability of content claims; and (4) targeted enforcement against false or misleading promotional claims and undisclosed conflicts rather than blanket prohibition of educational content.<sup>19</sup>

### **The Critical Lesson: Actionable Boundaries Over Retroactive Enforcement**

The common thread across these jurisdictions is the recognition that a workable regulatory regime must draw actionable boundaries *ex ante*, rather than leaving educators uncertain and subject to retrospective enforcement. In Australia, the distinction between information and recommendations is relatively clear; in the UK, the distinction between general guidance and personalised advice provides structure; in the US, the focus on specific securities advice and client relationships offers clarity. In contrast, SEBI's approach, evident in the Baap of Chart, Asmita Patel, and Avadhut Sathe orders, offers educators little prospective guidance and risks conflating fraud, unregistered advisory, and the mere fact of monetised educational content into a single undifferentiated liability zone.

The IOSCO consensus further suggests that a more calibrated approach, distinguishing education from advice and separating fraud enforcement from advisory regulation, is the global standard rather than an exception. Australia's INFO 269 guidance and ASIC's licensing framework for middle-tier authorised representatives provides a template. Under this approach, unlicensed educators can share factual, general information, while those individuals seeking to provide recommendations or personalised guidance are required to register or work under the supervision of a licensed firm. At the same time, firms themselves remain accountable for their associations with finfluencers. This structure creates layered accountability without unnecessarily chilling legitimate education.

For SEBI, the comparative lesson is drawing stable, prospective boundaries rather than defining prohibited conduct retroactively through enforcement orders, enhancing both investor protection by creating incentives for compliance and market development by preserving a compliant space for education. International experience suggests that such boundaries are best anchored in functional tests such as ASIC's 'recommend or discourage investment' or the US's 'specific securities to a client' framing rather than on suspicion-based characterisations of

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<sup>19</sup> IOSCO, 'Finfluencers: Consultation Report' (CR01/2024, August 2024) <<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD775.pdf>> accessed 14 January 2026.

educational labelling as disguise. A refined Indian framework, aligned with international practice, would benefit from SEBI issuing clarificatory guidance similar to ASIC's INFO 269, enumerating permissible educational content and the tests for when education crosses into advice, and calibrating penalties to distinguish fraud, unregistered advisory, and association violations as distinct regulatory concerns.

## **VI. Conclusion**

SEBI's recent engagement with finfluencers arises from a genuine regulatory concern which is the growing capacity of finfluencers to influence retail investors while operating outside the formal advisory framework. The enforcement actions discussed demonstrate that unregistered investment advice, real-time trading signals, and misleading claims of returns can be presented under the guise of education, resulting in tangible investor harm. SEBI's response, particularly its reliance on association prohibitions imposed on regulated entities, reflects an attempt to address these risks without directly regulating financial speech as such.

However, the analysis also reveals that SEBI's current approach lacks sufficient doctrinal clarity. By relying heavily on ex post enforcement to distinguish education from advice, the framework leaves educators, finfluencers, and regulated entities uncertain about the limits of lawful conduct. The case studies examined illustrate that while fraudulent and clearly advisory conduct merits strict action, the absence of a clear prospective test risks collapsing legitimate educational activity into the same regulatory category.

Comparative experience from other jurisdictions suggests that clearer, function-based standards, centred on factors such as personalisation, actionability, and the presence of performance claims, can more effectively balance investor protection with regulatory certainty. Incorporating such an approach within the Indian framework, through explicit safe harbours and clearer guidance, would allow SEBI to continue addressing harmful conduct while preserving space for genuine investor education. As digital platforms increasingly shape retail participation in capital markets, regulatory clarity will be essential to ensuring that investor protection is achieved without unnecessarily constraining lawful and educational financial discourse.