
REGULATING FINFLUENCERS THROUGH INVESTMENT ADVICE IN INDIAN SECURITIES MARKET AND LESSONS FROM AUSTRALIA AND SINGAPORE

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ABSTRACT

The individuals who distribute financial content in the form of opinions, recommendations or other advisory nature through the digital platforms are called “finfluencers”. Their expansion have resulted in regulatory challenges for regulators of securities market. In India, while they are not formally registered Intermediaries like Investment Advisers or Research Analysts under the SEBI Regulations, their content often exerts a measurable influence on investment behaviour. This informal market commentaries blur statutory boundaries creating a regulatory perimeter gap as they pose challenges to investor protection, market integrity and also enforcement certainty. Whereas on the other hand, over-expansion of regulatory definitions can risk stifling market efficiency. Therefore, in the era of increasing retail participation and digital financial communication, the tension between regulated entities and finfluencers highlights the need to reassess the concept of “investment advice” within Indian Securities Laws.

This research therefore aims to examine the scope of “investment advice” under Indian Securities Laws framework and identify the regulatory gaps arising from influencer activities. It also aims to analyse comparative approaches in Australia and Singapore to assess the suitability of a proportionate regulatory framework for India. For this purpose, the research hypothesises that the existing entity-based framework of Indian Securities Laws are inadequate to regulate digital financial influencers and that there’s a greater need for a tiered disclosure-based approach that could offer a more effective and balanced regulatory solution.

Keywords: Finfluencers, India, Singapore, Australia, Investment Advice

ABBREVIATION

AFCA	Asian Financial Cooperation Association
AFS	Australian Financial Services
ASIC	Australian Securities and Investments Commission
ASAS	Advertising Standards Authority of Singapore
CFA	CFA Institute
FCA	Federal Court of Australia
FAA	Financial Advisers Act
FOMO	Fear of Missing Out
FUTP	Fraudulent and Unfair Trade Practices
IA Regulations	Investment Advisers Regulations
IOSCO	International Organization of Securities Commissions
MAS	Monetary Authority of Singapore
MIIs	Market Infrastructure Institutions
RA Regulations	Research Analysts Regulations
SAT	Securities Appellate Tribunal
SC	Supreme Court
SEBI	Securities and Exchange Board of India
SSRN	Social Science Research Network
U.S.	United States
WTM	Whole Time Member

1. INTRODUCTION**1.1 BACKGROUND AND CONTEXT**

These days, the increase information dissemination through digital channels had proportionately influenced how securities markets function as well. One such significant change is the development of financial influencers (colloquially called *finfluencers*). These are individuals who distribute investment-related information to the public in the form of opinions, strategies, and market commentary by the means of social media platforms. Since these information primarily deal with scripts in securities markets, they inadvertently fall under the

category of “persons associated with securities market” under the SEBI Act, and hence can be termed ‘Intermediary’.¹

However, unlike traditional intermediaries like investment advisers or research analysts, these informal actors operate outside any regulatory definition and at the same time exerting considerable influence over the retail investor behaviour.² The lack of definition is primarily surmised on the entity-based model followed by Indian securities regulator i.e., SEBI, which assumes identifiable intermediaries performing clearly defined roles. Thus, regulatory obligations are only triggered by formal registration and classification.³

But finfluencers disrupt this structure as they engage in similar activities and yet remain largely undefined under legal categories. Moreover, the expansion of retail investor participation in the Capital Markets which is facilitated by digital platforms further amplifies the significance of the regulatory challenge with respect to informal actors.⁴

1.2 THE REGULATORY PROBLEM

The emergence of finfluencer reveals a regulatory perimeter gap within the Indian Securities Laws. While SEBI imposes various obligations such as registration, disclosure, fiduciary duties, etc., on investment advisers and research analysts, these requirements only apply to formally recognised entities.⁵ But finfluencers don’t fall under any of these legally identified classification despite engaging in comparable conduct.

This absence of oversight when it comes to informal actors like finfluencers, exposes the investors to risks arising from misleading content, undisclosed conflicts of interests, speculative recommendations⁶ and many other risks that called for regulating the formal entities. But, given the nature of finfluencers being diversified among different groups of social strata and hailing from different streams of profession, economic activity, etc., an expansive interpretation for definition purposes pose the risk of stifling legitimate market discourse and

¹ Sec. & Exch. Bd. of India (SEBI) Act, 1992 § 11; see also SEBI (Intermediaries) Regulations, 2008 Reg. 2(g).

² Int’l Org. Of Sec. Comm’ns (IOSCO), *Finfluencers* 11 (Final Report, May 2025).

³ See generally Umakanth Varottil, *Capital Markets and the Regulatory State in India* (2019), <https://ssrn.com/abstract=3350424>.

⁴ Serena Espeute & Rhodri Preece, *The Finfluencer Appeal: Investing in the Age of Social Media* 6–8 (CFA Inst. Rsch. & Pol’y Ctr., 2024).

⁵ SEBI (Investment Advisers) Regulations, 2013; SEBI (Research Analysts) Regulations, 2014.

⁶ SEBI, *Consultation Paper on Association of SEBI Registered Intermediaries/Registered Entities with Unregistered Entities (including Finfluencers)* ¶¶ 3.4–3.6. (2023).

thus impairing informational efficiency. Hence the regulatory dilemma lies in balancing the investor protection with the need to preserve flexibility of financial communication.

1.3 DOCTRINAL AMBIGUITY

The core issue of how or whether finfluencers are to be regulated lies in the legal definition of the nature of the activity undertaken i.e., “investment advice”. SEBI conceptualises it as personalised recommendations provided for consideration.⁷ It also has mechanisms to govern structured dissemination of research and recommendations within institutional settings.⁸

The complications that finfluencers bring to these frameworks are of three aspects:

- a) Mass content transmission rather than client-specific advice
- b) Characterisation of recommendations as ‘education’ or ‘opinions’
- c) Presence of indirect monetisation models like sponsorships or affiliate arrangements

These features obfuscate the applicability of existing legal standards.

1.4 LITERATURE REVIEW

1. Umakanth Varottil, *Capital Markets and the Regulatory State in India*⁹

This academic article explains how India’s capital market regulation evolved into a regulatory state centered on SEBI which relies on formal classification of intermediaries. It directly supports the argument that Indian Securities Laws are structured around an entity-based model. However, it does not address how this framework responds to decentralised digital actors like finfluencers.

2. IOSCO, *Finfluencers (Final Report, May 2025)*¹⁰

This report identifies finfluencers as unregulated actors influencing retail investors and

⁷ SEBI (Investment Advisers) Regulations, 2013, reg. 2(1)(l).

⁸ SEBI (Research Analysts) Regulations, 2014, ch. III.

⁹ Umakanth Varottil, *Capital Markets and the Regulatory State in India* (2019), <https://ssrn.com/abstract=3350424>.

¹⁰ Int’l Org. of Sec. Comm’ns (IOSCO), *Finfluencers* (Final Report, May 2025).

highlights the risks they pose such as misleading content, lack of disclosure and regulatory gaps across jurisdictions. It helps directly in establishing the core regulatory problem that is influencers are operating outside traditional securities law frameworks and challenge the regulatory perimeter. But it only provides policy-level recommendations and does not develop a structured legal framework for classifying influencer activity as investment advice.

3. ASIC, Information Sheet 269: Discussing Financial Products and Services Online (2022)¹¹

This administrative guidance paper clarifies when online content, including those posted by influencers, constitutes as “financial product advice” and it distinguishes between general and personal advice. It supports the comparative analysis by illustrating a guidance-based regulatory approach and the functional classification of financial advice. Although it provides interpretive guidance, it lacks a formal, structured framework for regulating influencers as a distinct category.

4. AFCA, Analysis on Sales Appropriateness for Influencer in the Digital Financial Environment (2024)¹²

This working paper analyses influencers as emerging actors in financial advice which are prone to misinformation and lack of expertise and highlights the need for transparency and regulatory oversight. It enables with the functional role of influencers and emphasises disclosure and regulatory intervention and supports the proposed framework of this research. Despite identifying regulatory concerns, it does not develop a clear legal advice for when influencer activity becomes investment advice.

5. Michael Tamra, How to Make \$1 Million in Thirty Seconds or Less: The Need for Regulations on Influencers (2024)¹³

This article argues why influencers need to be regulated and what risks they pose to securities law stressing on misleading promotions, undisclosed conflicts of interests and lack of

¹¹ Austl. Sec. & Invs. Comm’n (ASIC), *Information Sheet 269: Discussing Financial Products and Services Online* (2022).

¹² Mohd Se dek Jantan, *Analysis on Sales Appropriateness for Influencer in the Digital Financial Environment* (Asian Fin. Coop. Ass’n, 2024), <https://www.afca-asia.org/Portal.do?contentID=1794&method=detailView&returnChannelID=3>.

¹³ Tamra Manfredo, *How to Make \$1 Million in Thirty Seconds or Less: The Need for Regulations on Influencers* 84 La. L. Rev. 849 (2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4398463.

accountability. It directly supports the need for regulatory intervention and helps frame influencers as a legal problem rather than merely a policy concern. Although this article advocates for regulations it does not evaluate the categorisation of influencer activity within existing securities law doctrines.

6. SEBI, Consultation Paper on Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities including Finfluencers, 2023¹⁴

This consultation paper recognises risks posed by unregistered influencers, particularly around conflicts of interests, misleading promotions, profit-sharing motives and regulatory arbitrage. This helps in establishing the Indian regulatory gap and shows SEBI's emerging concern with influencer activity. Although it proposes restrictions, there is no coherent doctrinal framework for classifying influencer activity as investment advice.

7. SEBI (Investment Advisers) Regulations, 2013¹⁵

This regulation provides the definition for "investment advice" and imposes registration, disclosure and fiduciary obligations on investment advisers. It helps in the forming the primary doctrinal baseline for determination of whether influencer activity can be legally classified as investment advice. However, it operates strictly within registered entities and fails to capture informal decentralised actors like influencers.

8. SEBI (Research Analysts) Regulations, 2014¹⁶

This regulation provides for dissemination of information as research and recommendations and focuses on disclosure standards and conflict of interest management. It helps in analysing whether influencer content can resemble regulated research activity. But, the primary focus of this regulation is on formal institutional actors and does not address mass digital dissemination by unregulated individuals.

¹⁴ Sec. & Exch. Bd. of India (SEBI), *Consultation Paper on Association of SEBI Registered Intermediaries/Registered Entities with Unregistered Entities (including Finfluencers)* (2023).

¹⁵ Sec. & Exch. Bd. of India (SEBI), *(Investment Advisers) Regulations*, 2013.

¹⁶ Sec. & Exch. Bd. Of India (SEBI), *(Research Analysts) Regulations*, 2014.

9. MAS, Guidelines on Provision of Digital Advisory Services (2018)¹⁷

These guidelines sets out the expectations for digital financial advisory services, including risk profiling, suitability and disclosure obligations. It helps in demonstrating how Singapore adopts a structured and technology-adaptive regulatory approach which is highly useful for comparison. Yet, it only focuses on licensed digital advisers and does not address unregulated influencers operating outside advisory frameworks.

10. Serena Espeute & Rhodri Preece, The finfluencer Appeal: Investing in the Age of Social Media (2024)¹⁸

This report identifies finfluencers as emerging intermediaries influencing investment decisions, highlighting regulatory gaps, inconsistent definitions of investment advice, and widespread disclosure deficiencies. It directly supports the core argument of this research by demonstrating how finfluencers blur the boundary between information and regulated advice across jurisdictions. Although it identifies the inconsistencies and risks, it does not develop a clear legal framework for classifying influencer activity within securities law.

11. SEBI Circular on Association with Unregistered Finfluencers (2025)¹⁹

This circular represents a partial implementing of concerns identified in the consultation paper aforesaid, focusing only on conflict-of-interest mitigation. It helps in identifying emerging concerns faced but the regulator. Although it imposes transactional restrictions it does not clarity the legal classification of influencer activity as investment advice within the regulatory framework.

12. SEBI v. Rakhi Trading Pvt Ltd., (2018)²⁰

In this case the SC recognised that market manipulation and deceptive conduct violate the integrity of the market even when there is no traditional fraud or impact on measurable market prices. It helps in establishing a broader effects-based interpretation of market conduct which

¹⁷ Monetary Auth. of Sing. (MAS), *Guidelines on Provision of Digital Advisory Services* (2018).

¹⁸ Serena Espeute & Rhodri Preece, *The Finfluencer Appeal: Investing in the Age of Social Media* (CFA Inst. Rsch. & Pol'y Ctr., 2024).

¹⁹ Sec. & Exch. Bd. Of India, *Details/Clarification on Provisions Related to Association of Persons Regulated by the Board, MIIs, and Their Agents with Persons Engaged in Prohibited Activities*, Circular No. SEBI/HO/MIRSD-PoD-1/P/CIR/2025/11 (2025).

²⁰ *Sec. & Exch. Bd. Of India v. Rakhi Trading Pvt. Ltd.*, (2018) 13 SCC 753.

is useful for analysing influencers-induced market behaviour. However this case doesn't look into informational influence that occur through digital platforms.

13. *Hindustan Lever Ltd. V. SEBI*, (1998)²¹

In this case, SAT established the first exclusive definition of 'insider' and 'unpublished information', laying emphasis on fairness and equality access to information in securities markets. It forms the basis for analysis influencer behaviour of sharing information such as exclusive tips through social media platforms that can mimic 'insider information' thus making it a regulatory concern. But, this case is limited to insider trading and not public digital dissemination.

14. *Avadhut Sathe v. SEBI* (2026)²²

In this case, the SC refused to interfere with the SAT order and affirmed the regulatory action by SEBI against provision of investment advice and recommendations through digital platforms that are provided without registration even when framed as financial education. It helps in illustrating how emerging enforcement actions confront the blurring of investment advice and financial content that forms the basis for regulatory perimeter problem when dealing with influencer activity. Although the enforcement order was upheld, there has been no clear test for distinguishing financial education, general content, or regulated investment advice in the digital contexts.

15. *ASIC v. Tyson Robert Scholz*, (2024)²³

In this case, it was held that stock recommendations that are given through online platforms can constitute financial product advice and hence require licensing even if they are presented informally. It directly supports the functional approach to define investment advice which is central to regulating influencers within securities law. Although it applies existing licensing framework, it doesn't provide a graduated model for varying degrees of financial influence.

²¹ *Hindustan Lever Ltd. V. Sec. & Exch. Bd. Of India*, Appeal Nos. 1 & 2 of 1998 (Securities Appellate Tribunal July 13, 1998).

²² *Avadhut Sathe Trading Acad. Pvt. Ltd. V. Sec. & Exch. Bd. Of India*, Civil Appeal No. 3153 of 2026 (S.C. Mar. 16 2026).

²³ *Austl. Sec. & Invs. Comm'n v. Scholz* (No 2), [2022] FCA 1542 (Austl.).

1.5 RESEARCH GAP AND CONTRIBUTION

Existing literature and regulatory materials recognise the risks posed by finfluencers; however, the lack of a regulatory schema for finfluencers and the ambiguity in defining the concept of ‘investment advice’ are not examined in detail, which this study proposes to address.

1.6 RESEARCH METHODOLOGY

This research adopts a doctrinal and comparative legal methodology to examine the regulatory perimeter of “investment advice” in the context of finfluencers. The doctrinal component involves a detailed analysis of the concept of “investment advice”, particularly within SEBI (Investment Advisers) Regulations, 2013 and the SEBI (Research Analysts) Regulations, 2014. It evaluates the underlying principle of entity-based regulations and its adequacy in addressing informal digital actors performing similar activities. It also engages with SEBI consultation papers and regulatory communications concerning financial influencers as persuasive material that reflects emerging approaches in regulating the same.

The comparative component adopts a functional method, that examines Australia’s guidance based regulatory responses through ASIC (Australian Securities and Investment Commission) and Singapore’s structured licensing framework under the Financial Advisers Act, 2001. These jurisdictions are selected as they represent distinct regulatory approaches to the same problem. While, Australia reflects an informal, interpretive model based on regulatory guidance, Singapore represents a structured, ex ante framework that is grounded in licensing and categorisation. This contrast enables a meaningful evaluation of flexibility, certainty and proportionality in regulating digital financial influence and to arrive at a balanced calibrated framework within the Indian context.

1.7 RESEARCH QUESTIONS

1. What is the scope and limits of the regulatory defined boundaries for “investment advice” under Indian Securities Laws?
2. To what extent is Indian regulatory framework adequate to capture the activities of digital financial influencers?
3. What are the structural strengths and limitations of Australian guidance-based model

when compared to India?

4. What are the insights derived from Singapore's licensing-based model when compared to India?
5. Can a calibrated tiered disclosure-based framework provide an effective regulatory response for India in securing Investor Protection?

1.8 CHAPTERISATION

Chapter I – **Introduction** sets out the background and context of the study identifying the research problem, outlining the research questions to serve the objectives of the study arrived at after conducting a detailed literature review and identifying existing gaps. The methodology adopted and the scope of the study is also detailed in this chapter.

Chapter II – **Evolution of Investment Advice in Securities Regulation** traces the evolution of the concept of investment advice and how it is adapted to suit the needs of different securities market jurisdictions especially, India, Australia and Singapore.

Chapter III – **Informal Regulation of Financial Influence: Lessons from Australia and India** analyses how securities market regulators respond to influencer activity and investor influence through informal mechanisms like interpretation, enforcement orders, etc. It also compares Australia's approach with Indian regulatory strategies.

Chapter IV – **Structured Regulation of Investment Advice: Insights from Singapore and India** examines how Singapore's functional definitions and licensing and disclosure framework can serve as an integrated structured model for governing financial influence in digital setting. It is contrasted with India's evolving but fragmented approach, highlighting similarities and limitations.

Chapter V – **Conclusion and Suggestions** summaries the key findings of each chapter and proposes targeted reform measures in the form of suggestions that can facilitate in improving regulatory effectiveness.

CHAPTER II

EVOLUTION OF INVESTMENT ADVICE IN SECURITIES REGULATION

2.1 ORIGINS OF INVESTMENT ADVICE

Today's definition of "investment advice" traces its roots to the Great Depression and how regulatory responses were instituted to handle systemic abuses in financial markets. One such widespread conflicting practice was the circulation of 'hot tips'. The collapse of investor confidence during this period prompted the enacted of the Investment Advisers Act of 1940,²⁴ which remains the foundational statute for regulating investment advisory activity.

The Act introduced a functional definition of an investment adviser and encompasses any person who engages in the business of advising others on securities, for compensation.²⁵ This definition was operationalised through a three-prong test

- a) Provision of advice regarding securities
- b) A part of regular business
- c) Presence of Consideration²⁶

The significance of this Act is that it embedded a fiduciary standard as a core of investment advice thereby advisers must act in the best interests of their clients and to disclose all material conflicts of interest.²⁷ This represented a shift from the previous practice of caveat emptor to investor protection through trust-based obligations. Therefore it is recognised that financial advice inherently involves informational asymmetry and potential for abuse. However, this recognition was a functional approach adopted in one of the earliest framework and thus assumed identifiable, professional advisers who were operating within formal market structures.

2.2 TRANSPLANTATION AND ADAPTATION IN DIFFERENT JURISDICTIONS

The influence of U.S. model is evident across jurisdiction with significant structural variations.

²⁴ Investment Advisers Act of 1940, 15 U.S.C.

²⁵ Id. § 80b-2(a)(11).

²⁶ Id.

²⁷ *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180 (1963).

In India, the definition of investment adviser closely aligns with U.S. framework. It denotes any person who for consideration is engaged in the business of providing investment advice to clients.²⁸ Moreover, based on the identification of regulated entities, they are imposed with disclosure and fiduciary obligations after their registration.

Australia's regulation evolved from sector-based regulations that were fragmented to a unified licensing framework. The recommendations of the Wallis Report (1997) led to the establishment of Australian Securities and Investments Commission and the enactment of the Corporations Act 2001, which introduced a comprehensive framework for financial services.²⁹ This Act differentiates between general and personal advice and also imposes a statutory best interests duty.³⁰

In Singapore, it consolidated its regulatory approach through the Financial Advisers Act, 2001 which harmonised the oversight of financial products as a subset of advisory regulation and adopted a disclosure-based regime.³¹ The MAS emphasised transparency and suitability obligations which reflects a calculated balance between market development and investor protection.

A similar pattern across all these different jurisdictions is that they are all grounded in the assumption of a professional adviser-client relationship.

2.3 EMERGENCE OF FINFLUENCERS

The term 'finfluencer' is a portmanteau of 'financial' and 'influencer', refers to individuals who utilise social media platforms to share investment-related content, ranging from general financial education to specific stock recommendations. The IOSCO defines finfluencers as individuals who "leverage social media platforms to share investment-related content", which includes market analysis, personal experiences, investment tips and other finance related information which is often presented in accessible and engaging format.³² The emergence of finfluencers marks a significant transformation in how information is disseminated operating in a decentralised, platform-driven ecosystem.

²⁸ SEBI (Investment Advisers) Regulations, 2013.

²⁹ Corporation Act 2001 (Cth) (Austl.).

³⁰ Future of Financial Advice Reforms (Austl. 2012).

³¹ Financial Advisers Act 2001 (Sing.).

³² Int'l Org. of Sec. Comm'ns (IOSCO), *Finfluencers* 4 (May 2025).

This phenomenon is the result of broader evolution of digital communication and changing patterns of information consumption. Social Media has fundamentally altered how financial information is accessed thus enabling individuals even outside traditional institutional structures to influence broader investor behaviour at scale. These actors often build their own personal brands and cultivate large followings, thus functioning as informal intermediaries between financial markets and retail investors.³³

The inherent risk in this informal relationship is that finfluencers frequently present themselves as experts, thus enhancing their persuasive capacity even when they do not possess formal qualifications or fall under regulatory defined categories.³⁴ Since, social media platforms are able to facilitate rapid dissemination of finance-related information, it spreads virally and influence investment decisions in real time. Thus, finfluencers can be a new form of intermediary given that empirical evidence shows substantial proportion of young investors relying on social media as the primary source of investment information.³⁵

But, this type of interaction although helps in furthering financial literacy and democratising access to securities market related information, it also simultaneously poses regulatory risks like dissemination of misleading or biased information that can promote high-risk products and even cases of conflicts of interests which remain undisclosed.³⁶

2.4 CLASSIFICATION OF FINFLUENCER ACTIVITY

Although finfluencers share information in a persuasive manner, to examine the intent and the nature of the information that is being distributed, the very method and tactics used by finfluencers had to be scrutinised.

The classification of finfluencer activity can be understood as a progressive continuum of influence rather than a fixed legal category says studies. The finfluencer-investor engagement evolves through the following stages:

a) Awareness

³³ Serena Espeute & Rhodri Preece, *The Finfluencer Appeal: Investing in the Age of Social Media* 6–8 (CFA Inst. Rsch. & Pol’y Ctr., 2024).

³⁴ IOSCO, *Finfluencers* 4 (May 2025).

³⁵ Serena Espeute & Rhodri Preece, *The Finfluencer Appeal: Investing in the Age of Social Media* 6–8 (CFA Inst. Rsch. & Pol’y Ctr., 2024).

³⁶ IOSCO, *Finfluencers* 4 (May 2025).

- b) Familiarity
- c) Research
- d) Action

Each of these stage progressively intensify the persuasive impact of the financial content. At the awareness stage, influencers introduce simplified and mostly optimistic representation of investment opportunities. Later, in the stage of familiarity, trust is fostered through perceived credibility that is constructed through repeated interaction and social validation. In the research stage, investor decision-making is shifted away from independent analysis to more of behavioural influences such as herd behaviour and fear of missing out(FOMO). Thus, the ultimate action is a culminated process that is executed on the basis of the influence accumulated so far. When the outcome is positive, it reinforces the reliance, thus producing a self-reinforcing cycle of influence that sustains the finfluencer's authority.³⁷

Thus for purposes and function, finfluencer activity replicate the substantive effects of investment advice.

2.5 INDIA'S RESPONSE

In India, the difficulty in classifying finfluencer activity begins with the way SEBI's definitions are mostly self-contained categories, each tied to a specific kind of regulated output. Under the IA Regulations, "investment advice" is framed as advice relating to securities which is provided "for the benefit of the client", but the same provision also expressly excludes communications that are made through newspapers, electronic media or other widely available channels.³⁸ This shows a deliberate legislative choice to separate personalised advisory relationships from general market communication.

The RA Regulations follows the same principle and expands on it further by elaborating closed definitional terms. For eg., "Research Services" include activities such as issuing research reports, giving buy/sell recommendations, setting price targets, or even providing trading calls to the public. At the same time, "research reports" are limited by excluding general market

³⁷ Fidelaya Coban, *Are Finfluencers the New Experts in the Field of Investment Advice?* 6–7 (Master's Thesis, Utrecht Univ. 2022).

³⁸ SEBI (Investment Advisers) Regulations, 2013, reg. 2(1)(l).

commentary, broad economic discussion, or statistical summaries.³⁹

These definitions show a closed classificatory system. It takes into account the activity undertaken by registered entities in their professional capacity which is regulated and their personal capacity which is considered not within the purview of SEBI. But finfluencer activity operate within the excluded categories of general commentary or public media communication but in substance mirrors stock recommendations or trading calls.

The SEBI order in *Avadhut Sathe Trading Academy*⁴⁰ marks a notable shift in addressing this tension. Here, the Whole Time Member(WTM) relied on actual content and effect of the sessions (use of live market data, specific stock recommendations, stop-loss levels and target prices) to arrive at whether an activity can be characterised as ‘education’ or ‘investment advice’/‘research activity’. The reasoning of this order rejects a formalist reading of the regulations and adopts a functional approach asking what does the activity *do* rather than what is the activity *called*.⁴¹

Although SEBI acknowledges that finfluencers are unregistered advisers or analysts often influencing investor decisions while receiving either direct or indirect compensation, instead of expanding the definitional scope, it sought to restrict the association of regulated entities with unregulated actors like finfluencers.⁴² This shows SEBI still follows entity-based regulation not activity-based/functional method of regulation. Hence, the problem arises not from lack of enforcement but from classification itself.

³⁹ SEBI (Research Analysts) Regulations, 2014, reg. 2(1)(w), (wa).

⁴⁰ *In re Avadhut Sathe Trading Acad. Pvt. Ltd.*, SEBI Order (2025)

⁴¹ Id. ¶¶ 13–14.

⁴² SEBI, *Consultation Paper on Association of SEBI Registered Intermediaries with Unregistered Entities (including Finfluencers)* ¶¶ 2.2–3.5 (2023).

CHAPTER III

INFORMAL REGULATION OF FINANCIAL INFLUENCE: LESSONS FROM AUSTRALIA AND INDIA

In the absence of statutory definitions fail to adequately classify finfluencer activity, regulators rely on informal mechanisms of control. They include interpretive guidance, enforcement actions, and indirect regulatory interventions. These strategies although does not expand the law formally, they attempt to extend its application in practice.

3.1 AUSTRALIA'S FRAMEWORK

The Australia's Corporation Act, 2001, defines "financial product advice" in a broad manner which includes but not limited to recommendation or opinion that is influencing or is likely to influence the decision of any person when it comes to matters related to financial products.⁴³ This allows regulators the flexibility to move beyond statute defined boundaries and examine the actual effect of the communication.

ASIC's Information Sheet 269 reinforces this approach by clarifying that it is upon the influencer to ensure that the content posted by them is in compliance with law. It applies the provisions to both the Australian Financial Services(AFS) licensees who collaborate with an influencer and makes them liable for any misconduct by the influencer. It goes ahead to state that any information related to financial products or services in the form of advice can only be done with license holder or exempt persons. Influencers are permitted to present factual information however, the presenting of such information must not be in a manner that projects it as a recommendation.⁴⁴ It provides a series of examples to explain further as to what can constitute to be a financial product service under the statutory definition by emphasising on intent, remuneration and on the overall impression created and its capacity to influence investor decision-making.⁴⁵ Also when influencers promote links or facilitate access to trading platforms, such conduct may amount to 'arranging' financial services if they play an active role in enabling transactions.⁴⁶

⁴³ Corporations Act 2001 (Cth) § 766B (1) (Austl.).

⁴⁴ Austl. Sec. & Invs. Comm'n (ASIC), *Information Sheet 269; Discussing Financial Products and Services Online* 1–2 (2022).

⁴⁵ Id. at 3–6.

⁴⁶ Id. at 4–5.

Apart from the statutory definitions and clarifications, certain regulatory guidelines are also provided which is broadly applied to person providing financial product advice, one who deals with financial product and their professional advisers such as lawyers to facilitate understanding of the financial product advice and dealing.⁴⁷ On Advertising financial products and services, regulatory guidelines are provided regarding what is considered to be good practice and it refers to promoters and publishers of financial products and services which also included credit products and services.⁴⁸ With respect to giving information and general advice, guidelines are provided on best interest duty and related obligations and for scaled advices, how personal advices are limited in scope. This addresses not only AFS licensees but also authorised representatives and other advice providers who interact with retail clients.⁴⁹

This functional approach is also judicially affirmed in *ASIC v Scholz* (No 2),⁵⁰ where the Australian Federal Court examined the substance of the defendant's conduct which included social media posts, paid seminars, and private communications all of which conveyed opinions on specific securities and encouraged trading behaviour.⁵¹ The Court held that such activities even when presented as informal or educational content, it could amount to carrying on a financial services business without a license.⁵² This reasoning reflects a decisive doctrinal move: classification turns on functional impact and not formal designation.

One another crucial point is the recognition of non-monetary benefits also as remuneration and imposition on disclosure of any such benefits accrued in the course of work. It is also encouraged that such paid sponsorships or work must involve documentation of all the details⁵³

3.2 INDIA'S INDIRECT REGULATION

In India, the statutory definition of 'investment advice' is narrowed to subject matter alone⁵⁴ and is conditional on the receipt of direct consideration from the advisee,⁵⁵ thus excluding influencers whose remuneration comes from advertisers and platforms rather than audiences

⁴⁷ ASIC, *Regulatory Guide 36: Licensing: Financial Product Advice and Dealing* (2016).

⁴⁸ ASIC, *Regulatory Guide 234: Advertising Financial Products and Services (Including Credit): Good Practice Guidance* (2012).

⁴⁹ ASIC, *Regulatory Guide 244: Giving Information, General Advice and Scaled Advice* (2012).

⁵⁰ *Australian Securities and Investments Commission v Scholz* (No 2) [2022] FCA 1542 (Austl.).

⁵¹ Id. ¶¶ 3–10.

⁵² Id. ¶¶ 1–2.

⁵³ ASIC, *Information Sheet 269: Discussing Financial Products and Services Online* 7 (2022).

⁵⁴ SEBI (Investment Advisers) Regulations, 2013, reg. 2(1)(l).

⁵⁵ Id. reg. 2(1)(m)

themselves. This was evidently overcome in Australia by recognising non-monetary and third-party benefits as sufficient triggers for imposing licensing obligations.

SEBI adopts an indirect regulatory strategy. In its consultation paper, SEBI identifies the referral-based business model adopted by the finfluencers, where economic incentives come through commissions, platform payments, and promotional arrangements linked to investor participation.⁵⁶

Therefore, the regulatory response is directed not at the activity itself but at its underlying incentive structure. This approach is further operationalised through measures undertaken by SEBI which prohibits SEBI-regulated entities from associating with persons who provide unregistered investment advice or make unauthorised performance claims.⁵⁷ Here, ‘association’ is defined broadly enough to include monetary transactions, referral arrangements, and technological linkages, thereby targeting the ecosystem through which influencer activity is monetised.⁵⁸

CHAPTER IV

STRUCTURED REGULATION OF INVESTMENT ADVICE: INSIGHTS FROM SINGAPORE AND INDIA

4.1 SINGAPORE FRAMEWORK

Singapore’s regulatory framework adopts a function-oriented approach when it comes to regulating investment advice. The Financial Advisers Act 2001 (FAA) establishes that a person cannot act as a financial adviser in Singapore providing any type of financial advisory service unless licensed or exempt.⁵⁹ This prohibition forms the primary regulatory check for advisory activity.

The scope of this obligation is expanded through a deeming provision. Section 6(2) provides that a person is to be treated as a financial adviser where the person engages in conduct that is

⁵⁶ SEBI, *Consultation Paper on Association of SEBI Registered Intermediaries with Unregistered Entities (including Finfluencers)* ¶¶ 2.3, 3.5 (2023).

⁵⁷ Id. ¶ 3.5.

⁵⁸ SEBI, Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2025/11, ¶¶ 2–5 (Jan. 29, 2025).

⁵⁹ Financial Advisers Act 2001 (Sing.) § 6(1).

intended to or likely to induce the public in Singapore to use any financial advisory service.⁶⁰ The language of this statute is significant because it shifts the regulatory focus from formal advisory relationships to the influence that is exerted on the investor behaviour, thus enabling the regulator to capture even non-traditional and digital forms of communications.

Further, the safeguards for investor protection are incorporated through conduct-based obligations. Section 34 mandates disclosure of all material information by the adviser which is relating to an investment product. This includes matters that may influence an investment decision.⁶¹ Moreover, there is also explicit prohibition of false and misleading statements in connection with financial advisory services.⁶² These provision collectively ensure that where advisory activity is identified, it is subject to transparency and accuracy requirements.

In addition to statutory framework, there is also MAS guidance which addresses the delivery of advisory services in digital environments. The *Guidelines on Provision of Digital Advisory Services* recognises that advice may be provided through various methods like automated or algorithm-driven systems, and impose requirements relating to governance, monitoring, and suitability of such services.⁶³ These guidelines ensure that the mode of delivery does not exclude the conduct of financial adviser from regulatory oversight.

In addition, Singapore also regulates financial promotions and any communications regarding markets. These are central to influencer activity. Hence, the guidelines requires that any such digital advertisements must not be misleading or omit material information which is necessary for an informed decision.⁶⁴ This regulatory intervention shows that even promotional content by itself can influence investment decisions.

In parallel, a self-regulatory mechanism is also provided through the Singapore Code of Advertising Practice, which requires advertisements to comply with standards of legality, decency, honesty and truthfulness.⁶⁵ This system of guidance is of voluntary nature reinforcing statutory obligations through industry enforcement mechanisms.

Apart from this, there are also other broader provisions that prohibit conduct that creates a false

⁶⁰ Id. § 6(2).

⁶¹ Id. § 34(1).

⁶² Id. § 35(1).

⁶³ Monetary Auth. of Sing. (MAS), *Guidelines on Provision of Digital Advisory Services* (2018).

⁶⁴ MAS, *Guidelines on Standards of Conduct for Digital Advertising Activities* (2025).

⁶⁵ Advertising Standards Auth. of Sing. (ASAS), *Singapore Code of Advertising Practice* (3d ed. 2008).

or misleading appearance of trading activity or market conditions.⁶⁶ These provisions apply the same logic apply scrutiny to the conduct that indirectly influences investor behaviour, including dissemination of misleading signals in the market.

Taken together, it shows how Singapore's framework is structured to regulate finfluencers through a combination of functional classification, licensing requirements and layered conduct controls, thus enabling it to respond to evolving forms of financial communications without requiring constant statutory amendment.

4.2 INDIA'S LIMITATIONS WITH FINFLUENCER ACTIVITY REGULATION

In India the influence-based method of regulation can be witnessed through the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ('FUTP Regulations'), which prohibit conduct that creates misleading market conditions or induces trading behaviour.⁶⁷ The provisions under this regulation adopts an approach that takes into account the intent and impact caused while scrutinising any conduct that operates as fraud or deceit in connection with securities transactions.⁶⁸

Conceptwise, this aligns with the realities of finfluencer activity. Finfluencers act as information intermediaries, who shape investor perceptions and behaviour through personalised content in an accessible and persuasive manner.⁶⁹ This influence over investors is further amplified by social media ecosystems with the help of engagement-driven algorithms and parasocial trust relationships that increase the likelihood of behavioural impact.⁷⁰ This makes such activity fall outside the traditional framework where the influence cannot be traced and attributed to a single actor.⁷¹ Moreover, empirical studies show that the overall market impact is distributed rather than individually attributable.⁷²

Therefore while India possess intent-impact focused measures similar to Singapore, the

⁶⁶ Securities and Futures Act 2001 (Sing.) § 197.

⁶⁷ SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, regs. 3, 4(1).

⁶⁸ Id. Reg. 4(2).

⁶⁹ Serena Espeute & Rhodri Preece, *The Finfluencer Appeal: Investing in the Age of Social Media* 1–3, 10, 31–32. (CFA Inst. 2024).

⁷⁰ Tamra Manfredo, *How to Make \$1 Million in 30 Seconds or Less: The Need for Regulations on Finfluencers*, 84 La. L. Rev. 849, 852–55 (2024).

⁷¹ IOSCO, *Finfluencers* Final Report 4–5 (2025).

⁷² Fidelya Coban, *Are Finfluencers the New Experts in the Field of Investment Advice?* 1–3 (Utrecht Univ. Master's Thesis 2022).

application of the same is limited when it comes to platform-mediated context, thus creating the need for regulatory shift from entity based to systemic regulation when it comes to financial influence.

CHAPTER V

CONCLUSION AND SUGGESTIONS

The Study conducted so far demonstrates that the core difficulty in regulating influencers in securities market set up comes from classification failure. Existing frameworks as examined through India, Australia and Singapore shows that they are structured on indentifiable advisory relationships, whereas influencer activity operates mainly on influence-based communication in a widespread manner.

Consequently, modern methods adopted by the regulators include informal and indirect strategies such as interpretive expansion, ecosystem control and incentive regulation. However, they act only as partial substitutes and cannot fulfil the need for a coherent classificatory framework.

Hence, it is suggested that the regulators adopt a function-based classification of investment advice focusing on intention or the likely impact on the investor behaviour rather than the formal status of who is doing the communication.

It is also suggested that a tiered disclosure model must be introduced which requires disclosures of basic general financial content, that progresses to enhanced disclosures where specific products or strategies are discussed regarding the securities market and full regulatory compliance must be mandated wherever the communication substitutes for a professional advice.

Any monetary benefit related stipulation must be expanded to include indirect benefits attributed to the influence pathways as well including referral arrangements. Thus a systemic assessment needs to be carried out taking in account for patterns of communication, audience reach and the cumulative market impact when it comes to regulating influencers.

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