REGULATING FINFLUENCERS IN INDIA: BRIDGING LEGAL GAPS IN RETAIL INVESTOR PROTECTION

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ABSTRACT

Financial influencers, or "finfluencers," have emerged as potent social personalities offering investment advice, gaining immense popularity in the Indian market, particularly among young retail investors. Retail investors - individuals trading securities for personal accounts rather than organizations - play a pivotal role in market dynamics. While finfluencers have increased financial awareness and capital flow, unregulated activities pose significant threats to the economy and investors through misleading tips, hidden promotions, and market manipulation. Current Indian law utilizes general tools such as SEBI's fraud provisions, CPA endorsement rules, and ASCI guidelines, yet no specific framework fully covers finfluencers. SEBI's recent initiatives, including the 2023 Consultation Paper and mandatory disclosures, address some issues, but gaps remain and most notably the 'public media' exclusion in the definition of investment advice. This paper examines the current regulatory landscape, identifies existing inadequacies, and recommends a functional, technologically driven regulatory model for the post-pandemic era. It advocates for the formal recognition of finfluencers as a regulatory category, enhanced disclosure norms, and platform-level accountability to ensure a sound and efficient financial ecosystem.

Keywords: Finfluencers; Investment Law; Retail Investors; Securities and Exchange Board of India; Financial Regulation; Social Media Governance.

INTRODUCTION

The advent of social media platforms has significantly led to the democratization of financial markets in India, facilitating the ease of information dissemination to retail investors. In the post-pandemic era, a new class of market participants known as "finfluencers" has emerged - individuals who provide personal finance and investment advice by leveraging platforms such as YouTube, Instagram, and Telegram. Between 2020 and 2023, a record number of new investors, many from small towns and lacking formal financial education, entered the market, drawn by mobile trading apps and the promise of high returns.[1]

Business Today reports that India's financial literacy remains at approximately 27%, explaining the high appetite for online advice.[2] Finfluencers fill this gap; however, many operate without qualifications or oversight, occasionally employing sensational claims or "pump-and-dump" tactics to profit from unwary followers [3]. By acting as *de facto* unregistered investment advisers, they often lack accountability or liability, posing a threat to consumer protection as they sit outside the traditional SEBI framework. While SEBI has begun tightening rules through a 2023 consultation paper and coordination with the ASCI, significant legal gaps persist.

RESEARCH QUESTIONS

1. Who are finfluencers, and how do they influence retail investor behavior?
2. What is the current regulatory framework in India?
3. What regulatory gaps and inadequacies exist?
4. How have other jurisdictions responded to this phenomenon?
5. What concrete reforms can India adopt to bridge these gaps?

LITERATURE REVIEW

Academic and policy literature on finfluencers is an emerging field. Industry reports by

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[1] SEBI, Consultation Paper on Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Finfluencers) (Aug. 25, 2023).
[2] Business Today, India's Financial Literacy Rate at 27%, https://www.businesstoday.in/ (Mar. 14, 2024).
[3] IRCCL, Finfluencers and the Regulatory Vacuum, Indian Review of Corporate and Commercial Laws (2023).

Business Today have chronicled the rise of personalities like Rachana Ranade and others, who boast millions of followers - often exceeding the user bases of established brokerage firms.[4] Analysts highlight the dual potential of finfluencers to boost financial literacy while simultaneously increasing risks of market manipulation.

Globally, the International Organization of Securities Commissions (IOSCO) published a "Finfluencers" report in 2025, noting that these actors frequently operate outside traditional regulatory regimes, raising investor-protection risks.[5] The report documents enforcement actions and recommends best practices for content classification. In India, commentators from firms like Trilegal and Cyril Amarchand note that finfluencers often fall outside the SEBI (Investment Adviser) Rules, 2013, and the SEBI (Research Analyst) Rules, 2014, creating a regulatory vacuum [6]. Recent enforcement cases, such as those against unregistered advisors, underscore the urgency of a dedicated regulatory response.

This paper builds up on the existing information and trends and utilizes it to identify gaps and recommends regulatory reforms for bridging those essentially for a secured financial market where the it thrives on the foundation of accountability, transparency and consumer protection where the participants can take sound financial decisions confidently.

I. CONCEPTUALIZING THE FINFLUENCER

In general, a "finfluencer" is a person who creates content on social media regarding investing, stock markets, cryptocurrencies, insurance, or real estate, with the power to sway followers' investment decisions.[7] This definition rests on two pillars:

- **Medium:** Digital and social media platforms.
- **Function:** Actual influence over financial decision-making.

A. Distinction Between Education and Advice

Under the SEBI (Investment Advisers) Regulations, 2013, "investment advice" includes

[4] Business Today, Supra note 2.
[5] IOSCO, Report on Retail Investor Education in the Context of Digitalization and Finfluencers, FR05/2025 (May 2025).
[6] Cyril Amarchand Mangaldas, The Rise of Finfluencers: Legal Implications, CAM Blog (Oct. 20, 2023).
[7] IOSCO, Supra note 5.

tailored recommendations. Finfluencers often evade scrutiny by:

- Using disclaimers like "for educational purposes only."
- Avoiding direct, personalized recommendations.
- Presenting opinions in generalized formats that mirror "public media."

B. Finfluencer Impact on Retail Investor Behaviour

Studies indicate that beginners are highly prone to finfluencer influence. Retail investors often respond to herd behaviour, authority bias, and overconfidence, all of which are amplified by social media engagement metrics like "likes" and "shares." This lures participants into viewing influencers as credible sources, despite a potential lack of formal knowledge. Some investors also blindly follow these personalities because of popularity but in reality, unlike traditional financial advisors their recommendations are informal hence are mostly out of the critical scrutiny. This trend leads to speculative trading and the mis-selling of high-risk financial products without adequate risk assessment.

II. THE CURRENT REGULATORY FRAMEWORK IN INDIA

Financial regulation is primarily governed by the Securities and Exchange Board of India (SEBI), established under the SEBI Act, 1992. However, the main problem arises as it largely focuses on the formal registered entities and not on the digital actors, also the ambiguity of the definition of finfluencer legally leaves a gap in regulation.

1. **SEBI Act, 1992:** Section 11 empowers SEBI to protect investors and regulate the market.[8] While it has a wide ambit and though it often enables SEBI to issue directions, conduct investigations, and initiate enforcement actions, it does not specifically address digital actors like financial influencers.

2. **SEBI (Investment Advisers) Regulations, 2013:** Mandates registration for "investment advice," but Regulation 2(1)(l) expressly excludes advice given through " electronic or broadcasting medium... widely available to the public." [9]

[8] SEBI Act, 1992, Section 11.
[9] SEBI (Investment Advisers) Regulations, 2013, Reg. 2(1)(l).

3. **SEBI (Research Analysts) Regulations, 2014:** Covers those preparing research reports. Finfluencers often bypass this by categorizing content as "opinions" rather than formal research.[10]They do not categorize their content as "research reports," even though it does involve detailed analysis of stocks or market trends. This creates a overlap without legal applicability and gives a chance for finfluencers to bypass the regulations.

4. **SEBI (PFUTP) Regulations, 2003:** Prohibits manipulative and deceptive activities.[11] These provisions make sure that SEBI has the power to take actions against people who spreads misleading information. While it enables to take actions, they are primarily enforceable after a harm is already done rather than prevent it. So its reactive in nature and not preventive.

5. **Advertising and Disclosure Framework:** ASCI's 2023 Guidelines require influencers to disclose paid partnerships and material connections.[12]

III. RISKS AND REGULATORY GAPS

A. Primary Risks

- **Misleading Advice:** Lack of credentials leads to "hot stock" picks based on hearsay rather than analysis.

- **Hidden Promotions:** Even without directly stating misleading statements they can manipulate the market by continuously posting about a certain sector or company and holding on to the positive parts and avoiding the negative ones they can pump up interest and prices in the social media and influence the followers. Influencers may receive referral fees or "pump-and-dump" incentives. In the *Sadhna Broadcast* case, SEBI found collusion between promoters and YouTube creators to artificially inflate stock prices. [13]

- **Fraud and Scams:** Some market fraudulent schemes, such as the *Kabir Financials*

[10] SEBI (Research Analysts) Regulations, 2014.
[11] SEBI (PFUTP) Regulations, 2003.
[12] ASCI, Guidelines for Influencer Advertising in Digital Media (2023).
[13] In re Sadhna Broadcast Limited, SEBI Interim Order WTM/AN/ISD/ISD-SEC-1/24333/2022-23 (Mar. 2, 2023).

Telegram channel case, where promoters collected ₹12.84 crore through illegal advice.[14]

- **Vulnerable Demographics:** Young investors are often the primary target, and the new comers with limited expertise or knowledge get influenced, and by investing their money in the wrong place the chances of getting their savings wiped is high.

- Market Manipulation: Even without directly stating misleading statements they can manipulate the market by continuously posting about a certain sector or company and holding on to the positive parts and avoiding the negative ones they can pump up interest and prices in the social media and influence the followers.

- Lack of Accountability: Unlike traditional financial advisors who have professional oversights and the lack of the definition of the term helps them escape regulations. There is no easy mechanism where complaints can be lodged for their quality of service.

B. Regulatory Gaps

- **No Legal Definition:** The lack of a statutory definition for "finfluencer" creates uncertainty in enforcement. This creates a gap and an uncertainty when to include someone offering regulated “investment advice.”

- **The Media Exclusion Clause:** The proviso in Reg 2(1)(l) of the IA Regulations provides a massive loophole for online advisors. For bringing finfluencers under regulation SEBI regulations are needed to be amended.

- **Burden of Proof:** Under PFUTP, proving "intent" is difficult. The *Mani Oomen* ruling emphasizes that negligent advice may escape liability if "knowledge" of the falsehood cannot be proven. [15] Thus, negligent advice often provides a gap for enforcement of regulations.

- Cross-Border and Anonymity: A finfluencer can easily hide his identity or be in abroad thus complicating jurisdiction and they may not comply with summons.

[14] *In re* Kabir Financials (Telegram Channel Service), SEBI Enforcement Action (2023).
[15] *Mani Oomen v. SEBI*, Appeal No. 235 of 2021 (Securities Appellate Tribunal).

- Limited Penalties: There are no strong penalties against finfluencers and even if they are caught the charge is minimal and the violator may again resume the work. The lack of proper grievance forum makes deterrence weak.

- Investor Awareness and Enforcement Capacity: Investors are unaware about the need of the advisor's registration and there is an inadequacy of officers who can monitor thousands of finfluencer channels.

IV. RECOMMENDATIONS FOR REFORM

1. **Legal Definition and Registration:** Explicitly define "finfluencer" in SEBI regulations. Amend the IA Regulations by deleting the proviso excluding public media advice so that social media activity counts as "investment advice."

2. **Mandatory Disclosures:** Legally require influencers to display SEBI registration numbers and credentials. ASCI's guidelines should be given statutory backing via the Consumer Protection Act.

3. **Platform Accountability:** Finalize the "Specified Digital Platform" framework, requiring platforms like YouTube and Telegram to moderate financial content and implement "verified" tags for registered advisors.

4. **Enhanced Penalties:** Institute heavy fines and trading bans for repeat offenders, mirroring the P.R. Sundar settlement (disgorgement of ~₹6 crore).[16]

5. **Education:** Launch awareness campaigns like "Madad" to teach investors to distinguish speculation from factual analysis and so that retail investors know about the risks of following unqualified advice and are warned beforehand.

CONCLUSION

Finfluencers have become a potent force in India's retail investment boom. While they can democratize knowledge, their unregulated nature endangers unsophisticated investors. India must move beyond general anti-fraud tools to a specific, mandatory disclosure and registration regime by bringing finfluencers within the regulatory net by amending SEBI rules and filling

[16] In re Mansun Consultancy Pvt. Ltd. and P.R. Sundar, SEBI Settlement Order (May 25, 2023).

the major gaps which mandates disclosure and collaborating with content platforms for providing accountability and transparency. By doing so, it can be ensured that the financial influencers boost the country's economy and works positively towards development and not become a way of fraud or manipulation.

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