Finfluencers

CONSULTATION REPORT

The Board of the
International Organization of Securities Commissions

CR/08/24 November 2024

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The International Organization of Securities Commissions website

iosco.org

Foreword

The Board of the International Organization of Securities Commissions (IOSCO) is seeking comments on this consultation report on Finfluencers.

How to Submit Comments

Comments may be submitted through the following survey: LINK - on or before 20th January, 2025.

Important: All comments will be made available publicly, unless anonymity is specifically requested. Comments will be converted to PDF format and posted on the IOSCO website. Personal identifying information will not be edited from submissions.

If you require technical assistance on completing the survey, please contact: itsupport@iosco.org

If you have questions about the report or the consultation, please contact Alp Eroglu, Senior Policy Advisor (alp@iosco.org) and Flavio Bongiovanni, Policy Advisor (f.bongiovanni@iosco.org).

Questions for Consultation

A complete list of the questions for consultation is provided below. IOSCO invites comments generally on the proposed guidance in this report, as well as views regarding the specific consultation questions listed below and set out in the report. The consultation questions are intended to solicit very targeted points of feedback that will be helpful to consideration of the final guidance, with supporting details where requested or relevant.

QUESTION 1: Do you agree with the potential benefits and risks stemming from finfluencers' activities identified in this Consultation Report? Please elaborate.

QUESTION 2: Should IOSCO propose a definition of finfluencers?

QUESTION 3: Do you have any comments on the regulatory regime and the supervisory approaches currently adopted by IOSCO jurisdictions in relation to finfluencers and market intermediaries using finfluencers? In your view, should there be a specific legislative or regulatory regime for finfluencers?

QUESTION 4: Do you have any comments related to the current supervisory and enforcement approach, including international cooperation, that you believe could be relevant to IOSCO's consultation process? Please provide details that could enhance or complement the insights presented in this Consultation Report.

QUESTION 5: Do you have any comments related to the investor and finfluencers education initiatives that you believe could be relevant to this Consultation Report? Please provide details that could enhance or complement the insights presented in this Consultation Report.

QUESTION 6: Are we missing any key Good Practices for regulators, for market intermediaries using finfluencers and for finfluencers to consider? Please elaborate.

QUESTION 7: Do you agree with the tips envisaged for retail investors? Are we missing any key ones? Please elaborate.

You can find the survey clicking HERE

Table of Contents

EXECUTIVE SUMMARY

Finfluencers are individuals who leverage social media platforms to share investment-related content, ranging from general financial education to specific stock recommendations.[1] They often present themselves as experts, sharing personal experiences, market analysis, and investment tips in an engaging and accessible manner.

Their increasing prominence is transforming how retail investors, particularly younger generations, make investment decisions. While they play a significant role in popularizing financial topics and expanding access to investment information, their activities also introduce new risks to retail investors. These risks include the possibility of spreading misleading or biased information, promotion of high-risk products, and inadequate disclosure of any conflicts of interest.

This report by the International Organization of Securities Commissions (IOSCO) explores the evolving landscape of finfluencers, the associated potential benefits and risks, and the current regulatory responses across jurisdictions. It highlights that many finfluencers are not familiar with traditional financial regulatory frameworks and may operate outside them, posing challenges for enforcement and oversight. The report identifies potential gaps in regulatory coverage, particularly for unregistered individuals who influence retail investors without the professional qualifications or oversight required of registered investment advice professionals. Additionally, the global reach of social media complicates jurisdictional oversight and enforcement, necessitating enhanced international cooperation among regulators.

Despite these challenges, regulators in various jurisdictions have begun to address the finfluencer phenomenon through a mix of supervisory actions, enforcement measures, and educational initiatives. The report outlines examples of enforcement actions taken against finfluencers and market intermediaries that use finfluencers to promote their products. These actions include cease-and-desist orders, financial penalties, and public warnings aimed at deterring misconduct and protecting investors. Moreover, some jurisdictions are adapting their existing regulatory frameworks to better encompass the activities of finfluencers, particularly around issues of licensing, disclosure, and conflicts of interest management.

1 The concept of “finfluencers” may include celebrity/social media influencers who do not regularly provide or share financial and investment advice, but may, from time to time, promote investment products or schemes.

Education plays a crucial role in mitigating the risks associated with finfluencers. The report details various investor education initiatives undertaken by regulators, which include social media campaigns, interactive tools, and collaborations with educational institutions to raise awareness of the potential pitfalls of following finfluencer advice. For finfluencers, some regulators have developed targeted educational content to improve their understanding of legal and ethical standards, emphasizing the importance of transparency and balanced communication.

To address the emerging challenges posed by finfluencers, this consultation report proposes a comprehensive set of good practices for regulators, market intermediaries, and finfluencers themselves. These proposed good practices aim to foster a more transparent and accountable environment in which finfluencers operate in alignment with securities regulations and investor protection standards.

Key proposed good practices include:

- **Regulatory clarity and oversight:** Consistent with their respective mandates and regulatory remit, regulators could consider clearly defining the scope of finfluencer activities within their jurisdictions and adapt existing frameworks to cover these activities where gaps may exist. This includes setting out specific guidelines on how regulatory frameworks apply to finfluencers and enhancing monitoring and enforcement capabilities through data analytics and social media surveillance tools.
- **Conflicts of interest detection, disclosure, and management:** Consistent with their respective mandates and regulatory remit, regulators are encouraged to consider requiring that market intermediaries take all appropriate steps to identify, prevent, manage, and disclose conflicts of interest. For example, finfluencers should disclose all material and potentially material conflicts of interest, such as financial incentives or affiliations with financial products they promote. Consistent with regulatory obligations, IOSCO members could also consider providing guidance to encouraging, advising, or recommending that market intermediaries that use finfluencers implement robust compliance measures to manage any conflicts and ensure that their promotions align with regulatory requirements, including requirements related to investor protection.
- **Enhanced disclosures and transparency:** Consistent with their respective mandates and regulatory remit, regulators could consider requiring the use of standardized disclaimers and clear, concise disclosures by finfluencers to help investors understand the nature of the content they are consuming. This includes clarifying whether advice is being given and whether the finfluencer is compensated for their endorsements.
- **Proactive investor and finfluencer education:** Ongoing education for both investors and finfluencers is critical. Regulators could consider

continuing to develop innovative educational initiatives, such as interactive online tools, public awareness campaigns, and collaborative projects with educational institutions, to enhance financial literacy and critical evaluation skills among retail investors.

In addition to these proposed good practices, the report offers practical tips for retail investors that follow or engage with finfluencers. Retail investors are advised to:

- **Verify credentials:** Always check whether a finfluencer is licensed or qualified to provide financial advice. Look for credible sources of information and cross-reference recommendations with registered investment professionals.
- **Be sceptical of promises of high returns:** Exercise caution with finfluencers who make unrealistic promises of quick profits or guaranteed returns, as these are common indicators of high-risk or fraudulent schemes.
- **Understand conflicts of interest:** Be aware that finfluencers may receive compensation for promoting certain products. Look for disclosures about paid promotions and consider whether the advice aligns with your financial goals and risk tolerance.
- **Conduct independent research:** Never rely solely on a finfluencer's advice. Conduct your own research and seek advice from registered financial professionals to make well-informed investment decisions.

As the influence of finfluencers continues to grow, regulatory authorities, market participants, and the finfluencers themselves could consider adopting these good practices to ensure a well-regulated environment that prioritizes investor protection. By considering these best practices, the benefits of finfluencers can be harnessed while at the same time addressing any potential risks to retail investors. Hence a more transparent and resilient financial ecosystem can be fostered.

CHAPTER 1: INTRODUCTION

Technological developments are changing the way in which retail consumers interact with financial services and products and act as a catalyst in bringing more retail investors to capital markets. The emergence of online trading platforms and mobile trading apps have made trading and stock markets more accessible to retail investors with minimal physical touch points. Similarly, there is an increasing use of these online trading platforms and mobile apps, and of social media generally, to promote the offerings of securities and other financial products.

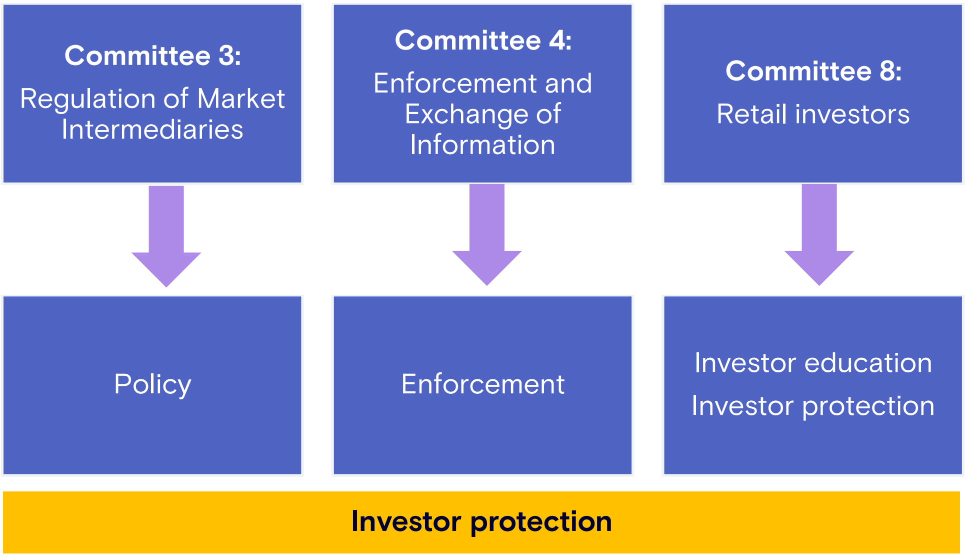
As a result of those developments, in March 2020, the IOSCO Board established the Retail Market Conduct Task Force (RMCTF) to gain a better understanding of the evolving retail trading landscape and to develop measures regulators could consider as they seek to address retail market risks and emerging trends.[2]

IOSCO's RMCTF delivered a short-term report in December 2020 with a specific focus on retail conduct implications of COVID-19 and in March 2023 a Final Report[3], noting the surge in self-directed trading, and more frequent offerings of higher risk (including leveraged) products made available to retail investors via technological means resulting in significant retail investor losses. This surge can, in part, be explained by key trends such as the rise of finfluencers, and the increasing use of Digital Engagement Practices (DEPs) by market intermediaries in their distribution channels – directly or through third parties - to communicate and engage with retail investors.

To explore the key trends identified in the RMCTF Final Report, the IOSCO Board established a new mechanism to coordinate activities across policy, enforcement, and investor education, bringing together representatives from key IOSCO Committees under a holistic umbrella of investor protection. This mechanism was set up in June 2023 and named the Retail Investor Coordination Group (RICG), as shown below.

2 See International Organization of Securities Commissions, "Retail Market Conduct Task Force Final Report", March 2023, available at: https://www.iosco.org/library/pubdocs/pdf/IOSCOPD730.pdf, page 5

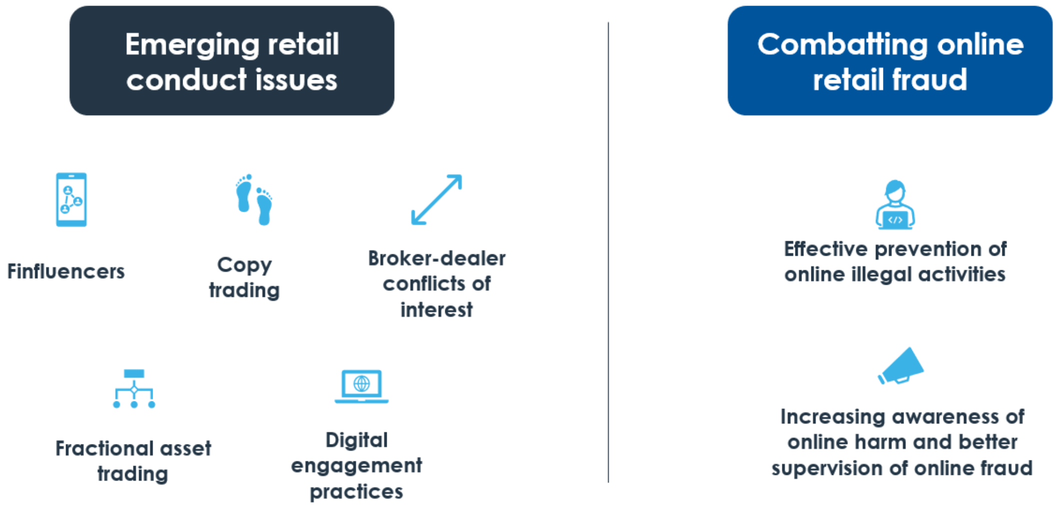
3 See International Organization of Securities Commissions, Retail Market Conduct Task Force Final Report, March 2023, available at: https://www.iosco.org/library/pubdocs/pdf/IOSCOPD730.pdf



The RICG's work is focussed on identifying and mitigating emerging retail conduct issues on the one hand, with both policy and financial education sets of initiatives focused on (a) finfluencers; (b) copy trading; (c) broker-dealer conflicts of interest; (d) fractional asset trading; and (e) digital engagement practices (DEPs).

On the other hand, RICG's enforcement focus is devoted to the enforcement activities regulators undertake to prevent online harm and fraud**.** These cover two sub-areas: (i) international cooperation for effective prevention and investigation on online illegal activities; and (ii) increasing awareness of online harm and better supervision of online fraud and mis-selling.[4] The deliverables of the two sub-areas are various enforcement tools to help regulators proactively combat online harm and fraud.

4 Mis-selling can be defined as a sales practice in which a financial product or service is deliberately or negligently misrepresented or a customer is misled about its suitability or appropriateness for the purpose of making a sale. Mis-selling may involve the deliberate omission of key information, the communication of misleading advice, or the sale of an unsuitable or inappropriate financial product or service based on the customer's expressed needs and preferences.



1.1 Objectives of this consultation report - Finfluencers

This Consultation Report will specifically focus on the rise of finfluencers. Indeed, as noted above, a new trend in the last few years has been the emergence of individuals who share investment-related content on social media – with retail investors listening to their advice and the advice from celebrity endorsements (which may have similar impact as finfluencers), rather than relying on recommendations from registered investment advice professionals.

This rapidly growing phenomenon presents new and complex challenges for retail investor protection. This Consultation Report focuses on mitigating potential risks posed by finfluencers. Additionally, this Consultation Report is intended to provide suggestions for retail investors interacting with finfluencers to think about:

1. Whether a finfluencer is licensed to provide investment advice.
2. Whether a finfluencer receives any kind of direct or indirect remuneration for recommending specific investments or actions or has any other conflicts of interest or incentives for providing recommendations that are not aligned with the investor's financial goals and personal situation.
3. Whether an investment, product, or recommendation made by a finfluencer aligns with the investor's financial goals and personal situation.
4. How to interpret any disclaimers provided by finfluencers.
5. Possible financial scams and fraud from finfluencers.

The Consultation Report also proposes a set of Good Practices that regulators could consider in enhancing investor education and their regulatory framework against potential risks posed by finfluencers, in accordance with their respective mandates and applicable laws and regulations. It also includes a set of Good Practices as guidance for market intermediaries making use of finfluencers and finfluencers themselves to help them in conducting their business in a manner that aligns with the protection of retail investors.

The report is set out as follows: Chapter 2 delves into the increasing role of finfluencers with regards to investment decisions made by ordinary retail investors and the ecosystem in which they operate while chapter 3 explores the potential risks associated with the activities performed by finfluencers for retail investors. Chapter 4 sets out where regulatory authorities are currently making use of their existing frameworks to oversee the activities of finfluencers, providing specific examples in doing so, and where gaps may continue to exist with chapter 5 providing an overview of supervisory and enforcement actions which have taken place and where international coordination has been utilised. Chapter 6 focuses on initiatives regulatory authorities have undertaken to educate both investors and finfluencers. Finally, Chapter 7 concludes with a set of Good Practices for regulatory authorities, Good Practices for market participants and finfluencers and a series of tips for retail investors.

CHAPTER 2: THE ROLE OF FINFLUENCERS AND THEIR ECOSYSTEM

2.1 The rising popularity of finfluencers and their potential benefits

Studies have stated that social media influencers wield considerable influence over their followers' attitudes and decisions, particularly among younger adults.[5] With Gen Z and millennials growing up amid the widespread availability of the Internet, many are comfortable in online settings.

These one-sided bonds, known as parasocial relationships,[6] occur when an audience creates a psychological attachment to a performer (in this case a social media influencer). Despite limited or no interactions with them, followers experience develop illusions of intimacy, friendship, and identification with influencers.

Influencers often share personal details or appear credible, which enhances their trustworthiness and allows them to garner significant influence over a captive audience.[7] Once followers receive a piece of advice they perceive as valuable, they are likely to continue heeding the advice of the influencer.

These trends, broadly identified by studies of social media influencers, are likely to extend to finfluencers and while there is limited information on the specific demographics of the audiences finfluencers serve, surveyed authorities indicated that finfluencers, similarly to social media influencers generally, also predominantly appear to reach a 'young' audience. Nonetheless, given the topics finfluencers cover, this subset of influencers also have the potential to have a substantial oversized impact on the financial decisions and financial

5 FAVERIO, M. & ANDERSON, M., 2022,. For shopping, phones are common and influencers have become a factor – especially for young adults, available at: https://coilink.org/20.500.12592/p3nmdd

6 Horton & Wohl, 1956, Mass communication and para-social interaction, available at: https://pubmed.ncbi.nlm.nih.gov/13359569/

7 Han & Balabanis, 2023, Meta-analysis of social media influencer impact: Key antecedents and theoretical foundations, available at: https://doi.org/10.1002/mar.21927; Manfredo, 2022, How to Make $1 Million in Thirty Seconds or Less: The Need for Regulations on Finfluencers, available at: http://dx.doi.org/10.2139/ssrn.4398463

well-being of their followers.[8] By way of example, a report by the Australian Securities and Investments Commission (ASIC) found that 28 percent of 18–21-year-old in that jurisdiction followed one or more social media finfluencers. Of that total, nearly two-thirds (64%) had changed at least one financial behaviour because of a finfluencer.[9]

IOSCO's survey of member jurisdictions has revealed that most regulators believe finfluencers may play a positive role in financial advice and more importantly in investor education and, according to a study by the Financial Industry Regulatory Authority (FINRA) Foundation and the CFA Institute (2023), 37% of US Gen Z retail investors say social media influencers were a major factor in their decision to invest.[10] Finfluencers may popularize financial topics and provide retail investors with easily accessible and helpful information about investing, even with educational goals. They may play an important role especially with young and new retail investors, who rely on social media for information about investments.

Most surveyed regulators highlighted that finfluencers can reach a wide and diverse audience and can explain intricate financial concepts in an easy-to-understand, friendly and entertaining manner, often incorporating personal anecdotes and real-life examples that resonate with their followers. This approach not only educates but also keeps the audience engaged and interested in learning more about financial management and investment strategies.

Some finfluencers can also raise awareness about the importance of investing, discuss the different types of asset classes, and provide some general product information. They can also play a role in raising awareness about common financial scams and offer practical advice on how to avoid them amongst other preventative types of messages to a broad audience. This preventive education is crucial in protecting retail investors from potential fraud and financial losses. To this end, some regulators have collaborated with finfluencers on investment awareness campaigns. to disseminate important regulatory updates and educational content. These partnerships enhance the credibility of the messages and ensure they reach a larger audience.

8 Hudders, Liselot, and Eva Van Reijmersdal, 2023, How to Become a Millionaire in Three Steps? An Experimental Study on the Persuasive Power of Financial Advice by Finfluencers, available at: http://hdl.handle.net/1854/LU-01GTGRBNYEQOF12Q8PYE5KXRT9

9 See ASIC media release, "ASIC issues information for social media influencers and licensees", March 2022, available at: https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-054mr-asic-issues-information-for-social-media-influencers-and-licensees/

10 See FINRA Foundation & CFA Institute, Gen Z and Investing: Social Media, Crypto, FOMO, and Family, May 2023, available at: https://finrafoundation.org/sites/finrafoundation/files/Gen-Z-and-Investing.pdf

Additionally, finfluencers can foster a sense of community among their followers. By encouraging discussions and sharing tips, they create a supportive environment where individuals can learn from each other's experiences and advice. This communal learning aspect is particularly valuable in fostering a culture of continuous financial education and awareness.

2.2 How finfluencers get their message out

Although further research is needed to better identify both finfluencers and their audiences, regulators have flagged that many finfluencers are most active on specific platforms, as follows, noting that news websites and financial websites continued to be a major source of information for retail investors.

Platform	Reach	Usage	Attributes
Youtube	Extensive platform with the ability to create detailed, long-form content	Finfluencers produce videos explaining investment strategies; analyze market trends and provide tutorials on various financial topics.	The visual and auditory elements make YouTube an effective medium and the videos help with simplifying complex financial concepts. Finfluencers can also engage audiences through rich, in-depth content.
Instagram	Large user base and popular with younger audiences	Used for sharing snapshots of the finfluencers lifestyle, promotional content and financial tips.	Ideal for bite sized, easily digestible information as visual content enhances engagement.
Facebook	Large user base	Posts, live videos, groups that help foster a sense of community and discussions.	Facilitates sense of community building and can combine various content formats.
Tik Tok	Popular with younger audiences	Quick tips and trending investment ideas.	Short-form video format captures the attention quickly and engaging content can go viral quickly.
X (formerly Twitter)	Large user base	Real time updates, market news and brief opinions on financial matters	Engaging through replies and retweets, rapid communication.
Telegram	Private, secure communication platform	Detailed analysis and trading signals	Allows for large, interactive group discussions and is encrypted for privacy.

While these platforms are primarily used by finfluencers, other modes of communication also play significant roles:

- **WhatsApp**: **(and similar messaging apps) _**: Used for private group chats and direct messaging.
- **Forums:** Online forums remain a valuable place for detailed discussions and exchanges of ideas.
- **Podcasts**: Finfluencers use podcasts to delve deeper into financial topics, interviewing experts, and providing long-form content.
- **LinkedIn**: Professional updates and networking, especially among finance professionals.
- **Reddit**: Numerous popular communities exist for discussing investment ideas and strategies.
- **Discord**: Offers a platform for real-time chat and community building around specific financial interests.
- **Snapchat:** Quick updates and engaging stories aimed at a younger audience.
- **WeChat:** Especially popular in regions like China for sharing financial content.

2.3 Types of Information Disseminated

Some retail investors turn to finfluencers to learn about innovative investment products, which are sometimes unregistered and/or high-risk investments products such as crypto-assets, leveraged trading in derivatives, foreign exchange (forex) and contracts for difference (CFDs), but the most common recommendations appear to focus on individual stocks (64%).[11] Information on government and corporate bonds and insights into Exchange-Traded Funds and their benefits also appear to be commonly shared.

However, it is worth noting that few empirical studies have examined the specific impacts that finfluencers have on the investment decisions of retail investors. Most studies have focused on social media influencers in general rather than finfluencers specifically.[12]

[11] Coban, F., 2023, Are finfluencers the new experts in the field of investment advice? available at: https://studenttheses.uu.nl/handle/20.500.12932/43622

[12] While the report is not yet available, the Ontario Securities Commission conducted a randomized-controlled trial experiment to determine the impact of finfluencers on trading decisions and examine which techniques may be effective in mitigating this influence.

CHAPTER 3: FINFLUENCER ACTIVITIES AND ASSOCIATED RISKS

Finfluencers generally appear to fit into one of three categories: registered investment advice professionals, unregistered individuals hired by financial firms, and unregistered individuals not working with financial firms.

In most cases, finfluencers are not affiliated with registered broker-dealers or investment advisers, yet they disseminate information that retail investors may find difficult to differentiate from professional investment advice. Their influence on retail investors' behaviour is expected to rise, perhaps in part because they can position themselves in appealing ways, providing complex information in a digestible and engaging manner, and appearing in venues that younger retail investors frequent.

3.1 Risks from finfluencers

Despite some of the benefits raised above, regulators (30 out of 34 surveyed) agree that finfluencers can also wittingly or unwittingly raise risks for ordinary investors and may lead to investor harm. Most of the IOSCO members who responded to the survey provided examples observed in their jurisdictions regarding harmful, misleading, or fraudulent finfluencer activities, while only four responding regulators reported that no such fraudulent activities have been observed.

Chief among the risks financial regulators are concerned about are risks related to: (i) the lack of licensing for individuals or firms; (ii) the potential risk of fraud and scams targeting ordinary investors through finfluencers; (iii) the promotion and recommendation of unsuitable, risky, or inappropriate products to unassuming investors; (iv) the potential for misleading content and poor disclosures; (v) the existence of conflicts of interest, particularly without disclosing them to investors; and (vi) the heightened risks where those finfluencers happen to be celebrities. We explore those below.

1. **Unlicensed individuals or firms**

Topping the list of concerns raised by regulatory authorities in IOSCO's survey are issues related to recommendations made by unlicensed individuals or firms. Unsuitable investment advice from finfluencers not authorized to provide investment recommendations was the most common response, cited by 14 IOSCO surveyed regulators.

Indeed, while any finfluencer can pose a risk to retail investors if they are not transparent in their motivations or fail to provide appropriate disclosures, the risks posed by unregistered finfluencers could be particularly risky. Most of these regulators observed that unlicensed individuals or firms tend to promote of high-risk investments such as forex, crypto assets, or/and CFDs.[13]

Regulatory licensing has many benefits. It serves investors by requiring firms operate with integrity and adhere to required standards of conduct, as well as complying with investor protection requirements, which may include requirements to act in the best interest of the investor.

In certain jurisdictions, individuals acting on behalf of the firm must meet certain experience and education requirements such that they should be proficient to trade or advise in securities. For the protection of the investor and to mitigate the risk of fraud and unethical behavior, firms and individuals that act on their behalf are also subject to ongoing regulatory oversight that comes with licensing. The lack of proper licensing and regulation can increase the risk of poor investor outcomes leading to potential significant financial losses for investors who trust these unverified sources.

Where finfluencers are concerned, they or the firms whose products they advertise may be unlicensed, with several regulators indicating that finfluencers are particularly at risk of providing unlicensed advice in the context of training that they offer. Often, finfluencers present themselves as experts in their field, advertising paid training sessions, coaching and trading 'tools'. The services provided by finfluencers generally have a fee and may be provided in concert with unregistered brokers or other unauthorized providers of investment services.[14]

2. Fraud and scams

The risk of fraud and scams associated with social media use of finfluencers' activities is another key risk raised by regulators.

Indeed, most survey respondents referenced the **promotion and commercialization of fraudulent investment products and services**, such as training courses, subscriptions to newsletters, paid access to online forums for investment guidance and tips, and trading tools (algorithms, robots and trading signals). Finfluencers who were promoting these fraudulent products and services would, according to the survey responses, typically request significant

13 CFDs are not lawful in some jurisdictions, including the United States.

14 See, FCA, Press Release, "'Finfluencers' charged for promoting unauthorised trading scheme", May 2024, available at: https://www.fca.org.uk/news/press-releases/finfluencers-charged-promoting-unauthorised-trading-scheme. Among the regulators responding to the survey, cases of connections between finfluencers and unregistered brokers or other unauthorized providers of investment services were highlighted by AMF Quebec, AMF France, CNV Argentina, BaFin Germany.

advance payments for these services, which often either did not exist or were of very poor quality. In other instances, once the retail investors subscribed, finfluencers offered them the possibility of signing an investment contract with a specific **unregistered or unlicensed trading platform or intermediary**, particularly, unregistered or unlicensed crypto asset or virtual asset trading platforms (VATPs). The finfluencers often received payments from the unregistered or unlicensed intermediaries for introducing new investors, who were unaware of any conflicts of interest or that the intermediary was unauthorised.

The training content and investment tips tended to encourage frequent, high-risk trades through the market intermediary's platform (such as leveraged investments or options), typically involving foreign exchange, crypto assets, CFDs and other complex financial products.

The UK FCA has for example noted a suspected scam activity related to copy-trading, involving finfluencers who posted unauthorised financial promotions for unregistered 'FX educators' and 'signals providers' (these signals often constitute advice and thus breach FCA's regulations).

Finfluencers **pretending to be employees of an established firm** (e.g. fund managers and financial advisors) or directing followers to fraudulent platforms while using other deceptive techniques to make an unregistered or fake firm appear legitimate also fall into this category and could put retail investors at high risk. This risk appears particularly heightened when it comes to crypto-assets and/or complex financial products, such as forex and CFDs. These fraudulent activities can lead to significant financial losses for retail investors who trust the misleading information provided by these finfluencers.

Finally, some surveyed regulators also reported the risk of **market manipulation, including encountering pump-and-dump schemes[15], scalping, and insider trading by finfluencers**. Often, and especially in the case of crypto-assets, the pumped assets then plummet in value, causing harm to the retail investors who followed the finfluencer's recommendation. Popular social media apps are platforms for these schemes. Although market manipulation schemes have occurred for centuries, social media has exacerbated the phenomenon, likely due to the high speed at which misleading information can spread, as well as the large influence some social media accounts may exert.

3. **Promotion and recommendation of risky, inappropriate, and unsuitable products**

[15] This type of scheme occurs when individuals holding large volumes of a particular asset artificially inflate the price ('pump'). This artificial increase in price can occur because of the spread of false or misleading information about the asset concerned.[15] After the price has risen, the finfluencers sell ('dump') the assets at the higher price.

Finfluencers often strive to reach the largest possible audience, meaning the information they disseminate is unlikely to be suitable for their entire following. Several IOSCO members have pointed out that certain finfluencers they have observed in their jurisdictions promote high-risk or complex financial products, particularly crypto assets, with convincing messages and promises of affordability and quick, high returns.

Such promotions could easily mislead novice investors, leading them to invest in products that are not appropriate for their risk tolerance or investment objectives. For retail investors who lack the investment knowledge to recognize the risk of loss associated with these investments, this is particularly concerning as they may unwittingly invest more money than they can afford to lose.

4. **Misleading content**

Finfluencers may promote themselves as experts while posting **low quality information**. This means they could publish misleading content, either due to lack of qualification or experience. Using content from two social media platforms, one study identified that over half of finfluencers could be classified as *anti-skilled* (56%), which the study defined as providing investment advice that led to negative abnormal returns. Sixteen percent were *unskilled*. Only about one-third (28%) were classified as *skilled*, defined as sharing investment advice that led to positive abnormal returns.[16] Another study found largely null or negative abnormal average returns from finfluencers' recommendations.[17] Interestingly, another study found[18] that *anti skilled* and *unskilled* finfluencers had more followers, more activity, and more influence in retail investing than *skilled* finfluencers.

Despite not providing guidance that generated positive abnormal returns, one study found that *anti-skilled* finfluencers, in particular, capitalize on return and social sentiment momentum, which often coincides with retail investors' own behavioural biases. The tendency to gravitate towards others with similar characteristics, attitudes and beliefs is well-established in psychology literature. Perceiving similarities with others can create trust and familiarity. When individuals perceive shared qualities with social media influencers, they are more likely to adopt new attitudes, behaviours, and preferences promoted by influencers.[19]

This **misleading content may also, at times, be consciously published by finfluencers**, perhaps because financial incentives to attract a large user base

16 Kakhbod, Ali, et al, 2023, Finfluencers, available at: http://dx.doi.org/10.2139/ssrn.4428232

17 Coban, F., 2023, Are finfluencers the new experts in the field of investment advice? available at: https://studenttheses.uu.nl/handle/20.500.12932/43622

18 Kakhbod, Ali, et al, 2023, Finfluencers, available at: http://dx.doi.org/10.2139/ssrn.4428232

19 Kakhbod, Ali, et al, 2023, Finfluencers, available at: http://dx.doi.org/10.2139/ssrn.4428232

leads some finfluencers to lure viewers with false or misleading information.[20] Indeed, other misleading recommendations included by surveyed regulators are “get rich quick schemes” with unrealistic promises of high returns and claims of guaranteed investment success. For example, they often flaunt a wealthy lifestyle and suggest their wealth was attained through risky investments such as crypto assets and forex. In addition, their posts tend to focus only on the potential benefits without any balanced discussion of the risks involved.

Taken together, these types of misleading content can all lead to retail investors making poorly informed decisions based on inadequate or misleading information, potentially leading to harm for those investors.

5. Conflicts of Interests and lack of disclosures and transparency

Some regulators also cited a lack of transparency among finfluencers as problematic, particularly surrounding their use of affiliate links.[21] Finfluencers who engage in promotion for an intermediary often use affiliate links, receiving remuneration from said intermediary for bringing in new investors. Yet, they may not always disclose the remunerations they will receive from the affiliate links, leaving retail investors clicking on those affiliate links unaware of the benefits the finfluencer may be receiving from such activity. The same risks may occur where the finfluencer fails to disclose the fact that they hold the recommended products or receive compensation for making the recommendation.[22]

This lack of transparency, where it occurs, constitutes an undisclosed conflict of interest that could negatively impacts retail investors. Certain IOSCO members believe that such disclosures are not only necessary to assess the correctness and reliability of the statement at hand, but the lack of such disclosures may constitute an infringement of regulatory requirements (e.g., EU Market Abuse Regulation). Indeed, certain financial regulations are traditionally designed to identify, disclose, and address conflicts of interest to protect the integrity of markets and help ensure financial professionals act in the best interest of their clients. Regulatory frameworks globally typically call for the

20 Manfredo, 2022, How to Make $1 Million in Thirty Seconds or Less: The Need for Regulations on Finfluencers, available at: http://dx.doi.org/10.2139/ssrn.4398463

21 The affiliate link is connected to the affiliate advertising model (i.e., variable agreements), that relies on remunerating the finfluencer each time they are successful in moving (or influencing) the audience to action.

22 Recently FINRA conducted a supervisory action on the affiliate referral programs. FINRA’s targeted exam focused on referral programs and social media influencers. FINRA reviewed over a thousand social media communications. 70 percent of them were non-compliant in some substantive fashion. For example, 55 percent failed to disclose that the communication was a paid advertisement. Thirty-eight percent failed to disclose program or product risks, including about margin, securities lending, crypto and options. About 30 percent contained promissory, unwarranted, misleading or exaggerated statements and claims. Twenty-seven percent of the communications failed to provide the terms and conditions of the rewards programs or promotions that were being offered.

disclosure and management of any material and potentially material conflicts of interest between market intermediaries and investors, thereby allowing investors to make informed decisions. Such non-disclosure and/or lack of management of conflicts of interest can therefore potentially mislead retail investors and undermine the integrity of financial markets.[23]

6. **Celebrity endorsements and fake websites**

Celebrities have, across market segments, often been used by firms in advertising with the aim of influencing consumers to purchase their products. The same trend is now happening in financial services. Celebrity endorsements have indeed been identified as a possible risk for retail investors and have been the focus of recent legal/enforcement interventions across various jurisdictions. Sometimes, the names and images of these celebrities are used without their approval to deceive investors.[24]

More generally, the emergence of generative AI can be used to create convincing but fake endorsements, further complicating the task of discerning genuine advice from fraudulent schemes. Beyond the use of celebrities, regulators have also cited examples of fraudsters creating fake websites with false addresses and spoofing jurisdiction's regulatory authorities.

7. **The use of finfluencers by regulated market intermediaries and associated risks**

Market intermediaries in most jurisdictions have been quick to identify and capitalise on the commercial benefits of using finfluencers, or more generally social media influencers, to promote their brand, products, and services as they see it as an opportunity to attract a younger retail investor audience. Around 60% of surveyed regulators observed the existence of contractual relationships between market intermediaries and finfluencers in their jurisdiction. Market intermediaries could have commercial arrangements with multiple finfluencers, with some regulators noting this could be as high as 40 to 60 social media influencers for a single market intermediary. These relationships are formed to leverage the wide reach and influence of finfluencers to promote financial products and services.

[23] See US SEC, Administrative Proceeding, October 2022, available at: https://www.sec.gov/files/litigation/admin/2022/33-11116.pdf. See FINRA, News Release, "FINRA Fines M1 Finance $850,000 for Violations Regarding Use of Social Media Influencer Program", March 2024, available at: https://www.finra.org/media-center/newsreleases/2024/finra-fines-m1-finance-850000-violations-regarding-use-social-media

[24] See FINRA, Investor Insights, "Investor Alert: Social Media 'Investment Group' Imposter Scams on the Rise", January 2024, available at: https://www.finra.org/investors/insights/investment-group-imposter-scams

Examples include employing sports celebrities, singers, and actors to promote the intermediary's brand or products and services across a range of popular social media platforms. Regulators observed that market intermediaries were using influencers, including finfluencers, for a range of use cases including:

1. **Raising brand awareness and comparing different products:** Finfluencers are employed by market intermediaries to enhance brand visibility and compare different financial products. Finfluencers can present detailed comparisons of various products, highlighting their features, benefits, and potential drawbacks, which helps retail investors make more informed decisions.

2. **Opening of trading accounts by retail investors:** Finfluencers often guide their followers through the process of opening trading accounts. Their content can include step-by-step tutorials, reviews of different trading platforms, and personal testimonials about their experiences. This not only simplifies the account opening process for retail investors but also drives traffic to the intermediaries' platforms.
3. **Funding trading accounts by retail investors:** Encouraging followers to fund their newly opened trading accounts is another common use case. Finfluencers may share insights on the importance of adequately funding accounts to take advantage of market opportunities, often accompanied by promotional offers or incentives provided by the intermediaries. These promotions might include bonuses or reduced fees, making the proposition more attractive to potential retail investors.
4. **Placing a trade by retail investors:** Finfluencers also play a role in encouraging their followers to actively trade. They might share trading strategies, market analysis, and real-time trade updates to inspire and motivate their audience to place trades. This active engagement helps intermediaries increase trading volumes and generate revenue through transaction fees.
5. **Reactivation of an account retail investor:** Reactivating dormant accounts is another key use case. Finfluencers can reach out to their followers who have inactive accounts, encouraging them to resume trading activities. This might involve sharing new market insights, upcoming opportunities, or changes in trading conditions that could prompt investors to reactivate their accounts and place trades.

CHAPTER 4: THE CURRENT REGULATORY LANDSCAPE

The risks described in the previous chapter are supported by observations from regulators in their respective jurisdictions where negative experiences of some investors with influencers promoting financial products and sharing financial advice have been observed.[25]

This chapter describes the current regulatory landscape across IOSCO jurisdictions, linking them to the risks identified earlier, and some of the approaches financial regulators are currently using to navigate them. It also highlights, where appropriate, ongoing challenges in regulatory oversight.

4.1 Defining a "Finfluencer"

One foundational challenge with the oversight of finfluencer activity is the issue of defining "finfluencer" as it delimits the scope of potential future legislation and regulation.

Clear definitions may help ensure that the regulations are effectively targeted and that all relevant activities fall within the regulatory framework. A few IOSCO members reported having a specific definition for finfluencer, and in some cases, the definition applies to influencers in a general sense. These definitions can be found in laws, regulations, or are for informational purposes only and some of those are set out in table 1 below.

TABLE 1

JURISDICTIONAL DEFINITIONS		
JURISDICTION	**SOURCE**	**Definition**
France	Law	Natural or legal persons who, against payment, mobilize their notoriety among their audience to communicate content to the public by electronic means with a view to promoting, directly or

[25] See FCA, Press Release, "'Finfluencers' charged for promoting unauthorised trading scheme", May 2024, available at: https://www.fca.org.uk/news/press-releases/finfluencers-charged-promoting-unauthorised-trading-scheme

		indirectly, goods, services or any cause whatsoever, engage in the activity of commercial influence by electronic means.[26]
Italy	Soft law (Guidelines)	According to Guideline no. 2 contained in the Annex A to AGCOM Resolution no. 7/24/CONS, "Influencers mean those subjects performing an activity which is similar or otherwise comparable to that of audiovisual media service providers under national jurisdiction, where they cumulatively meet the following requirements: • the service offered constitutes an economic activity within the meaning of Articles 56 and 57 of Treaty on the Functioning of the European Union (TFEU); • the main purpose of the service offered is the provision of content, created or selected by the influencer, which informs, entertains or educates and which is likely to generate revenue directly in pursuance of commercial agreements with producers of goods and services or indirectly in pursuance of the monetization agreements applied by the platform or social media used; • the influencer has editorial responsibility for the content, which includes effective control over the creation, selection or organisation of the content; • the service is accessible to the general public, reaches a significant number of users on the Italian territory, has a significant impact on a significant portion of the public and the content is disseminated through a video sharing platform service or social media; • the service allows content to be accessed upon request of the user; • the service is characterised by a stable and effective link with the Italian economy; • the contents are offered through the use of the Italian language or are explicitly addressed to users on the Italian territory."
USA (FINRA)	Guidance for Market Participants	Any third-party with whom the firm contracts or compensates to provide social media communications.[27]
Belgium	Regulation	Personalities known to the general public who are paid to promote virtual currencies to their followers. Such individuals (e.g. top artists

26 Article 1 of French Law no. 2023-451 of June 9, 2023

27 See FINRA, Rules Guidance, "Social Media Influencers, Customer Acquisition, and Related Information Protection - UPDATED", September 2021, available at: https://www.finra.org/rules-guidance/guidance/targeted-examination-letters/social-media-influencers-customer-acquisition-related-information-protection

		or athletes) often have no qualifications in finance but use their celebrity status as a sales argument.[28]
The Netherlands	Regulator's information	Natural persons who use their personal account or their business account to make statements about investing on social media, websites, and/or in podcasts (in a personal capacity), irrespective of scale and reach.
Poland	Regulator's supervisory power (warning)	People popular in social media who run podcasts, finance and investment blogs and are active on social media platforms. Thanks to the large number of contents, they publish and a lot of views on the Internet, they are perceived as authorities in the world of finance. They publish market analyses, predict increases or decreases in stock or commodity prices. The information they provide often contains graphs, statistics, which makes their message more credible. Their popularity successively increases, especially among young people. Often, however, finfluencers have neither education nor experience in the field of finance or capital market.
Brazil	Regulation	Digital finance and investment influencers ("finfluencers") share opinions, suggestions, knowledge and experiences related to financial education, financial planning, personal finance, investments and entrepreneurship, among other subjects related to financial issues, through media platforms and social networks.
Australia	Regulator's information	Financial influencers (also known as 'finfluencers') discuss financial products and services online through their social media platforms or website. Influencers often make money and receive 'kick backs' by promoting specific financial information or products. [...]" [29]

In most of these definitions, some common themes emerge, such as communication, content creation, promotion, payment or revenue for the influencer, notoriety, and the influencer's reach to a large audience. Additionally, the concepts of contracts and commercial or economic activities are often

28 Regulation of the Financial Services and Markets Authority placing restrictive conditions on the distribution of virtual currencies to consumers, approved by the Royal Decree of 8 February 2023

29 "There may be times where influencers provide financial advice, for which they need an Australian Financial Services License (AFSL). As many don't hold an AFSL, they are not legally qualified to recommend financial products. You may not have any recourse if things go wrong or if you receive poor advice by following an unlicensed provider. If you are investing your hard-earned money, it is important to ensure you do your own research or talk to a licensed adviser."

included, highlighting the professional and often transactional nature of finfluencing.

4.2 General regulatory frameworks, codes of conduct and guidelines

Surveyed regulators expressed different views on whether current regulatory frameworks are sufficient for addressing the conduct of finfluencers. While some regulators found it easy to apply their current legislative framework to the emerging challenges created by the finfluencer phenomenon [30] – for example, in Saudi Arabia, the Capital Market Law will apply to finfluencers that provide investment advice[31] – a few regulators indicated possible legislative gaps in their jurisdictions, including:

i) Incoming cross-border activity of firms without a branch in the local jurisdiction;

ii) Whether the social media companies will block any illegal content;

iii) When the social media companies block illegal content, the speed at which this occurs;

iv) Failure by social media companies to proactively block illegal content, before being asked to do so in each instance and reluctance by social media companies to effectively engage with local regulators;

v) Complex/concealed business relationship between a finfluencer and a market intermediary (e.g. absence of a contractual relationship or direct monetary fees/remuneration to the finfluencer); and

vi) Non-tailored financial advice or "educational" services that aren't purely for educational purposes (e.g. general advice rendered during educational/mentorship sessions).

Some of these aspects fall outside the scope of traditional financial regulation but are relevant to appropriate oversight of finfluencer activity.[32]

30 ASIC (Australia) indicated that the general obligations imposed on Australian Financial Services (AFS) licensees are principles based and designed to apply in a flexible way. As such, they have been an effective tool in ensuring AFS licensees who use influencers do so in an appropriate way. ASIC released, in March 2022, *Information Sheet 269* to warn social media influencers that they must operate within the financial services laws when discussing financial products or services online, or risk facing significant penalties.

31 See CMA, Rules&Regulations, Capital Market Law, available at: https://cma.org.sa/en/RulesRegulations/CMALaw/Pages/default.aspx

32 The regulatory remit is dependent on the finfluencer carrying on a registrable activity or acting for a registered firm.

Most survey respondents reported that their organisation or jurisdiction has not developed a voluntary or mandatory code of conduct or set of guidelines specifically for individuals or entities acting as finfluencers, or for technology companies, social media platforms, news media or digital agencies specifically regarding finfluencers. Instead, they are using their existing frameworks where appropriate.

Additional guidance

Some jurisdictions have begun taking steps to add to their existing regulatory frameworks, typically by providing additional guidance. This includes the Netherlands, where the AFM has included a set of guidelines in their exploratory study. These guidelines remind finfluencers of the rules for online posts on investing. [33] The AFM shared these guidelines through multiple channels:

i. By publishing the exploratory study;
ii. By organizing a webinar for finfluencers, later published on its website;
iii. By explaining the do's and don'ts regarding finfluencing in a YouTube video;[34]
iv. By discussing the outcome of the exploratory study on radio and television news programs; and
v. By publishing a statement asserting that the Dutch ban on inducements also applies to payments to finfluencers.

Following these efforts, the AFM received several responses from finfluencers. Some of them adapted their activities and aligned them with legal and regulatory requirements. For example, a finfluencer who operated under an alias adapted his online activities and disclosed his identity, demonstrating the impact of these guidelines on finfluencer behavior in that jurisdiction.

In France, the Ministry of Economy has also published a code of conduct to inform influencers of the legal framework applicable to them.[35] Additionally, the AMF and the Autorité de régulation professionnelle de la publicité (ARPP, the French advertising self-regulatory organization) have collaborated to design a training module for finfluencers. Launched in September 2023, this module sets out the rules for communicating investment offers, specifying the products

[33] See AMF, Digitalisation-Finfluencing, available at: https://www.afm.nl/en/sector/themas/digitalisering/finfluencing

[34] See AMF, Animatie YouTube finfluencen beleggen, January 2021, available at: https://www.youtube.com/watch?v=WxgqOcKCAdc

[35] See Ministry of the Economy, Finance and Industrial and Digital Sovereignty, "Guide de bonne conduite : influenceurs et créateurs de contenu", available at: https://www.economie.gouv.fr/guide-bonne-conduite-influenceurs-createurs-contenu

and services for which advertising is prohibited, such as high-risk contracts like binary options and certain forex CFDs.[36]

In Belgium, the FSMA has indicated that finfluencers can fall under several national marketing regimes related to different types of financial products or virtual currencies. These rules commonly attach to the "distribution" of products to retail investors or consumers. FSMA applies specific advertising rules to anyone who professionally distributes in-scope products to retail investors or consumers. If finfluencers "distribute" in-scope products, they are subject to these rules, which are supervised by the FSMA.

In the United Kingdom, the Advertising Standards Authority (ASA) published an update on their expectations for influencer advertising online, which also applies to finfluencers. According to the ASA, if an influencer receives payment or any other incentive from a brand, or they are otherwise personally or commercially connected to the brand, any content featuring or referring to the brand must be clearly identifiable as advertising. In 2022, ASA also issued six key voluntary principles for platforms and intermediaries to raise awareness of and ensure compliance with online advertising standards set out in the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code). Also in the UK, the FCA finalized its guidance on financial promotions on social media at the end of March 2024, which outlined expectations for influencers promoting financial products on social media as well.[37] This guidance followed a communication campaign by the FCA and ASA in 2023, which included an infographic aimed at informing influencers that they may be subject to regulatory standards.

In Asia, Taiwan's Financial Supervisory Commission (FSC) has also developed rules for finfluencers while the Securities Commission of Malaysia plans to provide more specific guidance and expectations on finfluencer's activities despite already having Guidance Note and/or Advertising Guidelines that could apply to finfluencer's activities.[38] In this regard, the FSC has issued an

36 See AMF, News Release, "The AMF and the ARPP launch the Responsible Influence Certificate in Finance", September 2023, available at: https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/amf-and-arpp-launch-responsible-influence-certificate-finance

See ARPP, "Les créateurs de contenus et vendeurs sociaux (social sellers) certifiés", available at: https://www.arpp.org/influence-responsable/createurs-de-contenus-certifies/

37 See FCA, Finalised guidance, "FG24/1: Finalised guidance on financial promotions on social media", March 2024, available at: https://www.fca.org.uk/publications/finalised-guidance/fg24-1-finalised-guidance-financial-promotions-social-media

38 See SC Malaysia, "Guidance Note on Provision of Investment Advice", SC-GN/1-2020 (R1-2022), available at: https://www.sc.com.my/api/documentms/download.ashx?id=3224e0c0-d45a-4acb-97b7-a27e0e68335a

educational infographic targeting the finfluencers for ease of understanding of the existing regulatory expectations on finfluencers' sharing of financial insights and recommendations on social media.[39]

The Israel Securities Authority (ISA) issued a Memorandum of Law (MoL) in January 2024, setting mandatory regulation for finfluencers. However, the ISA has not yet issued a specific code of conduct or set of guidelines focusing on finfluencer activities activity but plans to do so in the future.

Finally, in Canada, the Canadian Securities Administrators[40] (CSA) issued several staff notices providing its expectations for registrants, reporting issuers, crypto trading platforms (CTPs) and other market participants (such as short sellers) that engaged in promotional activities through social media, notably:

- In July 2011, the CSA released CSA Staff Notice 31-325 *Marketing Practices of Portfolio Managers* which reminds market intermediaries (registered firms) to consider compliance and supervision in the use of social media for business purposes. Part of this requirement includes the retention of records related to their business activities and client communications when using social media websites. Of note, the notice reminds registered firms to determine the level or extent of supervision necessary as they have an obligation to protect clients from the use of misleading and false statements.
- In October 2017, the CSA released CSA Staff Notice 33-321 *Cyber Security and Social Media*, which provided guidance on social media practices. This includes policies and procedures on social media that registered firms should have, and monitoring of social media activity of employees.
- In November 2018, the CSA released CSA Staff Notice 51-356 *Problematic promotional activities by issuers* (Notice) which cautions issuers against promotional activities that may artificially increase an issuer's share price and trading volume or mislead investors. Promotional activities that may be deemed misleading, untrue, unbalanced, or unsubstantiated include *compensating third parties, who use social media and general investing blogs to promote issuers, but do not disclose their agency*, *compensation and/or financial interest*. The Notice sets out the CSA's expectations for issuers in

See SC Malaysia, "Guidelines on Advertising for Capital Market Products and Related Services", SC-GL/ADV-2020, available at: https://www.sc.com.my/api/documentms/download.ashx?id=8941a3a6-1b49-4687-89f7-5dc050766fe4

39 See SC Malaysia, Infographic: Are you Fin-Fluencing: https://www.sc.com.my/investor-empowerment/info-on-finfluencer

40 The CSA is an umbrella organization of Canada's provincial and territorial securities regulators whose objective is to improve, coordinate and harmonize regulation of the Canadian capital markets.

complying with securities law requirements as well as guidance [41] pertaining to the conduct of promotional activities, including in relation to ***"rigorous social media disclosure controls".***

- In September 2021, the CSA and Investment Industry Regulatory Organization of Canada (IIROC, a predecessor of the Canadian Investment Regulatory Organization (CIRO)) jointly released Staff Notice 21-330 *Guidance for Crypto-Trading Platforms: Requirements relating to Advertising, Marketing and Social Media Use* (Joint Notice) to address deceptive advertising practices by crypto asset trading platforms, or other third parties acting on their behalf, that may have been contrary to investor protection or the public interest. The Joint Notice aims to ensure that registered and prospective CTPs' crypto asset trading platforms' advertising activities and marketing strategies comply with the relevant requirements of Canadian securities legislation and IIROC (now CIRO) rules, including those in relation to false and misleading advertising and social media use.
- In July 2023, Ontario Securities Commission (OSC) published guidance that describes the continued adoption of digitized marketing practices of registrants that engage the services of third parties to assist them in establishing a digital presence in an effort to promote the firm's products and services as part of *OSC Staff Notice 33-755 Summary Report for Dealers, Advisors and Investment Fund Managers*. These third parties are corporations or individual bloggers/influencers with an established online audience or following and use their own digital footprint to share information (often via posts, videos, and podcasts on popular social media platforms) about the registered firm and are remunerated for their services. The guidance reminds registered firms to establish appropriate policies, procedures and controls to monitor and oversee their arrangements with marketing partners and verify that claims and statements made about the firm's products and services are fair, substantiated and not misleading.

Other CSA staff notices[42] of note include includes publications related to short sellers who increasingly use social media platforms to promote their views.

[41] See CSA, "National Policy 51-201 - Disclosure Standards", first released in 2002 and updated in June 2023, available at: https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/51-201/2023-06-09/2023juin09-51-201-ig-vconsolidee-en.pdf; "CSA MULTILATERAL STAFF NOTICE 51-336: ISSUERS USING MASS ADVERTISING", September 2011, available at: https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-acvm-staff/2011/2011sept13-51-336-acvm-en.pdf; and "CSA Staff Notice 51-348 Staff's Review of Social Media Used by Reporting Issuers", March 2017, available at: https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-acvm-staff/2017/2017mars09-51-348-avis-acvm-en.pdf

[42] See CSA, "CSA Staff Notice 25-306 Activist Short Selling Update", December 2022, available at: https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-acvm-staff/2022/2022dec08-25-306-avis-acvm-en.pdfand ;

4.3 Regulatory frameworks, management of conflicts of interest and appropriate disclosures

Typically, the requirements for registered investment advice professionals are normally quite extensive across most jurisdictions and generally include the disclosure of:

1. **Education and professional background**: Registered investment advice professionals must provide information about their educational qualifications and professional experience to establish credibility.
2. **Conflicts of interest**: They are required to disclose any conflicts of interest associated with a recommendation, ensuring transparency about any potential biases in their recommendations.
3. **Fees charged**: Clear information about fees and charges must be provided to avoid hidden costs and ensure that retail investors are fully aware of the financial implications of their investments.
4. **Sources and data**: They must disclose the sources of their information and the data used to support their recommendations, providing a basis for the advice given.

Where finfluencers are licensed by IOSCO members, they would likely be covered by these rules too. However, given many finfluencers may not fall within the jurisdiction of financial regulators, these rules may not currently be directly applicable to them.

In that context, several surveyed regulators have indicated that unregistered finfluencers are regulated either by specific laws governing online influencer activity where these exist as set out above or by the general advertising codes and guidelines in place in their respective jurisdictions, of which they may be violating if they are conducting such activities without being licensed.

Most regulators indicated that existing laws and/or guidelines would typically require finfluencers to:

- **Disclose payments and incentives**: Finfluencers must disclose any direct or indirect payment or any other incentive they receive from a brand. This ensures that followers are aware of any financial motivations behind the content.
- **Disclose personal or commercial connections**: They must also disclose any personal or commercial connections to the brand. This

and "Joint CSA and IIROC Staff Notice 23-329 Short Selling in Canada", December 2022, available at: https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/0-avis-acvm-staff/2022/2022dec08-23-329-avis-conjoint-acvm-ocrcvm-en.pdf transparency helps followers understand any potential biases in the content. For example, in the United States, finfluencer activity is subject to the US SEC's anti-touting and general antifraud provisions. Endorsements may be unlawful if they do not disclose the nature, source, and amount of any compensation paid, directly or indirectly, by the company in exchange for the endorsement. The US Federal Trade Commission (US FTC) has also published Endorsement Guides, specifically aimed at social media influencers and marketers using influencers.[43] According to those Guides, finfluencers need to comply with the law when endorsing or recommending products. One key is to make a complete disclosure of finfluencers' relationship to the brand. The US FTC Endorsement Guides go into detail about how advertisers and endorsers can stay on the right side of the law. If finfluencers endorse a product through social media, the endorsement message should make it obvious when they have a relationship ("material connection") with the brand.

- **Indicate commercial nature of content**: Content featuring or referring to a brand must clearly indicate its commercial or advertising nature. Terms such as "advertising", "commercial collaboration", or "promoted by …brand" must be used to distinguish commercial content from personal opinions. In France, most platforms now offer a feature for specifying whether a content is commercial or advertising. Under French law, the absence of the words "advertising" or "commercial collaboration" in a communication is likely to constitute a misleading commercial practice, punishable by two years of imprisonment and a fine of €300,000.

4.3.1 Supervision on disclosure and disclaimers

Nonetheless, surveyed regulators believe the disclosures finfluencers give may not always be sufficient for their jurisdictions.[44] To assist in answering this question, the Dutch AFM and three other Dutch regulators have jointly issued instructions to a research firm to gain insight into the extent to which followers of (f)influencers notice and understand information they provide about

43 See US FTC, "Endorsements, Influencers, and Reviews", available at: https://www.ftc.gov/business-guidance/advertising-marketing/endorsements-influencers-reviews

44 FSMA (Belgium) reported that as for crypto-assets finfluencers do not always mention the fact that they're affiliates to certain platforms and neither apply the related domestic legislative requirements. OSC (Canada) observed that some disclosures did not identify conflicts of interest regarding remuneration.

commercial interests and which form is expected to work best (for instance, the use of hashtags, explanation in the description).[45]

Some regulators also found that some finfluencers overly relied on disclosures and disclaimers to attempt to avoid the substantive requirements to hold a license. For example, a finfluencer might use a disclaimer falsely stating that they do not provide financial advice even while providing investment advice or recommendations, in order to circumvent the need for licensing by a financial regulator, which would include regulatory oversight.

As a result, and to the extent applicable based on the laws and regulations of a jurisdiction, some survey respondents see great merit in refining regulators' enforcement regarding clear and correct disclosure and disclaimers, and in educating the public and finfluencers about these disclosures.

Some regulators are already taking actions to specifically address finfluencer conduct in their jurisdictions. In Belgium, the FSMA is undertaking various initiatives to control the number of finfluencer advertisements (focusing specifically on crypto-assets). One example is the web scraping tool developed in-house that aims to detect advertisements (without distinction between compliant and non-compliant advertisements) on social networks promoting crypto-assets. Based on the sample of posts detected by the tool, FSMA staff can then filter the results to identify non-compliant advertisements. In Italy, CONSOB plans to develop a communication campaign,[46], to raise awareness on some requirements established by the jurisdiction's Market Abuse Regulation (MAR) that apply when posting investment recommendations on social media and also to warn about some potential risks of market abuse, when posting on social media. In Canada, the Canadian Securities Administrators (CSA) plan to tackle market abuse and abusive promotional activity[47] by analysing and addressing abusive promotions and trading in venture markets and identifying ways to improve detection, investigation and prosecution of such activities; monitoring and analyzing electronic media used in stock promotions; and delivering clear direction to exchanges and self-regulatory organizations to improve detection, disruption, investigation and prosecution of such activities as part of their surveillance responsibilities.

45 This research will focus on influencers in general, but will pay attention to known differences between financial and non-financial products

46 Based on the Warning published by ESMA on the 6th of February 2024, "For people posting Investment Recommendation on social media"

47 See 2022-2025 CSA Business Plan, Strategic Goal 4: Address Emerging Market Issues and Trends. Available at: https://www.securities-administrators.ca/wp-content/uploads/2022/10/2022_2025CSA_BusinessPlan.pdf

4.3.2 Regulatory frameworks for intermediaries using finfluencers

Market intermediaries will typically fall within the scope of financial regulations, meaning there will be a set of general conduct rules and obligations applicable to them and the activities they conduct.[48]

Regulators cited a broad range of existing financial laws applicable to registered finfluencer activity and market intermediaries who use finfluencers. These laws include:

- **Financial advice**: Regulations that require individuals providing financial advice to be appropriately registered or licensed, ensuring they meet certain professional standards and qualifications.
- **Advertising**: Laws governing the promotion and advertising of financial products and services, including requirements for transparency and honesty in advertising content.
- **Inducements**: Regulations that prohibit certain types of inducements, such as payments for bringing in investors, which can create conflicts of interest and lead to biased recommendations.
- **Disclosure**: Requirements for clear and accurate disclosure of information related to financial products and services, ensuring that retail investors are fully informed before making investment decisions.
- **Market manipulation**: Laws aimed at preventing manipulative practices such as "pump and dump" schemes, where the price of an asset is artificially inflated before being sold off by those who promoted it.
- **Dealing by arranging**: Regulations that oversee the activities of individuals or entities that arrange for investors to deal in financial products, ensuring they adhere to legal standards.
- **Misleading and deceptive conduct**: Laws that prohibit misleading or deceptive practices in the promotion and sale of financial products, protecting retail investors from false claims and fraudulent activities (e.g., ensuring promotions or advertisements are fair and balanced and do not only discuss the benefits or returns, but also disclose the material risks).
- **Product governance rules**: Investor protection rules applicable to European Union investment firms which should ensure that the distribution of a product is in the best interest of clients. As part of these arrangements, a target market of end clients is required to be identified and periodically reviewed for each product and a distribution strategy must also be consistent with the identified target market. The use of

48 Such as those related to marketing communications and advertisement; the rules on inducements; the general obligation of intermediaries to ensure that all information directed to clients, including marketing communications, is fair, clear and not misleading; laws and regulations that prohibit fraud by broker-dealers and investment advisers as well as fraud by any person in the offer, purchase, or sale of securities, or in connection with the purchase or sale of securities; etc.

finfluencers must be considered as a component of this strategy and so should be consistent with the target market.

For example, in Australia, the Financial Services Laws administered by ASIC can apply to social media influencers, and the licensees who use them. Relevantly, an Australian Financial Services licensee who uses influencers could be liable for their misconduct and should therefore make sure they:

i. do appropriate due diligence. If the influencer is acting on a licensee's behalf, and is therefore its 'representative' for the purposes of the financial services laws, this triggers other obligations (including ensuring they are adequately trained and complying with the financial services laws);
ii. put in place appropriate risk management systems and monitoring processes to make sure the influencers the licensee is using are not providing unlicensed financial services;
iii. have sufficient compliance resourcing to monitor the influencers it uses; and
iv. consider if it has engaged an influencer to promote a financial product that is subject to the design and distribution obligations and whether it has taken reasonable steps so that the influencer only promotes the product to in the target market.

In Malaysia, the intermediary who uses any third-party including "the likes" of finfluencers shall comply with the requirements in the advertising guidelines. The guidelines for marketing representative issued by the Securities Commission (SC) may also be applicable to finfluencers who carry out marketing representative activities. [49] The definition of marketing representative: "*means a person who acts as an introducer for a principal, undertakes marketing of the services, provides client support services and is registered with the principal under these guidelines*". The guidelines require for individuals undertaking marketing of products and services as well as providing certain client support services to be registered with the principal (intermediaries) and subsequent reporting obligations to the SC. As such, intermediaries must also ensure their finfluencers who are engaged to carry out marketing representative activities are in compliance with the guidelines for marketing representative.

While not everyone has developed a tailored framework addressing market intermediaries using finfluencers as, in those jurisdictions, these actions would

[49] See SC Malaysia, "GUIDELINES FOR MARKETING REPRESENTATIVE", SC-GL/3-2017, available at: https://www.sc.com.my/api/documentms/download.ashx?id=36de3e30-0132-465b-a2ed-132c770c72a2; See SC Malaysia, Regulation Guidelines, "Guidelines on Advertising for Capital Market Products and Related Services", available at: https://www.sc.com.my/regulation/guidelines/advertising-and-promotion

be caught by traditional financial regulation, some jurisdictions have begun developing specific legislation on the use of influencers by market intermediaries. By way of example, the French Consumer Code encompasses a new sub-section which proposes an influencer status to provide a legal framework for sales resulting from sponsored content on social media. It regulates sales through influencer promotion by prohibiting certain risky investment products on social media, in the interests of the public, and punishes violations of these prohibitions with the same penalties as those applicable to fraud in the penal code. It also stipulates the obligation to draw up a written contract in compliance with the law. Influencers must also comply with the rules governing financial advertising.[50] A code of conduct has also been published by the French Ministry of Economy to inform influencers of the legal framework.[51]

4.3.3 Contractual arrangements and remuneration schemes between finfluencers and market intermediaries

As noted in the above chapter on risks, the increasing use of finfluencers by market intermediaries raises a range of risks related to potential conflicts of interest that could result in retail investor losses and unexpected outcomes. These issues could include promoting products that may not be suitable for the retail audience, encouraging the audience to trade more frequently than they otherwise would, or promoting trading in higher risk products, including the use of leverage, which may not be fully understood by the audience.

Surveyed regulators stated that schemes set up by intermediaries to remunerate finfluencers are a critical element of the extent of potential conflicts of interest between finfluencers and their followers.

Types of Financial Arrangements

Financial arrangements between market intermediaries and finfluencers typically fall into two categories – fixed and variable remuneration. Regulators reported a range of arrangements and mixed practices in how they were being documented – from formal agreements through to exchange of emails.

50 The DGCCRF (Directorate General for Consumer Affairs, Competition and Fraud Prevention) of the Ministry of the Economy is the responsible regulatory authority for implementation of the relevant regulation.

51 See Ministry of the Economy, Finance and Industrial and Digital Sovereignty, "Guide de bonne conduite: influenceurs et créateurs de contenu", available at: https://www.economie.gouv.fr/guide-bonne-conduite-influenceurs-createurs-contenu

Fixed agreements typically involve a flat fee that a market intermediary pays to the finfluencer for specific, pre-agreed content and related posts of this content on social media platforms. These agreements may include:

- a fixed remuneration for each post, blog, video, etc. that promotes the market intermediaries' products.
- a one-time remuneration based on a cost per click model (monetary amount based on number of clicks within a certain time period).
- a fixed amount per year in exchange for predetermined services, such as publication of a certain number of articles, reviews of market intermediaries' products in the period, dedication of a specific section of their websites, etc.

Variable - or "affiliate advertising model" are typically based on an affiliate advertising model where the market intermediary provides the finfluencer with a unique referral link to promote to their followers through their social media channels. These agreements may include:

1. referral fees for bringing in new investors (including but not limited to each time a follower uses a link or referral code provided to open an account with the market intermediary). This was by far the most widely used arrangement, according to surveyed regulators.
2. a variable remuneration for each new activated account contingent on several conditions (provision of X amount of funds, X number of trades within a time frame, etc.).
3. promoting the market intermediaries' financial products and services, predominantly through affiliate advertising, with the payment scheme defined for each individual contract.

The premise of the affiliate advertising model relies on remunerating the finfluencer each time they are successful in moving (or influencing) the audience to action. This action may involve either the referred retail investor opening or reactivating a trading account, funding a trading account, or placing a trade on an account. These variable renumeration agreements between market intermediaries and finfluencers are designed on a circular incentive basis whereby the finfluencer is incentivised to encourage the retail investor to take specific actions.

Both fixed and variable remuneration models can create the potential for conflicts of interest, recognizing however that this may be more prominent in affiliate models, as finfluencers are motivated to call their followers to prompt to action from their audiences. These models also have the potential to make the finfluencer an unregistered broker, depending on the structure of the remuneration as well as the jurisdiction.

For those reasons, in most jurisdictions, payments per post and fixed remunerations for promoting the intermediaries' products via affiliate advertising and publications are permitted, while payments for bringing in new investors constitute prohibited inducements and are in violation of the law.

CHAPTER 5: CURRENT SUPERVISORY AND ENFORCEMENT APPROACH, INCLUDING INTERNATIONAL COOPERATION

Overall, finfluencers do not currently generate as many complaints as other areas for financial regulators. Based on the responses provided by responding authorities, it is difficult to reach any firm conclusions about finfluencer related complaints. This could be due to several factors:

2 **Emerging trend**: The phenomenon of finfluencers is relatively new or emerging and may not yet be perceived as a major area of concern by the investing public. As finfluencers become more prominent, the number of complaints could increase.

3 **Limited scope**: The scope of finfluencer activities may be smaller compared to other supervisory areas and they may not yet have the same level of impact on financial markets as more established financial entities may have, at least in certain jurisdictions,

4 **Awareness among retail investors:** Retail investors may not be aware that finfluencer activities may fall under the remit of financial regulators in certain jurisdictions. As a result, they may not file complaints with the financial regulators regarding finfluencers.

5 **Existing guidelines and regulations:** Some regulators may have established guidelines or regulations that address finfluencer activities, potentially leading to fewer complaints. Effective regulatory frameworks can mitigate issues before they escalate into formal complaints.

6 **Identification of problems**: Problems in financial markets involving finfluencers may not be identified or addressed under the heading of finfluencers. Issues may be categorized differently, leading to an underreporting of finfluencer-specific complaints.

7 **Other possible reasons** could be that while there were complaints about finfluencer activity, they were not directed to securities regulators (including because the product/service/commentary are not regulated by securities regulators).

5.1 Enforcement actions against finfluencers

Nonetheless, enforcement activity has been taking place. Fifteen regulators (representing 44% of the surveyed regulators) have already taken enforcement actions or imposed sanctions on finfluencers. Additionally, four regulators indicated that enforcement actions were taken against financial intermediaries using finfluencers. Five regulators (representing 15% of the survey respondents) reported that enforcement actions were taken by local authorities other than financial regulators.

The responses suggest a proactive approach by financial regulators and other local regulatory bodies to address potential misconduct or violations by individuals or entities operating as finfluencers.

The nature of the enforcement actions or sanctions imposed on finfluencers varies across regulators. Some regulators may have taken a more punitive approach, while others may have focused on guidance or warning mechanisms. Among the enforcement actions taken by regulators can include:

- **Cease-and-desist orders**: Orders to halt illegal or non-compliant activities immediately.
- **Injunctions**: Legal orders restraining finfluencers from continuing certain actions.
- **Disgorgement**: Requiring finfluencers to return ill-gotten gains to affected retail investors.
- **Penalties**: Monetary fines imposed for violations.
- **Warning letters**: Formal notices highlighting violations and demanding corrective actions.
- **Asset freezes**: Freezing assets to prevent further harm or recovery of funds.
- **Letter of observations**: Noting regulatory concerns and expectations for compliance.
- **Investor alerts**: Public warnings to inform and protect retail investors from potential harm.
- **Reprimand**: Formal reproof for misconduct.

This divergence in regulatory approaches could be attributed to factors such as differing market conditions, regulatory priorities, legal and regulatory frameworks, or the perceived scope and impact of finfluencers in specific regions or industries. Examples are set out in table 2.

TABLE 2

ENFORCEMENT ACTIONS AGAINST FINFLUENCERS OR CELEBRITY ENDORSEMENTS		
Jurisdiction/Regulator	**Type of conduct**	**Action taken**

Netherlands (AFM)	A domestic finfluencer failed to comply to the AFM request for information in the context of research into a suspected collaboration with an illegal broker.	AFM imposed an order for incremental penalty payment. AFM has recently imposed several fines on finfluencers who have broken the applicable rules. These fines are not yet irrevocable.
Canada (Quebec AMF)	Two cases where finfluencers provided unlicensed investment advice and activity. One case where finfluencers and artists were recruited and compensated to promote an ICO.	Asset freeze orders.[52] [53] [54] [55] [56]

52 See Quebec AMF, "Ordonnances à l'encontre de Change Marsan inc., Antoine Marsan, Bastien Francoeur et Kevin Mirshahi", July 2021, available at: https://www.quebec.ca/nouvelles/actualites/details/ordonnances-a-lencontre-de-change-marsan-inc-antoine-marsan-bastien-francoeur-et-kevin-mirshahi-33522

53 See Quebec AMF, "Ordonnances à l'encontre de Change Marsan inc., Antoine Marsan, Bastien Francoeur et Kevin Mirshahi", July 2021, available at: https://lautorite.qc.ca/grand-public/salle-de-presse/actualites/fiche-dactualite/ordonnances-a-lencontre-de-change-marsan-inc-antoine-marsan-bastien-francoeur-et-kevin-mirshahi

54 See Quebec AMF, "Solicitations via Facebook - AMF cautions investors about solicitations by Kevin Awad (now called James William Awad*)", June 2021, available at: https://lautorite.qc.ca/en/general-public/media-centre/news/fiche-dactualites/solicitations-via-facebook-amf-cautions-investors-about-solicitations-by-kevin-awad-1

55 See Quebec AMF, BUREAU DE DÉCISION ET DE RÉVISION, November 2015, available at: https://lautorite.qc.ca/fileadmin/lautorite/Communiques/decision-awad-2015-016-001.pdf

56 See Quebec AMF, Actualités, "Jocelyn Grégoire et Cedma Finance doivent cesser leurs activités de courtage et de conseil", December 2023, available at: https://lautorite.qc.ca/grand-public/salle-de-presse/actualites/fiche-dactualite/jocelyn-gregoire-et-cedma-finance-doivent-cesser-leurs-activites-de-courtage-et-de-conseil

France (AMF)	*Case 1: attempted market manipulation* - Investigations revealed that between the months of June 2009 and June 2010, an individual expressed opinions on certain financial instruments through messages posted on the stock market forum of the boursorama.com website, under different pseudonyms, although he had previously taken a position on these same financial instruments, which would thus contravene the regulations, which are applicable to all participants in the forums, without any distinction, and regardless of their quality or legal status.	*Case 1: attempted market manipulation* - The Commission sent a letter of observations to this investor (who made a profit of 14,000€) to remind him of the importance of complying with stock market regulations, which do not prohibit the dissemination of opinions to the public and analysis on the situation of a listed company, but require that any conflict of interest be clearly mentioned in the opinions thus formulated when taking a position (on sale or purchase) on the security(ies) subject to said opinions. The Commission also published a press release, on two financial forums websites, so that users of these forums, when giving their opinion on listed securities, take into consideration the provisions of article 632-1 paragraph 2 of the AMF general rules, under penalty of being subject to the imposition of a sanction on them by the Sanctions Committee.
	Case 2: dissemination of false information about a French Bank - A blogger published on his 2 blogs an article in which he expressed his opinion on the method of calculating the level of debt of the bank. As an economics professor with knowledge of financial analysis, and frequently publishing articles on the global banking system, he knew or should have known that this information was grossly inaccurate or misleading. The publication on his blog, without prior registration restriction, allowed anyone to access the articles found there. The article in question was	*Case 2: dissemination of false information about a French Bank* - The AMF imposed monetary sanctions on two individuals.[57]

[57] See AMF, "DÉCISION DE LA COMMISSION DES SANCTIONS À L'ÉGARD DE MM. A ET B", November 2013, available at: https://www.amf-france.org/sites/institutionnel/files/sanction/decision_sanction/SAN-2013-24%20-%20Decision%20de%20la%20Commission%20des%20sanctions%20du%207%20novembre%202013%20a%20l%27egard%20de%20MM%20A%20et%20B.pdf

	also taken up by several influential American blogs and a financial information website. The blogger also contacted an American fund manager, also a blogger. This fund manager and blogger relayed on a blog and a website the content of the article whereas in his capacity as a knowledgeable financial professional, he knew or should have known, by carrying out the basic steps to verify the information disseminated, that it was grossly inaccurate or misleading. *Case 3: endorsement by the celebrity Nabilla* - French model and celebrity influencer Nabilla posted a video touting Bitcoin saying that she put in 1,000 euros and "already won 800 euros." The AMF responded by publishing a warning on Twitter regarding the risks of Bitcoin and responded to Nabilla with the following Tweet: *"#Nabilla #Bitcoin is very risky! You can lose your entire investment. No miracle investment. Stay away."* This tweet was widely reported in the media.	*Case 3: endorsement by the celebrity Nabilla* - The AMF sent the case to the DGCCRF (Directorate General for Consumer Affairs, Competition and Fraud Prevention) of the Ministry of the Economy, which then sanctioned her.[58] [59]
Turkey (CMBT)	A finfluencer selling the shares he owned immediately after giving a buy or hold recommendation to his followers regarding a stock on his YouTube channel. Details regarding the said sanction were announced to the public.	In 2020 CMBT imposed an administrative fine of TRY 958,581 (approximately USD 31,700) [60].

58 See AMF, Actualité, "L'AMF salue l'action de la DGCCRF et du Procureur du Tribunal judiciaire de Paris qui a abouti à une transaction avec l'influenceuse Nabilla sur les réseaux sociaux", July 2021, available at : https://www.amf-france.org/fr/actualites-publications/actualites/lamf-salue-laction-de-la-dgccrf-et-du-procureur-du-tribunal-judiciaire-de-paris-qui-abouti-une

59 See Ministère de l'économie des finances et de la souveraineté industrielle et numérique, "Paiement d'une amende de 20 000€ par l'influenceuse Nabilla BENATTIA-VERGARA, pour pratiques commerciales trompeuses sur les réseaux sociaux", July 2021, available at: https://www.economie.gouv.fr/dgccrf/paiement-dune-amende-de-20-000eu-par-linfluenceuse-nabilla-benattia-vergara-pour-pratiques-0

60 See Capital Markets Board of Türkiye, SERMAYE PİYASASI KURULU BÜLTENİ, October 2021, available at: https://spk.gov.tr/data/61e0b4f31b41c613a0d633e0/7fe12a3620d13530065831a63f47195a.pdf

Argentina (CNV)	Many finfluencers providing unlicensed investment advice or activities.	In most cases, CNV (Argentina) issued cease-and-desist orders.[61]
Italy (CONSOB)	CONSOB detected a case concerning a website through which two persons (one of them, an expert) disseminated several articles recommending, explicitly or implicitly, an investment strategy. These articles were also shared on the site's Twitter profile, which had around 5,100 followers. Following the supervisory activity, 12 articles were identified as containing some violations of the EU market abuse regulation (MAR) provisions on investment recommendations.	Pecuniary administrative sanctions and temporary disqualification sanctions from the exercise of managerial functions were imposed on the articles' authors. The company managing the website also received a fine of €100,000.
Canada (Ontario OSC, British Columbia Securities Commission)	Action taken by the British Columbia Securities Commission (BCSC). A.B.C. marketing company and its CEO repeatedly violated the *Securities Act* by not adequately disclosing that it distributed paid promotional material on behalf of five issuers. Also, one of those issuers, a virtual-reality production company called ImagineAR, violated the same part of the *Act* by failing to ensure the promotional material clearly and conspicuously disclosed that it was issued on its behalf.	The panel directed the parties to make submissions on sanctions. The BCSC has settled with the other issuers who were involved in investor relations activities with Stock Social[62]

61 See CNV, Protección al Inversor, https://www.cnv.gov.ar/SitioWeb/ProteccionInversor?columna=1&seccion=cese

62 See Ontario OSC, News Release, "B.C. marketing company, CEO and issuer violated Securities Act with investor relations activities, BCSC panel rules", January 2023, available at: https://www.bcsc.bc.ca/about/media-room/news-releases/2023/08-bc-marketing-company-ceo-and-issuer-violated-securities-act-with-investor-relations-activities-bcsc-panel-rules

Malaysia (SC)	Six parties providing unlicensed investment advice.	Administrative actions.[63] [64]
India (SEBI)	Unregistered investment advisory activities of Mohammad Nasiruddin Ansari/ Baap of Chart.	Interim order.[65]
Thailand (SEC)	Two offenders relating to the website: 1000x.live operating unlicensed digital asset dealer business.[66] Three offenders related to the Website: Bybit.com operating unlicensed digital asset exchange business. Bybit received an assistance and support from public relations and marketing activities promoted by the other two offenders via their social media and Line open chat.[67] An offender conducted securities business in the capacities of an investment consultant and private fund manager without obtaining the necessary license. These activities were carried out through social media platforms, i.e., Clubhouse, Line, and	Criminal complaints against the offenders with the Economic Crime Suppression Division of the Royal Thai Police (ECD). The names of these offenders are also posted on the Investor Alert on the SEC website at www.sec.or.th..

63 See SC Malaysia, Administrative Actions in 2023 (refer to item 3, 4, 5, 20, 21 & 22), available at: https://www.sc.com.my/regulation/enforcement/actions/administrative-actions/administrative-actions-in-2023

64 See SC Malaysia, Media Releases, "SC Charges Four Individuals with Money Laundering of over RM7.2 million", November 2022, https://www.sc.com.my/resources/media/media-release/sc-charges-four-individuals-with-money-laundering-of-over-rm72-million

65 See SEBI, "Interim Order cum SCN in the matter of unregistered investment advisory activities of Mohammad Nasiruddin Ansari/ Baap of Chart", available at: 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

66 SEC News No. 59/2023 : SEC files a criminal complaint against two entities relating to the website: 1000x.live for unlicensed operation of digital asset dealer business, available at: https://www.sec.or.th/EN/Pages/News_Detail.aspx?NewsNo=59&NewsYear=2023&Lang=EN

67 SEC News No. 257/2023 : SEC files criminal complaint against three offenders related to the Website: Bybit.com for operating digital asset exchange business without license, available at: https://www.sec.or.th/EN/Pages/News_Detail.aspx?NewsNo=257&NewsYear=2023&Lang=EN

	Facebook, each having a substantial user base. [68]	
USA (SEC)	In March 2023, the SEC charged eight celebrities (including Lindsay Lohan, Jake Paul, Soulja Boy, and Akon) for illegally touting the crypto asset securities Tronix (TRX) and BitTorrent (BTT) without disclosing that they were compensated for doing so and the amount of their compensation.[69] In October 2022, the SEC charged Kim Kardashian for touting EMAX tokens, crypto assets offered or sold as securities offered and sold by EthereumMax, on social media without disclosing the payment she received for the promotion. [70] Later, in February 2023, the SEC charged former NBA player Paul Pierce for touting the same EMAX tokens without disclosing his compensation for the promotion and for making false and misleading promotional statements about the same crypto asset.[71] In September 2020, the SEC charged five Atlanta-based individuals, including film producer Ryan Felton, rapper and actor T.I., and three others who each promoted one of Felton's two	Cease-and-desist orders, injunctions, disgorgement, and/or penalties are sought in such cases.

68 SEC News No. 20 / 2024, SEC files a criminal complaint with ECD against an unlicensed securities business operator.

69 US SEC, "SEC Charges Crypto Entrepreneur Justin Sun and his Companies for Fraud and Other Securities Law Violations", March 22, 2023: http://www.sec.gov/news/press-release/2023-59.

70 US SEC, "SEC Charges Kim Kardashian for Unlawfully Touting Crypto Security", October 3, 2022, available at: http://www.sec.gov/news/press-release/2022-183.

71 US SEC, "SEC Charges NBA Hall of Famer Paul Pierce for Unlawfully Touting and Making Misleading Statements about Crypto Security", February 17, 2023, available at: http://www.sec.gov/news/press-release/2023-34.

	unregistered and fraudulent initial coin offerings (ICOs).[72] In November 2018, the SEC charged professional boxer Floyd Mayweather Jr. and music producer DJ Khaled for failing to disclose payments they received for promoting investments in ICOs.[73] In addition to bringing actions based on celebrity endorsements, in December 2022, the SEC charged eight individuals in a $100 million securities fraud scheme in which they used the social media platforms Twitter and Discord to manipulate exchange-traded stocks.[74]	
Hong Kong (SFC)	Social media pump-and-dump market manipulation schemes. False and inaccurate declarations made by a licensed person in his investment column in a newspaper. The licensed	Joint operations with local law enforcement partners.[76] [77] Preliminary action such as freezing accounts.[78] [79]

72 US SEC, "SEC Charges Film Producer, Rapper, and Others for Participation in Two Fraudulent ICOs", September 15, 2020, available at: https://www.sec.gov/enforcement-litigation/litigation-releases/lr-24899.

73 US SEC, "Two Celebrities Charged With Unlawfully Touting Coin Offerings", November 28, 2018, available at: http://www.sec.gov/news/press-release/2018-268.

74 US SEC, "SEC Charges Eight Social Media Influencers in $100 Million Stock Manipulation Scheme Promoted on Discord and Twitter", December 14, 2022, available at: https://www.sec.gov/newsroom/press-releases/2022-221.

76 See SFC, All News, "SFC and Police joint operation against suspected ramp-and-dump syndicate", March 2021, available at: https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR26

77 See SFC, All News, "Thirteen people charged following SFC and Police joint operation against ramp-and-dump syndicate", September 2022, available at: https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=22PR76

78 See SFC, All News, "SFC issues restriction notices to 13 brokers to freeze client accounts linked to suspected social media ramp-and-dump scam", February 2021, available at: https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR19

79 See SFC All News, "SFC issues restriction notices to 10 brokers to freeze client accounts linked to a suspected social media ramp-and-dump scam", April 2023, available at: https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=23PR39

	person made positive comments or favourable recommendations concerning certain stocks in his column and made a profit by selling those stocks in his wife's securities accounts.[75]	Suspension for 30 months and $500,000 fine.
Australia (ASIC)	Mr Scholz: 1 hosted online groups for which a membership fee was charged, and in which messages were exchanged by members about share trades (either in a group chat or through direct messages from Mr Scholz), without an Australian Financial Services Licence; and 2 carried on a financial services business in Australia in contravention of s911A of the Corporations Act. 3 Mr Scholz's business to paying subscribers included: • subscription/membership fees of $500, $1,000 or $1,500 • offers of various levels of share trading training, referred to as 'Stage 1', 'Stage 2' and 'Stage 3', which were marketed as introductory to advanced • the Stage 2 package providing one year's access to a private chat site, named '*Black Wolf Pit*', using the online communications platform Discord.	ASIC commenced civil proceedings against Scholz, resulting in a permanent injunction by the Federal Court of Australia, prohibiting him from carrying on a financial services business in Australia.[80]
Nigeria (SEC)	In June 2024, Nigeria SEC issued an investor alert and warning with respect	Investor alert and warning[81]

[75] See SFC, Enforcement News, "SFC suspends Sky Cheung Shi Gaii for 30 months and fines him $500,000 for regulatory breaches", April 2013, available at: https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=13PR31]

[80] See ASIC, Media Release, "Permanent injunctions ordered against social media finfluencer Tyson Scholz", April 2023, available at: https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-096mr-permanent-injunctions-ordered-against-social-media-finfluencer-tyson-scholz/

[81] The text of this warning can be found through this link- https://sec.gov.ng/investor-alert-davido-_meme-coin-disclaimer/

	to a celebrity endorsement of a meme coin. The trend of celebrity endorsement of unlicensed products was beginning to gain popularity.

5.2 Supervisory and enforcement actions against market intermediaries

When it comes to market intermediaries using finfluencers, 23% of surveyed regulators have taken supervisory actions while 44% have taken enforcement action.

Supervisory actions have included taking certain steps, such as, for example, issuing warnings and ongoing administrative inquiries.

As for enforcement actions, by way of example, in Hong Kong the SFC took preliminary actions against intermediaries using finfluencers, including blocking websites of suspected fraudulent crypto-asset service providers, in collaboration with the local police. SFC used the IOSCO memorandum of understanding (IOSCO MMoU) for international cooperation as part of its enforcement actions. ASIC undertook proceedings in the Australian federal court against a former director of an intermediary and an ASX listed company, Adam Blumenthal.[82] ASIC accepted an Enforceable Undertaking from Adam Blumenthal, which included admission of wrongdoing.[83] Additionally, the federal court in Australia ordered Mr Blumenthal to pay an A$850,000 fine and be disqualified from managing corporations for five years.[84] Turkey's CMB has also imposed sanctions on a financial market intermediary who improperly used finfluencers, including administrative fines. The violations included employing personnel who did not meet training and license requirements and failing to

82 See ASIC, Media Release, "ASIC commences civil proceedings against Adam Blumenthal and EverBlu Capital undertakes to cancel its licence", December 2023, available at: https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-339mr-asic-commences-civil-proceedings-against-adam-blumenthal-and-everblu-capital-undertakes-to-cancel-its-licence/

83 See ASIC v Blumenthal Concise Statement., December 2023, available at: https://download.asic.gov.au/media/etujlq4w/23-339mr-asic-v-blumenthal-concise-statement.pdf

84 See ASIC, Media Release, 24-076MR, "Adam Blumenthal ordered to pay $850,000 and disqualified for five years for market rigging and directors' duties breaches", April 2024, available at: https://asic.gov.au/about-asic/news-centre/find-a-media-release/2024-releases/24-076mr-adam-blumenthal-ordered-to-pay-850-000-and-disqualified-for-five-years-for-market-rigging-and-directors-duties-breaches/

maintain an internal audit system in compliance with the scope and structure of the market intermediary institution's activities.

5.3 Cross jurisdictional activities and enforcement

An additional challenge for regulators relates to cross-jurisdictional issues. Social media platforms operate globally, making it sometimes difficult for regulators to enforce national regulations effectively. Collaborative efforts and information sharing between jurisdictions are essential to address these challenges.

Notwithstanding the opportunities provided by global social media platforms, it appears from the survey responses that finfluencers currently tend to operate within their national/native context, where, most likely, they may have more influence and they can speak the same language of their followers.

However, issues may arise where market intermediaries use finfluencers, particularly so when the market intermediary is acting on a cross-border basis. This means that these intermediaries, while based in foreign countries, may engage with retail investors and may use finfluencers within the jurisdiction, often leveraging digital platforms that bypass traditional geographical constraints.

This cross-border operation allows market intermediaries to expand their reach and tap into new markets, but it also poses significant regulatory challenges, especially concerning jurisdictional oversight and enforcement of local laws and the avoidance of frauds and scams. Indeed, non-domestic intermediaries can sometimes exploit the potential lack of direct regulatory oversight, to engage in fraudulent activities, leveraging finfluencers to lend credibility and attract unsuspecting retail investors.

This raises significant concerns about retail investor protection and the need for enhanced cross-border regulatory collaboration to tackle such issues effectively. Domestic regulators should consider what powers they have to take enforcement action against market intermediaries engaging unauthorized activity reaching into their borders. When domestic regulators require assistance from other foreign jurisdictions where the intermediary or finfluencers conducts business, they should consider cooperation arrangements such as the IOSCO MMOU and EMMOU.

Under the IOSCO MMOU and EMMOU, signatories are expected to provide the fullest assistance permissible to each other in connection with such requests for assistance which in turn collectively strengthens and protects the integrity of our global markets.

Where finfluencers primarily collaborate with domestic market intermediaries, this tends to simplify regulatory oversight as all entities involved are subject to the same set of national regulations and standards. It also allows for more effective monitoring and enforcement actions by local regulators, ensuring that intermediaries and finfluencers adhere to established guidelines and practices.

Some responding members who have had experience with non-domestic finfluencers have indicated the use of the IOSCO MMoU and EMMoU as a main source of assistance, noting these tools would also be available in the case of market intermediaries, thereby showcasing their benefits for international cooperation. By way of example, the Hong Kong SFC reported an interesting joint operation conducted together with MAS Singapore in December 2021 against manipulation schemes in the two countries, under the arrangement of the IOSCO EMMoU, MMoU and the bilateral MoU between the SFC and the MAS.[85]

85 See SFC, All News, "Hong Kong-Singapore joint operation against suspected cross-border ramp-and-dump syndicate", December 2021, available at: https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=21PR125 and *https://www.mas.gov.sg/news/media-releases/2021/singapore-hong-kong-joint-operation-against-suspected-cross-border-pump-and-dump-syndicate*

CHAPTER 6: INVESTOR & FINFLUENCER EDUCATION INITIATIVES

6.1 Investor Education Initiatives

Most regulators surveyed reported having finfluencer-related educational materials available for retail investors or they have plans to develop them within the next year. These initiatives aim to inform and protect retail investors by providing them with the necessary knowledge to navigate the financial advice given by finfluencers. Methods for engaging retail investors could include disseminating information on the advantages and risks of finfluencers through multiple channels, hosting seminars and webinars on the topic, or creating specific campaigns on social media. Various IOSCO members are taking proactive approaches to mitigate the risks to the public by finfluencer activity and taking preventative steps.

Social media campaigns

Several IOSCO members have found that social media and video are effective modes for reaching and engaging with retail investors. These platforms allow for direct interaction and dissemination of information in a format that is easily accessible and relatable to the target audience of finfluencers.

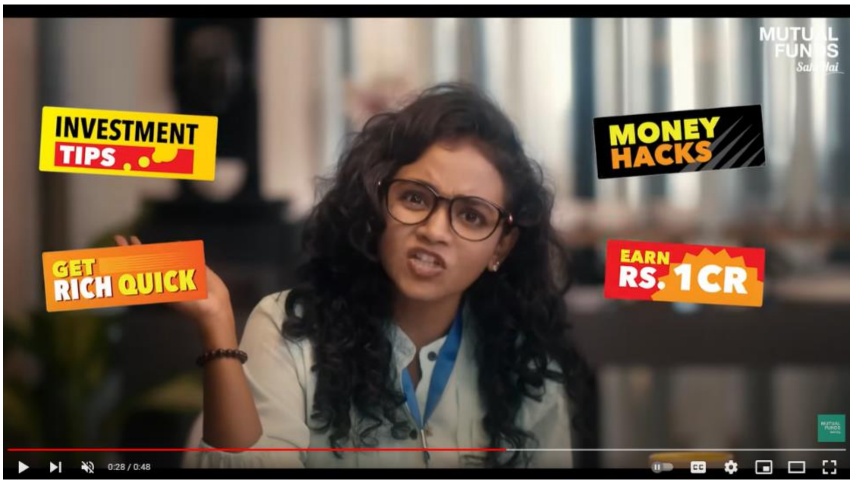
In line with these observations, many regulators offer finfluencer-related education via social media, engaging with retail investors on the same platforms used by finfluencers. This includes posting videos on online platforms. These videos are typically short-form and designed to capture the attention of viewers quickly. Their characteristics include:

- **Short-Form**: Concise videos that quickly convey key messages.
- **Human Subjects**: Featuring real people to create a personal connection with the audience.
- **Use of Humour**: Engaging content that entertains while educating.
- **Digestible Language**: Simple, clear language that is easy for the average person to understand.

The **content of the videos** often serves to warn retail investors of the possible risks of following finfluencer advice and advocates for retail investors doing their own research before investing. By highlighting potential pitfalls and providing practical tips, these videos empower retail investors to make more informed choices. Some examples are set out below.

Figure 1 France's Autorité des Marchés Financiers (AMF) 2021-2022 Social Media Campaign

Figure 2. Video example from Hai, Investor Education Initiative Powered by the Association of Mutual Funds in India (AMFI)



In Canada, to shed light on the proliferation of inaccurate, misleading or fraudulent financial advice on social media, the Canadian Securities Administrators (CSA) launched the Human Disclaimers campaign for Fraud Prevention Month in March 2023. The engaging video series featured people acting as "human disclaimers" questioning common "get rich quick" social posts and encouraging Canadians to check their information source, do their own research, and other important steps to take before investing. The campaign reached more than 1.2 million Canadians, delivered more than 4.48 million impressions, and drove 145,000 link clicks to the CSA website, the highest number of clicks for any CSA campaign to date.[86]. From the CSA, the

86 See CSA ACVM Youtube Playlist, "Human disclaimers playlist", available at: https://www.youtube.com/playlist?list=PLU-zOsBk1E6Zk3mZAtVDOVRSTvT47BAa_

Alberta Securities Commission, the British Colombia Securities Commission, the Ontario OSC and the Quebec AMF are IOSCO members.

Figure 3. Canadian Securities Administrators "Human Disclaimer" initiative

Dedicated websites

In addition to social media campaigns, several surveyed regulators have created retail investor-facing websites that feature a range of resources, tools, and calculators on retail investor education topics, including finfluencers.[87] Others provide written materials to retail investors, such as booklets, pamphlets and web articles that warn them about investment risks and frauds related to finfluencers and social media, more generally.[88]

Innovative methods

A few regulators have also implemented innovative mechanisms to reach existing (and potential) retail investors. For instance, FINRA partnered with the non-profit documentary film studio that produced *This is Not Financial Advice* to do a 20-college tour in the United States that includes film screenings and a post-film discussion facilitated by FINRA. The discussion covers topics such as risks tied to following the crowd, identifying credible information sources, and the role of social media in investing fraud. In the same vein, the FSMA in

87 For example, SEC staff publications have urged caution around celebrity endorsed investments. See, e.g., US SEC, SEC Staff Statement Urging Caution Around Celebrity Backed ICOs (November 1, 2017); US SEC, Investor Alert: Celebrity Endorsements (November 1, 2017) ; US SEC Staff, Celebrity Involvement with SPACs – Investor Alert (March 10, 2021); US SEC Staff, Social Media and Investment Fraud – Investor Alert (August 29, 2022); US SEC Staff, Exercise Caution with Crypto Asset Securities: Investor Alert (March 23, 2023); US SEC Staff, Artificial Intelligence (AI) and Investment Fraud: Investor Alert (January 25, 2024); and US SEC Staff, Investor Bulletin: 10 Investment Tips for 2019 (February 11, 2019). In instances where citations note the author as "US SEC Staff," the views and opinions expressed in the cited work are those of the author and does not necessarily reflect the views of the US SEC, its Commissioners, or other members of the US SEC's staff.

88 As for the relationships between finfluencers and CTPs, see - among others - https://www.investright.org/cryptoscams/

Belgium created *Wikifin Lab*, an interactive financial education centre geared towards secondary school students. In one unit, a game features a finfluencer inciting their followers to buy a fake crypto-asset or makes an offer that is hard to refuse but ends up being fraudulent.

ASIC launched a consumer campaign to raise awareness of the risk associated with investment hype to coincide with the Australian release of Dumb Money, a new film about the GameStop short squeeze episode in 2021. The campaign, which urges retail investors to carefully research online investment opportunities, includes a new cinema advertisement that will air nationally at screenings of the film: 23-284MR ASIC launches consumer awareness campaign – 'Don't get burnt by hype' | ASIC

To engage younger generations, the Investor and Financial Education Council (IFEC), a subsidiary of the Securities and Futures Commission of Hong Kong, created online games and quizzes (Escape room Financial Quotient game, Money-verse personal finance combat game, Anti-scam online quiz) on the topic of good investment habits covering cautions against finfluencers. Additionally, the IFEC leveraged on short social media videos to highlight financial challenges faced by younger generations, including not to blindly follow investment tips from social media platforms.

Figure 4. Investor and Financial Education Council gamification approach on investor education

The US SEC's Office of Investor Education and Advocacy (OIEA) produced videos featuring a fictional online investment program led by a fictional "expert" trader, called HoweyTrade, to show retail investors what investment scams may look like.[89] US SEC staff utilize these videos in their outreach presentations to retail investors and OIEA created the HoweyTrade classroom activity for teachers,[90] which provides an interactive approach for students to learn how to avoid investment scams. OIEA's HoweyTrade initiative encourages retail investors to look for warning signs of fraud, to check the seller's background on Investor.gov, and to take their time researching all investments.

While the specific topics varied, common themes behind these education efforts included encouraging retail investors to verify the backgrounds of finfluencers and question the motivations and credibility of any so-called "financial expert" on social media. Some tied this education with broader financial fraud awareness campaigns, warning about scams perpetrated through social media.

Some surveyed regulators indicated other regulatory entities or private organizations have also provided finfluencer-specific education to retail investors. For instance, the North American Securities Administrators Association (NASAA) issued an investor advisory recommending retail

89 US SEC Staff, HoweyTrade (n.d.). See also US SEC Staff, "SEC to Spotlight Financial Planning and Resilience during World Investor Week 2022", October 2022, available at: https://www.sec.gov/newsroom/press-releases/2022-184; and US SEC Staff, "SEC to Highlight Free Investor Education Resources During Financial Capability Month", April 2023, available at: https://www.sec.gov/newsroom/press-releases/2023-71

90 US SEC Staff, HoweyTrade Investment Program Classroom Activity, available at: https://www.investor.gov/howeytrade-investment-program-classroom-activity

investors exercise caution when considering advice from finfluencers. The Federation of German Consumer Organizations (Verbraucherzentrale Bundesverband; vzbv) dedicated web resources to educate consumers about finfluencers and offered an online training for educators on this topic.

Some regulators have also collaborated with other entities to develop research and engage in educational efforts on finfluencers. For instance, Brazil's CMV partnered with the Association of Capital and Financial Market (ANBIMA) and the country's stock exchange to conduct finfluencer-related studies and released content related to self-regulatory organization rules about transparency in commercial relationships between market entities and finfluencers, including best-practices.

Investor warnings

In cases where finfluencers have not followed existing guidance in certain jurisdiction or pose a potential risk to retail investors, members have reported taking a reactive approach. This includes publishing warnings on specific influencers or firms on social media and/or websites, as well as producing educational material on a specific product or service promoted by a finfluencer, which the regulator found to be a risk for retail investors.

In Figure 4, a word cloud features the most common words regulators used in their survey responses in their educational messaging about finfluencers (note that larger words indicate higher reporting frequency).

Figure 4. Common words on finfluencer-related educational messaging for retail investors

6.2 Educational Programs for Finfluencers

In addition to programs directed at retail investors, some members reported providing content designed for finfluencer consumption. These initiatives aim to ensure that finfluencers are aware of and adhere to the regulatory guidelines and best practices when promoting financial products and services. For example, the AFM has posted a YouTube video and a series of guidelines for influencers on their website. The Bank of Thailand organized a "Financial Creator Bootcamp" and the French AMF together with the ARPP launched a training module for influencers specific to the financial sector that awards those who successfully complete the module a "Responsible Influence Certificate in Financial Advertising".

Key Elements of Finfluencer Education include:

1) **Legal and Ethical Standards**: Educating finfluencers about the legal frameworks and ethical standards they must adhere to when promoting financial products.
2) **Transparency**: Ensuring finfluencers understand the importance of transparency, including the disclosure of any conflicts of interest or compensation received for promotions.
3) **Balanced Communication**: Emphasizing the need for balanced communication that fairly represents both the benefits and risks of financial products.
4) **Proactive Responsibility**: Encouraging firms that engage finfluencers to take proactive responsibility for ensuring that their promotions comply with regulatory requirements.

CHAPTER 7: PROPOSED GOOD PRACTICES

This Consultation Report identifies Good Practices as guidance that may be helpful to regulatory authorities, market intermediaries and finfluencers themselves interested in promoting market integrity and helping to overcome some of potential issues facing retail investors in the way finfluencer activities are currently taking place.

Ultimately, these Good Practices aim to promote well-functioning markets where market intermediaries and other market participants engaging with retail investors demonstrate integrity, transparency in their activities and the potential existence of conflict of interest, clear rules and/or documentation governing their conduct internally and adequate systems to monitor and mitigate abusive, fraudulent or manipulative activities.

IOSCO Members could consider the following good practices as guidance to apply to market intermediaries and finfluencers, consistent with their relevant legal and regulatory framework.

7.1 Proposed good practices for regulators

Good Practice 1: Consistent with their respective mandates and regulatory remit, regulatory authorities could consider ways to apply appropriate and effective regulation and oversight to the activities of finfluencers where existing regulatory frameworks do not currently cover those activities.

IOSCO's survey to regulators suggests that many activities currently undertaken by finfluencers may already fall within the scope of existing legislation, but other activities may not. Where this is the case, regulatory authorities could consider adapting their regulatory frameworks, where feasible, to keep pace with new market developments.

Good Practice 2: Where existing regulatory frameworks cover the activities of finfluencers, regulatory authorities could consider setting out further guidance explaining how these regulatory frameworks apply to the activities of finfluencers.

As demonstrated by examples above, providing this kind of guidance can be of great assistance to those finfluencers who wish to remain within the confine of the law but may not understand the implication of their activities and the need to be licensed where certain activities are conducted.

Good Practice 3: Consistent with their jurisdiction's laws and regulations, regulatory authorities could consider appropriate ways to conduct surveillance and monitoring of the activities of finfluencers and of those market intermediaries that use finfluencers to market stocks, securities or other financial instruments to identify potential malpractices, unlicensed activity, fraud and manipulation online.

This could include, for example, the use of data analytics, social media monitoring tools, and regular audits to ensure compliance with relevant legislation and regulations.

Good Practice 4: Consistent with their respective mandates, regulatory authorities could consider whether laws and applicable rules within their remit appropriately address the actual and potential conflicts of interest associated with the activities of finfluencers and the use of finfluencers by market intermediaries.

Good Practice 5: Consistent with their jurisdiction's laws and regulations, regulatory authorities could consider bringing enforcement actions against finfluencers and market intermediaries using finfluencers where their actions constitute abusive, misleading or fraudulent practices, including where they are conducting regulated activities without the required licenses.

Regulators could consider taking actions against intermediaries and finfluencers that do not adhere to existing legislation and regulation. Tools typically available to regulatory authorities could include issuing fines, revoking licenses, issuing cease-and-desist orders, and publicizing enforcement actions to deter non-compliance.

Good Practice 6: Given the potential cross-border reach of finfluencers and market intermediaries using them, regulatory authorities could consider utilizing arrangements for the exchange of information with domestic and international counterparts to ensure effective supervision and enforcement.

Regulators actively cooperate with other national and international regulatory bodies to ensure effective supervision and enforcement in their jurisdictions on a regular basis, notably through IOSCO's MMoU and EMMoU but also through other information-sharing agreements. In using those tools, regulatory authorities often conduct joint investigations and coordinated enforcement actions to address cross-border issues. Regulatory authorities could consider making use of those mechanisms in the case of cross-border activities conducted by finfluencers or market intermediaries making use of finfluencers.

Good Practice 7: Regulatory authorities could consider developing educational materials for retail investors regarding finfluencers, with a view to alerting investors to existing risks.

This could include, among others, developing key messages about finfluencers; producing and distributing educational content and materials; conducting awareness campaigns on social media platforms to reach a broad audience of retail investors; collaborating with educational institutions, consumer protection organizations, and other stakeholders to increase the visibility of educational initiatives.

7.2 Proposed good practices for market intermediaries and finfluencers

Good Practice 1: Market intermediaries who use finfluencers and finfluencers should exercise caution and avoid advertising, offering or promoting high-risk financial products to retail investors except under appropriate conditions determined by the appropriate regulator.

High-risk products, such as crypto assets, leveraged instruments, or speculative investments, may be generally unsuitable for retail investors due to their complexity and potential for significant losses. Market intermediaries who use finfluencers should consider exercising due consideration at all times when appearing to promote those products to retail investors, except under appropriate conditions determined by the appropriate regulator.

Good Practice 2: Market intermediaries should have appropriate and rigorous selection policy and processes for finfluencers – among others - researching their credentials, education and training, communication styles and audience demographics.

The selection process should also involve a review of the finfluencer's past content to identify any potential red flags. Once selected, market intermediaries should subject finfluencers to ongoing monitoring to ensure their activities align with the intermediary's standards and regulatory requirements.

In that context, market intermediaries should consider signing formal agreements with finfluencers, outlining a set of mandatory rules and compliance obligations they must follow to ensure their activities align with the intermediary's standards and regulatory requirements. Non-compliance with the agreement could be subject to clearly defined penalties.

Good Practice 3: Market intermediaries engaging with finfluencers should implement and maintain appropriate risk management frameworks to monitor the activities performed by the finfluencers the market intermediaries have engaged.

These frameworks should include continuous monitoring of the activity performed by the finfluencers on their behalf, an assessment of potential risks and mechanisms to address any potential issues that may arise in connection with the provision of services and products through finfluencers The frameworks should assess whether marketing and advertising are being performed in compliance with the formal agreement between market intermediaries and finfluencers as well as the respective regulatory requirements.

When detecting that a finfluencer did not follow the terms of any contractual agreements, the market intermediary should consider taking appropriate action to ensure that the misconduct does not repeat, not only for the defaulting finfluencer but also for all the finfluencers used by the firm.

Good Practice 4: Finfluencers promoting a market intermediary's services or products should include a clear and conspicuous disclaimer notice in their content. Market intermediaries could, in turn, provide a standard template for disclaimers to ensure consistency and compliance.

The disclaimer could be in the same font size and style as the promotional message and be prominently placed to ensure visibility. The disclaimer could also state whether the finfluencer is not licensed to provide investment advice and, if not licensed, clearly indicate that they are not allowed to provide personal investment recommendations.

Good Practice 5: Finfluencers, market intermediaries and other regulated entities making use of finfluencers should establish clear policies and procedures to identify, manage, and disclose conflicts of interest, including with regards to remuneration.

Both finfluencers and the market intermediaries they represent should disclose any conflicts of interest arising from their arrangements, as is typically required by regulatory frameworks globally. This includes disclosing any remuneration, incentives, or other benefits the finfluencer may receive. The disclosure could be specific and detailed, and it could be communicated clearly to retail investors in a way that is clear, fair and not misleading.

7.3 "TIPS" FOR RETAIL INVESTORS

Building on the key messages shared by its members with retail investors in their jurisdictions, IOSCO proposes the following set of tips for retail investors:

- **Be wary of high-approval ratings**: High approval ratings or large followings do not necessarily indicate credibility or expertise.

- **Investigate finfluencers' backgrounds and motives**: Research the backgrounds of finfluencers to understand their qualifications and potential conflicts of interest. This includes understanding their motivations for providing advice.

- **Think twice about non-personalized tips**: Given their large audience, finfluencer tips are not personalized and may not be suitable for individual financial situations. Personalized advice should come from licensed professionals who understand your unique needs and circumstances.

- **Be wary of scams and of finfluencers who create a sense of urgency to act quickly**. Legitimate investment opportunities do not require hasty decisions.

- **Promises of exceptional performance/ too good to be true**: Be sceptical of claims that promise exceptional performance or guaranteed returns. If it sounds too good to be true, it likely is. Conduct thorough research before investing.

- **Understand the risks of their recommendations**: Understand the inherent risks associated with investments recommended by finfluencers, particularly those involving high-risk products like forex, CFDs, and crypto-assets.

- **Herd mentality**: Avoid making investment decisions based on what others are doing without conducting independent research.

- **Confirmation bias**: Be aware of the tendency to favour information that confirms existing beliefs and ignore information that contradicts them. Make decisions based on a balanced evaluation of all available information.

- **Licensed professionals**: Seek advice only from those who are licensed, authorized, and registered to provide financial recommendations.

- **Conduct your own research**: Conduct your own research on investment products and the entities or individuals making recommendations. This includes verifying the credentials of those providing advice and understanding the product being promoted.

CONSULTATION QUESTIONS

QUESTION 1
Do you agree with the potential benefits and risks stemming from finfluencers' activities identified in this Consultation Report? Please elaborate.

QUESTION 2
Should IOSCO propose a definition of finfluencers?

QUESTION 3
Do you have any comments on the regulatory regime and the supervisory approaches currently adopted by IOSCO jurisdictions in relation to finfluencers and market intermediaries using finfluencers? In your view, should there be a specific legislative or regulatory regime for finfluencers?

QUESTION 4
Do you have any comments related to the current supervisory and enforcement approach, including international cooperation, that you believe could be relevant to IOSCO's consultation process? Please provide details that could enhance or complement the insights presented in this Consultation Report.

QUESTION 5
Do you have any comments related to the investor and finfluencers education initiatives that you believe could be relevant to this Consultation Report? Please provide details that could enhance or complement the insights presented in this Consultation Report.

QUESTION 6
Are we missing any key Good Practices for regulators, for market intermediaries using finfluencers and for finfluencers to consider? Please elaborate.

QUESTION 7
Do you agree with the tips envisaged for retail investors? Are we missing any key ones? Please elaborate.

APPENDIX

List of IOSCO members that completed the survey

Regulatory Authority		Jurisdiction
Comissão do Mercado de Capitais	CMC	ANGOLA
Comisión Nacional de Valores	CNV	ARGENTINA
Australian Securities and Investments Commission	ASIC	AUSTRALIA
The Securities Commission of The Bahamas	SCB	BAHAMAS
Financial Services and Markets Authority	FSMA	BELGIUM
Comissão de Valores Mobiliários	CVM	BRAZIL
Ontario Securities Commission	OSC	CANADA ONTARIO
Autorité des marchés financiers	QAMF	CANADA QUEBEC
China Securities Regulatory Commission	CSRC	CHINA
Financial Supervisory Commission	FSC	CHINESE TAIPEI
Autorité des marchés financiers	AMF	FRANCE
Bundesanstalt für Finanzdienstleistungsaufsicht	BAFIN	GERMANY
Investor and Financial Education Council	IFEC	HONG KONG
Securities and Futures Commission	SFC	HONG KONG
Securities and Exchange Board of India	SEBI	INDIA
Israel Securities Authority	ISA	ISRAEL
Commissione Nazionale per le Società e la Borsa	CONS OB	ITALY
Financial Services Commission/Financial Supervisory Service	FSS	KOREA

Capital Markets Authority	CMA	KUWAIT
Commission de Surveillance du Secteur Financier	CSSF	LUXEMBOURG
Securities Commission	SCM	MALAYSIA
Securities and Exchange Commission	SEC	NIGERIA
Polish Financial Supervision Authority	KNF	POLAND
Capital Market Authority	CMA	SAUDI ARABIA
Monetary Authority of Singapore	MAS	SINGAPORE
Comisión Nacional del Mercado de Valores	CNMV	SPAIN
Securities and Exchange Commission of Sri Lanka	SEC	SRI LANKA
Securities and Exchange Commission	SEC	THAILAND
The Dutch Authority for the Financial Markets	AFM	THE NETHERLANDS
Capital Markets Board	CMB	TÜRKIYE
Commodity Futures Trading Commission	CFTC	UNITED STATES OF AMERICA
Financial Industry Regulatory Authority	FINRA	UNITED STATES OF AMERICA
National Futures Association	NFA	UNITED STATES OF AMERICA
Securities and Exchange Commission	US SEC	UNITED STATES OF AMERICA