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# The Study on the Increasing Deceptive Practices in India with Special Reference to Fin-fluencer Fraud in India

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**Abstract:** *This study delves into the emergence of deceptive fin-fluencers in India who dispense misleading financial guidance via online platforms. These individuals stand accused of endorsing stocks for personal profit, deceiving investors, and levying charges for their services. The study delves into the guidelines established by SEBI for financial advisors and sheds light on the strategies employed by fin-fluencers to entice retail investors. It underscores the importance of investors exercising caution and conducting comprehensive research prior to making investment decisions based on influencer recommendations. The study also examines SEBI's crackdown on fraudulent influencers and stresses the significance of official registration for reliable financial mentors. It evaluates the deficiencies in the existing regulations and proposes potential modifications. Ultimately, the study contends that regulating Indian fin-fluencers is imperative to safeguard investors and recommends the implementation of a quality assurance system to ensure that individuals possessing the necessary qualifications can dispense financial advice. SEBI should institute checks and balances in accordance with its directives to tackle this issue.*

**Keywords:** Corporate Governance, Data Protection, Aggressive Marketing Campaigns, Independent Directors.

## I. INTRODUCTION

As the rapid advancement of technology in recent years, a significant portion of the population in the country has gained access to the internet. Unfortunately, along with its widespread usage, the internet has also witnessed a surge in fraudulent activities and scams in this global era. The allure of financial gain continues to attract individuals who may not be well-informed about the potential risks involved. One ongoing form of fraud in India is perpetrated by individuals known as 'Financial-gurus' or Finance Influencers, commonly referred to as fin-fluencers. These individuals have been accused of disseminating false information to manipulate stock prices, driven by their own vested interests. Furthermore, there have been allegations of receiving kickbacks from companies in exchange for promoting specific stocks, as well as manipulating unsuspecting investors by presenting them with fabricated evidence of growth. Shockingly, some of these fin-fluencers even charge ordinary individuals for their advisory services, despite lacking any genuine expertise in the field. Although there may be some valuable content available on this subject, it is unfortunately overshadowed by the presence of these ill-equipped fin-fluencers.

According to the 'Guidelines for Influencer Advertising in Digital Media' published by the Advertising Standards Council of India, the term 'influencer' refers to an individual who possesses the ability to reach and influence an audience's purchasing choices or opinions regarding a product, service, brand, or experience. This influence stems from the influencer's authority, expertise, position, or connection with their audience.

Fin-fluencers leverage social media platforms to advertise their services, distribute success narratives, and offer financial guidance. By establishing a strong social media presence, they cultivate an image of authority and proficiency, thereby enhancing their ability to earn the confidence of their audience. Nevertheless, a significant number of fin-fluencers lack the essential credentials, practical know-how, and expertise in finance and investment, resulting in the propagation of inaccurate and occasionally deceitful information to their followers.

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## II. HISTORICAL BACKGROUND

The concerning surge of Fin-fluencer fraud in India has become a significant cause for worry in recent times. This deceitful practice involves financial influencers, who frequently operate on social media platforms, deceiving the general public for their own personal gain. The proliferation of such fraudulent schemes has been fueled by a lack of regulatory measures, lenient penalties, and a protracted adjudication process that fails to effectively deter manipulators. The case of guest experts from Zee Business Hindi News Channel, who were found guilty by SEBI for engaging in illegal activities, serves as a prime example of how individuals have profited from the stock market through unfair methods, defrauding the public and manipulating the market. This emerging trend underscores the urgent necessity for more stringent regulations, prompt enforcement, and heightened vigilance in order to combat financial fraud in India.

## III. METHOD

The data collected for this paper get from the secondary sources of the data that is Books, case laws newspaper, articles and authorised websites and this paper is based on Doctrinal research Methodology.

## IV. REGULATORY FRAMEWORK OF SEBI FOR INVESTMENT ADVISORS

The regulations for investment advisors were officially announced on January 1, 2013. The primary goal was to establish guidelines for independent financial advisors and to tackle the conflict of interest that arises from distributors of financial products performing dual roles. According to the regulations for investment advisors, individuals are prohibited from acting as an investment advisor or presenting themselves as one without obtaining a registration certificate.

The term "Investment advice" has been clearly defined by the regulation. It encompasses advice pertaining to the act of investing in, purchasing, selling, or engaging in any other form of transaction involving securities or investment products. Additionally, it includes advice on investment portfolios that consist of securities or investment products, regardless of whether it is conveyed in written, oral, or any other form of communication, with the intention of benefiting the client. This definition also encompasses financial planning. However, it is important to note that investment advice provided through widely available mediums such as newspapers, magazines, electronic platforms, broadcasting, or telecommunications, does not fall under the purview of SEBI regulations. The SEBI (Investment Advisors) Regulations, 2013 were introduced by the Securities and Exchange Board of India (SEBI) to regulate individuals and entities offering investment advisory services in India. These regulations are designed to safeguard the interests of investors and uphold the professionalism and integrity of investment advisors.

In recent years, there have been cases of fraudulent activities involving influencers in the financial sphere, commonly known as fin-fluencers. These individuals, often using social media platforms, provide investment advice, tips, and recommendations to their followers without having the necessary qualifications or registration as investment advisors. The SEBI Regulation is directly related to such fin-fluencer fraud in India as it requires all individuals or entities engaging in the business of providing investment advisory services in the country to register with SEBI. These regulations lay down specific eligibility criteria, compliance requirements, and codes of conduct that registered investment advisors must adhere to. The SEBI Regulation prohibits unregistered persons from providing investment advisory services and ensures that only qualified and registered professionals can offer investment advice to the public. By doing so, it minimizes the risks associated with fraudulent practices, misinformation, and misrepresentation by unauthorized finfluencers.

Additionally, the SEBI Regulation empowers SEBI to take actions against those found in violation of the regulations, which may include penalties, suspension, or cancellation of registration for serious offenses. This helps promote investor confidence and ensures that individuals seeking investment advice have access to qualified and regulated professionals who will diligently act in their best interests. SEBI (Investment Advisors) Regulations, 2013 plays a crucial role in addressing finfluencer fraud in India by enforcing registration requirements and regulating the conduct of investment advisors. These regulations are designed to protect investors from fraudulent practices and promote responsible and ethical investment advisory service.

Regulations 3 and 4 of the PFUTP (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations 2003 Regulations offer specific guidelines and rules to prevent fraudulent and unfair practices in securities trading. These regulations outline prohibited activities, such as making misleading statements, manipulating prices, and engaging in insider trading. They also establish a framework for enforcement actions, including penalties and other disciplinary measures, with the aim of ensuring compliance with fair trading practices.

In a bid to safeguard consumer interests, the Advertising Standards Council of India (ASCI) has tightened its guidelines for financial social media influencers also known as “finfluencers.” It has also put more onus on social media influencers that endorse health or nutrition-related claims. In its revised guidelines, ASCI said that ‘finfluencers’ can now offer investment-related advice only after being registered with the Securities and Exchange Board of India (SEBI). They should prominently display their registration number alongside name and qualifications. “For other financial advice, influencers must possess appropriate credentials such as a licence from the Insurance Regulatory and Development Authority of India (IRDAI), be qualified as a chartered accountant, hold a company secretaryship, among others. Moreover, they are expected to adhere to all disclosure prerequisites as stipulated by financial sector regulators from time to time. Disclaimer requirements for health and finance influencers.

The influencer must disclose their qualifications and registration/certification details prominently in all types of promotional material:

(A) Displayed prominently and upfront on the visuals, or introduced as the initial statement in videos.

(B) Blogs or text-based posts should be clearly presented at the outset to ensure consumers are informed before delving into the content.

(C) In the instance of podcasts or other audio mediums, it is essential to mention them right at the start of any advertising material.

### A. UNREGULATED FINFLUENCERS AND THEIR INFLUENCE ON RETAIL TRADERS

Retail investors should always keep in mind two important points. Firstly, the Latin phrase "Caveat Emptor" translates to "let the buyer beware." Secondly, the saying "if it's free, you are probably the product" serves as a reminder. "Let the buyer be aware" emphasizes the buyer's duty to conduct thorough research before making a purchase. In this context, the buyer, who is a retail investor, may mistakenly believe that they are receiving a free product or service online from a financial influencer offering free videos or courses.

Pump and dump schemes usually involve both identifiable misrepresentations or misstatements as well as manipulative or deceptive intent. A perpetrator purchases stock at a low price, shares false information about the issuer’s future prospects that prompts others to buy the stock, that buying activity inflates the price, at which point the perpetrator dumps their shares at a profit.

These individuals commonly leverage their authority, frequently via social media channels, to endorse the stock or cryptocurrency, instilling a feeling of immediacy and enthusiasm within their audience. Subsequently, after the price has surged, they divest their assets, causing a substantial decline in price and resulting in financial losses for individuals who purchased at the inflated price.

### B. SEBI's enforcement action against social media influencers promoting financial products:

Syyed Shujauddin, a relatively unknown individual, has found himself in a classic case involving his unregistered investment advisory company, Kabir Financials. From June 2021 to June 14, 2023, Shujauddin reportedly earned over ₹12 crore by operating three Telegram channels and offering stock market tips to paid subscribers. However, the Securities and Exchange Board of India (Sebi) released an order against Shujauddin, Kabir Financials, and co-director Farhat Perween. The order emphasized that the failure of Shujauddin and Perween to respond to Sebi's communication hindered the fact-finding process. As a result, Sebi issued interim directions, restraining Shujauddin and his wife from engaging in any securities-related activities and freezing their bank accounts. Furthermore, Sebi stated that the illegal gains of ₹12.84 crore would be seized from the aforementioned bank accounts.

Kota Sunil Shankarbhai, a lesser-known individual associated with Proworth Investment Research (now known as Profinity Investment Solutions), managed to accumulate ₹8.47 lakh within a span of 11 days from February 6 to 16, 2020, by falsely presenting himself as a registered investment advisor approved by Sebi. Following this, the regulatory authority instructed Shankarbhai on May 31 to reimburse the amount to clients and complainants within three months.

This crack down by the SEBI has the potential to identify and remove fake influencers who may be sharing unreliable advice. SEBI's focus on official registration aims to support trustworthy financial educators. Genuine financial educators should not be negatively impacted by this requirement. The purpose of registration is to limit the spread of false information from unverified influencers. This could greatly enhance the credibility of finance influencers and create a more trustworthy environment for our audience. However, there are still some uncertainties among the fin-fluencer community. It would be helpful to receive clear guidelines and expectations from SEBI to align our content with their vision. Making these grasp on the fin-fluencer would give influencers a clearer direction, ensuring that our content remains relevant.

## V. DISCUSSION

Fin-fluencer fraud in India highlights the regulatory concerns surrounding the rise of financial influencers in the country. The Securities and Exchange Board of India (SEBI) has expressed apprehension about the unregulated nature of fin-fluencers and the potential risks to investor protection. While SEBI has not yet introduced specific regulations for fin-fluencers, existing frameworks like the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Regulations, 2003) address fraudulent practices in the securities market. Recent actions by SEBI, such as passing settlement orders and interim ex-parte orders against individuals engaged in stock manipulation through paid promotions on platforms like YouTube, underscore the regulator's vigilance. Additionally, a consultation paper defining the term 'influencer' aligns with industry guidelines, hinting at forthcoming regulations. This issue is not unique to India, as other jurisdictions like Australia and the USA have also taken steps to address the regulatory challenges posed by financial influencers. SEBI may need to consider amending existing regulations to effectively regulate fin-fluencers and protect investors.

## VI. CONCLUSION

It is imperative to oversee Indian financial influencers due to their ability to influence investment choices and patterns among digital consumers. SEBI has taken action on this issue by commencing the development of regulations for financial influencers. The writer proposes that implementing a screening process for financial influencers is crucial to guarantee that only individuals with adequate academic and professional expertise in finance are authorized to offer financial guidance. SEBI ought to institute a framework of oversight within its regulations.

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Social media influencing is one of the most impactful ways of marketing and advertising today. Influencers who claim to have expertise in their niche have the power to influence people and change attitudes and mindset. This carries a responsibility that should be approached carefully. Before anything else, there needs to be awareness about the importance of this responsibility. In the age of social media influencing, it is crucial to understand these responsibilities and why they matter. Social media influencers, regardless of their audience size, impact the lives of everyone who consumes their content. They have a responsibility to ensure that what they publish is not harmful or offensive.

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