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Finfluencers and SEBI: Looking for the Right Regulatory Model

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ABSTRACT

Finfluencers, that is, financial influencers on YouTube, Telegram, Instagram and other social media platforms, have become a major source of investment information for the Indian retail investor. Many of them are not registered with SEBI as either investment advisers or research analysts. SEBI has, in the recent past, passed orders against several well-known finfluencers including Mohammad Nasiruddin Ansari (Baap of Chart), P.R. Sundar and Asmita Patel. The orders show that the harm caused is not small. Crores of rupees have been collected from unsuspecting investors. The existing legal framework consists primarily of the SEBI Act, 1992, the SEBI (Investment Advisers) Regulations, 2013, the SEBI (Research Analysts) Regulations, 2014 and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. None of these were drafted with social media in mind. SEBI has, by way of a Consultation Paper of August 2023, a Circular dated 13 May 2024 and amendments to the IA Regulations in 2024, taken some steps. But these steps are only the beginning. The paper examines four possible regulatory models for India: (i) a tiered registration framework based on the type of activity; (ii) co-regulation with social media platforms; (iii) recognition of a Self-Regulatory Organisation (SRO) for finfluencers; and (iv) a statutory private right of action with class-action features. The paper concludes that none of these alternatives is sufficient by itself, and that an effective Indian model will need to combine elements of all four. The methodology is doctrinal and comparative, with reference to the regulatory positions in the United States, United Kingdom and the European Union.

Keywords: *Finfluencers, SEBI, Investment Advisers Regulations, Research Analysts Regulations, PFUTP.*

I. INTRODUCTION

One does not have to look very far to understand why this topic matters. A casual scroll through YouTube or Instagram will throw up dozens of channels promising to teach the viewer “options trading in 30 days”, “guaranteed returns from intraday”, or “the secret of multibagger stocks”.

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Some of these channels are run by qualified persons. Most are not. The viewers, however, mostly cannot tell the difference. As students of corporate and securities law, we have been struck by how rapidly this segment has grown without any clear regulatory regime, and how little the average retail investor knows about whom he is taking advice from. In fact, the topic chose us before we chose it.

An acquaintance of ours lost almost two months of his salary in March 2024 following 'option-buying tips' from a Telegram group he had paid Rs. 3,000 to join. The group had been recommended to him by a YouTuber (with over 1 lakh subscribers) on his channel. The YouTuber, on later checking, was not registered with SEBI as an investment adviser or research analyst.

The numbers are themselves striking. From around 4 crore demat accounts in March 2020, the figure has crossed 17 crore by March 2025 as per data published by NSDL and CDSL¹. A SEBI study released in January 2023 showed that 9 out of 10 individual traders in the equity Futures and Options segment lost money in the financial year 2021-22, with an average net loss of about Rs. 1.1 lakh per trader². One does not need to be a behavioural economist to suspect that a part of these losses can be linked to the trading “tips” that retail investors receive from influencers on social media.

SEBI is alive to the issue. It has passed orders against Mohammad Nasiruddin Ansari (popularly known as “Baap of Chart”)³, P.R. Sundar⁴, and Asmita Patel⁵, among others. It has also issued a Consultation Paper in August 2023⁶ and a Circular dated 13 May 2024⁷, and notified the SEBI (Investment Advisers) (Amendment) Regulations, 2024⁸. Whether all of this is enough is the question that this paper takes up.

A word about the methodology. This paper is doctrinal and comparative. It is based on the bare text of the relevant statutes and regulations, the orders of SEBI and the Securities Appellate

¹ National Securities Depository Limited and Central Depository Services (India) Limited, monthly investor data, available at: <https://www.nsdl.co.in> and <https://www.cdslindia.com> (last visited on Apr. 25, 2026).

² SEBI, “Study on Analysis of Profit and Loss of Individual Traders dealing in Equity F&O Segment” (Jan. 25, 2023), available at: <https://www.sebi.gov.in> (last visited on Apr. 25, 2026).

³ SEBI, *Order in the matter of Mohammad Nasiruddin Ansari (Baap of Chart)*, WTM/AB/MIRSD/MIRSD-SECFATF/29630/2023-24 (Oct. 24, 2023), available at: <https://www.sebi.gov.in> (last visited on Apr. 25, 2026).

⁴ SEBI, *Settlement Order in the matter of Mansun Consultancy Pvt. Ltd. and P.R. Sundar* (Mar. 21, 2022), available at: <https://www.sebi.gov.in> (last visited on Apr. 25, 2026).

⁵ SEBI, *Interim Order in the matter of Asmita Patel Global School of Trading Pvt. Ltd. and Others* (Feb. 2025), available at: <https://www.sebi.gov.in> (last visited on Apr. 25, 2026).

⁶ SEBI, “Consultation Paper on Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities” (Aug. 25, 2023), available at: <https://www.sebi.gov.in> (last visited on Apr. 25, 2026).

⁷ SEBI Circular SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/49 dated May 13, 2024, available at: <https://www.sebi.gov.in> (last visited on Apr. 25, 2026).

⁸ SEBI (Investment Advisers) (Amendment) Regulations, 2024.

Tribunal, and judgments of the Supreme Court. The comparative material is taken from the publicly available material on the websites of the various regulators such as SEC, FCA, ASIC and ESMA.

II. STATUTORY FRAMEWORK

A. Parent Statute: SEBI Act, 1992

The Preamble of the SEBI Act, 1992 states that the Act was enacted “to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market”⁹. Section 11(1) of the Act casts a duty on SEBI to do so by such measures as it thinks fit. Section 11(2)(b) gives SEBI the power to register and regulate “investment advisers” and “such other intermediaries who may be associated with securities markets”. The phrase “such other intermediaries” is wide, and SEBI has, over the years, used it to bring within the regulatory net entities like research analysts, depository participants, custodians, debenture trustees and so on.

The Supreme Court has, in many cases, given a purposive and broad interpretation to these provisions. In *Securities and Exchange Board of India v. Ajay Agarwal*, the Court held that the SEBI Act is a beneficial legislation aimed at investor protection and must be construed broadly¹⁰. In *N. Narayanan v. Adjudicating Officer, SEBI*, the Court called SEBI a “watchdog” of the securities market¹¹. These judicial pronouncements make it clear that SEBI’s authority to safeguard investors under the parent statute is well established.

B. SEBI (Investment Advisers) Regulations, 2013

The SEBI (Investment Advisers) Regulations, 2013 are at the heart of the discussion. Regulation 2(1)(m) defines “investment adviser” as:

*“any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;”*¹²

Regulation 2(1)(l) defines “investment advice” as:

“advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment

⁹ Securities and Exchange Board of India Act, 1992 (Act 15 of 1992), Preamble.

¹⁰ *Securities and Exchange Board of India v. Ajay Agarwal*, (2010) 3 SCC 765.

¹¹ *N. Narayanan v. Adjudicating Officer, SEBI*, (2013) 12 SCC 152.

¹² SEBI (Investment Advisers) Regulations, 2013, reg. 2(1)(m).

products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning:

Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations;”¹³

Registration is mandatory under Regulation 3, and qualification, certification, net-worth and disclosure requirements are spelt out in subsequent provisions.¹⁴

This regulatory framework presents a significant concern. When these regulations were originally drafted, the media landscape was fundamentally different, and digital platforms such as YouTube, Telegram, and similar online channels did not exist in their present commercial form.

- The regulations were drafted with television anchors and newspaper columnists in mind.
- They were not thinking of a YouTuber who runs a free channel with a million subscribers but also sells Rs. 25,000 paid courses where specific stocks are tipped.
- They were also not thinking of a Telegram channel that runs free posts but also has a Rs. 5,000 monthly “premium tier”.

When SEBI tries to bring such persons within the IA Regulations, the noticee can argue that his content was on YouTube, “widely available to the public”, and therefore exempt. SEBI has, in the orders discussed in Chapter 3, dealt with this argument by looking at the substance of the activity rather than its form. The regulatory text itself remains unsatisfactory and, in our view, due for amendment.

The other interpretive issue is the meaning of “consideration”. A finfluencer may not directly charge a viewer. He earns through

- (i) advertisement revenue from the platform;
- (ii) brand sponsorship from listed companies whose stock he discusses (a serious red flag);
- (iii) referral commissions from brokers when his viewers open trading accounts using his promo code; and
- (iv) paid courses or paid Telegram subscriptions where the connection between content and money is more direct.

¹³ SEBI (Investment Advisers) Regulations, 2013, reg. 2(1)(I).

¹⁴ *Id.*, regs. 3, 6, 7, 8 and 15-17.

Whether all of these amount to “consideration” within the meaning of Regulation 2(1)(m) is a question that has not been clearly settled. SEBI has, in the Baap of Chart and Asmita Patel orders, treated paid courses as “consideration” without much elaboration¹⁵.

During our research, we downloaded the latest brochure of one popular YouTuber's 'F&O Mastery' program. The fee was Rs. 41,000, the brochure listed three module names with words like 'unbeatable strategies' and 'guaranteed monthly income', and yet the YouTuber's channel description prominently described him as a 'financial educator'. The line between education and advice, on that brochure, was effectively non-existent.

C. SEBI (Research Analysts) Regulations, 2014

The SEBI (Research Analysts) Regulations, 2014 cover persons who issue “research reports” containing buy-sell-hold recommendations.¹⁶ A “research report” is defined widely to include any written, electronic or other communication that contains research analysis or recommendation.¹⁷ Registration is mandatory and certification, qualification and disclosure norms are prescribed. The 2024 amendments have eased some of the entry barriers, with a stated objective of bringing more finfluencers within the formal net.¹⁸

The difficulty here is similar to the IA Regulations. The drafters were thinking of analysts working with broking houses and asset managers, who write reports with detailed financial models. They were not thinking of a 90-second Instagram reel that says “Tata Power looks good for short-term”. Whether the reel is a “research report” is debatable. SEBI’s general approach has been to treat any specific recommendation as falling within the RA Regulations, but this approach also stretches the regulatory text.

D. SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003

Regulation 4(2)(k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 prohibits the dissemination of any information through any means, whether print or electronic, which is not true or which the person does not believe to be true, prior to or in the course of dealing in securities.¹⁹ SEBI has been using these Regulations against pump-and-dump schemes operated through Telegram channels and WhatsApp groups, and against finfluencers who claim false returns. The width of the language

¹⁵ *Supra* note 3. See in particular paragraphs in the order discussing the nature of the noticee’s revenue model.

¹⁶ SEBI (Research Analysts) Regulations, 2014, reg. 2(1)(u).

¹⁷ *Id.*, reg. 2(1)(w).

¹⁸ SEBI (Research Analysts) (Amendment) Regulations, 2024.

¹⁹ SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, reg. 4(2)(k).

is helpful from an enforcement perspective. It is also somewhat dangerous, because the same language could in theory cover an honest journalist who gets a fact wrong.

E. Other Applicable Frameworks

1. The Consumer Protection Act, 2019 is also relevant here. The Department of Consumer Affairs released the “Endorsement Know-Hows for Celebrities, Influencers and Virtual Influencers on Social Media Platforms” in January 2023.²⁰ These guidelines require disclosure of paid promotions and material connections.

2. The Information Technology Act, 2000 and the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 deal with platform liability.²¹

The result is that the regulatory landscape is fragmented across SEBI, the Ministry of Consumer Affairs, the Ministry of Electronics and Information Technology (MeitY) and the Ministry of Information and Broadcasting (MIB). No agency has clear ownership of the finfluencer issue, and that is itself a problem.

III. SEBI’S ENFORCEMENT ORDERS

The doctrinal gaps that we have discussed above are not merely academic. They show up in SEBI’s recent enforcement orders. We look at three orders here, in chronological order.

A. P.R. Sundar (March 2022)

P.R. Sundar is a YouTuber with over a million subscribers. Through his entity Mansun Consultancy Private Limited, he was alleged to have offered investment advisory services without registration. The fees ranged from Rs. 2,000 to Rs. 19,000 per service. SEBI accepted a settlement of approximately Rs. 46.8 lakh and imposed a one-year voluntary debarment from the securities market.²² The settlement was, in numerical terms, not insignificant for an individual. However, in the case of a YouTuber with such extensive reach and substantial revenue, the penalty may be viewed less as a deterrent and more as an ordinary cost of doing business. This is a worry we will return to in Chapter 7.

B. Mohammad Nasiruddin Ansari (“Baap of Chart”) (October 2023)

The order of the Whole-Time Member of SEBI dated 24 October 2023 in the matter of

²⁰ Consumer Protection Act, 2019 (Act 35 of 2019); Department of Consumer Affairs, “Endorsement Know-Hows for Celebrities, Influencers and Virtual Influencers on Social Media Platforms” (Jan. 2023).

²¹ Information Technology Act, 2000 (Act 21 of 2000); IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

²² *Supra* note 4.

Mohammad Nasiruddin Ansari is, in many ways, the leading order on influencers in India.²³ The noticee was running a YouTube channel called “Baap of Chart” with over 4.4 lakh subscribers. He was promoting paid education and advisory services through Telegram groups and a website, claiming returns of “300% in 3 months”, and was wrongly representing himself as a SEBI-registered research analyst. SEBI ordered disgorgement of approximately Rs. 17.2 crore, restrained him from accessing the securities market for a period of one year, and imposed monetary penalties.²⁴

What is striking about this order is the way SEBI looked at the substance and not the form. The noticee’s defence, predictably, was that he was an “educator” and not an “adviser”. SEBI rejected this on the simple ground that what was being delivered was specific stock recommendations dressed up as education. The other striking feature is the use of the PFUTP Regulations to address the misleading representations. The PFUTP Regulations were originally designed to deal with insider trading and market manipulation. To use them against false marketing is, in some sense, a regulatory stretch. Whether SEBI is right to do so has been the subject of some debate, with some commentators welcoming the broad reading and others cautioning that the PFUTP Regulations should not be used as a catch-all weapon. Our own view is that the use is defensible in egregious cases like Baap of Chart but may be problematic in marginal ones.

C. Asmita Patel (February 2025)

The Asmita Patel matter is, on the numbers alone, the largest yet. SEBI’s interim ex-parte order alleged that approximately Rs. 104 crore had been collected from over 800 trainees over about three years.²⁵ The programmes were marketed as “training” but, according to SEBI, contained specific stock recommendations that crossed into investment advice. The order was passed under Section 11(1) read with Sections 11(4) and 11B of the SEBI Act. The point we want to flag here is the use of the ex-parte route. SEBI has the power to do this, and the SAT has consistently upheld that power, but routine use of ex-parte orders has implications for the procedural rights of the noticee. We take this up briefly in Chapter 5.

D. What these orders tell us

For the convenience of the reader, the three orders discussed above are summarised in tabular form below.

²³ *Supra* note 3.

²⁴ *Id.*

²⁵ *Supra* note 5.

Table 1: Selected SEBI Enforcement Actions Against Finfluencers (2022 to 2025)

Date	Noticee	Platform / Reach	Amount Involved	Nature of Action
Mar 2022	P.R. Sundar / Mansun Consultancy	YouTube (~1 million subs)	Rs. 46.8 lakh (settled)	Settlement; one-year voluntary debarment
Oct 2023	Mohammad Nasiruddin Ansari	YouTube “Baap of Chart”	Rs. 17.2 crore	Disgorgement; market access restraint; penalty
Feb 2025	Asmita Patel / Asmita Patel Global	YouTube + paid courses	Rs. 104 crore (alleged)	Interim ex-parte order under section 11B

Source: Compiled from SEBI orders

Reading these orders together, a few things stand out.

- First, SEBI’s enforcement is, almost by definition, reactive. The pattern is: investor complaints come in, media reports highlight the issue, SEBI investigates, orders are passed. There is no real proactive surveillance system. By the time SEBI acts, the harm is already done and recovery is often impossible.
- Second, SEBI is stretching existing definitions, particularly “investment adviser” and “fraudulent practice”, to cover situations not contemplated when these definitions were drafted. This works in clear cases. It will not work in marginal ones.
- Third, the cases involve large numbers but also represent only a tiny fraction of the actual influencer ecosystem in India, which by some informal estimates runs into thousands of channels. A regulatory model based on case-by-case enforcement is simply not capable of dealing with the problem at this scale.

IV. THE 2024 REFORMS

A. The Consultation Paper, August 2023

SEBI’s first systematic acknowledgement of the finfluencer issue came in the Consultation Paper dated 25 August 2023.²⁶ The proposals included a prohibition on registered

²⁶ *Supra* note 6.

intermediaries from associating with unregistered entities providing investment advice or claiming returns, a prohibition on use of unregistered entities for promotional or referral activities, and coordination with MIB and MeitY for content takedown.

B. The Circular dated 13 May 2024

The Consultation Paper crystallised in the SEBI Circular dated 13 May 2024.²⁷ The Circular, addressed to all registered intermediaries, prohibits any direct or indirect association with persons who provide advice or recommendation in respect of securities or make claims of return or performance, unless permitted under SEBI law.²⁸ Rather than directly regulating finfluencers (which would have required new definitions and a registration apparatus, and would have invited the constitutional questions discussed in Chapter 5), SEBI has chosen to cut off the financial connection between registered intermediaries and unregistered finfluencers. The hope is that, deprived of brokerage referral commissions and brand sponsorship deals from registered intermediaries, the finfluencer ecosystem will gradually shrink.

C. Investment Advisers (Amendment) Regulations, 2024

The Investment Advisers (Amendment) Regulations, 2024 have made registration easier for individual investment advisers. Qualification requirements have been rationalised, deposit and net-worth norms have been liberalised, and a procedure for registration as a “part-time” investment adviser has been introduced.²⁹ The implicit theory is that, by lowering the cost of registration, SEBI can convert at least some unregistered finfluencers into registered IAs subject to the discipline of the Regulations.

D. Critique

Though, the 2024 reforms are a real step forward, but the reforms have, in our view, three significant gaps.

- First, the indirect-regulation approach has a fundamental blind spot. By cutting off the connection between registered intermediaries and finfluencers, SEBI can reduce one source of revenue, that is, referral commissions. It does not affect finfluencers whose income comes mainly from platform monetisation, paid Telegram subscriptions, paid courses, or sponsorships from non-financial brands. The Baap of Chart and Asmita Patel matters did not turn principally on registered-intermediary referrals. Closing the referral pipeline therefore catches some but not all of the harm.

²⁷ *Supra* note 7.

²⁸ *Supra* note 7, paras. 3-5.

²⁹ *Supra* note 8.

- Second, the framework is silent on the meaning of “finfluencer”. The absence of even a working definition leaves both regulator and regulated in a state of uncertainty. Compare this with the position in the United Kingdom, where the FCA’s Finalised Guidance explicitly addresses social media influencers as a category.
- Third, the framework places almost no obligations on the social media platforms. The IT Rules, 2021 require intermediaries to act on actual knowledge of unlawful content. They do not require proactive moderation of financial content, and there is no specific MoU or rule that brings YouTube, Instagram or Telegram into the SEBI regulatory ecosystem in any meaningful way. This is a major gap.

V. CONSTITUTIONAL ISSUES

Any regulation of speech on social media must reckon with Article 19(1)(a) of the Constitution of India. This is a part of the analysis where we find ourselves less certain than the rest, and we will set out only the basic position.

Article 19(1)(a) guarantees freedom of speech and expression. Restrictions are permissible only on the grounds in Article 19(2), and "investor protection" is not, on the face of it, one of those grounds. However, Supreme Court has held that commercial speech also falls within the protection of Article 19(1)(a). In *Tata Press Limited v. Mahanagar Telephone Nigam Limited*, the Court held that commercial speech is part of free speech and that the grounds in Article 19(2), read broadly, can accommodate consumer and investor protection.³⁰ The position therefore is not that finfluencer speech is unprotected. It is that any restriction on it must satisfy the proportionality test laid down by the Court in *Modern Dental College and Research Centre v. State of Madhya Pradesh*.³¹

Applied to the present problem, the proportionality test requires the chosen regulatory measure to serve a legitimate aim, to be rationally connected to that aim, and to be the least restrictive of the available alternatives. Investor protection is a legitimate aim. Regulating unregistered investment advice on social media is rationally connected to it. The risk lies at the necessity stage. A blanket prohibition on social-media discussion of stocks would clearly fail the test, because less restrictive alternatives such as mandatory disclosure and tiered registration are available. The May 2024 Circular, by operating on the financial connection between registered intermediaries and finfluencers rather than on speech itself, performs reasonably well on this stage. The four-model framework we propose in Chapter 7 is, in our view, also defensible on

³⁰ *Tata Press Limited v. Mahanagar Telephone Nigam Limited*, (1995) 5 SCC 139.

³¹ *Modern Dental College and Research Centre v. State of M.P.*, (2016) 7 SCC 353.

proportionality grounds, because it does not silence influencer speech but only requires registration and disclosure calibrated to the type of activity. Some concerns about vague terminology in the PFUTP Regulations and about the routine use of ex-parte orders under Section 11B do remain. They are best addressed through careful design of the regulatory text and procedural safeguards, rather than through wholesale rejection of the regulatory project.

VI. A BRIEF COMPARATIVE LOOK

Let us now briefly look at four jurisdictions to see what regulatory tools are being deployed elsewhere.

United States: The Investment Advisers Act of 1940 defines “investment adviser” as any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing or selling securities.³² The SEC has applied this definition to social media personalities. The most well-known instance is the SEC’s October 2022 enforcement action against the celebrity Kim Kardashian for promoting EthereumMax tokens on Instagram without disclosing a USD 250,000 paid promotion. The matter was settled for around USD 1.26 million.³³ The SEC’s Marketing Rule of 2020 requires disclosure of testimonials and endorsements.³⁴

United Kingdom: Section 21 of the Financial Services and Markets Act, 2000 prohibits the communication of “financial promotions” by persons not authorised by the FCA.³⁵ In March 2024, the FCA issued Finalised Guidance FG24/1 titled “Financial Promotions on Social Media”.³⁶ This guidance is the most detailed regulatory document on influencers in any major jurisdiction and explicitly addresses social media influencers. The FCA has also taken enforcement action against unauthorised influencers.

European Union: ESMA’s Statement of October 2021 cautioned that posts on social media expressing investment recommendations may amount to “investment recommendations” under the Market Abuse Regulation, triggering disclosure obligations.³⁷ Separately, the Digital Services Act, 2022 imposes systemic-risk obligations on Very Large Online Platforms.³⁸

³² The Investment Advisers Act of 1940 (United States), 15 U.S.C. § 80b-2(a)(11).

³³ U.S. Securities and Exchange Commission, “Press Release: SEC Charges Kim Kardashian for Unlawfully Touting Crypto Security” (Oct. 3, 2022), *available at*: <https://www.sec.gov> (last visited on Apr. 25, 2026).

³⁴ Marketing Rule, 17 C.F.R. § 275.206(4)-1 (United States).

³⁵ The Financial Services and Markets Act, 2000 (United Kingdom), s. 21.

³⁶ Financial Conduct Authority, “Finalised Guidance FG24/1: Financial Promotions on Social Media” (March 2024), *available at*: <https://www.fca.org.uk> (last visited on Apr. 25, 2026).

³⁷ European Securities and Markets Authority, “Statement on Investment Recommendations on Social Media”, ESMA70-154-2780 (Oct. 28, 2021), *available at*: <https://www.esma.europa.eu> (last visited on Apr. 25, 2026).

³⁸ The Digital Services Act, Regulation (EU) 2022/2065 of the European Parliament and of the Council, Oct. 19, 2022.

What can India learn? The US shows how an existing licensing framework can be stretched. The UK shows the value of detailed, public conduct guidance specifically aimed at influencers. The EU shows that platform-level regulation has a role to play. None of these models is fully suitable for India, but elements of each can be combined.

VII. FOUR POSSIBLE MODELS FOR INDIA

This is the heart of the paper. We look at four regulatory models that could be deployed in India: (i) tiered registration; (ii) co-regulation with social media platforms; (iii) the Self-Regulatory Organisation model; and (iv) a statutory private right of action with class-action features. Each has its strengths and weaknesses. None, in our view, is sufficient by itself, but a combination of these might result in effective regulation of the issue at hand.

A. Model 1: Tiered Registration

Under this model, SEBI would distinguish between three tiers of influencer activity, with registration and disclosure obligations calibrated accordingly.

Tier 1: Pure financial educators. Persons who only explain general concepts such as compounding, asset allocation, taxation, or basic financial literacy, without making specific stock or scheme recommendations. For Tier 1, only a standard on-screen disclaimer should be required. The cost of compliance must be near zero, otherwise legitimate financial educators will be priced out of the market and the country's financial literacy will suffer.

Tier 2: General commentators. Persons who discuss specific securities in a general, non-personalised manner without giving direct buy-sell-hold recommendations. For Tier 2, a registration with mandatory disclosures of identity, qualifications, conflicts of interest and any compensation received in respect of the content should be required. The SEC's Marketing Rule and the FCA's FG24/1 are good models for the disclosure format.

Tier 3: Advisers and analysts. Persons who give specific buy-sell-hold recommendations or personalised advice. Tier 3 attracts the full discipline of the IA Regulations or the RA Regulations as the case may be.

The strength of this model is that it directly addresses the regulatory gap. It is also constitutionally sound, because it does not silence speech but only requires disclosure (and, at the higher tiers, registration). The weakness is administrative. SEBI does not currently have the bandwidth to register and supervise thousands of influencers.

B. Model 2: Co-regulation with Social Media Platforms

Under this model, SEBI works with the major social media platforms (YouTube, Instagram, Telegram, X) through either a Memorandum of Understanding or a specific rule notified jointly by SEBI and MeitY under the IT Rules, 2021. The platforms would be required to provide three things: (i) a verified-finfluencer label visible to users, similar to the blue tick on X but specific to financial content; (ii) an automated takedown mechanism for SEBI-flagged content; and (iii) an annual transparency report on financial content moderation, similar to the existing transparency reports submitted under the IT Rules.

The model has obvious strengths. It places the responsibility where the technological capacity actually exists, that is, with the platforms. Platforms have machine-learning models that can identify financial content at scale, which SEBI does not. Platforms also have the ability to attach labels, demote content in algorithmic feeds, or block payments. The European Union's Digital Services Act has shown that this kind of platform-level regulation is administratively feasible when the legal framework is sufficiently clear.

There are, however, two real difficulties. First, platforms are non-Indian companies in most cases, and SEBI's jurisdiction over them is contested. The Information Technology Act gives MeitY some leverage, but SEBI does not have the equivalent powers. A formal mechanism for SEBI to direct platforms is yet to be created. Second, content moderation is itself a politically sensitive activity. Asking platforms to make calls about which finfluencer is genuine and which is fraudulent will inevitably generate complaints of bias and over-reach. The framework will need careful design with clear due-process safeguards.

C. Model 3: A Self-regulatory Organisation (SRO) for Finfluencers

This is, in some ways, the most ambitious model. SEBI recognises an industry body, formed by leading finfluencers themselves and approved by SEBI, as a Self-Regulatory Organisation. The SRO would frame a code of conduct, run a mandatory certification programme (analogous to the NISM Series-X-A certification for investment advisers), maintain a member directory, and handle first-level grievance redressal. SEBI retains oversight powers, including the power to derecognise the SRO if it fails to discharge its functions.

The Indian regulatory tradition is broadly comfortable with SROs. AMFI for mutual funds, AIBI for merchant bankers, ANMI for stock brokers, are all examples of SROs that work, more or less. SEBI itself notified the SEBI (Self-Regulatory Organisations) Regulations, 2024 to

formalise this approach for emerging segments.³⁹ Recognising an SRO for influencers would, in theory, allow SEBI to outsource the day-to-day work of certification, member management and complaint handling, while retaining the deeper enforcement powers.

The risks are also well known. The biggest is regulatory capture. The Indian influencer ecosystem is not large in terms of the number of high-influence individuals. Five or ten of them probably account for a very large share of the audience and revenue. An SRO whose membership is dominated by these individuals is unlikely to be a tough enforcer. The other risk is that an SRO without strong statutory teeth becomes, in practice, a club whose function is to give its members a stamp of legitimacy without actually disciplining them. That said, with careful design (independent directors, SEBI nominees on the board, mandatory turnover of office-bearers, public disclosure of disciplinary actions), the risks can be managed.

D. Model 4: Statutory Private Right of Action and Class Action

This is the model we find most intellectually attractive but the most difficult to implement in the Indian context. The proposal is to amend the SEBI Act, 1992 to insert a new provision creating an express private right of action for retail investors who suffer loss because of investment advice received from an unregistered person. Combine this with a class-action mechanism (analogous to Section 245 of the Companies Act, 2013, or the consumer class action under the Consumer Protection Act, 2019) so that groups of affected investors can collectively sue. Provide for statutory minimum damages so that small individual losses are economically worth litigating.

The theoretical anchor is decentralised enforcement, what American academics call the “private attorneys general” model. This is the dominant approach in US securities fraud litigation under Rule 10b-5. The strength of the model is that enforcement no longer depends on SEBI’s bandwidth alone. Each influencer faces a continuing risk of being sued by aggrieved viewers, and that creates a deterrent which a purely regulatory model cannot match. Compensation also goes directly to the affected investors instead of to a regulatory fund.

The difficulties, in the Indian context, are equally large. Indian civil courts are notoriously slow. Even a class-action would, on the existing court infrastructure, take years to deliver judgment. The model would need to be paired with a special tribunal or expedited procedure under the SAT to be workable. There is also the risk of frivolous litigation, where influencers are sued by viewers who lost money in the market for reasons entirely unconnected with the influencer’s

³⁹ SEBI (Self-Regulatory Organisations) Regulations, 2024.

advice. Some kind of pre-litigation filtering, perhaps through a small admission fee or a mandatory mediation step, would be necessary.

A modest version of this model is, however, achievable in the short term. SEBI could, in coordination with the Government, propose an amendment to the SEBI Act creating a private right of action for losses caused by clearly unregistered investment advice (not for losses generally), capped at a statutory maximum, adjudicable by the SAT in a summary procedure. This would be a meaningful improvement over the current position, where a viewer who has lost money because of influencer advice has effectively no remedy except to file an FIR for cheating, which is rarely productive.

At the risk of contradicting ourselves, we want to add a small qualification to our own enthusiasm for this fourth model. The more we have thought about it, the less sure we are that it will actually work in the Indian context. The American example we have drawn on is set in a court system that is significantly faster than ours, and a class-action infrastructure that is significantly more developed. Our own experience with class actions under section 245 of the Companies Act, 2013, and even the consumer class action under the Consumer Protection Act, 2019, is not particularly encouraging. Filings are few, judgments take years, and very small investors often cannot organise themselves into a class. So while we include the private right of action as one of the four models, we would, on reflection, rank it below the tiered registration model and the platform co-regulation model in terms of immediate priority. Perhaps it is best treated as a long-term reform that should be pursued only after the other three are reasonably operational.

E. None of these is sufficient by itself

Each of these four models has gaps. Tiered registration addresses prevention but not compensation. Co-regulation with platforms addresses scale but not legitimacy. The SRO model addresses industry buy-in but creates capture risk. The private right of action addresses deterrence but is procedurally difficult. An effective Indian framework, in our view, will need to combine elements of all four. The conclusion of this paper, set out in the next chapter, is that this combination should be sequenced, beginning with the easier elements (a tiered framework with disclosure) and progressing to the harder ones (a statutory amendment creating a private right of action) as institutional capacity develops.

VIII. CONCLUSION

We do not want to overstate the case. SEBI has done much in the last two years. The Consultation Paper, the May 2024 Circular and the IA (Amendment) Regulations, 2024

represent a real regulatory effort. But the problem of finfluencers is not going away. If anything, it is getting larger. Smartphone penetration is deepening, retail investor numbers are growing, and the platforms continue to monetise financial content.

The paper has argued that none of the four regulatory models we discussed (tiered registration, platform co-regulation, SRO recognition, private right of action) is sufficient on its own, and that a sustainable Indian framework must combine elements of each. To be specific: in the short term, SEBI should formalise a tiered registration framework with mandatory disclosure obligations. In the medium term, it should enter into a structured arrangement with the major social media platforms, possibly through a joint MoU with MeitY, for content labelling and takedown. In the slightly longer term, it should encourage and recognise an SRO with strong statutory teeth and independent governance. And it should propose, possibly through a Law Commission reference, a statutory amendment to the SEBI Act creating a private right of action with summary adjudication by the SAT.

What this paper has not been able to do, and what further research is genuinely needed for, is the empirical assessment of the harm caused by finfluencers. The numbers we have used in this paper are largely drawn from SEBI's own enforcement orders and from the January 2023 F&O study. There is no comprehensive empirical study, to our knowledge, of how much retail investor loss in India is attributable to finfluencer advice as opposed to other causes. Without that data, the regulatory response will continue to be driven by anecdotes from individual cases. SEBI, with its access to broker data, KYC data, and the National Centre for Financial Education, is well placed to commission such a study. It should do so urgently.

We will end with a small observation. When we first started researching this topic, we assumed the issue was about a few bad actors. By the time we had finished reading the SEBI orders, we had revised that view. The problem is structural, not individual. It is about a regulatory framework drafted for an analogue era trying to deal with a digital phenomenon, in a country where retail investor literacy is still catching up. Fixing the framework is not just about catching the next Baap of Chart. It is about giving the Indian retail investor, who is increasingly young and increasingly online, a fair opportunity to make informed investment decisions regarding the markets without being swindled.

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