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The Role of SEBI in Regulating Social Media Influencers in the Indian Securities Market

GURTEJ WALIA¹

ABSTRACT

The boom in the world social media has given rise to a new category of influencers known as "FinFluencers," who provide financial advice and market insights to broad audiences. This article explores the role of the Securities and Exchange Board of India (SEBI) in moderating the impact of FinFluencers on the Indian securities market. As these influencers gain significant followings, their ability to influence market behavior presents both opportunities and risks. This study examines SEBI's regulatory framework concerning FinFluencers, the existing regulations, and concludes with recommendations for enhancing regulatory measures to ensure market integrity and investor protection.

I. INTRODUCTION

The advent of social media platforms such as Youtube, Twitter, Facebook, Reddit etc. has revolutionized the way information is disseminated and consumed, especially regarding stocks and investments. The rapid spread of information and opinions on these platforms can significantly influence investor sentiment and stock market trends. For instance, a viral tweet from a prominent investor or a popular Reddit post can lead to a surge in interest in a particular stock, causing a sudden increase in trading activity and influencing the stock's price. This phenomenon, often referred to as the "Reddit effect" or "social media momentum". Tracing the inception of these finance channels on various social media accounts, you realise that these channels were originally created as educational channels, where honest opinions of Investment Advisors, and guidance videos/posts for young investors were made, tragically these channels have now made a switch to promotion based tips, which might not be based on merit of the security in question or sound market research or for education purposes even, but solely promoted due to a paid sponsorship, advertisement or promotion post or perhaps to simply inflate a particular security via any of the popular social media handles or financial influencers. Social media not only directly impacts stock market trends but also affects investor psychology.

¹ Author is a Legal Practitioner in India.

The constant flow of information and real-time updates can create a sense of urgency and fear of missing out (FOMO), leading to impulsive decision-making and increased market volatility. An influencer would occupy marketing strategies and create false profit sheets to dupe their followers into purchasing that particular security, this has also resulted in SEBI taking stringent actions against some Social Media handles such as the P.P. Sundar case.

Recognizing the profound impact of social media on the stock market, regulators worldwide, including the Securities and Exchange Board of India (SEBI), are increasingly focused on ensuring fair and transparent markets. In India, SEBI has implemented guidelines to prevent market manipulation and protect investors, requiring influencers and individuals with significant followings to disclose their stock positions and clarify the nature of their recommendations. This transparency helps investors identify potential conflicts of interest and make more informed decisions.

II. REGULATION OF FINANCIAL MARKETS BY SEBI

SEBI is primarily responsible for the protection and regulation of the securities market in India. Its mandates include preventing insider trading and fraudulent practices, promoting fair practices, and maintaining a code of conduct among market participants. However, the rise of social media and finance influencers, or "Finfluencers," has introduced new challenges that SEBI is addressing through updated regulations.

The main question to be addressed here is whether anyone can provide such an investment advise. The answer lies in understanding the two kinds of licenses that the SEBI provides – the Investment Advisor License and Research Analyst License, they are both based on exams/tests conducted by the SEBI, and only then can a person be permitted to practice in the field of Investment advisory and research pertaining to the same. Historically, SEBI's definition of investment advisors did not encompass social media influencers. Investment advice was considered any oral or written recommendation regarding securities, excluding advice given through widely available media like newspapers and electronic platforms. However, the growing influence of social media has necessitated a re-evaluation of these definitions.

In its circular dated May 2, 2024, SEBI introduced the 'Framework for Administration and Supervision of Research Analysts and Investment Advisers,' which establishes two supervisory bodies: the Research Analyst Administration Supervisory Body (RAASB) and the Investment Adviser Administration and Supervisory Body (IAASB). These bodies are tasked with:

- Administering databases, registers, and details of Research Analysts (RAs) and Investment Advisers (IAs).

- Issuing circulars and instructions to RAs and IAs for implementing SEBI guidelines.
- Submitting reports to SEBI.
- Collecting fees.
- Monitoring activities, compliances, and audits of RAs and IAs.
- Providing a Grievance Redressal Mechanism and Online Dispute Resolution (ODR).

Needless to say the two bodies - RAASB and IAASB are regulated and monitored by SEBI. It is also pertinent to note that only in 2023, SEBI recognized the term 'Influencers' as individuals with the power to sway the opinions of a reasonably large number of people in the securities market. This also points towards the key reason why the SEBI has no control over the influencer market as of now, which is delay in problem identification.

The role in regulating these tips is not just a cause for concern for SEBI, we have had cases where these Finfluencers have vouched for certain specific stocks/securities, mutual funds and even trading platforms, later when the investors/viewers faced huge losses, they have simply walked away by claiming that it was a paid promotion/ advertising. This turns our attention towards the role of the Advertising Council of India has also issued regulations for these Finfluencers to clearly and promptly disclose details about any paid media that they might be promoting, via any of their social media platforms, in case of videos, the word "paid Promotion" or "Ad" should be clearly be visible on the screen while the promotion is ongoing and all material facts shall be disclosed to the viewers.

This however seems very small of a step in order to secure the investors, often we have seen there influencers walk away after disastrous tips, and walk away with a mere apology to their views, this is not only limited to social media. Main stream media channels have also been playing an historic role in influencing the stock markets. With the number of investors at an all time high, the mass populous is often manipulated via mis-information often by prominent figures, as was also evident by the recent post elections exit polls and the consequent rise in the markets, this high was however not long lasting, as the stock markets crashed on the result day, wiping out cores of rupees of the investors.

The lack of accountability and inability of the public authorities including the SEBI to better regulate the markets. Whilst there are many changes which can be suggested to make the SEBI function better, for the interest of this article lets focus on how other countries have managed to handle the impact of social media on their respective markets.

III. COMPARATIVE STUDY

United States

In the United States, the Securities and Exchange Commission (SEC) plays a crucial role in regulating Finfluencers. The SEC mandates that influencers disclose any material connections, including compensation, with the companies they promote. Failure to do so can result in substantial fines and legal action. For instance, the SEC has taken action against celebrities like Kim Kardashian for failing to disclose payments received for promoting cryptocurrencies.

Furthermore, the Financial Industry Regulatory Authority (FINRA) also oversees the activities of Finfluencers. FINRA emphasizes that social media communications must be fair, balanced, and not misleading. In 2024, FINRA fined M1 Finance \$850,000 for violations related to the use of social media influencers, marking its first formal disciplinary action in this domain.

Australia

In Australia, the regulatory landscape for Finfluencers is stringent. The Australian Securities and Investments Commission (ASIC) requires anyone providing financial advice to hold an Australian Financial Services (AFS) license. Offering financial advice without this license is a criminal offense, punishable by up to five years in prison. This strict regulatory framework aims to protect investors from unqualified advice and ensure that all financial recommendations are credible and legally compliant.

ASIC has also issued guidelines specifically targeting social media influencers, emphasizing the need for clear disclosure of any financial interests and the risks associated with the promoted investments. These measures ensure transparency and help maintain the integrity of the financial markets.

IV. CONCLUSION

Social media has transformed the stock market landscape, influencing trends and investor behavior in unprecedented ways. The role of SEBI in regulating the impact of Finfluencers is crucial to maintaining fair and transparent markets in India. By implementing robust frameworks and collaborating with supervisory bodies, SEBI ensures that Finfluencers adhere to regulatory standards and provide transparent, unbiased investment advice.

Some measures that the SEBI can implement to be able to better regulate:

1. **Enhanced Disclosure Requirements:** Mandate more detailed disclosures regarding financial interests and potential conflicts of interest to improve transparency.

2. **Stricter Penalties:** Implement harsher penalties for non-compliance to deter fraudulent activities and ensure adherence to regulations.
3. **Public Awareness Campaigns:** Launch initiatives to educate investors about the risks associated with following FinFluencers and the importance of critical evaluation of financial advice received through social media.
4. **Technological Adaptation:** Invest in advanced monitoring tools to better track and regulate the activities of FinFluencers on various social media platforms.

The most stringent, yet necessary action should be to look at the job of Finfluencers, historically all finance channels on social media began as educational channels, guiding young investors on how to invest and how to manage their finances. The concept of paid promotions and advertisements in this sphere has perhaps changed these channels from educational channels to money minting channels. The Advertising Advisory Council of India also plays a very crucial role in attempting to curtail this problem.

A comparative analysis of regulatory approaches in the US and Australia highlights the importance of stringent regulations and proactive enforcement in safeguarding investor interests. Both countries have established comprehensive frameworks that require influencers to disclose material connections and adhere to high standards of conduct, whereas in India we are debating over regulating this sphere since 2020.

As the influence of social media on the securities market continues to grow, it is imperative for regulators like SEBI to adapt and evolve their strategies to address new challenges through better regulation and scrutiny. Investors, too, must approach social media information with caution, combining it with comprehensive research and professional guidance to make informed decisions aligned with their financial goals.

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