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Position Paper on Finfluencers

The Financial Services User Group (FSUG) issues this position paper, addressing the problems caused by the so called "finfluencers" as well as highlighting the need and urgency to regulate "finfluencing" and identifying the key points for a potential regulation.

Who are finfluencers?

The term "financial influencer", generally known as "finfluencer" refers to persons or organizations who:

- provide information or advice on financial products and services (such as savings, loans, insurances, investments, crypto assets, real estate, private pensions, pension funds, etc.) by means of social media or internet or training/coaching programs, or
- advertise or recommend such financial products and services, and thus
- "influence" the behavior of consumers and/or investment strategies of retail investors.

Hence, finfluencers constitute a sub-category in influencer marketing. Studies show that an ever-growing number of consumers turn to social media for financial information before taking (quite) important financial decisions since an entertaining presentation of complex financial services in simple language reaches a broader audience, especially younger consumers.[1] The German Federal Financial Supervisory Authority (BaFin) conducted a study among 1,000 consumers aged 18 to 45 who had undertaken investments in the past two years. The BaFin study showed that finfluencers are a key source of information for many young investors, more than half of investors from generations Y and Z consider social media to be a reliable source of information about finance, and 60 percent even consider it a good alternative to professional advice. 53 percent of all respondents received financial information from finfluencers at least once. Out of this 53 percent, 88 percent followed the investment recommendation by finfluencers.[2] A study by the UK's Financial Conduct Authority (FCA) found in 2021 that 54 percent of new investors aged 18 to 34 used social media as source material when researching investing, with 17 percent specifically using social media influencers.[3] According to a survey performed for BEUC, the European Consumer Organization, nearly half of consumers who came across influencers saw them promote crypto products.[4] Consequently, finfluencers have an important impact on financial behavior of consumers.

[1] Florian Möslein/Moritz Jetzen, Das Recht der Financial Influencer (Finfluencer), ZBB/JBB 4/24, 236 (237).
[2] The results of the BaFin-Study on finfluencers are published in the BaFin-Journal, see LINK.
[3] See LINK (behind paywall).
[4] BEUC, From influence to responsibility – Time to regulate influencer marketing, 2023, p. 28, see LINK.

Finfluencers might have contractual relationships with financial service providers for the promotion of certain financial products. Such contractual links might be by brokerage, agency or for advertising purposes. This group of finfluencers, in general, aims for commercial gain through payment for advertisement or sales commission.[5] According to a study which analyzed 106 finfluencers in German-speaking countries, 56 percent of finfluencers had been engaged in paid collaborations with companies.[6] Out of this 56 percent, most have been directly contacted by the collaborating firm (89 percent), or by affiliate networks or agencies (59 percent). Almost half took the initiative themselves (48 percent). The paid collaboration relates mostly to either affiliate links (80 percent) or sponsored posts (71 percent).[7] Sponsored content could also be in the form of a podcast. In Germany, for instance, there are insurance companies paying for podcast episodes, which handle the topic that public pension provisions are not sufficient to maintain a certain living standard. Using this contemporary topic and influencing the fears of most consumers, the podcasts then advertise for the private pension products of the insurance company paying for the podcast.[8]

There are also finfluencers who do not have any contractual links with financial service providers. Nevertheless, they might be still acting for commercial purposes through the sale of products and services such as books on financial topics, training or coaching programs. Especially coaching or training programs with bait titles such as “investment academy”, “finance training” or “masterclass finance” cost consumers thousands of Euros for a couple of weeks of coaching or training. It's particularly striking that these types of finfluencers rely on financial education to promote "get rich quick" strategies or high-risk investments without warning about their dangers, using concepts like "financial freedom" to attract consumers. Last but not least, their commercial intention could involve an investment in a certain financial product with the accompanying promotion of the said product on social media so that their own investment yields better return.[9]

Some finfluencers recently began forming private chat rooms using instant messaging services such as WhatsApp, Telegram or Messenger since they do not wish to publicly share recommendations or advice. In this type of finfluencing, the initial contact is made via social media platforms followed by consumers being added to private chat rooms.

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[5] Petra *Buck-Heeb*/Metin *Tatu*, Anlageempfehlungen von Finfluencern – Finanzmarktrechtliche Lücken bei Empfehlungen von Kryptowerten, RDi 2024, 461 (462).

[6] Marius *Mölders*/Lennart *Bock*/Eloy *Barrantes*/Henning *Zülch*, Exploring the Emergence of finfluencers on Instagram – Survey-Based Decriptive Insights into Their Segmentation, Motivations, Business Models, and Potential Use in Financial Communication, September 2024, p. 16, accessible at LINK.

[7] Mölders/Bock/Barrantes/Zülch, p. 16.

[8] Interview with the Consumer Advice Center in Hamburg, Germany.

[9] There is, for instance, a strategy called “Pump & Dump” among finfluencers which involves recommendation of investment in a certain crypto asset in which they themselves already invested (“Pump”). By creating a bubble through their recommendations, they achieve high returns on their own investment. When the hype reaches its highest point, they liquidate their investment (“Dump”). When the bubble bursts, financial consumers who had invested into the same crypto asset suffer considerable losses.

Some fraudsters posing as finfluencers copy this model of finfluencing. Using the model of private chat rooms, fraudsters use the name and photos of finfluencers acting with social purposes. Most providers of private messaging either do not react or react only with considerable delay to the complaints of persons whose identities are stolen. Hence, identity theft has recently become an important issue.

Finally, some finfluencers are acting with social purposes, such as increasing financial literacy, providing financial information and general advice to support consumers in their decision-making, and warning consumers against harmful commercial practices. Even in this type of finfluencing activities there may be a financial gain underlying through other sources of revenue (e.g. books or advertising). Nevertheless, the FSUG does not consider consumer organizations or employees of such organizations, which are involved in activities like the ones mentioned in this paragraph without any personal financial interests, as "finfluencers" since they are acting for the general interest of financial consumer protection.

What is the problem?

Despite the predominantly commercial purpose of their activities, either by direct contractual links with financial service providers or by the sale of their own products, finfluencers see themselves as advocates of financial education.[10] This impression seems to prevail among their followers as well. Many young investors (a total of 37 percent of those surveyed in the BaFin study) are completely unaware that finfluencers routinely receive payments for their recommendations. Of those who purchased a financial product via a finfluencer's link, 15 percent did not know that finfluencers are generally paid for their recommendations.[11] Hence, conflicts of interest and transparency are big issues.

Different from influencers in other fields, such as consumer goods, misleading information or advertisement by finfluencers recurrently results in financial losses for consumers as they either invest in high-risk financial products or products which do not achieve the advertised and/or desired outcome. Due to the complexity of many financial products, the pitfalls are not at all clear to consumers. In Germany, for instance, some finfluencers advertise ETF-savings plans with income tax benefits although such a type of saving plan with income tax benefit does not exist according to German Tax Law. It is, therefore, presumed that the finfluencers are actually advertising for investment in fund savings plans (a type of basic private pension product) which is a financially disadvantageous product for certain consumer groups – especially for younger consumers.[12] A report by BEUC shows that finfluencers do not inform consumers adequately about the risks of crypto assets when promoting them and that social

[10] Mölders/Bock/Barrantes/Zülch, p. 12, 15.
[11] BaFin-Study.
[12] See Verbraucherzentrale Hamburg, „Finanzwerbung: Großer Schein, wenig Sein“, see LINK and „Rürup Rente? Ist die sinnvoll?“, see LINK.

media platforms apply a very loose implementation of their policies as regards influencers promoting risky financial products.[13]

It is not even clear whether all finfluencers themselves understand what they are advertising or recommending. Some of them have only superficial knowledge about the financial products they are advertising or recommending for. There are no standards or qualification requirements for finfluencing on social media in each Member State. The same applies to training or coaching programs. Despite the fact that such programs cost thousands of Euros for consumers, qualifications of the personnel executing such trainings or coaching activities are generally not verified since such programs are not subject to any permission and/or supervision and their contents are not public.

In some cases, consumers even lose their lifelong savings and/or become victims of deception. For instance, a finfluencer known as "Immo Tommy" with almost two million followers and who refers to himself as Europe's biggest real estate influencer, gives investment recommendations on Instagram, TikTok, and other social media platforms. However, investigative journalists in Germany have revealed that many buyers who followed his recommendations and invested in “junk properties” through the "Immo Tommy" network became victims of deception and/or fraud.[14]

Another such example is the case of Nelson Finance, a so-called “international cryptocurrency trading company”, which promised those who gave them money a guaranteed profit, depending on the amount invested, i.e. the lower deposit (minimum 500 Euros) promised 11.2 percent profit in 14 days, and a gold deposit (minimum 3000 Euros) would have returned a 68 percent profit in 60 days. Nelson Finance was promoted by influencers from Romania with hundreds of thousands of followers, [15] but citizens of other countries, such as Italy, also fell victim to them.[16] Those who investigated this “get rich quick scheme” discovered that Nelson Finance has no website, no contact details, and no physical office. It had only been officially registered two months before the promotion began, and the photos of the team’s staff on Instagram were fakes.

It is obvious that the finfluencers who promote such “get-rich-quick” schemes do not conduct prior research on what they are advertising and, thus, expose hundreds of thousands of their followers to the risks of losing money, losing control of the accounts from which they transfer money, and other risks associated with the world of online investments. Almost all of the time, these finfluencers do not even properly mark their posts as advertising.

[13] BEUC, The great social media crypto con, 2023, see LINK.
[14] “Nach Recherchen zu "Immo Tommy": Wie geht es jetzt weiter?”, accessible at LINK and “So wehren sich die Opfer des Immo-Tommy-Netzwerks”, accessible at LINK (behind paywall).
[15] For the investigation where various financial investment scams, together with interviews with their victims, are presented, see LINK and LINK.
[16] Their modus operandi is presented in detail here: LINK.

Last but not least, there are finfluencers who are acting from outside Europe; however, advertising and/or giving recommendations to European consumers and influencing their followers to undertake investments for large amounts of money. For instance, a finfluencer called Flo Pharell presents himself as a successful investor with assets worth 4 million Euros and shares his investment strategies in German via social media – behind a Guy Fawkes mask. Investigative journalists in Germany found out that he resides in Dubai and achieves huge profits by manipulating his followers in investing in certain stocks and meme coins which already cost his followers 2.5 million Euros.[17]

Lack of adequate legal framework

One might think that among the vast number of European legal rules in the area of consumer protection in general and financial services in particular, there is clarity whether and which rules are directly applicable to different activities of finfluencers. Unfortunately, this is far from the truth and the applicability of the rules might be regarded "complex" at best.[18] The uncertainty and loopholes could be illustrated by the following examples:

Unfair Commercial Practices Directive (UCPD)[19] is applicable only to traders (art. 2 lit. b and d, art. 3 UCPD). Trader is "any natural or legal person who, in commercial practices covered by [the Directive], is acting for purposes relating to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader." Hence, the Directive is not applicable to finfluencers who do not pursue any commercial gain and share their investment strategies or recommendations, and may not be applicable to finfluencers who promote a certain financial product with the aim that their own investment in this product yields better return.[20]

The finfluencers might be covered by the Market Abuse Regulation (MAR)[21] and Delegated Regulation on Investment Recommendations (DRIR)[22] since spreading information proposing an investment decision about EU financial instruments aimed at a broad audience constitutes

[17] „Die seltsamen Anlagetipps des Mannes mit der Maske", accessible at LINK (behind paywall).
[18] Felix *Pflücke*, Regulating Finfluencers, EuCML 2022, 212 (222).
[19] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive'), OJ 2005 L 149/22.
[20] Pflücke, EuCML 2022, 212 (216-217); Möslein/Jetzten, ZBB/JBB 4/24, 236 (243).
[21] Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, OJ 2014 L 173/1.
[22] Commission Delegated Regulation (EU) 2016/958 of 9 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the technical arrangements for objective presentation of investment recommendations or other information recommending or suggesting an investment strategy and for disclosure of particular interests or indications of conflicts of interest, OJ 2014 L 160/15.

investment recommendation[23] – unless the information shared on social media falls under art. 21 MAR, i.e. "where information is disclosed or disseminated and where recommendations are produced or disseminated for the purpose of journalism or other form of expression in the media". In this case, the disclosure and dissemination of information according to MAR should be "assessed taking into account the rules governing the freedom of the press and freedom of expression in other media and the rules or codes governing the journalist profession". It is, therefore, open to interpretation of national courts, if and under which circumstances a finfluencer is covered by the rules of journalism.[24] Additionally, the question should be posed, which journalistic principles should be applicable in cases where finfluencers are acting from outside of Europe but direct their activities to EU countries.

Additionally, neither MAR nor DRIR obliges finfluencers to establish any expertise or qualifications relating to financial instruments or seek any prior approval or license.[25]

Markets in Financial Instruments Directive (MiFID II)[26] is applicable only to investment firms and market operators (art. 1 MiFID II). Finfluencers do not fall under the definition of investment firms (art. 4 para. 1 no. 1 MiFID II) or market operator (art. 4 para. 1 no. 18 MiFID II). Therefore, the provisions of this Directive and their national implementation are, currently, not relevant for finfluencers.[27] Hence, finfluencers providing recommendations or advice on e.g. contracts for difference (CFD) are not subject to national financial supervision.[28] Depending on the outcome of trilogue negotiations on the Retail Investment Strategy (RIS),[29] this result might be different in the future.

Advice regarding crypto assets is subject to Markets in Crypto-Assets Regulation (MiCAR).[30] The Regulation applies only to providers of crypto asset services (art. 2 para. 1, art. 3 para. 1 no. 15 MiCAR). According to the Regulation, only legal persons are classified as providers of such services. Finfluencers, regularly, are not legal persons and MiCAR is, therefore, not applicable to advice provided by them. Aware of the legal situation, finfluencers organized as

[23] ESMA, Statement on Investment Recommendations on Social Media, 28 October 2021, Doc. No. ESMA70-154-2780, accessible at LINK, and Warning for People Posting Investment Recommendation on Social Media, 6 February 2024, Doc. Nr. ESMA74-1103241886-912, accessible at LINK.

[24] Buck-Heeb/Tatu, RDi 2024, 461 (462); Pflücke, EuCML 2022, 217; Möslein/Jetzen, ZBB/JBB 4/24, 236 (246-251). In Germany, for instance, there is a website called Finanztipp founded by a foundation for providing financial information to consumers. Meanwhile, the organization is also active on social media. Finanztipp receives, among other sources, funding through affiliate links (upon certain conditions). One of their chief editors expressed on a conference that Finanztipp cannot be categorized as finfluencer, theirs are journalistic activities.

[25] Buck-Heeb/Tatu, RDi 2024, 461 (466).

[26] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast), OJ 2014 L 173/349.

[27] Buck-Heeb/Tatu, RDi 2024, 461 (464).

[28] In contrast, the UK Financial Conduct Authority has brought charges against nine finfluencers for promoting CFDs on social media, see LINK.

[29] See below Retail Investment Strategy.

[30] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, OJ 2023 L 150/40.

legal persons refrain from providing advice regarding crypto assets. The biggest issue regarding MiCAR, however, is the lack of a similar regulation such as art. 20 MAR which covers investment recommendations as well. Hence, there are no requirements relating to, e.g., objective presentation or disclosure of conflicts of interest which are applicable to investment recommendations on crypto assets.

The new rules regulating the distance marketing of consumer financial services (regulated under the Distance Marketing Directive (DMFSD)[31] which will be repealed and replaced by a financial services chapter in the Consumer Rights Directive[32] from June 2026) also do not regulate finfluencers. During the legislative review process, the co-legislators acknowledged there is a lack of clear adequate rules in the existing EU acquis on finfluencers and, therefore, the European Parliament considered including regulatory rules on finfluencers in the revamped distance marketing rules. However, it was ultimately decided that it would be more appropriate for this issue to be addressed within the digital fairness check of EU consumer law (foreseen in the mandate 2024-29) instead.

Finfluencing may not in principle fall within the scope of the Mortgage Credit Directive (MCD)[33] or the new [34] as the rules cover credit intermediation or advisory services. According to both directives, credit intermediation goes beyond merely introducing, either directly or indirectly, a consumer to a creditor (art. 4 no. 5 MCD, art. 3 no. 12 CCD 2), and advisory services involve personal recommendations in respect of one or more transactions relating to credit agreements (art. 4 no. 21 MCD, art. 3 no. 17 CCD 2).

ESMA's response and national responses

Due to the lack of adequate regulation on European level and due to uncertainties about the applicability of existing legislation to finfluencers, the European Securities and Markets Authority (ESMA) issued in 2021 two warnings about the growing use of social media to make investment decisions.[35] In addition, ESMA issued in July 2025 guidelines on supervisory practices for competent authorities to prevent and detect market abuse under the MiCAR which includes a recommendation to national competent authorities to monitor more closely

[31] Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC, OJ L 271/16.

[32] Directive (EU) 2023/2673 of the European Parliament and of the Council of 22 November 2023 amending Directive 2011/83/EU as regards financial services contracts concluded at a distance and repealing Directive 2002/65/EC, OJ L 2023/2673.

[33] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, OJ L 60/34.

[34] Directive (EU) 2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC, OJ L 2023/2225.

[35] See fn. 23.

social media content.[36] Furthermore, financial supervisory authorities of Member States started to react and take some measures, albeit within the limits of their supervisory authority in this matter. Some of these aim to warn consumers and try to bring some clarification within the existing legal landscape.

In Germany, for instance, the first reaction of the BaFin was to warn consumers about investment recommendations on social media.[37] Meanwhile, the BaFin updated its explanatory leaflet on investment advice[38] and, thereby, clarified that finfluencers regularly do not fulfill the criteria for the applicability of rules on investment advice since their recommendations are not tailored to a person's financial situation.

In Portugal, the Portuguese Securities Market Commission (CMVM) included a specific chapter on finfluencers in its recent report Investor Guide[39] (only in PT) with information on what finfluencers are, why they act, types and obligations they are subject to, benefits and what to be aware of, tips on how to evaluate them and the quality of information they provide.

Furthermore, on 13th March 2025, the CMVM issued a Communication[40] to the market aiming to clarify the applicable legal framework for finfluencer activities in the scope of their supervision. In this communication, the CMVM also provides guidance to financial intermediaries on their engagement with such influencers. The document outlines the activities carried out by finfluencers and which regulatory framework may apply:

- financial literacy contents: they are generally not supervised; however, content shared online may be under the scope of investment products regulations and, therefore, subject to the CMVM's supervision;
- advertising and client prospection (including tied agents): these activities are strictly reserved for financial institutions and tied agents – the CMVM lists requirements for advertising through finfluencers;
- investment advice services: any entity or person taking up these activities must be authorized and registered with the CMVM;
- investment recommendations: to perform these activities, persons have to be financial analysts, following CMVM's regulation and the MAR and DRIR.

Following up on this clarification, the CMVM informed in its Annual Report 2024[41] that they identified 33 finfluencers after viewing 150 contents and videos, out of which there were 32 cases of breach of advertising rules and 28 cases of breach of client prospection rules. As a result, and for the first time regarding finfluencer activities, the supervisor applied sanctions

[36] ESMA, Guidelines on supervisory practices to prevent and detect market abuse under the Markets in Crypto Assets Regulation (MiCA), 9 July 2025, Doc. No. ESMA75-453128700-1039, accessible at LINK.
[37] BaFin, Investment tips on social media: caution is paramount, accessible at LINK.
[38] BaFin, Merkblatt - Hinweise zum Tatbestand der Anlageberatung, Stand: Februar 2025, accessible at LINK.
[39] See LINK.
[40] CMVM communication regarding legal framework on Finfluencers (in Portuguese), accessible at LINK.
[41] CMVM, Annual Report 2024 (in Portuguese), accessible at LINK.

through precautionary measures aimed at the seizure and freezing of amounts associated with the proceeds of illicit activities carried out. These measures are now going through legal procedures.

Another type of reaction by the national authorities was to set guidelines for finfluencers in order to warn them about the allowed activities. For instance, the Dutch Authority for the Financial Markets (AFM) published guidelines for finfluencers[42] which include, among others, warnings as not to give personal investment advice if not licensed, be transparent about personal commercial interest regarding a specific recommendation and not to accept fees for bringing clients through affiliated links or referrals (as there is a ban on inducements in place in the Netherlands).

In France, the Autorité des Marchés Financiers (AMF) and the Autorité de Régulation Professionnelle de la Publicité (ARPP), on the other hand, jointly introduced a "Responsible Influence Certificate" which should improve the quality of finfluencing.[43] Furthermore, France banned influencer promotions of risky financial products, such as complex financial products and/or products with unknown risk or risk greater than the initial capital, crypto assets and Non-Fungible Tokens (NFT) unless approved.[44]

Belgium recently introduced new rules on virtual assets which mandate that influencer promotions for crypto assets must prominently disclose the risks associated with investing in these assets and include a prominent risk warning.[45]

Spain recently issued very similar rules to Belgium.[46] The Spanish National Securities Market Commission (CNMV) has included in its activities the supervision of influencers. In 2022, the CNMV conducted a review of the activities of individuals who may be issuing investment recommendations on social media, particularly experts, considering the indicators in the DRIR to guide the application of the legal definition of "expert".[47] At the end of 2022, the CNMV criticized the Spanish footballer crucial in Spain's victory in the 2010 World Cup, Andrés Iniesta, for promoting a well-known cryptocurrency platform.[48] Finally, in its 2025 activity plan included supervision to ensure that the finfluencers comply with the investment recommendations. Last but not least, according to Spanish regulations, accreditation and

[42] AFM, Finfluencing, accessible at LINK.
[43] AMF, The AMF and the ARPP launch the Responsible Influence Certificate in Finance, accessible at LINK.
[44] LOI no 2023-451 du 9 juin 2023 visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les réseaux sociaux (1), accessible at LINK.
[45] FSMA, Virtual currencies: the FSMA steps up its action to protect consumers, see LINK.
[46] Spanish National Securities Market Commission (CNMV), Circular 1/2022 of 10 January, on the advertising of crypto-assets presented as a means of investment, accessible at LINK.
[47] La CNMV detecta algunos influencers que podrían estar difundiendo recomendaciones de inversión sin cumplir integramente con la normative, accessible at LINK.
[48] For the tweet see Twitt Iniesta, and for the critic of the CNMV see Answer CNMV.

registration as a legal or natural person in the National Financial Advisory Companies registry is required; however, most finfluencers are not part of this list.[49]

In Italy, there is no specific law or regulatory framework that directly governs the activity of finfluencers. However, the Italian financial markets authority, Consob, has taken a public stance on the issue. On 6 June 2025, Consob published a "Richiamo di Attenzione" (Notice of Attention No. 2/2025), warning the public about the potential risks associated with financial influencers. The notice does not introduce new legal provisions but serves as a strong reminder of the existing regulatory obligations and of the caution that investors and content creators alike should exercise. In the document, Consob urges retail investors to avoid making hasty investment decisions based solely on what they see shared online, particularly under the influence of emotionally charged, generic, or unverified information. The notice draws attention to the risks of so-called "herd behaviour," where individuals follow the investment choices of others without proper analysis. It also warns against trusting messages that advertise allegedly high-yield, low-risk investment opportunities, which are often unrealistic and may conceal substantial risks. Consob also reminds finfluencers that their activity might fall within regulated domains and could, in some cases, be non-compliant with sector legislation or even unauthorized. In particular, influencers are encouraged to verify their obligations under financial regulation, especially when their content may qualify as an investment recommendation under market abuse rules. The notice underscores the importance of properly disclosing potential conflicts of interest and highlights that stricter rules apply to those who could be perceived as "experts." Finally, Consob recalls that spreading false or misleading financial information may constitute market manipulation, not only concerning traditional financial instruments but also to crypto assets. In support of its position, Consob refers to international guidance, including the IOSCO report and the ESMA warning on investment recommendations shared via social media platforms.

Due to the lack of coherent national or European supervision and liability regime, consumer protection organizations started to take measures to warn consumers against the activities of certain finfluencers. BEUC launched an external alert to the European Network of Consumer Protection Authorities about misleading promotion of crypto-assets on social media in 2023.[50] In Germany, for instance, the consumer advice center in Hamburg started to publish a list of finfluencers whose advertisement and/or recommendations do not correlate with the existing legal regime.[51] Other consumer organizations provide information on the business models of finfluencers, warn about the risks and share recommendations on how consumers can check the quality of content created by finfluencers.[52]

[49] List of Financial Advisory Firms, accessible at LINK.
[50] BEUC, The great social media crypto con, 2023, see LINK.
[51] See the link in fn. 12.
[52] See e.g. Bund der Versicherten, " Finanztipps auf Social Media: Welchen Finfluencern kann ich trauen?", accessible at LINK.

As demonstrated by these examples, there is a patchwork of different national responses and accordingly divergent measures across Member States, including some Member States having no measures at all. This leads to an uneven level of protection of consumers across the EU and regulatory arbitrage, leaving inadequate regulation regarding finfluencers in the EU overall. Consequently, from a regulatory point of view, consumers are left alone against commercially charged or untrustworthy and dubious finfluencers. Hence, there is a need for a clear EU harmonized regulation.

Retail Investment Strategy

Aware of the loopholes in the existing regulation, the European legislator is planning to adopt rules regarding finfluencers by way of the Retail Investment Strategy (RIS).[53] The definition of "marketing practice" proposed by the Commission and the Council Mandate[54] should cover finfluencers as well. However, the RIS is not without its loopholes. The proposed new article 88b MiFID II provides an exemption for financial education material. Accordingly, financial education material that aims to support individuals' financial literacy by enabling them to acquire financial competences, and that does not *directly* promote or entice[55] investment in one or several financial instruments, or categories thereof, or specific investment services, do not constitute a marketing communication for the purposes of MiFID II. Hence, financial education measures are not categorized as marketing communication. If, however, certain financial products or categories of products are *directly* promoted, this should be categorized as marketing communication.

The well-intended and necessary differentiation between marketing communication and financial education oversees, however, that there are several "financial education" initiatives undertaken by financial service providers or their affiliate associations which not only aim to improve financial education but also aim to *indirectly* promote one or several financial instruments or categories of financial instruments.[56] If according to the new regulation, only *direct* promotion would constitute marketing communication, but not *indirect* promotion, financial service providers and finfluencers would be able to claim that their activities fall under the financial education exemption, although they are indirectly promoting certain financial instruments, or categories of financial instruments.

[53] Proposal for a Directive of the European Parliament and of the Council amending Directives (EU) 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU and (EU) 2016/97 as regards the Union retail investor protection rules, COM(2023) 279 final. For the different positions of the Commission, Parliament and the Council see Council of the European Union, Brussels, 11 March 2025, Doc. No. 6976/25, Three-column table comparing the institutions' positions, accessible at LINK.

[54] Proposed new art. 4 para. 1 no. 68 MiFID II.

[55] The phrase "or entice" is deleted in the Council Mandate.

[56] According to recital 30 RIS, the exemption is adopted so that the "providers of investment products are not discouraged or prevented from providing financial educational material and from promoting and improving the financial literacy of investors."

Recommended solutions

The following FSUG recommendations cover the finfluencers on social media as well as any form of finfluencing activity, such as coaching and training programs.

Clear rules on finfluencer activities and supervision

The FSUG recommends introducing clear rules on the registration, licensing, activities and supervision of finfluencers.

The FSUG recommends, first and foremost, a clear legal framework on finfluencers. As the short analysis above clearly shows, the current legal framework does not facilitate the urgently necessary supervision of finfluencers.

The FSUG recommends, furthermore, a very strict supervision of the activities of finfluencers performed by national financial supervisory authorities. These authorities should have the power to impose deterrent sanctions for inappropriate behavior and activity of finfluencers, including the provision of misleading and/or wrong advice to consumers and retail investors. They should also be granted the necessary competencies to support such enforcement actions, for example the authority to conduct mystery shopping.

A public registry of finfluencers should be established, and mandatory registration should be facilitated. The registry should include clear information on all areas in which finfluencers are active and their qualifications and expertise in the specified areas. For certain activities, especially investment advice and recommendations, the FSUG recommends a licensing process in addition to mandatory registration. This should cover financial coaching or training programs as well.

Ban on finfluencer promotions

For certain financial products, such as consumer credits, and for risky financial products, such as complex financial products and/or products with unknown risk or risk greater than the initial capital, crypto assets and NFT, the FSUG recommends a ban on finfluencer promotions. Such ban has been already introduced in France[57] and should be replicated at the European level.

Transparency

As transparency is one of the key issues, the FSUG recommends clear rules on the disclosure of business links and the payment of commissions or other types of remuneration. Additionally, a clear label of “advertisement” or “permanent advertisement” should in these cases be mandatory. These obligations should include sponsoring of a certain single content as well as regular support provided to the finfluencers by the financial service providers.

[57] See Article 4 of the new Loi n°2023-451 du 9 Juin 2023 visant à encadrer l’influencer commercial et à lutter contre les dérives des influenceurs sur les réseaux sociaux, French Journal Officiel of 10 June 2023, LINK.

Clear rules on responsibility and liability of financial service providers and finfluencers

It is welcome that the European legislator plans a clear rule on the responsibility of financial service providers for the content of the marketing communication.[58] The RIS proposal equally holds distributors responsible for marketing communications. Unfortunately, it is not clear whether the term "distributor" also covers finfluencers, as a definition of "distributor" is missing in the proposal. Only the Parliament mandate provides a specific rule regarding finfluencers in marketing communications and practices.[59]

The FSUG recommends clear rules on the responsibility and liability of financial service providers for the damage sustained by consumers due to wrongful recommendations or advice given by finfluencers.

Furthermore, the FSUG recommends that such clear rules on the responsibility and liability of finfluencers for wrongful recommendations or advice should cover financial coaching or training programs as well.

Role of online platforms including messaging platforms

Since finfluencers can reach their followers by means provided by online platforms, and since online platforms create revenue based on the activities of content creators including influencers, and as a sub-category, finfluencers, the FSUG recommends clear rules on the prompt removal of certain contents or of private chat rooms. Should online platforms (including instant messaging platforms) fail to take prompt action in response to the complaints and/or requests of authorities, consumer protection organizations or the persons who became victims of identity theft remain unattended, they should be held liable. Such a regulation is particularly important to prevent harmful consequences of finfluencing activities, among others, conducted from outside Europe.

[58] Proposed new art. 24c para. 4 MiFID II.

[59] Proposed new art. 24 para. 4a MiFID II. See also Helena *Klinger*, Finfluencer, Anlagerisiken und die EU-Kleinanlegerstrategie, *iff*-Infobrief 2/2025, pp. 8-9.