[GB] The FCA intensifies crackdown on unauthorised "finfluencer" promotions

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The UK's Financial Conduct Authority (FCA) is ramping up its regulatory scrutiny of social media influencers, popularly known as "finfluencers", who use their platforms to promote financial products. In a significant development, the FCA has called in 20 individuals for interviews under caution.

In conjunction with these interviews, the FCA issued 38 alerts targeting social media accounts managed by finfluencers suspected of promoting financial products unlawfully. These recent actions form part of the FCA's ongoing strategy to curb misleading financial promotions, particularly on social media, where informal financial advice proliferates and reaches vast numbers of users. The impact of finfluencers has surged alongside the popularity of platforms like Instagram, YouTube and TikTok, where personalities often share financial advice or promote investment products to followers. Young people are especially drawn to them; according to the FCA, roughly two-thirds of individuals aged 18 to 29 follow social media influencers, with a substantial 74% expressing trust in their advice. This influence is significant, as 90% of young followers reported changing their financial behaviour based on finfluencers' recommendations. However, as this new digital financial ecosystem expands, so do concerns regarding potential consumer harm.

The FCA's concerns stem from the fact that many finfluencers are not authorised by the regulator and lack the qualifications to provide financial advice. Under UK law, only FCA-authorised firms or individuals are permitted to communicate financial promotions to the public. Unauthorised persons, including influencers or other affiliate marketers, promoting investments or financial products are potentially in violation of the Financial Services and Markets Act 2000. In the case of finfluencers, the lack of FCA authorisation combined with their significant influence over financial behaviours is a regulatory red flag.

Earlier this year, in May 2024, the FCA launched a landmark prosecution against a group of social media influencers for promoting an unauthorised foreign exchange trading scheme (see IRIS 2024-7:1/16). This involved trading Contracts for Difference (CFDs), complex financial instruments that allow investors to speculate on asset price movements but carry a high risk of loss. The prosecutions involve prominent influencers (also known from popular TV shows like *Love Island* and

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The Only Way is Essex) and represent the first FCA action explicitly targeting finfluencers.

The regulator's latest interventions against finfluencers reflect a broader regulatory stance aimed at ensuring that financial promotions on social media adhere to strict compliance standards. The Authority's guidance mandates that all financial promotions, including those on digital platforms, provide a balanced view of benefits and risks, ensuring that potential investors can make well-informed decisions. This responsibility extends to all channels used to advertise, including social media.

To mitigate risks associated with social media promotions, the FCA also requires firms working with influencers to have compliance checks in place and maintain accountability for the content promoted by their affiliates. Any entity endorsing financial products through influencers must closely monitor the promotional material to avoid misleading claims that could harm consumers.

In the recent FCA-led prosecutions, the defendants appeared in court in July 2024 but notably, several influencers pleaded not guilty, setting the stage for further legal proceedings to assess the legitimacy of their promotional activities. The FCA's stance signals increased oversight in which social media promotions are likely to face heightened scrutiny and highlights broader concerns about consumer harm linked to influencer marketing. Recent research points to persistent issues of influencers flouting several established marketing rules, beyond financial promotions.

FCA cracks down on illegal finfluencers

https://www.fca.org.uk/news/press-releases/fca-cracks-down-illegal-finfluencers

Fin-fluencers face legal action for promoting unauthorised high-risk investments on social media

https://merlin.obs.coe.int/article/10109

When likes go rogue: advertising standards and the malpractice of unruly social media influencers

https://doi.org/10.1080/17577632.2024.2361517

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