Unethical Behavior of Financial Influencers

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"Integrity is doing the right thing, even when no one is watching" – C.S. Lewis

Introduction

High yields, secret techniques, best trading signals: the abundance of marketing slogans invented by self-appointed trading experts is impressive. Sometimes for free, and more frequently for a fee, these people are willing to share their knowledge and market insights with individual investors. The fast-growing interest in investing in the cryptocurrency market and the turbulent events since 2020 have produced dozens of informal investment advisers who now form an entire industry. Bleak economic outlooks, subsequent lockdowns and more time spent online, as well as the stock market bounce-back after the pandemic low in early 2020, have created more interest in trading among new, usually young and inexperienced investors.

This new generation of market participants often lack appropriate knowledge and no longer scan classic finance books for information; nor do they seek advice from professional capital market players. Hungry for easy recipes for profit-making, they follow online channels and the websites of stock market experts who describe trading fluctuations in plain language. These experts are generally referred to as financial influencers or "fininfluencers". Just like traditional market influencers, they can exert a significant influence on the actions of their audience by discussing market developments and sharing opinions - actually indirect investment recommendations – about financial instruments.

The activity of fininfluencers is on the verge of becoming an informal and barely regulated domain. In many jurisdictions, including the EU, investment recommendations and advice can only be offered by licensed investment firms. However, there are various loopholes that individual investors discuss on a wide range of online groups and forums. Strong opinions shared online have the potential to overlap with the sphere of investment recommendations. These legal loopholes are exploited by fininfluencers who can be likened to professional consultants, given the scale of their activity and authority-building techniques.

The nature and scale of fininfluencers' authority enables them to earn extremely high fees for their opinions while at the same time exposing the capital of their audience to risk by using it as a tool for manipulating stock exchange movements. Worse, the absence of legal controls makes it impossible to vet this type of market expert, with financial regulators worldwide only just starting to become aware of this substantial new area of risk.

Currently, there is no ethical discussion about threats that may arise from the unregulated activities of informal investment advisers who cannot be held to account. Nor have any broader analyses and studies of the problem been undertaken. This paper aims to spark a debate about ethical threats relating to the activities of fininfluencers and how their work may be regulated legally.

Old methods, new scale

The Latin phrase *nihil novi sub sole* (nothing new under the Sun) applies very well to financial influencers. At first glance, their business model may resemble an innovative mix of investment consulting and social marketing. In fact, however, the beginnings of the industry go back to the second half of the 20th century and the advent of so-called trading gurus in the US. They were usually market analysts who, having taken advantage of favourable circumstances which proved their point, gained the attention of the trading public. These experts would publish paid-for stock exchange bulletins with analyses, advice, and transaction recommendations.

The digital revolution opened up new possibilities for gurus to influence the trading environment. Previously their reach was naturally limited to a group of paper bulletin readers, but today's fininfluencers can even inspire stock market transactions in real time. Guided by the opinion of their trading authority, the audience engages in transactions involving a specific asset *en masse*, thus generating excessive movement and volatility.

The fundamental difference between contemporary financial influencers and old-school trading gurus is thus the scale of their impact and the speed with which they can reach their followers. Aware of the existence of this group of market experts, the European Commission adopted a regulation in 2016 which states that an "'expert' means a person referred...who repeatedly proposes investment decisions in respect of financial instruments and who:

- presents himself as having financial expertise or experience; or
- puts forward his recommendation in such a way that other persons would reasonably believe he has financial expertise or experience" (Commission Delegated Regulation (EU) 2016/958, 9 March 2016).

This EU regulation appears to regard as irrelevant whether a specific recipient accepts a fininfluencer's statement as the recommendation of a market expert. What matters is how the message could be received by the average person. Given the EU's approach, and the behavior of contemporary financial market gurus described above, the following definition can be proposed:

Financial influencer (fininfluencer): a person who, in the opinion of an average recipient, appears to be an expert in the area of financial markets, repeatedly providing direct or indirect opinions, analysis and/or investment recommendations or guidance, in particular via electronic communication including text messages and voice or video recordings. Through his or her statements, a fininfluencer can influence the recipient's investment decisions, which en masse may affect the prices of financial assets. This person does not have to possess a formal qualification or specialist knowledge in the field of economics and finance, or possess an appropriate professional license. However, they are perceived as having experience and expertise in how financial markets operate.

A leap in popularity

The fininfluencer industry recorded particularly dynamic growth during the COVID-19 epidemic at the beginning of the 2020s. Over that period, there was a dramatic rise in interest in online experts explaining the most recent and disruptive developments in stock markets. A quick look at some selected top fininfluencers' reach is given in Table 1 below. Some argue that this leap in popularity was only the tip of a wave that had started earlier. A market review shows that experts discussing the most polarizing economic problems, as well as personal finance, financial education, and current events from a broader perspective, were attracting the broadest audiences.

The market for individual trading experts has expanded in particular in India, perhaps due to the size of the population and the fact that society is growing wealthier, fueling investment; and in the US, where lively public interest in investment

Table 1. Approximate audience reached by selected leading fininfluencers

Name of influencer/channel	Language	Primary communication platform	Approximate audience size (subscribers/followers in million)
Erika Kullberg	English	TikTok	9.1
Pranjal Kamra	Hindi (English subtitles)	YouTube	5.0
CA Rachana Phadke Ranade	English	YouTube	4.3
Labour Law Advisor	Hindi (English subtitles)	YouTube	4.0
Asset Yogi	Hindi (English subtitles)	YouTube	3.6
Humphreytalks	English	TikTok	3.3
Tatlondono	English	TikTok	2.8
Warikoo	Hindi (English subtitles)	YouTube	2.7
Herfirst100k	English	TikTok	2.2
Invest Aaj For Kal	Hindi	YouTube	2.1

Source: Own study, 11 February 2023

has existed for decades. This online reach indicates the unprecedented scale of influence of today's stock market experts.

One of us

A typical market guru or fininfluencer may present themselves as a market outsider: he or she thinks outside the box, often in sharp opposition to the existing consensus, sharing non-standard opinions. At a time when there is widespread distrust of authorities and institutions, such an image of an expert is likely to capture attention. The expert is regarded as "one of us," someone who finally speaks the bitter truth out loud. What is more, the growing number of new followers who trust the expert's recommendations may create the effect of a self-fulfilling prophecy: the guru's investment recommendation can trigger an avalanche of stock market decisions by followers which, in turn, may create the impression that the expert has measured the market mood perfectly.

However, this feature – the temporary accuracy of forecasts - is only one side of the coin. It should be kept in mind that new, inexperienced individual investors may feel lost when confronted by the chaos of financial markets. Some of them may succumb to the allure of a leading authority who offers a sense of community and a shared vision or interpretation of current events. By supplying ready-made signals and transaction strategies, fininfluencers also give simple answers to complicated questions regarding the nature of the stock market, thereby creating the illusion that profitable trading is easy. Ultimately, by relying on the expert's recommendations, the investor ducks the responsibility for wrong decisions, thus alleviating the unpleasant feeling of cognitive dissonance. Instead, the errors are seen as his or her fault, not mine.

Omnichannel recommendations

Fininfluencers share their insights and recommendations in the public domain, which is freely available to a wide audience – for example, through YouTube videos. However, they often also offer the purchase of a subscription to their privileged content. In this way, they appear to form an exclusive club of users, which builds a sense of belonging to an elite group and access to secret knowledge. These experts, whether through open access or within a closed group, may share their recommendations in a slightly more formalized text form, which may be exposed to more stringent legal restrictions and the risk of verifying the results, or directly through shared podcasts or videos. The accountability of a guru who offers his or her recommendations through recordings is lower .

Fininfluencers often directly say what investment decisions they intend to make or what assets they have in their portfolio, which is frequently an indirect invitation to imitate them. Individuals unfamiliar with the stock market can therefore go for the "reliable" tip of their trusted expert. Those fininfluencers who produce extensive and frequent content may also expect that their recipients will forget what was said before, which further bolsters the expert's image as an infallible oracle who "said it would be so," without explaining exactly when and what they predicted.

Bot advisers

It would seem that the obvious competitors for fininfluencers are professional investment advisers and investment firms. In fact, however, the 2020s have seen the emergence of a new type of market player: a virtual investment adviser powered by artificial intelligence (AI). Relying on an in-depth analysis of market data and knowledge of the investment goals and profiles of their clients, algorithms can recommend proper transaction strategies, advise on preferred investment portfolios, and even steer capital management unattended. Removing the human factor from financial advisory does not, however, diminish the scale of ethical dilemmas; on the contrary, it opens up new avenues that still need to be properly addressed.

Nobody knows how an AI

adviser, powered by the content of the network, will behave, and what goals and ways to achieve them it will follow. Certainly, it can be assumed that the AI adviser will be as ethical as its creator. The problem, however, is the "liberation" of its algorithms so that the virtual adviser is able to make its own, unprompted decisions. This would be like giving algorithms "free rein," which is already occurring to an increasing extent in financial markets through so-called algorithmic trading. However, these algorithms can also be cloaked as humans which whom you can interact. This has become possible thanks to the so-called *Large Language Models* (LLMs), artificial neural networks which can learn independently and communicate with people (ChatGPT). By combining LLMs technologies, trading databases, and powerful analytical resources, an almost perfect investment adviser or fininfluencer can be molded.

Incredible as it may seem, it is not difficult to picture a situation in which a specific fininfluencer turns out to be an algorithm. A warm and empathetic person who builds bonds and trust among his or her audience through entries and recordings could turn out to be a cold machine pursuing the goals of its maker - for example, by manipulating investors' behavior. This scenario is not as unlikely as it may seem, given the progress of real-time voice and facial expression simulation technology. There are already virtual influencers (CGI influencers) which have won social media following (Hiort, 2023). Who would ultimately be held accountable for the actions of an artificial fininfluencer remains an open question. Another issue is whether such a "*persona*" would be licensed to issue any investment recommendations at all.

Black economy

It is commonly held that trading recommendations must appear to be sourced from licensed investment companies. Investment recommendations primarily fall under provisions that are uniform for the entire EU and are contained in *Regulation (EU) No. 596/2014 of the European Parliament and of the Council of 16 April 2014*. Specific requirements for investment recommendations are included in *Commission Delegated Regulation (EU) 2016/958 of 9 March 2016*. The said regulations provide that recommendations that are not regarded as investment advice are legally admissible. However, they go with information obligations regarding their preparation methodology (the basis for issuing), as well as being required to meet the conditions of objectivity and reliability.

If these criteria are met, fininfluencers are also entitled to offer investment recommendations. The regulations clearly stress the need for such recommendations to be transparent. However, even if due diligence is observed, fininfluencers often operate on the verge of investment advice, which in their case should be considered illegal, as it is only mandated to be offered by licensed institutional entities. In Poland, in accordance with the current wording of *Article 76(1) of the Act on Trading in Financial Instruments*, "investment advice involves the preparation, initiated by the investment firm or requested by the client, and transfer to the client...of a recommendation issued in response to the client's needs and condition, regarding the purchase or sale..., or other action producing similar effects, the subject of which are financial instruments, or a recommendation to refrain from performing such an action" (*Act on Trading in Financial Instruments*).

These provisions directly govern the communication model used by fininfluencers, whose investment recommendations are addressed to the general public. Consequently, their advice is on the safe side. They do not know the identity of the recipient of the message or the individual's plans or personal situation. For this reason, fininfluencers' words are not considered a personal recommendation. Fininfluencers knowingly avoid private conversations, although they may answer anonymous questions that do not pertain to the situation of a specific person during communications that are intended for unspecified recipients. In this way, they are still able to take specific questions from specific recipients.

Greed

Regardless of the legal framework governing the activities of informal investment advisers, legislators and supervisory bodies are only just beginning to identify serious ethical problems that may be linked to the operation of fininfluencers, even including fraud. A fininfluencer has a measurable market advantage over his or her audience. Using their position and earned trust, they can shape their followers' moods and beliefs and, consequently, their behaviour. They profit from the asset price fluctuations that the recipients generate. When issuing recommendations, fininfluencers invariably face the temptation to resort to abuse, with the temptation even greater if the community of followers is particularly large.

The basic methodology may involve the fininfluencer stimulating upward trends, having previously acquired specific assets. In other words, a fininfluencer first purchases a specific asset, and then, having notified their audience about this fact (if he or she is honest) or not (if not), they start exerting pressure on their recipients to purchase the asset. For example, they may post positive opinions about the relevant company or directly point to the rationale for holding its stock. Tempted by the recommendation of their authority, the recipients go shopping, thus generating trading demand which increases the price of the asset. Once the price has gone up, the fininfluencer can reap profits, only to admit later that they sold the instruments "some time ago."

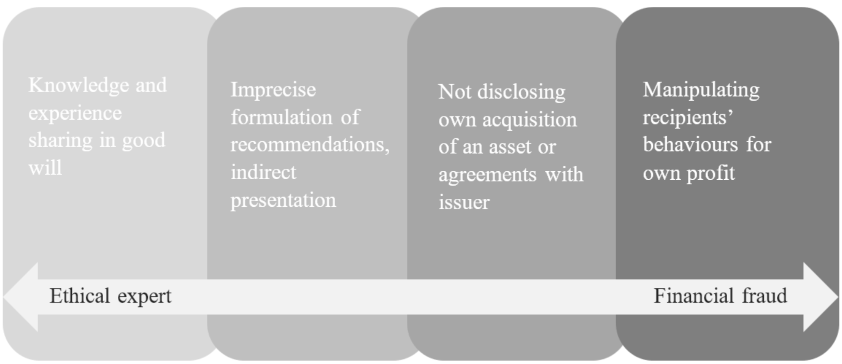
The option of concluding undisclosed and informal agreements under which the fininfluencer's investment recommendations are controlled by third parties must also not be ruled out. This can be likened to undisclosed investment advice provided in a dependent manner - for example, related to the issuer of the instrument. The grayscale of unethical behavior by fininfluencers is illustrated in Figure 1 below.

In the bigger picture, certain experts' opinions can be clearly linked to changes in asset prices. Research data concerning this area, however, is far from conclusive. On the one hand, there is analysis of so-called market sentiment which focuses on the potential correspondence between investors' comments over a given period of time and the rate of return. However, these comments are studied holistically. Studies addressing the impact of individual fininfluencers on stock prices are few. Attempts have been made to employ machine learning algorithms for this purpose, yet they struggle with significant information noise, which makes it difficult to obtain reliable results (Doğan *et. al.*, 2020).

Growing regulatory interest

The risk of fraud and adverse influence are increasingly a focus of attention for supervisory bodies. A significant rise in regulatory interest in fininfluencers was witnessed in 2022, although the intensity of response varied around the world. In Poland, the Polish Financial Supervision Authority (KNF) issued a communication aiming to discourage investors from following the advice of fininfluencers and

Figure 1. The grayscale of fininfluencers' behavior



Source: Own study, 11 February 2023

published a list of alarms that may indicate a lack of integrity in an expert. The KNF has also registered legal doubts, mainly related to investment advice, around such an expert's activity (*Komisja Nadzoru Finansowego*, 2022). Earlier, in 2021, a similar warning was issued by the European Securities and Markets Authority (ESMA), focusing primarily on legal obligations attached to the issuing of investment recommendations (The European Securities and Markets Authority, 2021). At the beginning of 2023, the ESMA announced a project designed to verify the compliance of marketing communications of investment companies with MiFID II regulations. Significantly, this project includes cooperation with influencers (The European Securities and Markets Authority, 2023).

In late 2022, the US Securities and Exchange Commission (SEC) accused eight fininfluencers of manipulating stock prices by influencing investors via social media. The scale of the fraud was estimated $100mn (U.S. Securities and Exchange Commission, 2022). Meanwhile, the first criminal cases were also brought in Australia (Australian Securities & Investments Commission, 2022a). The local Australian Securities & Investments Commission (ASIC) issued a clear warning that the provision of financial services without a license is punishable by a prison sentence of up to five years (Australian Securities & Investments Commission, 2022b). The Australian media reported that following the ASIC's campaign, there was an exodus of fininfluencers, with many completely abandoning their activities (Dean, 2022).

India's market is particularly interesting because the fininfluencer community has grown rapidly in recent years, to the point where specialized influencer marketing agencies have been established to offer services to the industry (Roy, 2022). India has not only seen a significant increase in unregistered investment adviser businesses, but also cases of listed companies hiring fininfluencers to push up asset prices. In response, the Securities and Exchange Board of India (Sebi) started developing guidelines for fininfluencers at the end of 2022 (ENS Economic Bureau, 2022).

Specific ways to hide in the shadows

Despite the efforts of regulators, the ethically dubious activities discussed above are not easy to spot in the market, especially when the value of transactions is relatively limited. In the case of the stock market, it is theoretically possible to validate the behavior of certain entities through central counterparties such as the National Depository for Securities in Poland, which have access to relevant data. However, speculation carried out through *over-the-counter* (OTC) *derivatives* remains largely beyond control. Particularly interesting are the options supplied with *Contracts for Difference* (CFD), which are even offered by licensed broker firms. A CFD is a *derivative financial instrument* of the *OTC market*, and its price is linked to changes in a specific underlying instrument. What is more, it permits the use of financial leverage, thus potentially boosting the profits of a dishonest fininfluencer.

Only the offering broker is responsible for the organization and settlement of CFDs. Transactions in these instruments do not correspond to actual orders in the underlying instrument on the stock market. Consequently, market transparency is reduced and certain transactions can remain covert, especially in the case of brokers not covered by the supervision of domestic or EU regulatory bodies. CFDs also enable the short selling of financial instruments, meaning that profits can be earned from falling asset prices (Kurzajewski & Nowalińska, 2017). Thus, fininfluencers acquire a tool to profit from deliberately pushing the price of a financial instrument downwards.

It is worth noting that some brokers which offer CFDs contribute to expanding the fininfluencers' impact. This occurs when brokers offer automatic duplication of investment decisions by a selected expert in real time, as in the case of eToro's *Copytrader* system (eToro, n.d.). In effect, this approach bypasses the expert's lack of a license to manage investment portfolios, such licenses being usually intended only for investment companies. Therefore, there is a significant set of ethical and legal doubts regarding the operation of fininfluencers.

First aid in trading

The simplest solutions that might help regulate the industry would most likely lead directly to excessive tightening, due to the temptation to prohibit non-professional entities completely from issuing investment recommendations. However, the first question is whether the industry should be regulated anyway. In fact, fininfluencers can fill a very important gap regarding insufficient investor education and the promotion of informed investing. At its best, their work raises social awareness and enhances the knowledge of investors themselves. Thus, through education and sharing, they have the potential to be responsible opinion leaders rather than trading miracle-mongers.

What is more, they can help their audience navigate simple issues relating to investments. Keeping this in mind, their activity can be likened to *paralegal* services (legal advisers with enough competence to solve simple legal issues, but without full qualification and professional license to act as legal advisers). On the other hand, even where quasi-professional experts act in good faith, the existence of fininfluencers who directly encourage risk-ridden speculation cannot be ruled out. If this market is left alone, it will most likely create room for a fininfluencer underworld. There are at least several regulatory roadmaps for tackling this problem.

Adviser rather than influencer?

In some jurisdictions such as Poland, the profession of investment adviser is regulated. Such a career can only be pursued by people who are registered with the financial market supervision authority. To be admitted to the list, the applicant must fulfil certain conditions and, above all, demonstrate knowledge and competence during professional examinations, adhere to ethical standards, and hold a relevant professional qualification such as *Chartered Financial Analyst* (CFA). In Poland, only investment advisers under the supervision of the KNF are authorized to provide investment advice.

The professional title of investment adviser, as in the case of a CFA and other related capital market certifications, is the gold standard for qualification and reliable proof of an individual's credentials. Such certified individuals earn further trust by being under the supervision of inspection bodies and subject to severe penalties for violating professional ethics, including the loss of their professional registration. In Poland, however, some groups advocate that the profession of investment adviser be deregulated and equated with financial advisers who do not have to demonstrate any proof of qualification (Kolany, 2015).

It seems that the tedious process of acquiring a license, where candidates have to learn a large body of comprehensive knowledge, and the regulated nature of the investment adviser profession, may themselves reduce the problem of quasi-advisers and dispel the related ethical doubts. Nonetheless, the powers associated with this profession should be extended, so that advisers can provide investment advice on his or her own account. In Poland, the current legal context only enables investment advisers to offer investment advice services if they have an employment relationship with an investment company (*cf.* Article 125 of the Act on Trading in Financial Instruments). In practice, licensed advisers cannot work in the profession if they are not employed in a position related to investment advice, and only the license can pave the way to promotion within the financial industry.

Conclusion

As private analysts of financial markets, fininfluencers enjoy a significant market edge as they can steer the behavior of their audiences. These are mostly individual investors who, following the recommendations of influencers they regard as respected authorities, may conduct transactions *en masse*, thus influencing the price of a specific financial instrument. This creates broad opportunities for fininfluencers to exploit their position in order to reap profits from trading speculations unethically, sometimes even by deceiving their audience.

Attempts to regulate the activities of modern finance gurus seem desperate but are necessary. For this purpose, professions already existing in some jurisdictions can be used - for example, that of investment adviser in Poland - with their powers extended to cover individual investment advice. An alternative road is to develop a quasi-professional qualification intended for fininfluencers which would at least oblige them to become familiar with the legal and ethical requirements governing investment recommendations. Another forward-looking step would be to oblige trading experts to register with financial market supervision bodies which would regulate them.

This supervision, however, might become an issue if it adopts an outdated and conservative model which fails to keep pace with the dynamics of today's stock market speculators. In practice, it seems difficult to enforce reporting obligations concerning concluded transactions based on recommendations issued by fininfluencers. Still, full transparency of issued recommendations should be enforced. These should be accompanied with clear information on whether the individual making the recommendation has carried out or plans to execute transactions on the recommended asset before their issue, regardless of the type of financial instrument used (including derivatives) and the value of the commitment.

Recommendations

The need for multi-pronged intervention is self-evident, aimed at regulating the industry and above all, at making it more ethical. It seems unquestionable that a code of ethics and a code of good practice for fininfluencers should be developed, forming an ethical framework for the industry, as exists for Polish brokers, investment advisors (*Zasady Etyki Zawodowej Maklerów i Doradców*, n.d.) and brokerage firms (*Kodeks Dobrej Praktyki Domów Maklerskich*, n.d.). At the same time, one must not ignore the role of AI, whose application is becoming more and more visible in financial markets, including in investment advice. A policy of full transparency in issued investment recommendations should be encouraged, regardless of whether they have been issued by a human or generated by an AI-enabled advisory tool.

Bottom-up establishment of the code would represent self-regulation by the industry, sending an important message of good faith by at least some fininfluencers. Such an initiative would certainly be received positively by market legislators and regulators. It would also accelerate the professionalization of the industry and bolster its image. At some point, however, market regulators would need to approach fininfluencers for a "check", as is the case in Australia. If these experts are not prepared for such a moment of truth, they may be confronted by a lack of sympathy on the part of regulators, leading to further caps on their operations and even prosecution if they fail to take appropriate steps to lay a strong ethical foundation for their activities.

Lastly, legislators and regulators should be aware that they should not always equate fraud with fininfluencers. There are many ethical trading professionals who, despite their lack of formal professional qualification, boast extensive experience and expertise that can help promote prudent investment decisions by the public at large and educate investors. This aspect is particularly important in jurisdictions in which interest in and knowledge about investing remains relatively low. At this stage, cooperation with such opinion leaders is worth considering.

An antagonistic approach to fininfluencers should therefore be replaced by a spirit of cooperation based on real collaboration opportunities. In this spirit, some fininfluencers might voluntarily submit themselves to supervision and adopt the industry's ethical standards to demonstrate their good intentions. Certainly, financial influencers should not in principle be seen as a problem to be combated; instead, more attention should be paid to eradicating market pathologies which, if left unattended, will sooner or later create space for underhand dealings. The author hopes that the adoption of ethical standards by fininfluencers will make it possible to separate the bad from the good in future and support the promotion of ethical behavior among trading advisers.•

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