

The pitfalls of 'finfluencing'

Exploratory study by the AFM into investor protection requirements relating to social media posts

December 2021

Contents

Contents	2
1 Summary of exploratory study into finfluencers	3
2 Introduction	4
3 Findings of the exploratory study	5
3.1 Various players	5
3.2 Activities	6
3.2.1 Tips	6
3.2.2 Courses and training	7
3.2.3 Self-authored books or reports	7
3.2.4 Trading signals	7
4 Risks	8
4.1 Providing investment advice without being licensed to do so	8
4.2 Not taking adequate care in making investment recommendations	9
4.3 Recommending risky products	10
4.4 Working together with unlicensed parties	10
4.5 Referral fees for bringing in clients	11
5 Follow-up	13

1 Summary of exploratory study into finfluencers

The AFM has carried out an exploratory study into approximately 150 financial influencers ('finfluencers') who post messages on social media about investing. In total, these finfluencers reach 1,162,000 followers. The average finfluencer has around 11,000 followers. The number of followers varies per channel (YouTube or Instagram) and ranges from a few dozen to tens of thousands of followers.

While these finfluencers provide easily accessible information about investing and thus meet a need, nearly all of them operate in ways that give rise to risks.

The AFM has identified the following risks associated with how finfluencers operate:

- Providing investment advice without being licensed to do so
- Not taking adequate care in making investment recommendations
- Recommending risky products
- Working with unlicensed firms
- Receiving referral fees for bringing in clients

Regulations apply to the above-mentioned activities, which also apply to finfluencers. Not all finfluencers comply with these regulations, nor do all the investment firms that pay them.

2 Introduction

There is a significant number of finfluencers on social media who post messages about investing. They create podcasts, write blogs and/or are active on channels such as Instagram, YouTube or Facebook. The AFM has carried out an exploratory study into what is happening on social media in the field of investing and whether this is a cause for concern.

The AFM's study into investment-related content on social media is prompted by the fact that this is a relatively new and increasingly popular phenomenon that is likely to affect the investment decisions made by mainly young and beginning investors. The AFM has also received numerous questions and complaints about this issue. The AFM observes that an increasing number of young people are investing. Investing is becoming more accessible, partly due to the increased availability of investment apps. More and more people are investing themselves, without the assistance of an investment adviser. Some of them say they are using information provided on social media.

The AFM sees this increased availability of information about capital accumulation thanks to social media as a positive development. At the same time, there is also cause for concern because the applicable laws and regulations are not always properly complied with.

3 Findings of the exploratory study

3.1 Various players

Finfluencers

The AFM's exploratory study looked at approximately 150 financial influencers (or content creators) concerning investing. In this report, this group is referred to as finfluencers.¹ Finfluencers post messages about a range of financial products: shares, bonds, exchange-traded funds (ETFs), but also riskier products such as foreign exchange (forex) transactions, contracts for difference (CfDs) or cryptos.² The study focused on influencers who are active in the Netherlands and communicate with their followers in Dutch. The AFM believes that this group of 150 influencers encompasses the most prominent influencers.

Finfluencers offer information and tips about investing via social media. They reach their audience through various channels such as YouTube, Instagram, Facebook, Twitter, Spotify and websites. They share knowledge of investing or discuss their investment portfolios, but also offer services ranging from training, courses and meetings to subscriptions to a restricted online community. In some cases, influencers recommend followers to become clients of a particular investment firm, usually through affiliate programmes.³

The 150 influencers in the study are a highly diverse group, in terms of number of followers, the services they offer and the investment products they discuss. The level of professionalism also varies considerably, ranging from a hobby project to companies with employees.

Approximately half of the influencers operate as a company that is listed in the trade register of the Dutch Chamber of Commerce. It is notable that many influencers did not complete a relevant degree in the field of finance and did not gain any work experience in the financial sector before they became active on social media as influencers. Influencers usually post about their own experiences. The number of influencers who are impartial in their messaging and don't have related interests (such as selling their own products, e.g. books or courses, or receiving referral fees for bringing in clients) is very small.⁴

This study concerns influencers who are involved in investing. Some of them focus on personal finance and also post about savings, borrowing and insurances. The AFM has not investigated whether influencers comply with the applicable legislation in these areas.

¹ For the purpose of the study, we define the term 'influencers' as: natural persons who use their personal account or their business account to make statements about investing on social media, websites, and/or in podcasts (in a personal capacity), irrespective of scale and reach.

² Cryptos and related services are currently not subject to financial supervision (other than supervision with regard to preventing money laundering). This will change when the Markets in Crypto-Assets Regulation (MiCAR) takes effect.

³ Affiliate programmes are online marketing programmes in which advertisers pay third parties on the basis of the number of leads, visitors or sales that they generate.

⁴ The AFM found two influencers who provide only objective and general information, without having any related interests.

Followers

On average, a finfluencer has around 11,000 followers. The number of followers varies per channel and ranges from a few dozen to tens of thousands of followers. The followers of finfluencers are usually not professional investors. Most of them choose to invest without advice and manage their portfolios themselves. This non-advised service is in the Netherlands referred to as execution-only.⁵ It is the most accessible form of investment, as fees are lower and services are provided online, usually through an investment app.

Execution-only investors use social media as a source of information

An AFM study shows that the number of Dutch households investing has risen from 1.4 to 1.9 million over the past two years. 10% of investors with no more than two years of investment experience said that recommendations or information on social media played a part in their decision to start investing.

The information sources used by investors for their decisions are highly diverse. Many of them said that they use one or more sources of information provided or published by financial firms or issuers of securities. In addition, we see that 9% of execution-only investors use social media or influencers as sources of information. 15% of execution-only investors with no more than two years of investment experience use social media as a source of information. The AFM expects that the use of social media as a source of information will increase in the coming years.

Financial firms

In their messaging/promotions, finfluencers advertise the services of all kinds of financial firms. Particularly on Instagram and on websites, and to a lesser extent also on YouTube and Facebook, they refer to financial firms or trading platforms. Through the use of affiliate programmes, finfluencers receive referral fees for bringing in clients to financial firms. It is notable that some finfluencers show a lack of transparency in this regard, or even state that they do not receive any referral fee from a financial firm when in fact this is the case.

In addition to recommending firms with a licence, some finfluencers also recommend financial firms that operate illegally and encourage their followers to invest with them. These firms are not licensed or registered to operate in the Netherlands. This may, for instance, concern illegal brokers established in territories outside of Europe (including in tax havens) that offer trading in (very) risky products such as CfDs and forex.

3.2 Activities

The activities of the 150 finfluencers in the study fall into various categories that are not mutually exclusive. Finfluencers give investment tips, offer courses and training, sell self-authored books or reports and sell trading signals.

3.2.1 Tips

Virtually all the finfluencers (120 of around 150) give investment tips. These tips are posted on social media, for example in Instagram Stories, on YouTube or in blogs. Finfluencers provide more general information on investing to their followers, such as on the various types of products and firms through which the followers can invest, as well as more specific investment tips on (transactions in) financial instruments, such as an opinion on a current or future price of a particular share.

⁵ <https://www.afm.nl/nl-nl/nieuws/2021/november/onderzoek-execution-only-beleggen>

Tips are not always given in the public section of a website or social media, but on restricted forums. Examples include Discord, Telegram groups, private Facebook groups, a paid community on a website, or reports, newsletters and other media that consumers have to pay for. The AFM did not investigate those restricted forums.

3.2.2 Courses and training

50 of the 150 finfluencers in the study offer courses or training, either paid or free of charge. The subjects of the courses range from general courses such as *'how to become financially independent'* to specific topics such as *'how can I become a day trader'*. The impact and size also vary, from a free course lasting one hour to training lasting several days and costing € 1,000. Finfluencers also offer individual coaching and access to a 'unique private community' or 'trading tools'. These services are also offered on a subscription basis.

3.2.3 Self-authored books or reports

17 of the 150 finfluencers in the study offer self-authored books on investing, and 20 finfluencers sell self-authored investment analyses or reports. The content of these books, reports and analyses was not part of this study.

3.2.4 Trading signals

24 of the 150 finfluencers in the study sell 'trading signals', for example by allowing clients to subscribe to daily apps, clips or text messages providing buy or sell signals for a particular share.

4 Risks

The AFM has identified the following risks associated with how finfluencers operate:

- Providing investment advice without being licensed to do so
- Not taking adequate care in making investment recommendations
- Recommending risky products
- Working together with unlicensed firms
- Receiving referral fees for bringing in clients

4.1 Providing investment advice without being licensed to do so

Providing investment advice is a service for which a licence must be obtained from a relevant competent authority, such as the AFM. A licence requires meeting high standards with regard to, amongst others, the adviser's professional competence and remuneration policy. The AFM notes that finfluencers often use a disclaimer stating that they do not provide financial advice. However, the AFM observes that despite this disclaimer, investment advice is provided in some cases, for instance in Q&As on Instagram. There is also the risk that finfluencers provide investment advice in restricted courses and training. This is not permitted without a licence from the AFM.

What constitutes investment advice?

In the applicable European [Regulation](#), investment advice is defined as: 'the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments.'

It therefore concerns advice that relates to the client's personal situation. In other words, a statement such as: 'in your case I would ...'.

None of the finfluencers in the study are licensed by the AFM and many of them do not have a relevant degree in the field of finance. Nonetheless, these people are seen by their followers as experts in their field and their tips are put into practice. The AFM received dozens of complaints last year from consumers saying they had lost a large amount of money as a result of a tip from a finfluencer.

Not like this:

Q: I recently had a windfall of 10,000 euros. I'm 30 years old and I've just started cautiously to invest. I have shares in Y and Z. Should I buy more shares in Y?

A from More Returns R US⁶:1 If I were you, I would switch from shares in Y to shares in X, because you still have such a long investment horizon. Shares in Y are past their peak, and shares in X still have huge potential.

⁶The examples and account names stated in this report are fictitious.

4.2 Not taking adequate care in making investment recommendations

As described in section 3, the AFM observes that finfluencers give specific investment tips on financial instruments that qualify as investment recommendations. This is mostly the case when they give tips (section 3.2.1), offer self-authored reports or analyses on investing (section 3.2.3) and sell trading signals (section 3.2.4). Certain duty of care requirements must be met when making investment recommendations.

What is an investment recommendation?

In the applicable European [Regulation](#), an investment recommendation is defined as: ‘information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public.’

Contrary to investment advice, an investment recommendation is not aimed at a single person; it is intended for a distribution channel or the public. No threshold applies for the size of such a distribution channel or the public. Regardless of the size of the target group, a statement may qualify as an investment recommendation when it does not consist of personal investment advice. Expressing an opinion as to the value or price of a share on social media can easily qualify as an investment recommendation.

When making investment recommendations, finfluencers do not always comply with the applicable rules, usually because they do not present the information sufficiently objectively. They do not always meet various applicable duty of care requirements, such as:

- Facts must be clearly distinguished from interpretations, estimates, opinions and other types of non-factual information.
- All substantially material sources of information must be clearly and prominently indicated.
- All sources of information must be reliable or, where there is any doubt as to whether a source is reliable, this is clearly indicated.
- All projections, forecasts and target prices must be clearly and prominently labelled as such. Material assumptions made in producing or using such projections, forecasts and target prices must be indicated.
- The date and time when the production of the recommendation was completed must be clearly and prominently indicated.

The AFM also sees a risk that finfluencers are not transparent regarding their personal interests in a specific recommendation. For example, when an influencer gives a tip to buy or sell a particular share – in some cases also implicitly – they may have a personal interest in many of their followers likewise buying or selling this share. Or they may be paid or rewarded in another way for recommending certain products. By law, finfluencers must disclose this if their interest may impair the objectivity of the recommendation.

Various finfluencers also operate under an alias, the identity of the operator of these accounts is not publicly known. Nonetheless, these accounts have thousands of followers. By law, the identity of persons who produce investment recommendations must be disclosed. This must be disclosed in all statements containing an investment recommendation. This is not the case with anonymous accounts.

It is important that finfluencers observe the duty of care requirements when making investment recommendations. If this is not the case, investors may be influenced to make an investment decision without the objective and/or fundamental grounds on which they would normally base an investment decision. Therefore, these finfluencers infringe the rules that apply to them.

More information on investment recommendations and social media can be found in the third edition of the AFM Market Watch.⁷

Not like this:

More Returns R US: I see that X is making an IPO. The value of the share will at least triple and reach to \$20. Are you in?

4.3 Recommending risky products

A number of finfluencers posts on risky products such as forex, turbos, CfDs and cryptos. The AFM has issued several warnings on the risks of these products, which are usually not suitable for (beginning) retail investors.

In the Netherlands, the sale of turbos and CfDs is subject to trading restrictions to protect investors.^{8 9} Currently, cryptos are largely not subject to financial supervision. The AFM has regularly warned consumers against trading in cryptos, due to their high price volatility and because trading in cryptos has a high risk of falling victim to deception, fraud and manipulation.

The AFM has observed that some finfluencers refer to companies offering leveraged products relating to cryptos. Given the high volatility in the crypto markets, trading with leverage can lead to significant losses. These products are not suitable for retail investors, but they are recommended by finfluencers.

4.4 Working together with unlicensed parties

The AFM has seen that various finfluencers recommend products from financial firms not allowed to operate in the Netherlands, because they do not have the necessary licence to do so. This may, for instance, concern illegal brokers established in territories outside of Europe (including in tax havens) that offer trading in (very) risky products such as CfDs and forex. In some cases, finfluencers receive very high referral fees for bringing in new clients and therefore have a personal interest in referring followers to these firms. In most cases, the client is not aware of this. The AFM issued a warning with regard to one of these illegal brokers in November 2021.¹⁰

The AFM considers such references to unlicensed parties highly undesirable. If things go wrong, a consumer cannot rely on investor protection and the means of recovery available outside the Netherlands usually involve complicated proceedings. Consumers can check on the [AFM website](#) if a firm has a licence.

⁷ AFM Market Watch - Investment and social media in the context of GameStop: AFM Market Watch | Onderwerpinformatie van de AFM | AFM Professionals.

⁸ Better protection for investors against the risks of turbos | June | AFM

⁹ AFM takes national measures to prohibit binary options and to restrict the marketing or sales of CFDs | April | AFM

¹⁰ <https://www.afm.nl/en/nieuws/2021/november/waarschuwing-grinta>

4.5 Referral fees for bringing in clients

Various finfluencers recommend brokers or banks on social media. In its study, the AFM established that some investment firms pay these finfluencers on the basis of the number of new clients brought in through the finfluencer's channel. This violates the ban on inducements for investment firms that applies in the Netherlands.

Ban on inducements

In the Netherlands, a [ban on inducements](#) applies for investment firms. This ensures that there is no conflict of interest for investment firms between their obligation to act in the client's interest and the incentives that such inducements may provide.

Payments by investment firms to third parties for referring clients to the investment firm qualify as an inducement. This is not allowed. When an investment firm provides a third party a fee for bringing in new clients, this qualifies as an inducement if the fee is provided for new clients who have at least started with the onboarding process for opening an investment account.

In practice, this applies in any case if an investment firm pays a fee, e.g. to a finfluencer, when the clients referred to the firm:

- are in the onboarding process for opening an investment account;
- have opened an account; or
- have opened an account and have made an initial deposit.

Consequently, providing referral fees to any third parties, not exclusively finfluencers, violates the ban on inducements in relation to investment services. If current clients of an investment firm receive a fee for referring friends, acquaintances or other people to the firm, this also qualifies as an inducement. This applies to both cash payments and other forms of remuneration, such as payments in shares.

Not like this:

Finfluencer More Returns R US receives 50 euros from broker So and So for every follower that the finfluencer brings in from its channel.

General fees for advertising on behalf of brokers and/or banks are permitted. But this, too, is subject to rules, such as those of the Dutch Advertising Code (Nederlandse Reclame Code, NRC). This is 'a set of rules formulated by the advertising industry that responsible advertising must meet'.¹¹ The Dutch Advertising Code consists of a general section and various special advertising codes. The general section states that advertising must always be recognisable as such and 'should not be misleading and not be in conflict with the truth'. In addition, advertising 'should not be needlessly offensive and should not be in conflict with good taste and decency'. In addition to these general rules for all advertisements, there are also specific advertising codes. The relevant specific code in this case is the Advertising Code for Social Media & Influencer Marketing.¹² Among other things, this Code states that advertising on social media must be clearly recognisable as such and

¹¹ Source: FAQ - Stichting Reclame Code

¹² For more information, see: www.reclamecode.nl/social

that if a ‘distributor’¹³, in this case an influencer, receives any remuneration in cash or in kind from an advertiser, this must be explicitly stated in the advertisement.

Influencers who post videos on social media may also be subject to the Media Act (*Mediawet*). The Dutch Media Authority (*Commissariaat voor de Media*) is currently determining who will be subject to its supervision. This will probably be mainly professional influencers with many followers who post videos on Instagram, YouTube and/or Tiktok. Check the Dutch Media Authority’s website for more information about this.

¹³ In the Advertising Code for Social Media & Influencer Marketing (Reclamecode Social Media & Influencer Marketing, RSM), a ‘distributor’ is defined as follows: ‘the party that has a Relevant Relationship with the Advertiser and that distributes Advertising through Social Media. A Distributor may be a natural person or legal entity. An administrator of social networking sites and forums that facilitates communication between participants and takes a neutral position with respect to content is not a Distributor.’

5 Follow-up

The AFM will inform finfluencers about the legislation that applies to them and remind them of their responsibility to take note of and comply with this legislation. The AFM will contact investment firms regarding referral fees that are not permitted under the ban on inducements. The AFM will take enforcement action if necessary.

In 2022, the AFM will carry out follow-up investigations into the activities of various finfluencers.



The Dutch Authority for the Financial Markets

PO Box 11723 | 1001 GS Amsterdam

Telephone:

+31 (0)20 797 2000

www.afm.nl

Follow us: →



The AFM is committed to promoting fair and transparent financial markets. As an independent market conduct authority, we contribute to a sustainable financial system and prosperity in the Netherlands.

The text in this publication has been prepared with care and is informative in nature. No rights may be derived from it. Changes to legislation and regulations at national or international level may mean that the text is no longer up to date when you read it. The Dutch Authority for the Financial Markets (AFM) is not liable for any consequences – such as losses incurred or lost profit – arising from or in connection with any action taken as a result of his text.

© Copyright AFM 2021