

Research report



Do “Finfluencers” give financial
advice, or just suggestions?

How consumers can be protected

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About Option consommateurs

Option consommateurs is a non-profit association whose mission is to help consumers and defend their rights.

Option consommateurs informs consumers who have a disagreement with a merchant, offers them budget consultations, and provides information sessions on budgeting, debt, consumer law, and privacy protection. Each year, we conduct research on important consumer issues. We also work with decision-makers and the media to denounce unacceptable situations.

In its quest to bring about change, Option consommateurs is active on many fronts: conducting research, organizing class actions suits and applying pressure on government authorities and businesses. You can help us do more by supporting Option consommateurs: www.option-consommateurs.org.

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Summary

Advice on investing is increasingly available on social media and is often offered by financial influencers, also known as "finfluencers." These people are sometimes professionals qualified to give financial advice, and sometimes amateurs. This state of affairs raises questions about potential risks for consumers who might rely on such advice.

This report analyzes risk indicators for consumers in relation to of the type of advice given on social media by finfluencers and on their professional qualifications. Our analysis takes into account both the current regulations and the experiences of consumers and investors. Its aim is to shed light on the real impact of the phenomenon on consumers' lives.

Our analysis has revealed a difference between the legal interpretation of advice and professional qualifications, and consumers' and investors' experience of these. For instance, regardless of the legal classification of the content shared, some participants accepted it as personalized advice. In fact, the participants in our focus groups put this advice into practice, with both positive and negative consequences on their returns. Furthermore, the finfluencer's profile, whether that of a qualified professional or otherwise, seems to have had little impact on the participants' decisions, despite their assessment of their own risk profile. Moreover, not one participant in the Western Canadian focus group was able to tell us the professional qualifications of the finfluencer they followed.

This research also revealed that some finfluencers issue statements intended to exonerate them from responsibility for the advice they give, which was a cause for perplexity among certain participants.

Finally, our analysis of the terms of use of certain social media platforms and of the legislation applicable to finfluencers in certain jurisdictions pointed the way toward developing potential solutions to be implemented in Canada.

1. INTRODUCTION AND PROBLEM

The phenomenon of the influencer is increasingly evident world wide and is particularly widespread in the financial sector. Influencers in this field are also known as "finfluencers" (short for "financial influencers"). The work of finfluencers is similar to that of influencers in other fields. They provide content on various financial topics, in particular through videos posted on social media platforms such as Instagram, TikTok, and YouTube. The content they post can cover a wide range of financial topics, from personal finance management to cryptocurrency and the promotion of certain financial products.

The term "finfluencer" is defined in various ways in the literature, but the common thread in these definitions is the financial content they create and the influence they exert on those who follow them. The authors of the study entitled "Finfluencers: opinion makers or opinion followers?"¹ describe finfluencers as "financial social network actors with high potential social influence." Author Sue Guan² calls them individuals or entities that "wield outsized influence on investor decisions through social media." Other authors³ describe them as sources of information for consumers: "Finfluencers represent a new intermediary between financial institutions and consumers. They provide general investment information, promote investment products, offer guidance, and, in some instances, make investment recommendations."

1.1. Context: hypotheses about the rise of the phenomenon

In the literature, the spread of the influencer phenomenon is most often ascribed to the COVID-19 pandemic.⁴ However, some authors trace this growth to more specific causes, which we will summarize here:

Traditional investors vs. individual investors

In his article "Regulating Finfluencers" author Felix Pflücke⁵ explains the proliferation of finfluencers by the fact that they convey the attractive idea that individual investors have an opportunity to outperform traditional investors. According to Pflücke, today's investors no longer want to limit themselves to traditional

¹ Frederic Haase, Oliver Rath, Marco Kurka and Detlef Schoder, "Finfluencers: Opinion makers or opinion followers?," *ECIS 2023 Research Papers* (2023): 432, https://aiselaisnet.org/ecis2023_rp/432.

² Sue S. Guan, "The Rise of the Finfluencer," *19 New York University Journal of Law and Business* 489 (2023), <https://ssrn.com/abstract=4400042>.

³ Serena Espeute and Rhodri G. Preece, "The Finfluencer Appeal: Investing in the Age of Social Media," CFA Institute Research and Policy Center, January 25, 2024, <https://rpc.cfainstitute.org/en/research/reports/2024/finfluencer-appeal>.

⁴ BC Securities Commission, "Younger, FOMO-inclined adults view social media as source for investment tips," March 3, 2021, <https://www.bcsc.bc.ca/about/media-room/news-releases/2021/14-younger-fomo-inclined-adults-view-social-media-as-source-for-investment-tips>.

⁵ Felix Pflücke, "Regulating Finfluencers," *Journal of European Consumer and Market Law* 11, no. 6 (2022), <https://ssrn.com/abstract=4291905>.

investments such as stocks or bonds, but are more attracted to alternative investments such as cryptocurrencies and equity crowdfunding, a shift that has resulted in a diversity of practices in the investment field. In light of recent data published by FAIR Canada on investors' attitudes⁶ towards financial advisers, we believe that this hypothesis warrants closer scrutiny.

Lack of trust in financial advisers

Data published in the FAIR Canada report on investors' attitudes toward financial advisers points to a crisis of confidence in these professionals. According to the report, seven out of 10 DIY investors find using an investment adviser too expensive. Furthermore, over half (56%) of DIY investors believe that investment advisers are focused more on their own interests than their clients'. DIY investors are also more likely than hybrid investors⁷ to believe they can get a return equal to or better than that promised by investment advisers (47% and 40%, respectively) and would likely not trust such advisers (37%).

Need for information

A report on finfluencers and Generation Z⁸ suggests that finfluencers are helping to bridge the financial information gap. According to the report, young people of this generation use the *content* posted by finfluencers to help them understand basic investing concepts and to obtain certain information:

The focus group research demonstrated how Gen-Z investors in various markets use finfluencers to access information on cryptoassets, to better understand foundational investment concepts, to supplement information from other sources, and to learn about a range of different topics through multiple finfluencer videos. It is obvious that Gen-Z investors perceive finfluencers to provide a valuable service and offer a cost-effective and engaging alternative to accessing professional financial advice.⁹

This context affords fertile ground for questions about consumer protection, particularly in the face of such a diversity of actors' profiles and practices.

1.2. Context: questions raised by the emergence of the phenomenon

The literature reviewed reveals the existence of a wide range of actors who post financial content on social networks as finfluencers. This situation raises various questions, particularly as regards the legal classification of the shared content, the

⁶ FAIR Canada, "Understanding Do-It-Yourself (DIY) Account Holders," October 2024, https://faircanada.ca/wp-content/uploads/2024/09/2024_10_01_FAIR_Understanding-DIY-Account-Holders_Eng_ver.0.pdf.

⁷ The concept of hybrid investor is defined on page 9 of the FAIR Canada report as follows: "Investors who have access to a professional investment adviser in addition to holding one or more investment accounts at one or more Order-Execution-Only firms." FAIR Canada, "Understanding DIY Account Holders," cited above.

⁸ Espeute and Preece, "The Finfluencer Appeal: Investing in the Age of Social Media," cited above.

⁹ Espeute and Preece, "The Finfluencer Appeal: Investing in the Age of Social Media," cited above.

qualifications of the actors who share it, and the risk incurred by investors who rely on it.

The diversity of actors

Questions about the finfluencers' profiles are relevant in this context, since the sheer number of such actors signals a shift away from traditional financial services toward informal, self-managed financial services.¹⁰ Indeed, in reviewing the literature and observing the phenomenon on social networks, various profiles of finfluencers (both qualified and unqualified) can be found in terms of their training. However, the studies do not all agree on how much impact a finfluencer's profile has on investors. A study conducted in 2023 by the Swiss Finance Institute, entitled *Finfluencers*,¹¹ for example, presents two categories of finfluencers: on the one hand, finfluencers who are not professionally qualified to offer financial advice and on the other, qualified finfluencers. The study found that, unqualified finfluencers make up the majority of finfluencers, at 56% of the market. In this same research, investment advice from unqualified finfluencers resulted in abnormal monthly returns of -2.3%. Despite this, unqualified finfluencers reportedly have more followers, are involved in more activities, and exert more influence over investors than their qualified counterparts.

Another study¹² dating from 2022 found on the contrary that finfluencers with accreditation are better received among consumers than those who only share their personal experiences: "We found that finfluencers with financial accreditation generate a more positive affective response compared with financial influencers who mainly share information stemming from personal experience."

The diversity of profiles in this field leads us to ask whether anyone who shares financial content on social networks should be professionally qualified. Furthermore, how truthful and informed is the content produced by finfluencers?

The legal classification of content posted by finfluencers

The finfluencer phenomenon raises two legal difficulties with regard to shared content: how to classify such content in conformity with the legislation of a given jurisdiction and how to define the limits of the application of this legislation in a virtual environment, particularly considering the nature of the medium and the absence of online borders. The finfluencer phenomenon therefore poses a sizable dilemma in terms of the regulatory framework: on the one hand, how can we know, what constitutes advice in the activities and content shared by finfluencers, and on the other, would this definition apply outside the jurisdiction in which we are located?

¹⁰ Anouk de Regt, Zixuan Cheng and Rayan Fawaz, "Young People Under 'Finfluencer': The Rise of Financial Influencers on Instagram: An Abstract," in *Optimistic Marketing in Challenging Times: Serving Ever-Shifting Customer Needs*, eds. Bruna Jochims and Juliann Allen (Cham: Springer, 2022), https://doi.org/10.1007/978-3-031-24687-6_106.

¹¹ Ali Kakhbod, Seyed Mohammad Kazempour, Dmitry Livdan and Norman Schuerhoff, "Finfluencers," *Swiss Finance Institute Research Paper* 23, no. 30 (2023), <https://ssrn.com/abstract=4428232>.

¹² de Regt, Cheng and Fawaz, "Young People Under 'Finfluencer': The Rise of Financial Influencers on Instagram: An Abstract," cited above.

In "Regulating Finfluencers" Felix Pflücke¹³ presents a table with four categories of content posted by influencers: the influencer's discussions and strategies, links to investment platforms, statements that artificially inflate assets, and courses and coaching sessions that promise consumers profits. Can all such content be classified as advice? To what extent could this content be considered as financial advice in Canada? These questions raise concerns about the applicability of the legislation to online content, and also about online transgressions. In her research on influencers and Generation Z¹⁴ users cited above, author Serena Espeute studies three jurisdictions: the United Kingdom, the United States, and the European Union. She concludes that the definition of advice or recommendation may differ from one jurisdiction to another. She therefore recommends increased harmonization in this regard at the international level:

To overcome the challenge influencing activities pose to the regulatory framework, the International Organization of Securities Commissions (IOSCO) could design a common definition of an investment recommendation and strongly encourage its member jurisdictions to transpose this definition (or something substantially similar) into their laws. Overall, working toward a more universal definition of an investment recommendation would mean that regulations are sufficiently comprehensive to respond to new online and offline actors who may emerge in the future—particularly those that operate across borders.

How applicable is the concept of advice in Canada?

The risk for investors

Receiving advice, whether financial or otherwise, inevitably leads to a decision, even if it's simply to abstain. Making financial decisions, especially about investments, always involves a certain amount of risk. There are multiple possible risks: lower-than-expected returns; loss of an investment; and reliance on advice to make a profit.

Researchers generally acknowledge the information asymmetry between consumers and those qualified to give financial advice.¹⁵ Cinthia Duclos, a professor in the Faculty of Law at Université Laval, emphasizes the disparity between clients' limited level of knowledge about investments, the securities market, and personal finances, and the extensive and specialized knowledge of businesses and individuals qualified in financial matters.¹⁶ The investor is therefore vulnerable and dependent on the service provider, since they have neither the skills nor the expertise to make appropriate decisions about managing their assets.¹⁷ In a context in which influencers with varied profiles, both qualified and otherwise, offer financial advice,

¹³ Pflücke, "Regulating Influencers," cited above.

¹⁴ Espeute and Preece, "The Finfluencer Appeal: Investing in the Age of Social Media," cited above.

¹⁵ Cinthia Duclos, *La protection des épargnants dans l'industrie des services d'investissement: une analyse de l'influence des défaillances organisationnelles sous l'angle du Swiss Cheese Model* (Cowansville: Éditions Yvon Blais, 2021), 255.

¹⁶ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 255, cited above.

¹⁷ Canadian Securities Administrators, Consultation Paper 33-404 (2016), 16-17, cited in Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 254, cited above.

we can assume that the vulnerable consumer would have a certain propensity to trust the content presented to them, thereby exposing them to the risks mentioned above.

Moreover, an increasing number of studies are sounding the alarm about the vulnerability of young investors. A study conducted by the Financial Conduct Authority (FCA)¹⁸ in the United Kingdom shows that young investors are taking very high risks that are plainly ill-adapted to their financial situation. In that study, 59% of respondents said that their futures would be seriously compromised in the event of a significant investment loss, while 38% could not cite a single reason for why they chose their three main investment vehicles. Finally, 78% of these people said they rely on instinct and rule of thumb.

In Canada, a decision rendered by the Ontario Securities Commission in the matter of First Federal Capital (Canada) Corp. (Re) recognizes that solicitation via the Internet is primarily aimed at unsophisticated and vulnerable investors: "Sophisticated investors are not approached with investment opportunities through the Internet. Relatively unsophisticated retail investors are the target of solicitation through the Internet. The reach of the Internet is far wide."¹⁹

The influencer phenomenon is particularly concerning when it comes to the marketing strategies employed on social networks, as they are likely to create some confusion among consumers.²⁰ Furthermore, celebrity and influencer endorsements are known to make any product seem appealing and give it an aura of trustworthiness.²¹ Some authors argue that this type of influence can hinder conscious, informed decision-making.²² It could sway an inexperienced consumer to invest by blindly trusting the content shared on social media.

The ultimate aim of this research is to determine whether or not transgressions are committed in these online investment practices, and to examine the risks investors face in this environment. The influencers' practices indeed raise many questions, including their impact on the consumers who follow them and who implement, or might implement, their recommendations and suggestions. Are these practices governed by any kind of regulation in Canada? Can such suggestions and recommendations be considered financial advice? If so, are these influencers legally entitled to offer such advice?

¹⁸ UK Financial Conduct Authority, "FCA warns that younger investors are taking on big financial risks," March 23, 2021), <https://www.fca.org.uk/news/press-releases/fca-warns-younger-investors-are-taking-big-financial-risks>.

¹⁹ First Federal Capital (Canada) Corporation et al., 2004 OSEC 2, para. 55. <https://canlii.ca/t/h4t2p>.

²⁰ See the Option consommateurs report on influencer marketing: Clarisse N'Kaa, "Influencer Marketing: Advertising in the Age of Social Media.," Option consommateurs, 2021, https://s3.ca-central-1.amazonaws.com/option-consommateurs-assets/production/Rapports-de-recherche/Option-consommateurs_814574-Rapport-de-recherche_ENG.pdf.

²¹ Al Root, "Elon Musk Enters GameStop Fray with a One-Word Tweet," January 26, 2021), Barrons, <https://www.barrons.com/articles/elon-musk-enters-gamestop-fray-with-a-one-word-tweet-51611702947>.

²² Dean J. Driessen, "The role of social media and influencers in promoting NFTs," (Coin Push, April 9, 2023), <https://coinpush.app/the-role-of-social-media-and-influencers-in-promoting-nfts>.

2. ANALYTICAL FRAMEWORK AND METHODOLOGY

Overall, this study examines what is permitted on social media and what is not, specifically with regard to financial advice and investor protection. The backdrop to this question is risk. The risk incurred by potential investors, particularly in cases when the rules established to protect them are broken. In their article on online transgressions, authors Baudet, Parmentier, and Fischer²³ explore the issue of violations of the law and of the standards presented on social networks such as Facebook or X. These authors present a portrait, based on case studies, of three categories of possible transgression on social networks, one of which is the regulatory dimension. They highlight the fact that, although in some jurisdictions, such as Germany, governments have passed laws to hold platforms and perpetrators accountable, several jurisdictions still tolerate such transgressions to some extent. The authors conclude by inviting researchers to note the paradox that what some consider a violation of the norms may be viewed positively by others, such as within closed Facebook groups. This makes it difficult to determine what truly constitutes delinquent behavior and what does not. Furthermore, the authors invite researchers to acknowledge the paradox that these reprehensible acts could be committed by individuals pursuing laudable goals:

What we regard as norms that are being violated might be norms that are valued within a given audience that has been hanging out on a subreddit or a closed Facebook group for a period of time. Thus, the notion that norm-violation defines transgressive behavior must take into account that norms vary widely. Relatedly, we believe that researchers will benefit if they embrace the paradoxical fact that the very same transgressive audience practices that are used to pursue agendas that are (in our view) morally reprehensible are also being used by other audiences to pursue agendas that we would view as morally laudable.

To clarify the potential risks associated with the finfluencer phenomenon and to determine appropriateness of the current framework, we will therefore accept the paradox identified by authors Baudet, Parmentier and Fischer, by jointly considering, on the one hand, securities regulations applicable to investments, and on the other, issues relating to consumer experience. The conjunction of these two aspects will reveal the impacts of the shared content and the legislation on consumers, which will serve as risk indicators.

Securities legislation and consumer protection

²³ Alex Baudet, Marie-Agnès Parmentier and Eileen Fischer, "Considering the Impacts of Transgressive Behaviors among Interactive Online Audiences," in *The Routledge Handbook of Digital Consumption*, ed. Russell W. Belk and Rosa Llamas (London: Routledge, 2022), 205-217.

In Canada, the primary objective of the *Securities Act* is to protect investors.²⁴ This objective is expressed in the following terms in a decision in Québec:

The paramount object of the Act is to ensure that persons who, in the province, carry on the business of trading in securities or acting as investment counsel, shall be honest and of good repute and, in this way, to protect the public in the province or elsewhere from being defrauded as a result of certain activities initiated in the province by persons therein carrying on such a business.²⁵

The objective of investor protection therefore forms the basis of securities legislation, as it is aimed at preventing some from enriching themselves at the expense of others. To this end, the Act ensures the honesty and probity of stakeholders, and prohibits fraudulent or abusive behavior, by preventing conflicts of interest and promoting equal treatment between investors.²⁶

However, according to the Kimber report,²⁷ the *Securities Act* of 1982 does not see the objective of investor protection as protecting investors from themselves. Investors may naturally suffer losses when trading in the market. The aim of protection is to ensure that these losses are economic in nature, that is, that they are not the result of abusive or fraudulent practices.²⁸ A closer look at this objective reveals parallels with the paradox outlined by Professor Marie-Agnès Parmentier and her colleagues, in that investors are given a certain degree of freedom in the protection they are afforded. There is a growing body of literature that makes a distinction between the consumer mentality and the investor mentality,²⁹ implying a disparity between the two in terms of responsibility. Generally speaking, the consumer is considered vulnerable. Accordingly, in a decision reached in the context of advertising, *Richard v. Time Inc.*, the Supreme Court of Canada established the standard of the "credulous and inexperienced" consumer,³⁰ which is similar to that of the "ordinary hurried purchaser." Later in this report, analysis of the research data will indicate the appropriate approach in the case of social media users. For example, would a social media user need more protection than a seasoned investor?

Analysis of consumer protection based on investor risk indicators thus appears well-adapted to this research.

As previously mentioned, finfluencers may be qualified or unqualified individuals. In certain contexts, both categories of finfluencer perform similar actions, namely offering advice to consumers. The issue at stake from the consumer protection perspective is to ensure that these actions comply with current legislation. This

²⁴ Stéphane Rousseau, *Droit des valeurs mobilières: Théorie et pratique* (Montréal: Éditions Thémis, 2023), 40.

²⁵ *Gregory and Co v. Québec Securities Commission*, 1961 RCS 584, 588.

²⁶ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 42, cited above.

²⁷ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 42, cited above.

²⁸ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 42, cited above.

²⁹ Wealth Genius, "What Distinguishes Investor Mindsets From Consumer Mindsets?," October 3, 2023, <https://www.wealthgenius.ai/blog/what-distinguishes-investor-mindsets-from-consumer-mindsets>.

³⁰ *Richard v. Time Inc.*, 2012 SCC 8, [2012] 1 SCR, para. 67.

analysis involves establishing the nature of the content shared and the finfluencers who share it.

Consumer experience

According to several hypotheses, one of the causes of the emergence of the influencer phenomenon is the need for information or some kind of support regarding investments. An increasing number of authors suggest that finfluencers help compensate for a lack of access to financial information.

In fact, both the complexity of investment services and the dependence and vulnerability of investors with regard to the provision of investment services are generally acknowledged factors.³¹ The shift of advisory services to social networks makes certain practices, such as those of finfluencers, more attractive to consumers due to their need for support in their investment experience,

Dimensions of the research: compliance and experience

In view of the above, our analytical framework will be constructed around two main dimensions: **compliance**, whose variables are *advice and professional qualifications*, and **experience**, whose variables are *consumer needs and investor perception*.

The first dimension has an objective component, as it relates to the laws and standards in force. This dimension will therefore allow us to construct a framework around the concepts of advice and professional qualification, selected as variables due to their relevance to the research topic. This corpus will refer both to the legislation and relevant case law in the field of securities as well as to certain authors who have written about the subject. We will also refer to the practices identified in the literature in terms of content (advice) and stakeholders (influencers) in the domain.

The second dimension, meanwhile, has a subjective component that relates to consumers' experience on social media. This dimension will allow us to validate investors' perception of the content and their needs, based on their experience. For this dimension, we will refer the reader primarily to relevant financial literacy data from the 2002 report by Maya Cachecho and Pierre Noreau.³²

The discrepancy between the variables in both dimensions will shed light on the impacts on social media users and the risks that investors may face. For example, it will be possible to determine whether content that is legally deemed to be advice is perceived as such by consumers, and what the consequences are. Furthermore, this will allow us to understand what impact the finfluencers' professional qualifications have on consumers, particularly as these relate to the risk profile they attribute to themselves. Does the consumers' perception of their profile as investors direct them toward a certain influencer profile (qualified or unqualified)?

³¹ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 238, cited above.

³² Maya Cachecho, Pierre Noreau and Pierre-Alain Cotnoir "Rapport de recherche sur un nouvel Indice de littératie financière appliquée," ADAJ, November 16, 2022, https://lautorite.gc.ca/fileadmin/lautorite/grand_public/publications/organisation/etudes-sondages/rapport_recherche_litteratie-financiere2022_fr.pdf.

This approach seems to us to be adapted to this research, since one of the regulators' objectives is to protect investors from new phenomena, while enabling allowing them to benefit from the positive aspects of these same phenomena. Consequently, the risks to be considered and the actions taken by legislators must take into account both the regulations and the consumers' experience. This analysis will help us identify the most effective ways to intervene, when appropriate, in order to regulate the practices of finfluencers and thereby protect and educate them, but above all, to protect consumers.

2.1. Variables of the "compliance" dimension: advice and professional qualifications

Compliance relates to the application of securities regulations with regard to advice and professional qualifications. The objectives of securities legislation can only be achieved if the standards established by the legislation are respected by participants in the market.³³ Determining when content shared online needs to be registered with a securities authority or commission comes down to determining whether the activity carried out by a finfluencer constitutes a brokerage or advisory activity within the meaning of securities legislation.

In order to do this, we will first define what constitutes advice under applicable securities legislation. We will then present the typology of advice-related finfluencer practices, drawn up by Felix Pflücke in his study entitled "Regulating Finfluencers."³⁴ This typology will then be used in the discussion groups, to enable participants to identify the practices to which they have been exposed.

2.1.1. Financial and investment advice

2.1.1.1. Definition and concept

Québec's *Securities Act* does not define the concept of advice, only the term "adviser." Québec case law³⁵ defines "advising" as recommending, guiding, directing, or offering an opinion to someone in order to give them the tools required to adopt the best course of action.

In Ontario, in the case *Costello*³⁶(*Re*), the Ontario Securities Commission stated that simply providing financial information about specific securities does not constitute advice, whereas giving an opinion on the wisdom, value or advisability of investing does constitute advice:

³³ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 746, cited above.

³⁴ Pflücke, "Regulating Influencers," cited above.

³⁵ *Autorité des marchés financiers c. Sapulveda*, 2016 QCCQ 14974.

³⁶ *Costello (Re)*, 2003 LNONOSC 80, para. 28.

Providing mere financial information as to specific securities does not constitute the giving of advice, but providing an opinion on the wisdom or value or desirability of investing in specific securities does: *Re Canadian Shareholders Association (1992) 15 OSCB 617 (Canadian Shareholders)*.

The British Columbia Securities Commission, in *Donas*, emphasized two criteria for investment advice:³⁷ the existence of a recommendation for the sale and purchase of securities and the need for the recommendation to reflect a "business purpose":

As indicated by the definition of "advice," the nature of the information given or offered by a person is the key factor in determining whether that person is advising with respect to investment in or the purchase or sale of securities. A person who does nothing more than provide factual information about an issuer and its business activities is not advising in securities. A person who recommends an investment in an issuer or the purchase or sale of an issuer's securities, or who distributes or offers an opinion on the investment merits of an issuer or an issuer's securities, is advising in securities. If a person advising in securities is distributing or offering the advice in a manner that reflects a business purpose, the person is required to be registered under the Act.

In *Laflamme (SCC, 2000)*³⁸ the Supreme Court ruled that advice is not just any information; it is targeted information intended to guide the recipient towards a decision that is in their best interests.

In short, case law associates the notion of advice with promoting investments, making suggestions or recommendations, and giving opinions, sometimes even in the absence of remuneration:

Promotion:

Actively promoting investments constitutes a consultancy activity, which includes holding information sessions with potential investors to promote financial products.³⁹

Absence of remuneration or commission:

This may be an advisory activity even if investors receive no commission or other remuneration.⁴⁰

Suggestion:

Advising others on investment matters involves a suggestion, recommendation or opinion, even if this is made after there has been a discussion or exchange of information about the investment.⁴¹

³⁷ *Donas (Re)*, 1995 LNBCSC 18.

³⁸ *Laflamme v. Prudential-Bache Commodities Canada Ltd.*, 2000 1 SCR 638, para. 33.

³⁹ *Autorité des marchés financiers c. Battah*, 2012 9 BAMF no. 33.

⁴⁰ *Autorité des marchés financiers c. Hunter*, 2017 QCCQ 5073; *Autorité des marchés financiers c. Gouin*, 2019 QCTMF 66.

⁴¹ *Autorité des marchés financiers c. Howard Simpson*, 2019 QCTMF 61.

In short, advice can take different forms.

2.1.1.2. Content shared by influencers in relation to advice

In his research on the supervision of influencers in financial matters, author Felix Pflücke paints a picture of four models of influencer practice on social networks, based on the notion of conflict of interest.

1. In this first model, the influencer discusses their investment strategies and decisions for free. However, they may not present the full picture, particularly with regard to the risks associated with the investment products they promote. Their income is generated through clicks made by their followers. The author views this as a conflict of interest issue, as influencers' income is generated by the number of views rather than the veracity of their content. There is also a danger for consumers who lack financial literacy and do not have access to independent advice:

Finfluencers discuss their well-intentioned investment strategies and decisions on social media. The audience of Finfluencers benefits from 'free' content, and Finfluencers generate revenue according to clicks via social media platforms, for example, the TikTok Creator Fund or YouTube AdSense. A conflict of interest likely exists because Finfluencers generate revenue by the number of views. Finfluencers' finance content might also not provide the complete picture of potential risks, thus potentially misleading viewers. Viewers who follow the advice of Finfluencers and invest their (life) savings without financial literacy or independent advice and research tailored to their financial situation might end up with a significant financial loss. The harm in case consumers lose their investment is not limited to the financial side; there are potentially also non-financial implications that are more difficult to measure, for instance, psychological detriment or adverse effects on well-being.

2. The second practice model presented by the author is made up of influencers who hope to influence the market, notably by attempting to artificially inflate their assets through misleading statements, a practice that poses considerable risks for consumers and constitutes a conflict of interest owing to its hidden agenda:

Finfluencers might have bad intentions when sharing their strategies or recent investment decisions online, with even stocks, contracts for difference trading, and cryptocurrencies gaining particular attention. Evidence emerged that Finfluencers advertised these assets for their own benefit, going beyond advertising revenue.¹² For instance, they owned these assets and tried to influence the market. In several cases, they were even involved in setting up 'pump-and-dump' crypto scams: Finfluencers artificially inflated the asset value by disseminating misleading statements.¹³ A conflict of interest exists in either scenario because the aim is to nudge viewers to buy these assets. Potential financial harms include a total loss of the consumers' invested capital, mainly because Finfluencers share their advice with bad intentions and the generally very high risk and volatility of such financial assets;¹⁴ this is again accompanied by non-financial harm.

3. The third model is similar to the first. In this model, finfluencers advertise their coaching sessions, online courses, and books, and promise consumers profits from purchasing these products:

Finfluencers advertise their own products, such as one-on-one coaching sessions, online courses, or books. Finfluencers promise that consumers will yield higher future returns after purchasing their services or products. This category likely overlaps with the first one. In particular, consumers might be impressed by the – be it accurate or not – past performance of Finfluencers. The underlying objective of Finfluencers is to advertise their products and consequently generate revenue.

4. The fourth model, which the author considers to be the most dangerous, involves third parties. The finfluencer promotes third-party products, such as investment platforms, in exchange for commissions. These ads may contain affiliate links offering gifts or credits on investment platforms:

Finfluencers collaborate with third parties and advertise their products in return for a commission on sales. An example is affiliate links where Finfluencers get a commission in case their viewers sign up for an online broker. Advertising third-party products also include giveaways via affiliate links, for example, free stocks or a credit on retail investment platforms. The Dutch Authority for the Financial Markets (AFM) has warned of such practices, mainly because several Finfluencers also referred their viewers to unlicensed broker platforms. Additional evidence emerged that some Finfluencers received a commission based on how much money consumers invested with these broker platforms. This commission-based system led to a significant increase in advertisements for high-risk financial products, such as contracts for difference (CFD) trading, allowing investors to work with leverage. The financial risk for consumers is very high: some studies suggest that 74-89% of retail investors lose money when trading CFDs. Finfluencers receive a commission for advertising third-party products, and there is thus a conflict of interest and a very high risk of financial harm for consumers. As in the previous categories, this is accompanied by nonfinancial harms.

The four models presented by the author summarize the various practices of finfluencers that can be analyzed in the light of securities and advisory legislation. These are the practices that consumers were asked about in the focus groups.

2.1.2. Professional qualifications

This variable is relevant because advice cannot be analyzed in isolation from professional qualification. This variable highlights the legislative framework within which financial advice is given, and the liability that may arise from failure to comply.

As in the previous section on advice, we will first discuss the legislative requirements for professional qualifications for providing advice; second, we will refer to a Swiss

report that charts the profiles of finfluencers who post content on social networks according to their professional qualifications.

2.1.2.1. Financial adviser: definition and concept

As previously noted, the *Securities Act* does not define the term "adviser" but determines who can be an adviser. An adviser, then, is a specialist in financial advice in the securities field. The term "adviser" includes all persons who advise others about acquiring or disposing of securities, or participating in securities transactions, either directly or indirectly, through publications or by any other means.⁴² In Québec, section 148 of the *Securities Act* (SA) requires that any person who carries out the activity of securities broker or adviser be registered with the Autorité des marchés financiers.

The objective behind this requirement is well expressed in the decision *Autorité des marchés financiers c. Creunite* : "[o]ne of the objectives behind the need to go through a registered person to make an investment is to ensure that products as complex as securities can only be offered to the general public by persons regulated and qualified in the field, in order to permit them to make informed investment choices suited to their needs."⁴³ [TRANSLATION] This requirement also applies in the rest of Canada. The aim of the SA is to protect investors, whether in Québec or elsewhere, who do business with a person offering the services of an investment dealer or adviser in Québec.⁴⁴

In order to provide investment advice, one must be qualified. Qualified individuals include investment dealer representatives, mutual fund dealer representatives, and financial planners. Therefore, regardless of what category their qualification or registration falls under, all qualified individuals provide, in one capacity or another, an investment advisory service adapted to the needs of investors. However, this function of investment service providers extends to the securities on which they are authorized to act.⁴⁵ Thus, for investment dealer representatives, this function generally extends to all securities, while for mutual fund dealer representatives, it is limited to units of mutual funds. For financial planners, this function is more general. They cannot make recommendations for the purchase and sale of specific securities, such as stocks, bonds or the investment fund units of a particular company. Instead, they can make general suggestions on the nature of investments to be made. For example, their registration as financial planners authorizes them to recommend the purchase of safe securities, such as the purchase of blue chip stocks, which relate to the shares of several large companies and not a specific security.⁴⁶

⁴² Raymonde Crête and Cinthia Duclos "Le portrait des prestataires de services de placement," dans *Courtiers et conseillers financiers, encadrement des services de placement*, Vol. 1, ed. Raymonde Crête (Cowansville: Éditions Yvon Blais, 2011), 47-96

⁴³ *Autorité des marchés financiers c. Creunite*. Creunite, 2018 QCTMF 35 para. 162.

⁴⁴ *Baudin c. Autorité des marchés financiers*, 2016 QCCQ 7025.

⁴⁵ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 241, cited above.

⁴⁶ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, cited above.

2.1.2.2. influencer profiles

A wide range of influencer profiles can be found on social networks. A study on financial advice⁴⁷ by the Swiss Finance Institute classifies influencers into three categories: "Skilled, unskilled, and antiskilled" the latter being defined as "those with negative skill." The authors point out that the majority of financial influencers (56%) are unskilled. They also make a link between qualifications and performance, implying that following the advice of unskilled influencers could result in financial losses: "following their investment advice yields monthly abnormal returns of -2.3%."

The study found that while social media users rely on the behaviour of online influencers to determine whether or not they are qualified, they tend to follow unqualified influencers more than qualified ones.

This variable is relevant to this research because it will permit us to determine which influencer profiles—qualified or unqualified—attract the greatest number of Canadian consumers. Furthermore, considering that the SA contains not only registration requirements but also exemption requirements⁴⁸ for those giving advice, this variable will allow us to analyze the contexts in which a influencer should be registered in order to share certain content and in which contexts they should be exempted from doing so.

For the purposes of this research and the focus groups, qualified influencers will be those registered with a Canadian securities regulator, while unqualified influencers will be those who have some financial knowledge and enjoy a certain reputation, but are not registered with a Canadian securities regulator. Influencers may even be friends or family members on social networks.

2.2. Variables of the "experience" dimension: consumer needs and investor perceptions

This dimension is relevant in the context of this research. Considering that the main objective of securities legislation is to protect investors, the two variables chosen will guide us in assessing the vulnerability of consumers in terms of their needs and their perception of their own risk profile. Accordingly, the investors' experience with regard to influencers will serve as a guideline for determining whether the protection offered is sufficient or whether consumers might be better served if the relevant legislation helped them to protect themselves against influencers. We will also be able to consider other actions that could be taken to better support investors.

2.2.1. Consumer literacy needs

⁴⁷ Kakhbod, Kazempour, Livdan and Schuerhoff, "Finfluencers," cited above

⁴⁸ Details of registration requirements and exemptions are provided in Chapter 4 of this report.

One hypothesis explaining the proliferation of finfluencers is the consumers' need for investment information. However, data from Cachecho and Noreau's Applied Financial Literacy Index report⁴⁹ reveal that consumers' competence is closely related to their financial experience, and that their attitudes and skills in this area are directly associated with real experiences rather than fictitious, hypothetical situations. Furthermore, consumers' financial skills are probably linked to other practical knowledge such as their ability to assess returns and the fiscal consequences of an investment. Finally, the consumers most likely to make risky investments are also those most competent in financial calculation. Consumers of this type, however, are generally more likely use the services of an adviser, despite being more inclined than other consumers to make independent decisions about investing some of their assets.

This variable is relevant because it will tell us not only about the investment experience of consumers who follow finfluencers, but also about their judgment with regard to the content shared. Do they consider it to be reliable advice?

Furthermore, the interplay of this variable (from the "experience" dimension) with that of advice (from the "compliance" dimension) will provide an indicator of the impacts of the shared content on consumers. Do the consumers put it into practice? What are the consequences on their finances? For instance, a consumer with a high level of financial literacy who has attained a measure of competency in the required financial skills would be better able to judge whether or not the content offered presents a risk, and might even go and consult a financial adviser. Finally, in the event of a problem, such a consumer would be better able to use the remedies available to protect them and to contact organizations likely to help them to do so.

2.2.2. Consumers' perception of their own risk profile

This variable is closely linked to the issue of consumer literacy. In the research report⁵⁰ on the Financial Literacy Index, the data published reveal that consumers who are able to define their own financial profile and assess the issues related to performance and risk management also adopt a more cautious financial attitude than those who say they are not able to define their investor profile. Thus, in theory, consumers who say they are unable to define their own profile or who prioritize safety over performance would likely be more at risk on the investment market, due to their limited financial competence.

Furthermore, when using a financial adviser, consumers with proven financial skills tend to be more informed about the adviser's training, their method of compensation and their registration with a regulatory body.⁵¹

⁴⁹ Cachecho, Noreau and Cotnoir, "Rapport de recherche sur un nouvel Indice de littératie financière appliquée," cited above.

⁵⁰ Cachecho, Noreau and Cotnoir, "Rapport de recherche sur un nouvel Indice de littératie financière appliquée," cited above.

⁵¹ Cachecho, Noreau and Cotnoir, "Rapport de recherche sur un nouvel Indice de littératie financière appliquée," 34, cited above.

This variable will allow us to verify whether a consumer's perception of their own risk profile directs them towards a particular finfluencer profile (qualified or not). In short, it will indicate how cautious they are in their choices, depending on their personal risk profile.

In fact, data on consumer attitudes show that consumers who are more likely to make risky investments in terms of financial calculation more systematically call on the services of an adviser, even though they are more likely than other consumers to decide on their own how to invest some of their assets.⁵² Our analysis should reveal whether this behaviour also transposes to social networking and using the services of a finfluencer.

Dimensions and variables of the analysis model

VARIABLES	
"COMPLIANCE" DIMENSION	"EXPERIENCE" DIMENSION
1. <i>Advice</i> Qualification of shared content based on the definition of advice	1. <i>Consumers' needs</i> Experience, judgment and appreciation of shared content
2. <i>Professional qualification</i> Qualification based on regulatory requirements	2. <i>Investors' perceptions</i> Perception of one's own risk profile, knowledge of finfluencers' training and qualifications

Our hypothesis concerning possible risk indicators

The risk indicators therefore correspond to a disparity between regulatory compliance and consumer/investor experience. Combining the variables in the "compliance" dimension with those in the "experience" dimension provides information on possible risk factors with regard to shared content and professional qualifications.

This analysis is relevant, because when the creators of certain content are exempt from the obligation to register with an authority and are under no obligation to disclose their professional qualifications, we can conclude that consumers are presumed to have the capacity to judge the financial content presented to them. It is

⁵² Cachecho, Noreau and Cotnoir, "Rapport de recherche sur un nouvel Indice de littératie financière appliquée," 33, cited above.

taken for granted that they have sufficient knowledge of their investor profile to choose advisors who prioritize their interests. In short, consumers are not considered vulnerable in this context.

Fig. 1 Shared content risk indicators: consumer advice/needs

"COMPLIANCE" DIMENSION	SHARED CONTENT RISK INDICATOR	"EXPERIENCE" DIMENSION
ADVICE	IMPACT OF CONTENT ON CONSUMERS: perception of advice, implementation of advice or recommendations	CONSUMER NEEDS

Fig. 2. Professional qualification risk indicators: qualifications/investor perception

"COMPLIANCE" DIMENSION	PROFESSIONAL QUALIFICATION RISK INDICATOR	"EXPERIENCE" DIMENSION
PROFESSIONAL QUALIFICATIONS	IMPACT OF PROFESSIONAL QUALIFICATION ON CONSUMER CHOICE: <i>importance accorded to professional qualifications; choice of influencer guided by perception/lack of perception of one's own risk profile</i>	INVESTOR PERCEPTION

RESEARCH SUBQUESTIONS

Our research sub-questions will permit us to answer the general research question: Does the Canadian regulation respecting advice and professional qualification in securities matters address the possible risk factors for consumers who follow influencers?

These sub-questions are:

1. How can we **qualify the content** shared by influencers on social media and how do consumers react to this content?
2. What are the professional qualifications of the influencers followed by Canadian consumers? What are their practices and how do they conduct themselves?

3. What are the risk indicators for consumers related to the finfluencers' professional qualifications and the content they share?
4. What can we learn from other jurisdictions?

2.3. Methodology

The ultimate goal of this research is to identify potential risk factors for consumers in relation to the content shared and the diversity of those who operate as finfluencers. The goal is to determine whether Canadian consumers are well protected when they follow a finfluencer on social networks.

To answer the research question and its sub-questions, we adopted a methodology that was both conceptual and field-based, with a view to understanding both regulatory and experiential issues. We began by performing a documentary analysis of articles, books, legal texts, and case law. This approach allowed us to build an analytical framework for interpreting the content shared by finfluencers from the standpoints of financial advice, and of the professional qualifications of those who provide it.

Subsequently, given the novelty of the phenomenon, we conducted an omnibus survey prior to the focus groups. The objective of this survey was to understand the impact on consumers of advice provided by finfluencers across Canada. The survey permitted us to recruit individuals who had some experience of the finfluencer phenomenon, and from among these, we selected a sample of participants for the focus groups, in which the phenomenon would be explored in greater depth. The survey data was collected from March 4 to 12, 2024, in French and English, from individuals aged 18 and over, from Western Canada, Ontario, Québec and the Maritimes. A total of 1,014 participants responded to the online questionnaire.

Four focus groups in French and English followed, conducted from April 30 to May 13, 2024, via videoconference, with participants from Western Canada, Ontario, Québec and the Maritimes. Each group consisted of seven participants, with the exception of the Ontario group, which had only five, due to the absence of two participants. The objective of the focus groups was to learn about consumers' experiences, gather their perceptions and verify their knowledge of possible remedies in this field. It should be noted that the recruitment of participants and the facilitation of the focus groups and the survey were carried out by an outside firm, BIP Recherche.

We were then able to identify the divergence between the two types of data collected: conceptual data (relating to legislation with regard to advice and professional qualifications) and field data (relating to consumer experience and perception). This enabled us to identify the possible risk factors for consumers to be considered in deciding on the regulatory framework best suited to the finfluencer phenomenon.

We should mention that we asked a number of experts to contribute to our study. These were chosen based both on the themes studied and on our needs. Although

not everyone responded to our invitation, we managed to conduct interviews with a professor from Université de Montréal specializing in finance, a law professor from Université de Sherbrooke, and a representative of the Autorité des marchés financiers (AMF). We also benefited from the support of a methodologist during the study.

Finally, in order to identify best practices, we investigated what is happening elsewhere in the world, focusing primarily on the European Union, France, and Australia.

3. PRESENTATION OF DATA

The methodology chosen for this research enabled us, first, to collect quantitative data through an omnibus survey in order to determine the impact of the phenomenon on consumers. We then conducted focus groups to discover consumers' perceptions. Here is a brief summary of the survey results, followed by the focus group data.

3.1. Omnibus survey data

As stated in the methodology, the survey was conducted in preparation for the focus groups. The survey of 1,014 participants established that 40% of respondents had already followed a financial influencer, or finfluencer. The survey covered the topics of investing in general (31%), investments (23%), personal finance management (27%), cryptocurrency portfolios (16%), and other topics (2%). Across Canada, respondents from Ontario were the most likely to follow finfluencers, at 44%, compared to residents of Québec, who did so at 30%. Furthermore, the most popular platform among respondents who followed finfluencers was YouTube (73%), followed by Facebook (59%) and Instagram (56%). Approximately one-third of respondents mentioned TikTok (37%), X (35%) and LinkedIn (31%).

Finally, the survey was able to determine the three categories of finfluencers that respondents follow: 47% followed a recognized finfluencer in the financial field who is registered with a regulator, while 37% followed recognized professionals in a field other than finance, 31% followed a friend, family member, or relative, and 15% did not know the status of their finfluencer.

3.2. Focus group data

This section presents data collected online from four focus groups, three with seven participants and one with five. These focus groups were made up of social media users aged 18 and over from five regions of Canada: Québec, Ontario, the Maritimes, and Western Canada (Alberta and British Columbia). According to the data collected, the platforms most used by the focus group participants were YouTube, Instagram and Facebook.

3.2.1. Content-related data

Generally speaking, the focus group participants reported that they follow influencers primarily to educate themselves on personal finance topics (best credit cards, money management, etc.), second, for topics relating to investments and the stock market, third for anything related to cryptocurrency, and last, for financial literacy and estate planning, e.g., the FIRE (financial independence, early retirement) movement.

3.2.1.1. Content-sharing methods used

The responses presented in this section relate primarily to the questions in Section 4 of the questionnaire, but some came up in sections where they were less expected. We summarize here the main content-sharing methods used by influencers.

According to the participants, influencers share financial advice using various approaches:

Through coaching sessions, video capsules

- ✓ "Attending coaching sessions, in-person event, walking you through stuff in real life. I think it's really effective." **(Ontario)**
- ✓ "Video capsules on Instagram." **(Québec)** [TRANSLATION]
- ✓ "I was going to say the influencer I follow the most is product less. I guess he has a couple different channels. He's got his YouTube and his TikTok and Instagram and a Patreon. He doesn't really ask for you to subscribe to a Patreon for any sort of product. But I think at the end of every video, he asks if you want to watch this more in-depth vision to go to my YouTube and it's probable because he makes more money on ads than he does on views or TikTok. I guess this is why he is trying to sell you is following." **(Maritimes)**

Through master classes, awareness raising and warnings

- ✓ "One of them does like a master class. She has a weekly or maybe biweekly class that she does that she calls a master class in financial literacy." **(Maritimes)**
- ✓ "I actually deal with the Royal Bank of Canada. They have some influencers who encourage you to consolidate your debts with the credit cards that they have, how those credit cards are beneficial for bringing down your debt and also what I found interesting as well getting back to the TFSA account because we have a couple of those as well." **(West)**
- ✓ "They're going to issue danger warnings, They're going to sell things, but they also tell you 'danger, beware.' Danger: beware of this product or these returns. Don't go there or don't invest in it." **(Québec)** [TRANSLATION]

By using news items to present new trends

- ✓ "I would add news items, capsules on current events. If there's a lot of talk about cryptocurrency or if the stock market is plummeting, they'll often focus their capsule on the flavor of the day." **(Québec)** [TRANSLATION]

By presenting their personal achievements or those of their clients via a chat

- ✓ One participant mentioned that a finfluencer had set up Zoom so that people could chat with him directly. "He gave us a presentation of the products he had invested in. We could interact directly with him." **(Québec)** [TRANSLATION]
- ✓ "Some of them talk about their personal exploits, their personal achievements, what they have done themselves to give an example for the topic they're presenting. Some of them also tell clients stories, real-life events." **(Québec)** [TRANSLATION]

3.2.1.2. Perception and impact on participants

The data in this section focuses on consumers' perceptions of the content presented and its impact on them:

Perception of advice, sometimes personalized and paid

- ✓ "I really like it when she suggests things or gives advice; it's really funny and lively. It's easy to watch and very charismatic." **(Québec)** [TRANSLATION]
- ✓ "The guy that I followed does. I don't know if you will call it mean greets but he will go through your finances with you. It's kind of an application process and you have to be in the same city as him. He kind of does it for people who are severely in debt or really struggling with financial literacy. He goes through with them almost like some of those reality TV shows where they do the first section and then six months later, he has a check up with them and you can see what has changed." **(Maritimes)**
- ✓ "I know that the finfluencer coach I sometimes watch offers financial coaching services, but they're pretty expensive. I'm interested. I think she charges \$500 per visit." **(Québec)** [TRANSLATION]

Perception of the level of investment risk taken by participants based on advice received from influencers

- ✓ The average perceived risk level calculated on the basis of participants' responses is **5 out of 10**.⁵³

Putting advice received from influencers into practice, and positive and negative repercussions

⁵³ In response to the question: "On a scale of 1 to 10 (10 being the highest on the scale), what is the biggest investment risk you have taken based on advice from an influencer? Explain."

- ✓ Based on the data compiled, most participants rate the impact of the influencer's advice on their financial decisions as rather low (average score: 4 out of 10).⁵⁴
- ✓ Earnings resulting from advice received: 9 out of 26 participants claim to have earned money using advice received from a influencer.
- ✓ Losses resulting from advice received: 3 out of 26 participants said they lost money after using advice they received.⁵⁵ *"I have a secondary influencer I sort of follow. I started following them when I started to get into investing and they would do showcases on certain companies, always being a little skeptical. So, I only ever put like 20 bucks into some of those picks. I ended up last week selling it off because I lost like 15 % on it. This is crazy. Going back and looking at it, it's a sponsored post. I feel like it's a little scummy."* **(Maritimes)**

Consumer needs and general appreciation of shared content

Several participants said they needed advice on managing their personal finances and making their money grow, while others said they were interested in new financial trends (e.g., cryptocurrency) and wanted general financial information.

The majority of participants (21 out of 26) appreciated influencers and gave them an average rating of 7 out of 10:

- ✓ *"6.5, 7 they keep my attention, it's fun. I'm learning something, they are not using big words."* **(Maritimes)**
- ✓ *"I would say a 7 because the content is interesting, engaging, they're fun, they do little videos. They do all the things and the content that I follow now is for me somewhat trustworthy. Overall, it is a pleasant experience."* **(Maritimes)**
- ✓ *"Six because I have gotten good advice and bad advice as well."* **(Ontario)**
- ✓ *"I mean, just because I trust the influencers, it doesn't mean I'm going to listen to what they tell me. There are things that may work for them, but not for me. There's no right answer, but I'm not going to assume they have bad intentions or are lying to me, either."* **(Québec)** [TRANSLATION]

3.2.2. Data related to content creators

3.2.2.1. Profiles

Primarily, the participants emphasized the aspect of diversity in their definitions of influencers:

Definition

⁵⁴ In response to the question: "On a scale of 1 to 10 (10 being the highest on the scale), how much do you rely on the advice given by your influencer when making decisions about your finances?"

⁵⁵ In response to the question: "Have you ever made or lost money following an influencer's advice?"

- ✓ "Somebody who could be a finance person professionally or could have experience with investments or finances in general and is considered a finfluencer because of their following on social media." **(Maritimes)**
- ✓ "A finfluencer is someone who is popular on social media and they have background knowledge on investments that they are willing to share with you." **(Ontario)**
- ✓ "The finfluencer might not be someone with a degree in finance; they could be someone who is less trained. Someone like us who's not sharing an expert opinion, but who's sharing their own experience, their personal experience in finance." **(Québec)** [TRANSLATION]

Practices

- ✓ **Disclaimer that this is not advice:** "A finfluencer is somebody who doesn't tell you what to do but guides you in a certain direction. **They all say I am not an investment adviser; I am not advising you but they are always trying to guide you in a certain way.** A lot of it is subtle but if you pay attention, you can see what they are doing. I follow some of these guys and I always take it with a grain of salt but they kind of guide you there." **(West)**
- ✓ **Limitation of liability:** "I'm coming back to my example because I mean the person did say again what I'm giving you is financial advice. It is up to you to take it or not. If you lose the money, I can't guarantee. You can't call me responsible." **(Ontario)**
- ✓ **Promising without knowledge of client:** "His plan seemed way too ambitious, even unrealistic. He promised us certain things. We were told we'd get rich. I'm not saying it was all sham, but you'd have to put aside so much cash compared to your salary to achieve the goals he proposed. Almost no one could achieve that. You don't earn enough. It's unrealistic. With the income you have, you couldn't put aside \$50,000 a year like he was proposing." **(Québec)** [TRANSLATION]
- ✓ **Risk Warning (Risk Disclosure):** "They're going to warn you to be cautious, they're going to sell you things, but they also give you 'danger warnings.' Attention: danger related to this product or these returns. Don't go there or invest in that." **(Québec)** [TRANSLATION]

3.2.2.2. Impact on consumers

Recognition of professional status of finfluencers followed

15 out of 26 participants were able to identify the status of the finfluencer they follow (**registered with a regulator/not registered with a regulator, including friends or family members**). However, no Western participants were able to do so.⁵⁶

⁵⁶ In response to the following question: "Among the following categories of influencers:

- Influencer registered with a regulator, a regulatory body such as the AMF;
- Influencer not registered with a regulator, but having a certain reputation;
- Influencer who is a friend or family member;

- ✓ *"I do not know but the ones I follow I do not know but I am not worried about that. I am listening to what they are saying and if that makes sense, I am fine with it. It could be just an average Joe. No accreditation." (West)*
- ✓ *"For me, it is a gut feeling whether the information the person is giving has resonance with you. I think if I listen to something and it sounds bad, I am not going to listen to that person." (West)*

Impact of status on decision to follow a finfluencer

The majority (10 out of 15) of participants who were able to identify their finfluencer's status reported following **a finfluencer who was not registered with a regulator, but who enjoyed a certain reputation. The finfluencer being registered with a regulator** did not necessarily appear to be an added value in the eyes of **several** participants:

- ✓ *"Being registered or not is not a motivation. It's not added value." (Québec)*
[TRANSLATION]
- ✓ *"I think they are both registered." (Maritimes)*

Impact of perception of one's own risk profile on choosing status of finfluencer one follows

The **choice of finfluencers** that participants follow on social networks **does not generally take into account their investment risk tolerance**. There is no difference in the category of finfluencers followed on social media **between participants with a low level of risk tolerance and those with a moderate or high level**.⁵⁷

- ✓ *"Yes and no, half and half, because sometimes it falls in my risk category. Other times it's not. So, I basically try to see what the options are. I see what the results are and then I can see if it's something that would fit my investing needs if that makes sense." (Ontario)*
- ✓ *"It depends, because at the same time you're going to tend to follow finfluencers like we were talking about earlier, the ones who talk about budgets or things like that. You're going to follow certain finfluencers depending on what you're looking for, for example, to make the most diversified investments." (Québec)* [TRANSLATION]

Recourse and transparency

When asked whether a finfluencer should be required to disclose their professional status, opinions were divided: 14 out of 26 participants considered that it would be good practice to disclose it, while the other 12 considered that such disclosure should be voluntary:

-
- Which category does your finfluencer fall into? (If friend or family member, check if they are registered with a regulator)."

⁵⁷ In response to the following question: "Does your choice of type of finfluencer take into account your risk tolerance level? Please explain."

- ✓ *"It would be more from a transparency and protection point of view for the people who follow this influencer. I think it would be important especially for those two points." (Québec) [TRANSLATION]*
- ✓ *"Those influencers who have something to sell should be registered." (Ontario)*
- ✓ *"Just because a influencer has a high professional status doesn't mean they would be more credible than someone who doesn't." (Québec) [TRANSLATION]*
- ✓ *"All of the influencers, they very clearly say on their bio that use your own discretion, it is just our opinion. For me I don't usually go on social media just listen to their advice to see what's happening but since I don't take it that personally I don't look at their backgrounds." (West)*

4. DATA ANALYSIS

In this chapter, we attempt to answer the general research question of whether the Canadian regulation regarding advice and professional qualification in securities matters addresses the possible risk factors for consumers who follow influencers. In order to elucidate the answer to the research question, we first proceeded by gradually answering the sub-questions that compose it:

1. How can we describe the content posted by influencers on social media and how do consumers react to this content?
2. What are the professional qualifications of the influencers followed by Canadian consumers? And what are their practices and conduct?
3. What are the risk indicators for consumers, from the standpoint of the content shared and the professional qualification of the influencers?
4. What do other jurisdictions teach us?

4.1. Sub-question 1: How can we describe the content shared by influencers on social media and how do consumers react to this content?

Before answering this question, it is important to refer to the legislation with regard to securities in Canada and define what constitutes an investment within the meaning of the law.

4.1.1. Securities legislation and its harmonization⁵⁸

First of all, it should be noted that in matters of investments, it is the *Securities Act* that applies. At the national level, the Constitution of Canada gives the provinces the

⁵⁸ This part of the report is largely inspired by: Rousseau, *Droit des valeurs mobilières : Théorie et pratique*, cited above.

power to regulate the securities sector. In March 2002, the Canadian Securities Administrators (CSA) launched a project to standardize securities legislation.

Consequently, the *Securities Act* has been progressively transformed into a framework legislation that states the fundamental principles enunciated in greater detail in the regulations. In this part of the study, therefore, we will refer to Québec's *Securities Act* and highlight differences specific to certain provinces, wherever applicable.

With the transition of the *Securities Act* (SA) to a legislative framework approach, regulation of the securities sector is now primarily governed by sub-legislative standards, the three main ones being regulations, general instructions and notices. In Québec, a regulation adopted by the AMF is a normative act that applies generally and impersonally and has the force of law. It is subject to approval by the government or the minister, who may approve it with or without amendment.

In other provinces and territories, the regulation is referred to as a national instrument or a multilateral instrument, depending on whether it has been adopted by all or some of the regulators. The policy statement does not have the force of law, but serves as a guideline or an interpretative tool. It indicates how the authority intends to exercise its discretionary powers for the purposes of administering the law. It may specify how the regulator applies or interprets a provision of the law or regulation. It may set out the principles, standards, criteria, or factors related to the exercise of a discretionary power. It may also outline the practices generally followed by the regulator in carrying out the functions and responsibilities assigned to it by the law or regulation. Finally, the notice is a directive that does not have the force of law. It tends to reflect an evolving position on a given subject, unlike policy statements, which set forth a more definitive position. It is likely to address matters of a more administrative or procedural nature.

Generally speaking, there is no legislation in Canada specific to influencers. It should be noted, however, that in British Columbia, in 2021, the British Columbia Securities Commission (BCSC) released a draft regulation titled *British Columbia Instrument 51-519 – Promotional Activity Disclosure Requirements*⁵⁹ aimed at regulating disclosures in promotional communications, including those by influencers on social media. The BCSC has yet to finalize its response to the consultation.

4.1.2. The concept of investment

Participants in our focus groups told us they follow influencers who cover topics as diverse as general investing, stock market purchasing advice, exchange-traded funds, mutual funds, cryptocurrency, real estate investing, personal finance, financial planning, and more.

Section 1 of the SA defines the forms of investment covered by the law. It lists the various types of investment, including the investment contract, defined as: a contract

⁵⁹ British Columbia Securities Commission, "Proposed British Columbia Instrument 51-519: Promotional Activity Disclosure Requirements," March 2021, <https://www.bcsc.bc.ca/-/media/PWS/New-Resources/Securities-Law/Instruments-and-Policies/BCN/BCN-202103-May-26-2021.pdf>

"whereby a person, having been led to expect profits, undertakes to participate in the risk of a venture by a contribution of capital or loan, without having the required knowledge to carry on the venture or without obtaining the right to participate directly in decisions concerning the carrying on of the venture."

According to case law, the SA should be given a broad interpretation and the investment contract should not be interpreted in any way that limits its application and undermines the objectives of the Act. For instance, the SA governs not only the legal activities of a broker, but also any activity that is similar to an investment contract.⁶⁰ Based on this broad definition, various instruments can be considered to be investments. For example, cryptocurrency can constitute an investment contract,⁶¹ as can a savings contract⁶² and an investment in real estate, when investors have no knowledge of real estate management, are not involved in the choice of the buildings purchased, do not participate in their management and pool their contribution in the hope of receiving returns on the rental of the income-producing buildings thus acquired.⁶³

Within this report, our assessment of the content shared by finfluencers is linked to the broad definition of the notion of investment given in Section 1 of the SA. This section lists other types of securities, starting with a security recognized as such in commerce, including shares (e.g., common, preferred), bonds, shares of incorporated entities, as well as rights and warrants. It may also be a debt security (e.g., GIC, Treasury bills); a deposit of money, whether or not evidenced by a certificate, except those received by the governments of Québec and Canada, or one of their departments or agencies; a share in an investment club; an option or other non-traded derivative, whose value is based on the value or market price of a security, granted as compensation or as payment for a good or service; or any form of investment determined by government regulation.

4.1.3. Shared content and advice

In deciding whether or not shared content qualifies as advice, it is necessary to determine whether the actions taken by the finfluencers constitute an activity that needs to be registered with a regulator. The *Securities Act* does not define the concept of advice, only the term "adviser" i.e. "a person engaging in or holding themselves out as engaging in the business of advising another with respect to investment in or the purchase or sale of securities, or the business of managing a securities portfolio."⁶⁴ The participants in our focus group identified the following approaches finfluencers use to share their financial content on the topics presented in the previous point of this section:

Paid or free coaching sessions;	Masterclass and awareness	Warnings	Chats with subscribers	Presentation of the finfluencer's experience and the products they invest in; advertising
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⁶⁰ *Autorité des marchés financiers c. Nubia Investments Inc.*, 2014 QCBDR 21.

⁶¹ *Autorité des marchés financiers c. Usi-Tech Limited*, 2018 QCTMF 24; *Lacroix v. Autorité des marchés financiers*, 2020 QCCQ 1467, etc.

⁶² *Asselin caisse d'établissement de l'Estrie*, YB 1991-71116, JEG1-329(CQ).

⁶³ *Autorité des marchés financiers c. Nubia Investment Inc.*, 2014 QCBDR 21.

⁶⁴ SA, s. 5.

video capsules				
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The issue with the content shared by influencers resides in the fact that they give advice, which is an activity that requires them to be registered with a regulator, and is therefore an activity of a securities broker or adviser. In fact, individuals must be registered in order to issue advice on securities.⁶⁵ To understand how this applies, one should refer, in particular, to case law and the *Policy Statement to National Instrument 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* for Québec. In determining whether a dealer or adviser is engaged in the business of trading or advising, this policy statement takes into account certain instances in case law and regulatory decisions in which the business of trading has been interpreted in the context of securities. For instance, the policy statement considers direct or indirect solicitation to be a trading and advising activity. Solicitation is defined as contacting someone by any means, including advertising, that proposes buying or selling securities or participating in a securities transaction, or that offers services or advice for these purposes. Based on this definition, certain approaches used by influencers, as reported by focus group participants, could constitute solicitation. The instruction also mentions the fact of being remunerated, or expecting to be remunerated, either for a transaction or on the basis of value, whether or not the remuneration is actually paid and whatever form it takes.

Furthermore, the ability to conduct business in a profitable manner is also a relevant factor. As such, paid coaching sessions offered by influencers could be considered consulting activities. The policy statement also refers to promoting securities or listings and acting as an intermediary between a seller and a buyer.⁶⁶ Based on the general interpretation of the policy statement, the activities of influencers could be considered those of advisers or brokers.

However, there is a nuance that needs to be considered in determining whether an activity constitutes advice and requires registration. The instruction⁶⁷ states that the registration requirement in section 7.2 applies to advisers who provide "specific advice" that is, advice that is tailored to the needs and circumstances of the client. For example, an adviser who recommends a security to a client is providing specific advice. Furthermore, section 8.25 of the policy statement specifies an exemption from the requirement to register as an adviser when the advice is not tailored to the needs of the recipient. The section lays down three criteria for determining whether advice on specific securities is not tailored to the needs of the recipient:

- if it is a general discussion of the merits and risks of the security;

⁶⁵ *Autorité des marchés financiers*, "Policy Statement to National Instrument 31-103 Respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations," January 1, 2023, 6. <https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/31-103/2023-01-01/2023janv01-31-103-ig-vconsolidee-en.pdf>

⁶⁶ *intermediating trades between a seller and a buyer*. This means acting as an intermediary between a seller and a buyer of securities, which constitutes a brokerage activity.

⁶⁷ *Autorité des marchés financiers*, "Policy Statement to National Instrument 31-103 Respecting Registration Requirements, Exemptions and Ongoing Registrant Obligation," 33, cited above.

- if it is delivered via investment newsletters, articles in general circulation newspapers or magazines, websites, e-mail, chat rooms, bulletin boards, television or radio; and
- if it does not claim to be tailored to the needs and circumstances of any recipient.

According to this same section, general advice of this type may also be given at conferences. However, if the purpose of a conference is to solicit the audience and generate specific trades in specific securities, it may be considered that it is tailored advice or that the individual or firm providing it is engaged in trading activity.

In her study, author Raymonde Crête⁶⁸ establishes a distinction between advice and information. Although she concedes that the two functions are similar, she considers that the activity of advising is distinct from the notion of information, in that it involves the demanding task of evaluating the advantages and disadvantages of an action. The transmission of information consists in communicating data, which, like the transmission of advice, can help enlighten the recipient in the choice of an action or a decision. For example, in the financial services sector, the representative of a financial institution may give consumers information on products and services offered by the institution, on market conditions, and on the various terms of contracts between the parties, such as commissions and service charges.

Defining financial advice is therefore no simple task and requires a case-by-case analysis. We can therefore conclude that the content shared by influencers may constitute advice, but advice that benefits from a certain exemption, as long as it remains general. It might entail the exercise of the activity of adviser and trader, but since the activity is carried out in a general context, the advice is not tailored, and the influencer in question may be exempt. It should be noted, however, that section 8.25 of *National Instrument 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* does not apply to Ontario, pursuant to paragraph 5 of the same section.

Finally, we may wonder about the general nature of private chat room conversations between a influencer and a consumer and the exemption that is granted when the information is transmitted by this means.⁶⁹ This practice, which is one of the approaches identified by our focus group participants, appears to be quite common, and it is difficult to determine that it is not personalized advice.

4.2. Sub-question 2: What are the professional qualifications of the influencers followed by Canadian consumers? What are their practices and how do they conduct themselves?

⁶⁸ Raymonde Crête, "Le portrait des prestataires de services de placement," in *Courtiers et conseillers financiers, encadrement des services de placement*, ed. Raymonde Crête (Cowansville: Éditions Yvon Blais, 2011), 65.

⁶⁹ Canadian Investment Regulatory Organization, "Influencers in Investing" <https://www.ocri.ca/investor-bureau/avoiding-fraud-and-protecting-your-investments/influencers-and-investments>.

4.2.1. Professional qualification and registration obligation

The participants in our focus groups reported a variety of profiles among the finfluencers they follow, who might be a finance professional,⁷⁰ someone who simply has financial knowledge and is popular on social media,⁷¹ or someone who shares their experience.⁷² The issue of being registered to provide advice on a financial product may arise in the case of a person who has no recognized qualifications in the field and is therefore not registered with a competent authority, just as it may arise in the case of a professional qualified to provide advice only on the securities for which they are authorized.⁷³ In the first case, as we have already pointed out, the finfluencer can only be subject to the obligation to register as a securities adviser if they meet the jurisprudential criteria, which can only be determined on a case-by-case basis.

In Québec, we can refer to the decision rendered by Justice Martine L. Tremblay in *Beaudin c. Autorité des marchés financiers*. In this case, the Court of Québec dismissed the appeal of the decision rendered by the former Bureau de décision et de révision,⁷⁴ which had concluded that the respondent had acted as a dealer within the meaning of the SA without being registered. Indeed, section 148 of the SA specifies that to carry out the activity of dealer or adviser, one must be registered as such. Similarly, anyone who has already been registered must be aware that registration with the AMF is required in order to carry out the activity of adviser.⁷⁵ In *Autorité des marchés financiers c. Adam*, the respondent had previously been registered as an adviser, but his registration was no longer in effect at the time he posted his ads on Kijiji, one of which reads as follows:

"15 years of experience in the securities field (bonds, mutual funds, stocks). I offer my services to evaluate your needs and your investments. (...) I can advise you on trading with a discount firm (low fees) (...). By advising you on the securities that will give you a higher return (...). [TRANSLATION]

According to the former Bureau de la révision,⁷⁶ investor confidence depends on adequate regulation of participants in the financial market and the products they offer and are in circulation. Registrants act as the public's first line of defense with

⁷⁰ "Somebody who could be a finance person professionally or could have an experience with investments or finances in general and they are considered an influencer because of their following on social media." **(Maritimes)**

⁷¹ "A finfluencer is someone that is popular on social media and they have background knowledge on investments that they are willing to share with you." **(Ontario)**

⁷² "The finfluencer might not be someone with a degree in finance, but someone with less training. Someone like us who doesn't give out expert opinions, but who shares their experience, their personal experience in finance." **(Québec)** [TRANSLATION]

⁷³ *Autorité des marchés financiers, National Instrument 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations*, September 13, 2023, <https://lautorite.qc.ca/fileadmin/lautorite/reglementation/valeurs-mobilieres/31-103/2023-09-13/2023sept13-31-103-vofficielle-en.pdf>.

⁷⁴ The Financial Markets Administrative Tribunal, formerly the *Bureau de décision et de révision en valeurs mobilières*

⁷⁵ *Autorité des marchés financiers c. Adam*, 2013 QCBDR.

⁷⁶ *Autorité des marchés financiers c. Adam*, 2013 QCBDR, para. 12.

regard to the markets, and their conduct must be aimed at protecting the interests of their clients and helping to maintain the integrity of the market. The purpose of registering with the authority is to ensure that people who deal with investors possess the requisite financial knowledge, skills and integrity.

Investment service providers may perform three main functions: advising, wealth management and securities trading. However, the function of investment service providers extends only to the securities for which they are authorized to act.⁷⁷ Thus, for investment representatives, this function extends to all securities, while for mutual fund representatives, it is limited to mutual fund units.⁷⁸ For financial planners, this function is more general. They cannot make recommendations about the purchase and sale of specific securities, such as stocks, bonds, or mutual fund units of a particular company. Instead, they can make general suggestions about the nature of investments to be made. For example, their registration as such authorizes them to recommend the purchase of safe securities, such as the purchase of blue-chip stocks, which includes the shares of several large companies and not just one specific security.⁷⁹ According to case law,⁸⁰ ignorance of the limits of one's registration is not a defense, since no one is supposed to be ignorant of the law—even less those who decide to work in a highly regulated field such as securities.⁸¹

The functions performed by the various service providers are therefore limited with regard to the products on which they are entitled to act, and are subject to registration with the responsible bodies.⁸² These include the Canadian Securities Administrators (CSA), and especially, l'Autorité des marchés financiers (AMF), which are regulatory organizations. There are also self-regulating organizations such as the Canadian Investment Regulatory Organization (CIRO) and the Chambre de la sécurité financière (CSF) in Québec, whose mandate extends to mutual fund brokerage, financial planning, personal insurance, group life insurance, and scholarship plan brokerage.⁸³ The CSF is similar to a professional order, its primary mission being the protection of the public. In addition to the regulations issued by the authorities, self-regulatory organizations may also adopt rules and codes of conduct for their members.

CIRO performs the functions formerly assigned to IIROC (Investment Industry Regulatory Organization of Canada) and MFDA (Mutual Fund Dealers Association of Canada), aimed at protecting investors, ensuring efficient and consistent regulation and building Canadians' trust in financial regulation and the people managing their investments.⁸⁴ CIRO supervises all investment dealers, mutual fund dealers, and trading activity in Canada's equity and debt markets. In particular, it registers representatives of member dealers on behalf of the AMF.⁸⁵

⁷⁷ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 241, cited above.

⁷⁸ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 241, cited above.

⁷⁹ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, 241, cited above.

⁸⁰ *Autorité des marchés financiers c. Gestion de portefeuille Tahar Mansour Inc.*, 2014 QCBDR 27.

⁸¹ *Autorité des marchés financiers c. Gestion de portefeuille Tahar Mansour Inc.*, 2014 QCBDR 27.

⁸² Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, cited above.

⁸³ *Act Respecting the Distribution of Financial Products and Services*, CQLR, cD-9.2, s. 289.

⁸⁴ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 79, cited above.

⁸⁵ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, cited above.

4.2.2. Oversight of financial intermediaries

Intermediaries play an important role in financial markets, especially by providing advice to investors. For this reason, they are subject to specific oversight, based on a registration regime aimed at protecting investors against unfair, fraudulent or unjust practices and to ensure that the capital market is efficient and transparent.⁸⁶ Supervision of these intermediaries is therefore extensive, as reflected in the detailed standards set out in *National Instrument 31-103 Respecting Registration Requirements and Exemptions and Ongoing Registrant Obligations (NI31-103)* which are supplemented by those of self-regulatory organizations such as CRO and the CSF.

Any intermediary, whether a company or an individual, is required to register with the AMF or the securities commission in their respective province or territory in order to carry out one of the activities covered by NI31-103, which harmonizes registration requirements across Canada.⁸⁷ NI31-103 divides registration into two groups: one for companies and one for individuals. These two groups are further divided into several registration categories based on the role of the registrant. For companies, there are: Brokers, Advisers, and Investment Fund Managers. For individuals, there are five categories: Broker Representative, Advising Representative, Deputy Advising Representative, Responsible Designated Person, and Chief Compliance Officer.

For companies, section 148 of the SA and Part 7 of NI31-103 state that the registration requirement is triggered when a company presents itself as carrying on the activities of a dealer or adviser or acts as a distributor or manager of investment funds. The activity carried out by the company determines its registration category. For the Adviser category, section 7.2 of NI31-103 specifies the registration requirement for advisers. The function of the adviser is to provide personalized advice, i.e. advice that is tailored to the specific financial situation of each client.⁸⁸

The adviser registration category has two subcategories: (a) Portfolio Managers and (b) Restricted Portfolio Managers. Under paragraph 7.2(2) of NI31-103, a person registered as a portfolio manager may act as an adviser in respect of any security. A person registered as a restricted portfolio manager may act as an adviser in respect of any security, subject to the conditions to which their registration is limited. In this case, the AMF attaches conditions to the registration of the restricted portfolio manager, thereby limiting their activity.⁸⁹

Exceptionally, the registration requirement for investment fund managers is not tied to the concept of carrying out an activity, unlike the registration of brokers and advisers.⁹⁰ However, a fund manager may be required to register as a broker or adviser if the activities they carry out are similar. For example, if they act as a portfolio manager for a fund they manage, they must assess whether they should be

⁸⁶ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 73, cited above.

⁸⁷ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, cited above.

⁸⁸ S. 7.2 IG31-103.

⁸⁹ S. 7.2 IG31-103.

⁹⁰ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 708, cited above.

registered as a broker or as an adviser.⁹¹ On the other hand, the investment fund manager is not required to be registered as an adviser in order to advertise the funds they manage, nor to be registered as a broker in order to advertise to registered brokers.⁹²

Individuals, wishing to act on behalf of a registered company are required to register in every category related to the activities they carry out, as well as to satisfy the training and competence requirements for each. For example, someone who wishes to act as an adviser must register in the Advising Representative category, which allows them to provide advisory services within the same capacities as their sponsoring company is permitted to provide.⁹³ They may also register in the Deputy Advising Representative category for the same securities as those permitted to their sponsoring company, as long as this advice is approved by an Advising Representative.⁹⁴ In addition to these subcategories, NI31-103 includes the categories Responsible Designated Person, and Chief Compliance Officer, under section 5.1 of *Policy Statement to National Instrument 31-103 (PG31-103)*.⁹⁵

Certain exemptions

As already noted, one may be exempted from the requirement to be registered. For instance, under NI31-103, the requirement to register as an adviser does not apply to a person who carries out the activity of an adviser but provides advice that is not tailored to the needs and financial situation of the person receiving it.⁹⁶

There are other exemptions from the registration regime. Most exemptions do not require any action or application; simply meeting the required conditions is sufficient for the exemption to apply.⁹⁷

Because social media activities defy borders, we judged it appropriate to highlight the exemption granted to international advisers as well as that based on client mobility, which will be addressed later. Under section 8.26 of NI31-103, the registration requirement does not apply to international advisers who provide advice on a foreign security to a permitted client who is not registered under the securities legislation of a Canadian jurisdiction as an adviser or dealer. The same applies to advice on Canadian securities that is incidental to advice on foreign securities that qualifies for the exemption.⁹⁸ However, pursuant to subsection 8.26(4) of NI31-103, an international adviser seeking to benefit from the exemption must have their head office or principal place of business in a foreign jurisdiction, must be registered or exempt from registration under the securities legislation of the foreign jurisdiction in a registration category that permits them to perform the activities that registration as

⁹¹ Julie-Martine Loranger, Laure Fouin, Michael Garellek and Martine Guimond, "Régime d'inscription," in *JurisClasseur Québec*, coll. *Droit des affaires, Valeurs mobilières*, fasc. 11 (Montreal: LexisNexis Canada, 2011), cited by Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 708, cited above.

⁹² Loranger, Fouin, Garellek and Guimond, "Régime d'inscription," cited above.

⁹³ S. 2.1(2)(b) R31-103.

⁹⁴ S. 2.1(2)(c) R31-103.

⁹⁵ S. 5 IG31-103.

⁹⁶ S. 8.25(2) National Instrument 31-103.

⁹⁷ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 715, cited above.

⁹⁸ S. 8.26, Incidental advice on Canadian securities, IG31-103.

an adviser would permit them to perform in Canada, and must perform the activity of an adviser in the foreign jurisdiction where their head office or principal place of business is located. Also, an income limit is imposed on the exemption to the effect that the adviser cannot benefit from the exemption for more than 10% of the total consolidated gross revenues of their portfolio management activities carried out in Canada.⁹⁹

In addition, this exemption is subject to certain conditions. For instance, the international adviser must notify the client of the foreign jurisdiction in which their head office or principal place of business is located of the fact that all or substantially all of their assets may be located outside Canada, which may occasion difficulties for the client in enforcing their legal rights against the adviser. They must also supply as the name and address of the agent designated for service of process in the relevant jurisdiction. Finally, the adviser must send to the securities regulatory authority the Form provided in Appendix 3¹-103A2,¹⁰⁰ which must be resubmitted annually, as long as the company continues to rely on the exemption.¹⁰¹ Section 8.26.1 of NI31-103 provides a similar exemption for international sub-advisers.

There is another exemption based on client mobility. This exemption is triggered by the relocation of the client, not the registrant, in their principal jurisdiction, and only allows them to act as an adviser in the other jurisdiction to the extent that they can carry on business in their principal jurisdiction under that registration. This exemption is set forth in section 8.30 of NI31-103. It allows the registered firm to continue to act as a dealer or adviser with a client who moves to another jurisdiction, without having to register there. Section 2.2 of NI31-103 provides a similar exemption for registered individuals.¹⁰² However, the sponsoring firm must inform the eligible client that the individual and, where applicable, the firm, are exempt from registration in the other jurisdiction and are not subject to the securities legislation requirements of that jurisdiction.

Reflecting on the requirements attached to the exemptions for international advisers, especially with regard to the advice they must give to their clients, one might wonder whether such an approach could be transposed to exemptions in the case of a finfluencer giving non-personalized advice. This would imply that non-professionally qualified finfluencers would probably fall under a new category to be created by the AMF that would be subject to other conditions such as those relating to a certain level of training in securities.

4.2.3. Conduct and certain practices for exonerating oneself

When focus group participants were asked how they identified a finfluencer's professional status, none of the participants from Western Canada¹⁰³ was able to

⁹⁹ S. 8.26(4)(d) R31-103.

¹⁰⁰ Form 31-103 F2, *Submission of Jurisdiction and Appointment of Agent for Service*.

¹⁰¹ S. 8.26(5) R31-103.

¹⁰² S. 8.30 Mobility exemption – firms IG31-103.

¹⁰³ "I don't know but the ones I follow, I don't know but I'm not worried about that. I'm listening to what they are saying and if that makes sense, I'm fine with it. It could be just an average Joe. No accreditation."

(West)

identify the professional status of a finfluencer they followed. Other participants used a variety of tactics. Most looked at the finfluencer's biography or financial experience, some searched for the finfluencer's profile online, a few attempted to check the finfluencer's status on the regulator's website, and a minority relied solely on the content posted to determine whether its creator was a professional or not.

Since in most cases, advice offered on social networks could be exempt from the registration requirement, both those who provide such advice and those who follow it are clearly not involved in a professional relationship that would give rise to ethical and professional obligations. The closest situation in which this might arise is when the individual or company demonstrates a financial interest. Indeed, under paragraph 3 of section 8.25 of NI31-103, the individual or company that relies on the exemption and has a financial or other interest in the securities they recommend is obliged to mention this fact to the recipient when making the recommendation.

For registered persons who are in a professional relationship, it is important to know that Chapter IV of the *Securities Act* sets forth the general obligations with which companies and registered persons must comply. These include good faith, honesty, fairness and loyalty in their dealings with clients.¹⁰⁴ for a person registered as an adviser. NI31-103 sets forth the specific obligations that apply to the conduct of registered firms and persons. These obligations are supplemented by those formulated by CISO and the CSF. For example, with regard to recommendations, Section 4 of the *Regulation respecting the rules of ethics in the securities sector* states that the representative's recommendations must be based on an in-depth analysis of information obtained from the client and information related to the transaction.¹⁰⁵

The main obligations relate to compliance, know-your-client (KYC), know-your-product (KYP), client suitability, conflict of interest, referral agreements, restrictions on borrowing, lending and margining, fair handling of complaints, record keeping and client relations. We will return to some of these obligations in the next section of this report.

As for unqualified persons, no ethical obligations are imposed on them, as they are not registered with an authority or self-regulatory body, unless they are members of a professional body, in which case certain ethical obligations of that professional body might apply.

Self-exoneration practices

As discussed in Chapter 3 with regard to the presentation of information, some finfluencers use various disclaimers to avoid liability for offering financial advice without being registered with a securities commission. Examples include warnings that the content offered does not constitute advice.¹⁰⁶ or disclaimers of responsibility in the event of loss.¹⁰⁷

¹⁰⁴ S. 160.1 SA

¹⁰⁵ 71. *Regulation respecting the rules of ethics in the securities sector*, CQLR, c D-92, r.

¹⁰⁶ "They all say I'm not an investment adviser; I'm not advising you, but they're always trying to guide you in a certain way."

¹⁰⁷ "If you lose the money, I can't guarantee. You can't call me responsible," (Ontario)

According to securities case law, the factual basis of the registration requirement requires an interest in the activities of the company or person in question. Accordingly, any warning or qualification made by an individual or company intended to avoid the registration regime is null and void when exercise of the activity is noted.¹⁰⁸ In *Autorité des marchés financiers c. English*,¹⁰⁹ it was established that the publication of a warning indicating that no securities activity was taking place was not sufficient to exempt a person from their obligation to register.

Similarly, in a decision rendered by Justice Martine Tremblay,¹¹⁰ regarding the illegal exercise of the activity of broker and adviser, the judge specifies that case law has long established that the fact of publishing a warning does not exempt its author from the application of the *Securities Act*. The registration obligation arises from the exercise of the activity itself.¹¹¹ "The fact that Mr. Beaudin does not identify himself and does not present himself as a "broker" on the Maxhyip website is not relevant, since what he is accused of is not the use of the title of broker, but of having carried out the activity of broker, by promoting an advertising and monitoring service for HYIPs, without being registered." [TRANSLATION] In other words, if the shared content can be defined as advice under the law, the fact of wanting to exempt oneself from it by issuing a warning has no impact. Only the activity actually performed makes it possible to determine whether or not it is an act requiring registration. This therefore involves a contextual analysis conducted on a case-by-case basis.

Justice Martine Tremblay concludes by referring to the jurisprudence rendered in Québec, Ontario and British Columbia, in particular:

- (a) the registration obligation depends on the exercise of the activity;
- (b) publishing a disclaimer that the authors of an opinion do not perform brokerage or advisory activities is not sufficient;
- (c) the nature of the information given or offered is a key element in determining whether there is brokerage or advisory activity. Accordingly, reporting facts about an issuer and its business activities does not amount to such activities. However, recommending, distributing or offering an opinion on the merits of an issuer or its securities is a brokerage or advisory activity, and anyone who engages in this activity in a manner that involves a business objective must be registered as a broker. [TRANSLATION]

4.3. Sub-question 3: what are the risk indicators for consumers, from the standpoint of shared content and the professional qualifications of influencers?

In the figures presented below, the center columns present the risk indicators when there is a disparity between the elements of the "compliance" dimension and those

¹⁰⁸ See *Autorité des marchés financiers c. Kam*, 2012 QCBDR 148, para. 42, citing *Re Dodsley*, 2003 LNONOSC 92, para. 13.

¹⁰⁹ *Autorité des marchés financiers c. English*, 2014 QCBDR 84.

¹¹⁰ Decision - *Beaudin c. Autorité des marchés financiers* - 2016 QCCQ 7025 (soquij.qc.ca).

¹¹¹ Decision - *Beaudin c. Autorité des marchés financiers* - 2016 QCCQ 7025 (soquij.qc.ca), para. 27.

of the "experience" dimension. Possible risk indicators in terms of advice are the impact of the shared content on consumers, i.e. the perception of advice in the content shared by finfluencers and the implementation of said advice by consumers. Possible indicators of risk in terms of professional qualification, on the other hand, are the impact of professional qualification on consumer choices, i.e. the importance attached to professional qualification and the choice of finfluencer based on the perception of one's own risk profile.

Fig. 1 Consumer advice and needs: risk indicators

"COMPLIANCE" DIMENSION	SHARED CONTENT RISK INDICATORS	"EXPERIENCE" DIMENSION
ADVICE	Impact of content on consumers: perception of advice, implementation of advice	CONSUMER NEEDS

Fig. 2. Professional qualification and investor perception: risk indicators

"COMPLIANCE" DIMENSION	PROFESSIONAL QUALIFICATION RISK INDICATORS	"EXPERIENCE" DIMENSION
PROFESSIONAL QUALIFICATION	Impact of professional qualifications on the consumer: Importance given (or not) to professional qualifications Choice of finfluencer based on perception (or not) of one's own risk profile	PERCEPTION OF INVESTORS

4.3.1. Consumer risk indicators with regard to shared content: implementing advice

Whether or not the advice is "tailored" in compliance with securities legislation, the content shared has an impact on some consumers, leading them to treat it as a genuine investment recommendation that they end up acting upon.

Participants were asked various questions to determine the impact of finfluencers' advice on their decisions and lives in general.¹¹² For instance, they ranked the biggest risk they took based on the advice of a finfluencer at level 5 (on a scale of 10) and described the impact of finfluencers' advice on their decisions as low (i.e. 4 out of 10). However, 8 out of 26 participants (2 in Québec, 2 in Ontario, 4 in the Maritimes) did not appreciate all the advice and some even said they had already suffered losses by following it:

"This finfluencer I follow, and he talks a lot about just stock and during covid he was recommending a lot of medical stocks that will go up and the stocks he recommended skyrocketed but there is one I invested in that didn't. It just completely tanked."

"I was told put your money into pot stocks when it first before it became legal. Everybody is making this money and the minute I put it in, all it's done is gone downhill because there's so many in the game now that nobody is making money."

"I have a secondary finfluencer I sort of follow. I started following them when I started to get into investing and they would do showcases on certain companies, always being a little skeptical. So, I only ever put like 20 bucks into some of those picks. I ended up last week selling it off because I lost like 15% on it. This is crazy. Going back and looking at it, it's a sponsored post. I feel like it is a little scummy "

However, when asked specifically if they have ever made or lost money by applying advice received from finfluencers,¹¹³ 9 out of 26 participants said they made money and 3 said they lost money.

It can therefore be concluded that a certain number of consumers do follow the advice offered by finfluencers, whether or not it is considered to be personalized, with both positive and negative results. The consumers' decision to follow a finfluencer seems primarily to be dictated by their need for information.

The need for information and the perception of advice

When asked what motivates them to follow finfluencers, our focus group participants told us that beyond the inspiring nature of the creator's content (e.g., the charismatic personality of the finfluencer), they follow them because they need advice on managing their personal finances: not only to make their investment grow, but also to learn about new financial trends (e.g. cryptocurrency). The consumers' need for investment information is therefore quite clear. Even though participants consulted other sources such as financial institution websites, television programs or financial advisers (older participants), only two out of 26 participants spontaneously named Canadian Securities Authorities such as the AMF. Moreover, their perception of the shared content is that it does in fact constitute advice.

One risk factor for consumers who follow finfluencers is their perception that the content presented to them constitutes personalized advice or a recommendation, which might influence their decision to implement it. In conclusion, there may be a

¹¹² On a scale of 1 to 10 (10 being the highest on the scale), what is the biggest investment risk you have taken based on advice from a finfluencer? Explain.

On a scale of 1 to 10 (10 being the highest on the scale), how much do you trust the advice given by your finfluencer when making decisions about your finances?

¹¹³ Have you ever made or lost money by following a finfluencer's advice?

discrepancy between the conception of advice presented by securities legislation in Canada and the consumers' conception of it, which is based on their own experience and fueled by their need for information. Consequently, assuming that consumers can protect themselves and judge whether or not the content presented to them is personalized, amounts to leaving them vulnerable to this content.

4.3.2. Risk indicators with regard to professional qualifications

Protecting investors against risk is the cornerstone of securities legislation. The adviser registration regime contributes toward this protection. Risk analysis plays a fundamental role in dealing with advisers. Both advisers and brokers have to ensure that the transaction is compatible with their client's objectives, knowledge and risk tolerance.¹¹⁴ However, as has been emphasized several times in this report, advice on social media is provided by both registered professionals and non-registered individuals. Consequently, when a self-employed investor follows a finfluencer and puts their advice into practice, the responsibility for assessing the risk associated with the financial product they are presented with falls entirely upon them.

Considering the context, we therefore wanted to know what analysis of their own risk tolerance the participants in the focus groups arrived at before investing.¹¹⁵ On average, these investors rate their risk tolerance at level 5 on a scale of 10. They rate their investment knowledge at 6 on a scale of 10. It is therefore difficult to conclude that they are able to arrive at a realistic risk analysis of their profile.

Furthermore, it is clear that investors' analyses are not always rational, in that they may be influenced by biases and cognitive shortcuts.¹¹⁶ These biases not only affect consumers' risk perception, but also influence them to make decisions that are ill-suited to their circumstances. Some authors¹¹⁷ consider that advisers and brokers can play a vital role in mitigating many of these biases, if the tools and practices they make available help consumers to focus on the most important factors on which to base their purchasing decisions.

The professional qualifications of the finfluencer could therefore be an asset in terms of protection for an investor who follows and applies advice posted on social media. Based on this hypothesis, we wanted to verify whether the fact that an investor claims to have a low risk tolerance could influence their choice of finfluencer, and direct them towards a registered professional. However, the data analysis did not permit us to establish a difference between the choice of finfluencer profile among participants who consider themselves to have a low level of risk tolerance and those who say they have a moderate or high level. Most participants in the study did not

¹¹⁴ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, cited above.

¹¹⁵ "On a scale of 1 to 10 (10 being the highest) how would you rate your investment risk tolerance?"

¹¹⁶ Évelyne Jean-Bouchard and Maya Cachecho, "La protection des consommateurs de produits et services financiers au Québec : constat tiré de l'analyse économique comportementale du droit," *Assurances et gestion des risques / Insurance and Risk Management* 87, nos. 3-4 (January 2021), 233-26, <https://www.erudit.org/fr/revues/agr/2021-v87-n3-4-agr05910/1076122ar/>; Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 49, cited above.

¹¹⁷ Jean-Bouchard and Cachecho, "La protection des consommateurs de produits et services financiers au Québec," cited above.

attach any importance to the professional status of the influencers they follow on social networks.¹¹⁸

In a context in which some investors do put advice into practice, the fact that a influencer's professional status may not be important to participants, coupled with the possibility that their own risk profile assessment may be incorrect, itself constitutes a risk factor for consumers on social networks. Moreover, it has been shown that social media can foster the development of parasocial relationships,¹¹⁹ particularly in the context of influencer marketing. These relationships ensure that when a consumer identifies with a certain source and their brand use behaviour (often in the context of an advertisement), they will likely adopt the same behaviours as the source. These relationships are amplified on social media, as the perceived distance between the consumer and their "idol" is reduced.¹²⁰ We can therefore conclude that consumers are even more vulnerable in this context.

An increased bond of trust, whether towards a registered professional or an unregistered individual, may, depending on the circumstances, lead to decreased vigilance on the part of the investor and open the way for abuse and behaviour that is counterproductive for them. Given the vulnerability of the consumer and their dependence on the adviser, especially considering the informational advantage and power the latter wields over the investor,¹²¹ provisions regarding conduct and ethics have been put in place to protect consumers.

Ethical mechanisms in place to protect consumers

Various obligations aimed at protecting investors are imposed on registrants, including "know-your-client," "know-your-product," and suitability. We will focus on the latter, as it is more comprehensive and relevant to our research as it is closely interrelated with the obligation to know the client.¹²² Furthermore, it is considered a cornerstone of the registration regime¹²³ because it requires registered companies and individuals to act in good faith, honesty and fairness in their dealings with clients. From this perspective, securities tribunals consider a breach of the suitability obligation to be a serious matter.

More specifically, this obligation is defined by section 13.3 of NI31-103, which states, among other things, that before recommending any alternative investment action,

¹¹⁸ "Just because a influencer has high professional status, it doesn't mean they are more credible than someone who doesn't." (**Québec**) [TRANSLATION]

"All of the influencers, they very clearly say on their bio to use your own discretion, it's just our opinion. For me I don't usually go on social media just listen to their advice to see what's happening but since I don't take it that personally I don't look at their backgrounds." (**West**)

¹¹⁹ [Alan M. Rubin](#), [Elizabeth M. Perse](#) and [Robert A. Powell](#), "Loneliness, parasocial interaction, and local television news viewing," *Human Communication Research* 12, no. 2 (December 1985), 155-180, <https://onlinelibrary.wiley.com/doi/10.1111/j.1468-2958.1985.tb00071.x>.

¹²⁰ Marijke De Veirman, Liselot Hudders and Michelle R. Nelson, "What Is Influencer Marketing and How Does It Target Children? A Review and Direction for Future Research," *Frontiers in Psychology* 10, no 2685 (December 3, 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6901676/>.

¹²¹ Duclos, *La protection des épargnants dans l'industrie des services d'investissement*, cited above.

¹²² *Parent v. Leach*, 2008 CanLII 26688(ON SC), para. 130.

¹²³ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 730, cited above.

the registrant must reasonably determine that the action is suitable for the client and that it puts the client's interest first. The policy emphasizes that in choosing a recommendation or making a decision, the registrant must prioritize the client's interests over their own and any other competing interests, such as a higher level of compensation or any other incentive, and must exercise professional judgment when favouring one recommendation or decision over another.¹²⁴

For the courts, there are three dimensions to the suitability obligation: 1) knowledge of the client and the product; 2) the judicious exercise of professional judgment in determining the suitability of the security; and 3) disclosure of the positive and negative aspects of the proposed transaction.¹²⁵ The courts place particular emphasis on the following:

1. The obligation rests solely with the registrant person and cannot be transferred to the client.
2. The obligation is a particularly important protection for clients whose investment experience and sophistication are limited.
3. Evaluating an investor's risk profile involves more than simply looking at numbers on a client application form.
4. The "know your client" and "suitability" obligations must be evaluated at the time the investment is contemplated. They are not measured in light of subsequent unforeseeable events, whether of a favourable or negative nature.¹²⁶

The suitability obligation was described as follows in a decision of the Alberta Securities Commission:¹²⁷

A registrant's obligation is to "know his client" and to ensure that any recommendations made by them are appropriate for the client based on the factors, both negative and positive, reasonably known to a diligent registrant at the time the investment is contemplated.

In the current context, the suitability obligation falls to the registrant and cannot be transferred to the client. This obligation is a protective measure for investors and is assessed at the time the investment is considered, which means, in this instance, quite early in the process. However, for those who provide advice without being registered, it can be said that the burden of the obligation is reversed: it is placed on the shoulders of the investors, who must rely on their own judgment and knowledge to determine whether the product offered is suitable for them. Leaving risk management solely in the hands of investors is tantamount to assuming that investors act rationally when processing information. Studies in psychology and neuroscience, however, show that the rationality of individuals is limited.¹²⁸ Such a situation can only further exacerbate the vulnerability of consumers.

Disclosure of financial interest and professional qualification

¹²⁴ S. 13.3 Suitable recommendations IG31-103.

¹²⁵ *Re Lamoureux*, 2001 LNABASC 433.

¹²⁶ *Gareau (Re)*, 2011 OCRCVM 53, par 33.

¹²⁷ *Re Marc Lamoureux* (2001), ABSECCOM 813127, citation translated in *Autorité des marchés financiers v. Dean Evans Private Client Service Inc.*, 2020 QCTMF 35, para. 181

¹²⁸ Rousseau, *Droit des valeurs mobilières : Théorie et pratique*, 68, cited above.

There is currently a provision in *National Instrument 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI31-103)*, s. 8.25, which specifies that if the individual or company relying on the exemption has a financial or other interest in the securities they recommend, they must disclose this to the recipient when they make their recommendation.¹²⁹ The draft regulations published by the British Columbia Securities Commission in 2021 were also aimed at increasing transparency among investors about the products being promoted. They require that disclosures be included in all promotional communications transmitted by an issuer, including in content published by influencers on social media.¹³⁰ These disclosures must include remuneration, the name of the entity carrying out the promotional activity and a statement about the legal obligation to disclose information.

As regards identifying the professional qualification of the influencer on social media, we were unable to find, either in the regulations, rules or codes of conduct consulted, any specific mention of how one should announce one's professional status or exemption when offering advice on social media. However, we note that Section 10 of the CSF *Code of Ethics*.¹³¹ states that the representative's methods of soliciting and conducting business must inspire confidence and respect among the public. However, when participants in our focus groups were asked whether a influencer should be required to disclose their professional status on social media when providing advice, just over half considered it a good practice,¹³² while the rest thought it should be voluntary.¹³³ Moreover, others considered that registration with the authorities is no guarantee of credibility.¹³⁴ It should be noted that there are certain examples of cases of obligation to disclose in the event of an exemption in securities legislation, already highlighted above, but for international brokers:

- The international adviser must also notify the client of the foreign jurisdiction in which its head office or principal place of business is located, of the fact that all or substantially all of its assets may be situated outside of Canada, which may cause difficulties for that client in enforcing legal rights against it, as well as of the name and address of the registered agent in the local jurisdiction.
- The sponsoring firm must disclose to the eligible client that the individual and, if applicable, their sponsoring firm are exempt from registration in the other jurisdiction and are not subject to the requirements of securities legislation in that jurisdiction.

Currently, the exemption for non-personalized advice does not require registration. As we consider how best to regulate this new phenomenon, we might wonder whether a specific exemption should be introduced for non-personalized advice.

¹²⁹ However, this section does not apply to Ontario, pursuant to paragraph 3, section 8.25.

¹³⁰ British Columbia Securities Commission, "Proposed British Columbia Instrument 51-519: Promotional Activity Disclosure Requirements," Cited above..

¹³¹ *Regulation respecting the rules of ethics in the securities sector*, RLRQ, c D-92, r. 71.

¹³² "For the people who follow this influencer, it would be more from a transparency and protection point of view. I think that would be important; especially for those two points.," **(Québec)** [TRANSLATION]

¹³³ "All of the influencers, they very clearly say on their bio that use your own discretion, it is just our opinion. For me I don't usually go on social media just listen to their advice to see what's happening but since I don't take it that personally I don't look at their backgrounds.," **(West)**

¹³⁴ "Just because an influencer has high professional status, it doesn't mean they are more credible than someone who doesn't.," **(Québec)** [TRANSLATION]

This would require unregistered influencers to register with the authority under their own category. Assuming this is an option, collaboration with the platforms may be necessary. Some platforms already have provisions related to investments.

THE PLATFORMS

We consulted the terms of use of the three platforms most visited by the participants of our focus groups, namely YouTube,¹³⁵ Facebook,¹³⁶ and Instagram.¹³⁷ Statements about investment services can be found within the rules specific to these platforms, generally in those relating to advertising. For example, in YouTube's advertising section, the platform prohibits certain business practices, including deceptive practices.¹³⁸ It states that the platform prohibits claims related to financial products or methods of getting rich, claiming investment products to be risk-free, or minimizing the risks associated with these products.

Instagram, for its part, prohibits certain commercial practices, including promising financial benefits while giving a false image of a product or service, and specifies that this type of representation is particularly to be found in investment and financial services offers.¹³⁹ Additionally, in the Branded Content section of its Business Help Center, Instagram specifies its policy on cryptocurrency. In order to promote products and services related to cryptocurrency, one must obtain written permission from Meta.¹⁴⁰

As for the Facebook platform in particular, it should be noted that the platform generally prohibits anything that does not comply with current regulations. Furthermore, Facebook does not recommend sensitive content such as "risk-free" investments.¹⁴¹

Interestingly, these platforms prohibit their users from minimizing or underestimating investment risks. However, the question remains about how such statements translate into practice.

THE REMEDIES

Implementation of the legal framework by the provinces is the responsibility of the regulator, who exercises the powers of order conferred on them by law or initiates administrative, civil or criminal proceedings before the courts in order to enforce the

¹³⁵ YouTube, "Terms of Service," January 5, 2022, n.d. https://www.youtube.com/t/terms?hl=en&override_hl=1.

¹³⁶ Facebook, "Branded Content Policies," https://www.facebook.com/business/help/221149188908254?helpref=faq_content#bpa.

¹³⁷ Meta, "Introduction to the Advertising Standards," n.d. <https://transparency.meta.com/policies/ad-standards/>

¹³⁸ Google Advertising Policies Help, "Misrepresentation," n.d. <https://support.google.com/adspolicy/answer/6020955?siid=14810867816807974066-NA#zippy=%2Call%C3%Aggations-related-to-financial-products-or-methods-to-get-rich>.

¹³⁹ Meta, "Unacceptable Business Practices," n.d. <https://transparency.meta.com/en-us/policies/ad-standards/fraud-scams/unacceptable-business-practices>.

¹⁴⁰ Facebook, "Branded Content Guidelines," cited above.

¹⁴¹ Facebook, "Terms of Service: Overview," January 1, 2025. <https://www.facebook.com/legal/terms>

regulations.¹⁴² This is complemented by the intervention of the Attorney General, who is responsible for prosecutions under criminal law, and by the sanctions that may be imposed by self-regulatory organizations such as the Canadian Investment Regulatory Organization (CIRO)¹⁴³ or the *Chambre de la sécurité financière* (CSF) in Québec.

In criminal law, the *Securities Act* (SA) specifies a range of criminal offenses that constitute violations of the Act and its regulations, some of which involve advice. Section 200 of the SA states that any person not registered as a dealer, adviser or representative, who gives out information to investors that could influence their investment decisions and derives an advantage therefrom other than their normal remuneration, is guilty of an offense. The intention of the person disseminating the information is irrelevant; it is sufficient that the recommendation could influence the investor's decision for an offence to have been committed.¹⁴⁴

Furthermore, section 195.1 of the SA states that any securities dealer or adviser registered with the AMF who employs a representative who is not also registered as a representative with the AMF commits an offence.¹⁴⁵ Also, section 197 makes it an offense to provide false or misleading information about a transaction in securities, when soliciting proxies or sending a circular to security holders in the context of a public takeover or redemption offer, or in a transmitted document or a register kept pursuant to the law.¹⁴⁶ False or misleading information is defined as information that is likely to mislead about a fact that is likely to affect the decision of a reasonable investor, as well as any pure and simple omission of such a fact.¹⁴⁷ Thus, claiming that a placement is guaranteed when this is not the case constitutes an offence.¹⁴⁸

Section 202 of the SA provides that any person who contravenes a provision of the Act commits an offence, and section 203 states that any contravention of a regulation adopted under the Act constitutes an offence, which allows for criminal proceedings to be brought in conformity with the contravention of any legislative or regulatory provision. Section 202 of the SA also provides for a general penalty for contravention of a provision of the Act. The minimum penalty is, whichever is greater, \$2,000 for an individual and \$3,000 for a legal person, or double the profit realized as a result of the offence. The maximum penalty is, whichever is greater, \$150,000 for an individual and \$200,000 for a legal entity, or four times the profit realized as a result of the offence.

At the administrative level, securities law mostly applies administrative sanctions.¹⁴⁹ In administrative proceedings, the AMF performs surveillance and regulatory functions, acting as both an investigator and a prosecutor.

Finally, for registered companies, an obligation to fairly process complaints is imposed on them under section 168.1.1 of the SA. Section 13.14 of the *Policy*

¹⁴² Stéphane Rousseau, *L'encadrement du secteur des valeurs mobilières par les provinces* (Montreal: Éditions Thémis, 2013), 143.

¹⁴³ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 745, cited above.

¹⁴⁴ Forget (Jacques), 1996 17 BCVMQ no 7, A1.

¹⁴⁵ S. 195.1 SA.

¹⁴⁶ S. 197 SA.

¹⁴⁷ S. 197 para. 2 SA.

¹⁴⁸ *Autorité des marchés financiers c. Tessier*, 2006 QCCQ 7644.

¹⁴⁹ Rousseau, *Droit des valeurs mobilières: Théorie et pratique*, 764, cited above.

Statement To National Instrument 31-103 states that the guidance in Division 5 of the Policy Statement applies to firms registered in any jurisdiction including Québec. The registered company must provide an internal mechanism for handling complaints, document them, and in a manner that any reasonable investor would consider effective and fair, address each complaint made to it related to any product or service offered by it or one of its representatives.¹⁵⁰

Section 13.16 of NI31-103 requires that the company provide recourse, at its own expense, to an independent dispute resolution or mediation service for complaints in cases in which its internal complaint handling procedure has not resulted in a timely decision that satisfies the client. Any firm registered outside Québec must take reasonable measures to offer its clients the dispute resolution or mediation services of the Ombudsman for Banking Services and Investments.¹⁵¹ In Québec, any registered person must notify the complainant, in writing and without delay, that they may request that the complainant forward a copy of their file to the AMF if they are dissatisfied with the handling of their complaint or the outcome thereof. The registered person must forward a copy of the complaint file to the AMF, which will examine it and may act as conciliator or appoint a mediator to act when it deems appropriate, and the interested parties agree.¹⁵²

4.4. Sub-question 4: What do other jurisdictions teach us?

A number of jurisdictions around the world have adopted standards to regulate influencers. We analyzed three of these: France, Australia, and the European Union. Our findings with regard to the measures adopted in these jurisdictions lead us to believe that initiatives adopted by France could address issues raised by risk factors related to professional qualifications, while those implemented by Australia could provide solutions toward effectively characterizing the concept of advice. Finally, the European Union sets forth some interesting provisions, particularly regarding advice and the identity of those making recommendations in *Delegated Regulation (EU) 2016/958*.¹⁵³ on market abuse in the European Union.

France

The French model is interesting because it permits validation of influencer training and monitoring of certified influencers.

In France, the government has adopted a law aimed at regulating commercial influence and combating abuses by influencers on social networks (*Loi visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les*

¹⁵⁰ S. 13.15 IG31-131.

¹⁵¹ S. 13.15 IG31-131

¹⁵² S. 13.14 IG31-131

¹⁵³ European Commission, "Market Abuse Regulation: Commission Delegated Regulation (EU) 2016/958," 9 March 2016, https://www.handbook.fca.org.uk/techstandards/MAR/2016/reg_del_2016_958_oj.pdf.

réseaux sociaux).¹⁵⁴ This law targets influencers operating in the social media sector, including the financial products and services sector. The concept of influencer defined by Section 1 of this law is closely linked to that of remuneration: "Influencer agent activity thus consists, for a fee, in representing natural or legal persons carrying on the influencer activity defined in the law, to natural or legal persons and, where applicable, their agents, soliciting their services, for the purpose of promoting, by electronic means, goods, services or any cause whatsoever." [TRANSLATION] Alongside the legislation, the government has published a good conduct guide for influencers,¹⁵⁵ in a question-and-answer format, that sets out the rights and obligations of influencers as well as recourse for consumers,

Furthermore, AMF France and *l'Autorité de régulation professionnelle de la publicité* (the Professional Advertising Regulatory Authority) (ARPP) have jointly designed a training module for influencers in finance aimed at helping to professionalize the activity of commercial influence, which is now regulated by law.¹⁵⁶ The module covers investment products (stocks, bonds, ETFs, funds, derivatives) and various services, including investment advice. A questionnaire is provided at the end of the program. It also addresses the issue of investment recommendations as well as rules to follow in terms of communications related to an investment offer, specifying the products and services for which advertising is prohibited (contracts with a high risk of loss such as binary options and certain contracts for difference on Forex). At the end of the training, a certificate is awarded, but this can only be obtained in conjunction with the "generalist" certificate for influencer marketing introduced in 2021 by the two organizations.

Le guide de bonne conduite des influenceurs (The Good Conduct Guide for Finfluencers) issued by France's *ministère de l'Économie, des Finances et de la Souveraineté industrielle et numérique* (Department of Economy, Finance, and Industrial and Digital Sovereignty), must also be respected, as must the ethical rules laid down in the ARPP code. The ARPP monitors certified content creators and can revoke their certificate if they fail to comply with the rules of the consumer Code on Communication and those of the ARPP code.

Australia

The Australian Securities and Investments Commission (ASIC) clearly states on its website that unless authorized to represent a licensee or benefit from an exemption, operating out a financial services business without a license is an offense under the *Corporations Act 2001*, which can result in imprisonment of up to five years for an

¹⁵⁴ Légifrance, *Loi n° 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), <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000047663185>.

¹⁵⁵ Ministère de l'Économie, des Finances et de la Souveraineté industrielle et numérique, *Guide de bonne conduite : Influence commerciale* (Paris, 2023) https://www.economie.gouv.fr/files/files/2023/Guide_bonne_conduite_influenceurs_createurs_contenus.pdf.

¹⁵⁶ ARPP, "L'AMF et l'ARPP lancent le certificat de l'influence responsable dans la finance," September 7, 2023 <https://www.arpp.org/actualite/amf-arpp-lancent-certificat-influence-responsable-finance>.

individual and financial penalties of up to millions of dollars for a company.¹⁵⁷ Australia is particularly noteworthy for its definition of financial advice and the way the concept is illustrated through case studies:

"Financial product advice is a recommendation or statement of opinion that is intended to influence, **or could reasonably be regarded as intended to influence**, a person making a decision about financial products."

ASIC also points out that it is possible to share factual information without this being advice. However, if the information is presented in a way that suggests whether or not a person should invest in a product, it may be breaking the law.

The organization also provides warnings about trading securities for others or making arrangements towards this end, as well as what regards what constitutes misleading or deceptive conduct.¹⁵⁸ On its website, ASIC presents examples of situations that illustrate the principles it sets forth.

European Union

The European Union has instituted various provisions with regard to influencers. To begin, Annex 1 of the *Unfair Commercial Practices Directive*.¹⁵⁹ lists the commercial practices that are considered unfair under all circumstances. Article 11 of this annex requires advertising content to be identified as such, and Article 22 prohibits falsely representing oneself as a consumer. In investment matters specifically, Article 20 of the *Market Abuse Regulation*.¹⁶⁰ (entitled "Investment recommendations and statistics") requires influencers to take the necessary steps to present information objectively and to disclose their conflicts of interest. As for the framework within which advice may be given, Articles 24(4) of 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/EU¹⁶¹ define the criteria that must be taken into account with regard to investment advice.

Finally, *Delegated Regulation (EU) 2016/958*,¹⁶² which supplements the European Union's Market Abuse Regulation, contains some interesting provisions regarding advice and the identity of those making recommendations. In the preamble to the

¹⁵⁷ Australian Securities and Investments Commission, "Discussing financial products and services online," March 2022 <https://asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/discussing-financial-products-and-services-online>.

¹⁵⁸ Australian Securities and Investments Commission, "Discussing financial products and services online," cited above.

¹⁵⁹ European Union, *Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005*, <https://eur-lex.europa.eu/eli/dir/2005/29/oj/eng>.

¹⁶⁰ European Union, "Regulation (EU) no 596/2014 of the European Parliament and of the Council" *Official Journal of the European Union* (2014), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0596>.

¹⁶¹ European Securities and Markets Authority, Article 24, "General principles and information to clients," n.d., <https://www.esma.europa.eu/publications-and-data/interactive-single-rulebook/mifid-ii/article-24-general-principles-and>.

¹⁶² European Commission, "Market Abuse Regulation: Commission Delegated Regulation (EU) 2016/958," cited above.

Regulation, it very clearly states that knowing the identity of the person disseminating the recommendation and the extent to which the source recommendation has been modified can be valuable information for investors when considering their investment decisions. More specifically, Article 2 concerning the identity of producers of recommendations requires clear and visible disclosure, in all recommendations produced, of the identity (name and title) of any person involved in producing the recommendation. In the case of a company or a person who works for that company, the identity of the regulatory body with which they are registered must be indicated.

Furthermore, Article 3 of *Delegated Regulation (EU) 2016/958* describes the criteria to be met for objectively presenting recommendations. In particular, facts must be clearly distinguished from interpretations, estimates, opinions and other non-factual information; reliable sources of information must be indicated in a clear and visible manner; forecasts, projections, price targets and significant assumptions must be clearly indicated; and the date and time of the recommendation must also be clearly and visibly indicated. In addition, *Delegated Regulation (EU) 2016/958* sets forth the requirements for presenting recommendations, and also for conflicts of interest.

On the educational front, the European Union has co-financed a website¹⁶³ that offers financial education tools and online training for young finfluencers aged 19 to 29.

Finally, it should be noted that the European Union has adopted legislation designed to protect online users from illegal, dangerous and harmful content, the *Digital Services Act (DSA)*. The DSA applies to all online intermediaries that provide services in the EU, including web hosts, search engines, social networks, and online marketplaces.

In conclusion

Authors Baudet, Parmentier and Fischer¹⁶⁴ see a paradox at the heart of the influencer phenomenon: what many might consider a violation of the norms may be seen by certain groups on social media to be of considerable value. Deciding how best to approach the finfluencer phenomenon is no simple matter. In this case, it involves analyzing the legislation, but also the consumer experience. The exemption granted to those issuing non-personalized advice relieves the content creator of the obligation to register with a securities commission. However, in order to conclude that a creator is exempt from registration because of the type of advice they give requires a case-by-case analysis, which makes the task difficult, given the volume of exchanges that take place on social networks.

Furthermore, one fact emerges clearly from the analysis of the data in this report: consumers are vulnerable to the content presented to them. They put it into practice, rely on their own judgment to determine their personal risk profile, and

¹⁶³ Finfluencers, 2025, <https://finfluencers.org>.

¹⁶⁴ Baudet, Parmentier and Fischer, "Considering the Impacts of Transgressive Behaviours among Interactive Online Audiences," cited above.

assess the risk that the investment products presented to them could represent, with scant attention paid to the professional qualifications of those posting the content.

So, what solutions are needed to protect consumers? Some avenues for reflection are available to us. First, the question of the definition of advice is crucial. Current securities legislation does not define advice; it only defines an adviser. However, it is interesting to note that in the offenses provided for in the law, what is penalized is the influence of the content on the consumer and the remuneration. Is it not possible to imagine a harmonized definition of the term "advice" that does not include the aspect of remuneration? Australia has in fact formulated such a definition to illustrate the concept of advice.

As regards professional qualifications and, consequently, the competence of those who provide such advice, the French model has the advantage of stressing the importance of training for content creators. Might we not draw inspiration from this, for example, by developing a mechanism that grants an exemption contingent on a requirement for training or registration under a new category designed specifically for unregistered content creators? Such an initiative would have greater impact if it were pursued in collaboration with the social media platforms. As with the disclosure of financial interests, should we not consider a professional identification requirement on social media? The European Union has already adopted provisions to this effect, as we saw earlier.

Finally, given the central importance of the consumer experience, raising awareness about investment products, about what does and does not constitute financial advice, and the added value of registered advisers, could help redress certain gaps in consumer needs and perceptions.

Accordingly, we conclude that the legislative framework of the securities sector could be improved if it took into account the risk indicators considered in this report.

5. CONCLUSION AND RECOMMENDATIONS

In this research, we wanted to establish whether current investment legislation in Canada addressed risk factors for consumers from the standpoint of the content shared by influencers and their professional qualifications. This was the central question of our research.

The research question therefore raised topics related to compliance with the law and to consumer experience. Considering the paradox that, on social networks, what constitutes a violation of a norm could still be valued by certain groups, we built our analytical framework around two main dimensions, the "compliance" dimension and the "experience" dimension. The variables of the first were advice and professional qualification, and those of the second were consumers' needs in terms of advice, as well as investors' perceptions regarding professional qualification. By conjoining the variables of these two dimensions, it became possible to identify disparities between

what is stated by the legislation and the consumers' experience of it, which made it possible to reveal the impacts of the finfluencer phenomenon on consumers. These disparities thus constitute the risk indicators to be considered in any deliberations on the topic of regulating finfluencers.

This approach led us to ask ourselves four sub-research questions. In answering each of these, we arrived at an answer to the overall research question. The answers to these sub-questions allowed us to determine that the content shared by finfluencers may in some cases, be considered financial advice, but that it enjoys a certain exemption when it is not personalized. However, analysis of the data revealed that consumers still put this advice into practice, leading to both positive and negative consequences in their lives.

As for professional qualifications, we found that consumers follow finfluencers regardless of their professional qualifications; whether a finfluencer was registered with a securities commission or not was of little importance to them. Furthermore, the consumer's perception of their own risk profile did not influence their choice of finfluencer profile (registered or unregistered). We also found that some disclaimers used by finfluencers to exonerate themselves from liability could be a source of confusion for consumers. Finally, consumers were divided on the relevance of requiring finfluencers to display their professional qualifications on social media.

In the current context, a case-by-case analysis has to be carried out to determine whether the law has been contravened. Furthermore, consumers appear to be poorly equipped to judge the merits of the content shown to them and, consequently, the risks they face. For this reason, legislation could be better adapted to address the risk indicators analyzed, namely the impact of this new phenomenon on consumers, both in terms of the content and of the professional qualifications of the creators of this content.

In this regard, certain jurisdictions provide us with possible solutions, notably the French model which prescribes training for finfluencers, that of the European Union with its criteria for identifying finfluencers, and that of Australia, which has developed some interesting approaches to illustrating certain concepts, especially that of advice.

Recommendations to the federal and provincial governments and to Canadian Securities Administrators:

- **Recommendation 1:** Take action to clarify the notion of advice by including factors related to the practice of giving advice on social media, i.e. offering information to investors likely to influence their investment decisions.
- **Recommendation 2:** Clearly illustrate to the public what constitutes financial advice and what does not.
- **Recommendation 3:** Assess the relevance of considering mechanisms for permitting exemptions for finfluencers who issue advice on social networks,

whether in the form of training, as in France, or any other mechanism adapted to the Canadian context.

- **Recommendation 4:** As with the disclosure of any financial interest, consider requiring identification of the professional qualifications of individuals providing advice on social media.
- **Recommendation 5:** Raise awareness within the general public of the issues surrounding the finfluencer phenomenon.
- **Recommendation 6:** Collaborate with platforms to track down certain publications that do not comply with the legislation and stop them at source

Recommendations to social media platforms:

- **Recommendation 1:** Work with governments to facilitate the identification of publications that do not comply with the legislation.

Recommendation to consumers:

- **Recommendation 1:** Place your trust in advice received from qualified professionals and seek information from the appropriate organizations before putting into practice any advice you receive.

Appendix 1 – Animation Guide : English version

Group	Holding date
1) Québec	Tuesday, April 30, 7pm Eastern Time
2) Ontario	Tuesday, May 7, 7pm Eastern Time
3) Maritimes	Thursday, May 9, 7pm Atlantic time (6pm in Montreal)
4) West	Monday, March 13, 7pm Mountain time (9pm Montreal time)

1 - Introduction (10 min)

PRESENTATION

- Introducing the host.
- Confidentiality. No names are mentioned in our report; responses remain confidential and anonymous.
- The information collected will be used solely for the purposes of the study.
- We have nothing to sell you.

DISCUSSION RULES

- Recording.
- Check hands-free function, Talk one person at a time.
- Importance of spontaneity and personal opinions.
- It's important to be brief and to avoid repeating what someone else has said. But let us know if you agree with a comment by a sign (thumbs-up, yes sign).
- No wrong answers.

CONTEXT AND PURPOSE OF THE MEETING

In tonight's meeting, we'll be talking about what's happening on social networks, in connection with the topic of **influencers in finance**, or **finfluencers**. The phenomenon of finfluencers is being talked about more and more on various social networks, YouTube, Facebook, Instagram, TikTok and so on.

We want to know about your experience and perception of this universe, what you think of social networking practices, what motivates you to follow a finfluencer or to abandon them.

If one or more participants ask who the study is for (and only if they ask) mention that it's a study commissioned by a Montreal-based consumer rights advocacy and information organization. The name can be given at the end of the discussion.

TOUR DE TABLE: INTRODUCING PARTICIPANTS

- Your name.
- Your city/province of residence.
- Your occupation (employed, retired, studying, not in the job market).

Cumulative: 10 min

2 - Participant profile (5 min)

Make sure everyone answers these questions

- On average, how many hours a week do you spend on the Internet, excluding work or study?
- On average, how many hours a week do you spend on social networks, including YouTube?
 - Which social networks do you use?
- On a scale of 1 to 10 (10 being the highest), how would you rate your financial knowledge?
- On a scale of 1 to 10 (10 being the highest), how would you rate your investment risk tolerance?

Cumulative: 15 min

3 - Situation report, set-up (40 min)

- In your opinion, what is a **finfluencer** on social networks?

Don't read the definition right away. Allow spontaneous discussion first.

Present the definition (in split-screen mode, because it's too long to assimilate without visualizing it)

So that we all have the same understanding, I'm going to read you a **definition of what** we mean by **finfluencer** or **influencer in financial terms**:

Present in a shared screen

The term finfluencer refers to a person who, by virtue of their popularity or cultural status, has the ability to influence the financial decision-making process of others. A finfluencer is a content creator on social media who promotes financial products or makes financial recommendations. Finfluencers may seek to influence potential investors by posting messages or videos on their social media accounts. This content is often styled to be entertaining so that the message or video is shared with other potential investors.

Here are a few reasons why you might have followed a finfluencer, depending on your situation:

- For investment advice.
- To receive investment recommendations.
- To discover tips to improve the management of your personal finances.
- To find out about your cryptocurrency portfolio.

It should be pointed out that our study excludes anything to do with real estate investments.

- Have you learned anything, or has your understanding of the word finfluencer changed as a result of my presentation of this definition?
- During the survey and/or recruitment process, you all told us that you follow one or more finfluencers. What type of finfluencer do you follow? Is it in investment, assets, personal finance management, cryptocurrency wallet, etc.?

- What motivates you to follow him?

If necessary, mention these examples if they are not raised spontaneously by participants

- Need financial advice or information?
 - I need my money to grow fast
 - The example of the finfluencer inspires me (I'd like to earn as much as he does).
- Do you have any other sources of financial advice and information other than finfluencers? If so, which ones?
Count yes and no

- *Participants who said yes* Which ones?

If necessary, mention these examples if they are not raised spontaneously by participants

- I have a financial advisor
- My financial institution
- Government investment sites, for example :

(Quebec group) Autorité des marchés financiers (AMF)

(Ontario group) Ontario Securities Commission

(Maritimes group) Financial and Consumer Services Commission (New Brunswick) / Nova Scotia Securities Commission (Nova Scotia) / Financial and Consumer Services Division (Prince Edward Island)

(Western group) Alberta Securities Commission (Alberta) / British Columbia Securities commission (British Columbia)

- *Participants who said no* Why?

Participants who said no to the previous question, as well as those who said yes but did not mention a financial advisor, are addressed.

- Why not talk to a financial advisor in person?

If necessary, mention these examples if they are not raised spontaneously by participants

- It costs too much
- I don't have such a big portfolio
- I get better advice from finfluencers

- What products or types of advice are you interested in from these finfluencers?

Possible examples mentioned by participants (do not read them) – Quebec examples even more

- Cryptocurrency
 - Only point to mention if not mentioned
- How to manage your investments and become a millionaire
- Analytical or informative content such as @Token Mania on YouTube, which explains, for example, the tokenization of real assets, a new innovation involving blockchain technology.
- Post by @elleinvestit (July 24, 2023) on Instagram: refers to her book to learn how to invest yourself and increase your earnings
- Facebook post by @Steve Forget (August 2, 2023): "Dreaming of becoming a millionaire through real estate?" This is a masterclass
- Post by @Alexandre Doyon (October 10, 2023), on Facebook, ads touting crypto training and promising six-figure revenues

- Some finfluencers will use platforms such as Telegram or Discord, whose content is not publicly visible unless you have a subscription. For example, @cryptoworldfinance. In several of his posts on TikTok, this influencer shares the staggering returns that the community subscribed to his private channel has earned over the past month. In particular, he invites people to register in order to benefit from the services of a trading robot to manage investments (April 14, 2023 post on Tik Tok).
 - Youcef Ghellache, founder of Éduc finance, offers a platform to help you save and invest. Information is often presented in the form of a blog, with several contributors (real estate brokers, finance bloggers), as well as an application that facilitates money management. It also runs a closed group on Facebook. Members of the community host the platform and are not necessarily experts, but some do offer advice under the posts of others who specifically request it.
- Have you ever **followed an advice or recommendation** made by a finfluencer and then realized that it didn't suit you?

Counting yes and no

- *Participants who said yes* Can you explain?
- Have you ever **stopped following** a finfluencer you used to follow?
- Counting yes and no*
- *Participants who said yes* Why did you stop following him/her?
- Why do you think these Finfluencers offer you certain products rather than others?
- If necessary, mention these examples if they are not raised spontaneously by participants*
- Out of the goodness of my heart
 - They benefit
 - Other

Cumulative: 55 min

4 - Techniques used by and experience with finfluencers (40 min)

We'll now look at the techniques used by finfluencers and your experience with them.

- How does your finfluencer propose financial products? What techniques does he use?
- If necessary, mention these examples if they are not raised spontaneously by participants*
- He offers me free content in which he discusses his investment strategies.
 - He offers me advertising for products he says he's already tried and found successful.
 - He promotes his own coaching sessions, online courses and promises higher future returns after purchasing his services and products.
 - It offers me affiliate links by highlighting gifts, for example, free shares or credit on investment platforms.
 - Other, please specify.

- What happens after this stage of proposing financial products?
 - Do you meet in person or online?
 - Does it analyze your investor profile?
- When did you start investing? Before or after you met your finfluencer?
- On a scale of 1 to 10 (10 being the highest on the scale) , at what level would you rank the biggest investment risk you have taken, based on advice from a finfluencer? Please explain.
- On a scale of 1 to 10 (10 being the highest on the scale), how much do you rely on the advice given by your finfluencer when making decisions about your finances?
- What do you rely on to evaluate the advice given by your finfluencers?
If necessary, mention these examples if they are not raised spontaneously by participants
 - Your instinct
 - Your own knowledge
 - Results of other investments

- Have you ever made or lost money on the advice of a finfluencer?
Counting those who have already won and those who have already lost money
 - *Participants who made money* Can you tell me more?
 - *Participants who lost money* Can you tell me more?

Participants who didn't lose any money

- In the event of a loss on your investments, do you consider that your overall financial situation would be significantly affected by this loss?
Counting yes and no
 - *Participants who said yes* Can you explain?

- Have you ever been a victim of fraud (or almost been) when investing with a finfluencer?
Counting yes and no

- Have you ever **experienced a problem** with a finfluencer?
Counting yes and no
 - *Participants who said yes* Can you explain?

- What do you think you can **do if you have** a problem with a finfluencer?

Total: 95 min

5 - Status and influence of influencers (25 min)

We're now going to talk about the status of finfluencers.

- How do you find out the professional status of the finfluencer you're following?

If necessary, mention these examples if they are not raised spontaneously by participants

- It's written on his publications
- I search the internet
- I'm not interested in knowing

- In your opinion, should a finfluencer be obliged to disclose his or her professional status when offering financial products or online advice?

If one or more participants ask whether a finfluencer is obliged to disclose his or her professional status, answer that our client tries to clarify the state of the law and find better ways for the consumer to be well protected.

Counting yes and no

- How do you know?
- Why should a finfluencer disclose his or her professional status?

- Among the following categories of finfluencers:

- finfluenceur registered with a regulator such as the AMF;
- finfluenceur not registered with a regulator, but with a certain reputation;
- finfluencer who is a friend or family member;

➤ What category does your finfluencer fall into? (if friend or family member, check if he or she is registered with a regulator)

➤ What motivated your choice of profile for the finfluencer you follow?

- Does your choice of finfluencer take into account your risk tolerance? Please explain?

Important: *make the connection between the previous question (the three categories of finfluencers) and the question on the degree of risk tolerance (last question in Block 2).*

- What approach does your finfluencer use to reach you and guide you in financial matters? Is it by solicitation, advice, information, other?

- Inscription à l'AMF? Autres?

- How would you describe this approach? Is it relevant and the most appropriate?

- What financial products did your finfluencer advise you on?

- What is your level of trust in the words of the finfluencers you follow? High, medium or low?

Counting high, medium and low

- *Participants who said high* Why?
- *Participants who said weak* Why?

- On a scale of 1 to 10 (10 being the highest), how would you rate finfluencers overall?

Cumulative: 120 min

6 - Conclusion (5 min)

If there's any time left

- Is there anything you'd like to add to our discussion, any questions or themes that are important to you that we haven't talked about?

Cumulative: 125 min

Thank you for your participation!

Appendix 2 – Survey guide

Hello,

The purpose of this survey is to find out how financial advice given by different types of influencers affects consumers.

It is part of a study being conducted by a non-profit consumer research organization.

The answers you give by agreeing to answer their questions will help the organization by enabling them to better understand the extent of the phenomenon in Canada.

This questionnaire will only take about 5 to 7 minutes of your time.

Experience

1. Have you ever followed a financial influencer or finfluencer?

Before you answer, you should know that the term finfluencer refers to a person who, by virtue of their popularity or cultural status, has the ability to influence the financial decision-making process of others. A finfluencer is a content creator on social media who promotes financial products or makes financial recommendations. Finfluencers may seek to influence potential investors by posting messages or videos on their social media accounts. This content is often styled to be entertaining so that the message or video is shared with other potential investors.

Yes 10 / No 20

Investment	Yes 1	No 2
Placements	Yes 1	No 2
Managing personal finances	Yes 1	No 2
Cryptocurrency wallet	Yes 1	No 2
Other, please specify...		

[Programming hint: ask Q2, 3 and 4 if at least one yes to Q1].

2. On which social networks do you follow your influencer(s)?

Instagram	Yes 1	No 2
X (Twitter)	Yes 1	No 2
Facebook	Yes 1	No 2
Twitter	Yes 1	No 2
Youtube	Yes 1	No 2
Tik Tok	Yes 1	No 2
Reddit	Yes 1	No 2
LinkedIn	Yes 1	No 2
Discord	Yes 1	No 2
Other		

3. What is the status of your financial influencer(s) or finfluencer(s)?

Check all that apply to you.

A recognized financial professional registered with a regulatory body such as the Autorité des marchés financiers.	<input type="checkbox"/>
A recognized professional in a field other than finance, such as a journalist or public figure.	<input type="checkbox"/>
A friend, family member or relative.	<input type="checkbox"/>
I don't know.	<input type="checkbox"/>

4. Have you implemented the recommendations or advice given by the influencer(s) you follow?

Yes, totally	1
Yes, partially	2
No	3

Socio-economic data

5. Before we start, can you tell us what age category you fall into, is it between...?

Under 18 years	0 – Thank and stop the survey
... 18 to 24 years	1
... 25 to 34 years	2
... 35 to 44 years	3
... 45 to 54 years	4
... 55 to 64 years	5
... 65 to 74 years	6
... 75 years and over	7
Prefer not to answer	9 – Thank and stop the survey

6. Which gender do you identify with most?

Female	1
Male	2
Other	3
Prefer not to answer	9 – Thank and stop the survey

7. What is the highest level of education for which you have obtained a diploma? Please select one answer only.

Elementary school	1
High school diploma or vocational diploma (DEP, trade school)	2
College diploma, technical school	3
University degree	4
I prefer not to answer	99

8. Which of these categories best describes your employment situation? Select all that apply.

You're working	1
You're retired	2
You're a student	3
You're not in the workforce (e.g. homemaker, long-term disability)	4
I prefer not to answer	99

9. What was your household's total pre-tax income in 2023?

Less than \$30,000	1
\$30,000 to \$59,999	2
\$60,000 to \$79,999	3
\$80,000 and over	4
I prefer not to answer	99

Interest in participating in discussion groups

10. Would you be interested in participating in discussion groups on the topic of finfluencers?

Yes 10 / No 20

That was our last question. On behalf of BIP Recherche, we would like to thank you for your time and valuable contribution to this project. We appreciate your collaboration.