

# Finfluencers. Financial influencers. ASIC is watching (your stories).

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Aspiring influencers are spruiking their tips for financial success across YouTube, Twitter, Instagram, Reddit and in particular FinTok, the corner of TikTok filled with stock tips and investment advice. Social media is the wild west of financial information and ASIC has recently stated that this is an “area of big concern.”

As at recent joint parliamentary committee, ASIC said that the rise of finfluencers giving unlicensed financial advice on social media platforms was a big topic. ASIC is keeping an eye on social media influencers who provide content that may stray into the realms of providing financial advice, and if that advice is being provided without a licence.

## What is FinTok?

The arm of TikTok, dubbed FinTok, is growing rapidly. The hashtag #PersonalFinance has amassed over 4 billion views, #FinTok more than 340 million and young budding investors are tuning in to learn about everything from cryptocurrency, stock trading and tax tips.

As finfluencers become more prevalent, the corporate regulator has expressed its concern about unlicensed financial advice online because consumers lack any legal protection (aside from the usual platform guidelines and, at a stretch, statutory misleading or deceptive conduct).

## What's the problem?

As shown by the banking industry royal commission, having a licence didn't exactly stop gross negligence and misconduct, however, since the beginning of the pandemic, complaints to ASIC about unlicensed financial advice on social media have sky-rocketed. The advice is targeted to unsophisticated investors, hoping to make a quick buck.

The rise of finfluencers and social trading also contributes to the herd momentum in speculative stocks, however, we'll leave that issue for another day.

Back to #finfluencing, the short version of the issues is as follows.

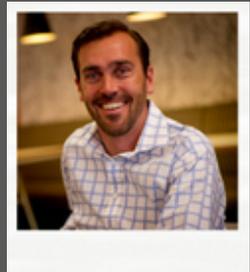
- If the influencer recommends a financial product, this will come within ASIC's bailiwick.
- If such advice is provided without an Australian Financial Services Licence (AFSL), the individual could be found to be given unlicensed advice and be prosecuted by ASIC.
- Holding yourself out as a financial adviser without an AFSL can lead to a fine of up to A\$133,200 and a possible prison sentence of up to five years.

Given there are a lot of scams and misinformation about products and trading strategies, ASIC is currently monitoring and potentially prosecuting unlicensed investment advice online.

If your business involves providing advice online that could be considered financial advice, or you're planning to delve into that in the future, you should consider if it's appropriate for you to hold an AFSL. You'll need to establish that you are competent to carry on the kind of financial services business specified in your application, that you have sufficient financial resources to carry on the proposed business and that you can meet the other obligations of an AFS licensee (such as training, compliance, insurance and dispute resolution).

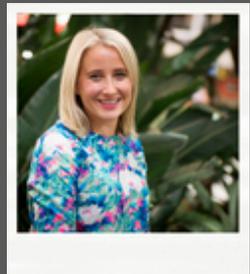
If you're receiving that advice, tread with caution. You may be protected by consumer law in some instances, but that's not an easy route.

Questions? Give us a call.



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