

THE CNMV DETECTS CERTAIN INFLUENCERS WHO COULD BE DISSEMINATING INVESTMENT RECOMMENDATIONS WITHOUT FULLY COMPLYING WITH THE REGULATION

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- The CNMV has carried out a review of investment recommendations issued by influencers and will contact the persons identified initially as ‘experts’ to request clarifications regarding their activities.
- If its suspicions are confirmed, they will be required to comply with the obligations established in the Market Abuse Regulation and the implementing regulations thereof.

After reviewing the activities of financial sector influencers on their social networks, the CNMV has noticed that some of them may be issuing investment recommendations without complying with the requirements established by the regime of the European Union (EU). The CNMV will specifically contact the persons initially identified as ‘experts’ to request clarifications regarding their activities.

The activity regarding the preparation and dissemination of these recommendations is regulated by [Regulation \(EU\) No 596/2014 on market abuse](#) and its implementing regulation [Delegated Regulation \(EU\) 2016/958](#). The main aim of the regulation is for these recommendations to be disclosed in a clear, accurate and objective manner while informing on the interests and conflicts of interest of the person producing recommendations regarding the financial instruments in question. In the case of experts, the regulation considers that additional requirements must be met.

The CNMV seeks to encourage compliance with the regulatory objectives by means of this supervisory action. That is to say, those giving investment recommendations must adequately identify themselves, present the recommendations in an objective manner and disclose any relationship or circumstance that may affect their objectivity. The aim is also to ensure equal treatment is given to the supervised persons and entities that issue their recommendations in compliance with the regulatory requirements.

An investment recommendation consists of information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers, including any opinion on the current or future price or value of such instruments, intended for distribution channels or the public.

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To determine whether a recommendation is being issued, it is necessary to analyse the substance of that informed, that is to say, whether an investment strategy (to purchase, keep or sell financial instruments) is being recommended, independently from the name given to the information, its format or the means through which it is disseminated (e.g., electronic or verbal). Therefore, for information to constitute a recommendation it is not necessary for this to be in writing or to be named as such.

Usually, investment recommendations are issued by investment firms or credit institutions performing such activity, and the CNMV regularly supervises compliance by these entities with the detailed requirements established in the legislation. However, other persons who are subject to certain minimum requirements may also produce and disseminate recommendations. When such persons present themselves to the general public as having experience or knowledge regarding financial instruments and the market, or are perceived as such by market participants, the regulations qualify them as ‘experts’, thus being subject to additional requirements. These experts may erroneously believe that the EU regime on investment recommendations is not applicable to them as their information is transmitted via social networks or verbally.

ESMA Statement

In this sense, the European Securities and Markets Authority (ESMA) published last year [a Statement](#) on Investment Recommendations on Social Media that explained the activities subject to the applicable rules and regulations. In this context, the CNMV started reviewing the activities of persons who could be issuing investment recommendations on social networks, particularly those of experts, taking into account the indications provided by the Delegated Regulation to guide on the application of the legal definition of an ‘expert’ (frequency of the recommendations, number of followers, professional background), while also considering whether the information from these possible experts have been disseminated by third parties, such as the media.

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