CREATOR RISK INTELLIGENCE

# The Signal

*Monthly intelligence on Creator Risk, regulatory change, and brand safety incidents. Issue 26 · February 2026*

Financial services brands face the strictest creator compliance environment of any sector. FINRA has brought a second enforcement action. The FCA has published its first formal finfluencer findings. This month we examine the liability gap — and why it is where the next major brand incident is most likely to originate.

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## 01 — THE FINFLUENCER LIABILITY GAP

*FINRA · FCA · SEC · Financial services creator compliance · February 2026*

FINRA's second enforcement action against a broker-dealer's influencer programme was confirmed in Q4 2025. The second case follows the pattern of the first: undisclosed compensation, inadequate supervision, misleading performance claims. The fine is larger. The pattern is the same. Financial services firms that have not reviewed their influencer programme governance since the first FINRA action in early 2025 are now operating in a market where enforcement precedent has been established twice.

The FCA published its first formal finfluencer findings in H2 2025 — covering UK-based creators promoting investment products and cryptocurrency without proper authorisation. Several creators received formal warnings. Two cases were referred to the National Crime Agency. One brand was identified as having benefited from unauthorised promotions made on its behalf, placing it in the enforcement perimeter.

### The structure of the liability gap

The liability gap in financial services creator marketing does not exist because brands are unaware of the regulatory requirements. Most financial services compliance teams are well aware of the FCA's financial promotion rules, FINRA's supervision standards, and the SEC's Marketing Rule. The gap exists in implementation: the creator programme sits in marketing, the compliance framework sits in legal, and the two do not consistently meet before content goes live.

The practical consequence is a category of content — creator-produced financial promotions — that is being created and published without the pre-approval and supervision processes that apply to every other form of regulated financial promotion the brand produces. The regulatory obligation does not distinguish between a television advertisement and an Instagram post. The brand's internal process often does.

**THE DUAL SUPERVISION PROBLEM**

Financial services influencer content requires two parallel compliance checks that most brands run sequentially if they run them at all. First: is the creator properly authorised or operating under an authorised firm's approval? Second: does the content meet the substantive financial promotion standards — fair, clear, not misleading; appropriate risk warnings; no guaranteed return claims? A creator who is authorised can still produce non-compliant content. A creator who produces compliant content may still lack the required authorisation structure. Both checks are required before every piece of content goes live.

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The financial services creator compliance gap is structural, not incidental. It exists because creator marketing programmes were built outside the regulated communications approval process. Closing the gap requires bringing influencer content inside the same pre-approval framework as other financial promotions — not as a one-time audit, but as a standing operational process.

**RECOMMENDED ACTION**

Review your creator portfolio if your brand operates in financial services, fintech, or any investment-adjacent category. The question is not whether you have compliant creators — it is whether your internal process treats their content as regulated communications subject to the same approval workflow as other financial promotions.

## 02 — MORALITY CLAUSES IN PRACTICE: THE ESCAPE HATCH EXAMINED

*Amanda Batula · Edie Parker · Taylor Frankie Paul · February 2026*

We analysed morality clauses as a structural instrument in Issue 06 (June 2024) and examined their practical application against specific cases in Issue 23 (November 2025). The pattern that has emerged across eighteen months of incident data is consistent: the morality clause is the tool brands reach for when the relationship has already failed. The cases where it has been invoked most visibly in 2025-2026 — Edie Parker and Amanda Batula, the unfolding Taylor Frankie Paul situation — share that structure.

What is increasingly clear from these cases is that the morality clause functions as a reputational management tool as much as a legal one. The decision to invoke it — to terminate and make that termination public — is not primarily driven by the legal right to terminate. It is driven by the calculation of whether being associated with the continuing story is worse than the cost of the exit. The clause gives brands the legal mechanism. The question of when to use it remains a judgment call made under public scrutiny.

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A morality clause is not a risk management strategy — it is a crisis exit mechanism. The brands that manage creator risk well are not the ones with the best-drafted exit provisions. They are the ones who identify the risk before the campaign launches and never need to invoke the clause. The clause and the vetting process serve different functions. Both are necessary. Neither substitutes for the other.

**RECOMMENDED ACTION**

Review your creator portfolio against the morality clause triggers in your current contracts. If a clause would be triggerable for any active creator based on publicly available information today, that is the gap the monitoring process should have caught before the contract was signed.

## 03 — REGULATORY SNAPSHOT

*Six markets · February 2026*

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| **FRANCE** | ARPP H1 2026 enforcement focus active — brand-level actions continuing. Podcast and audio content now in monitoring scope. Maximum fine €300,000. Speech-to-text operational across all video platforms. |
| **GERMANY** | UWG private enforcement accelerating — Signal Intelligence tracking a significant increase in competitor-driven cases in Q1 2026. The mechanism is faster and more commercially targeted than regulatory enforcement. Brands with German creator programmes face enforcement risk from peers as well as regulators. |
| **ITALY** | Post-acquittal landscape: Ferragni Law in force, AGCOM Code operational, AGCM enforcement active. Italy's regulatory architecture is complete and fully operational. The acquittal changes nothing in the civil and legislative framework. |
| **UK** | CMA confirmed influencer marketing as priority enforcement category. First DMCCA enforcement actions against brands in creator marketing category expected H1 2026. FCA finfluencer enforcement active — second round of formal actions anticipated. ASA named non-compliers list expanding. |
| **EU-WIDE** | Digital Fairness Act impact assessment published Q1 2026 — confirming legislative proposal expected Q3-Q4 2026. EU AI Act active. DSA active. The DFA is the dominant regulatory development of 2026 for EU brand teams. |
| **USA** | FINRA second enforcement action confirmed. FTC enforcement maintained. SEC Marketing Rule active — financial services brands remain the highest-risk sector for creator compliance enforcement. Class action wave: first major authenticity misrepresentation judgement expected H1 2026. |

## 04 — WHAT WE'RE WATCHING

*Forward signals · February 2026*

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| **Digital Fairness Act** | Impact assessment now published. Legislative proposal confirmed for Q3-Q4 2026. The Act will introduce EU-wide creator marketing obligations across all 27 member states. Signal Intelligence will cover the proposal in full when published. |

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| **First DMCCA enforcement** | The CMA has confirmed influencer marketing as a priority category. The first formal DMCCA enforcement action against a brand for creator programme non-compliance is expected H1 2026. The case that establishes UK enforcement precedent under the new framework will be significant. |
| **US class action first judgement** | The damages framework established by the first major creator authenticity misrepresentation judgement will determine whether this category becomes a primary risk vector for US brands. Expected H1 2026. |

## 05 — OPINION

*Financial services is where the next major brand incident will originate*

The pattern across two years of tracking Creator Risk is that incidents cluster in categories where the vetting process has not kept pace with the risk. In 2024 the category was historical content — brands had not built backward-looking search into their process. In 2025 it was regulatory compliance — brands had not updated their disclosure practices to match the enforcement reality.

In 2026, our view is that the most likely origin of the next major brand incident is financial services creator marketing. The regulatory requirements are well-established — FINRA, FCA, SEC. The enforcement is active. The precedent has been set twice. And yet the structural gap between creator marketing operations and compliance approval processes persists in the majority of financial services brands running influencer programmes.

The incident that confirms this prediction will not look like a surprise in hindsight. It will look exactly like the FINRA cases, the FCA cases, and the pattern established across twenty-six issues of this publication: the signals were visible. The process did not look for them.

**REVIEW YOUR CREATOR PORTFOLIO**

The Signal is published monthly by Signal Intelligence. Two years of tracking this space consistently points toward the same conclusion: the brands that manage creator risk well are the ones that treat it as an ongoing discipline applied across their portfolio — not a one-time check applied to individual creators before activation. If you have not reviewed your current creator portfolio against the risk categories this publication has established, that review is worth doing. Subscribe at signalintelligence.consulting.