

# Legal Compliance for Affiliate Marketing and Day Trading (Canada & USA)

## ***Affiliate Marketing & Recruiting Compliance***

**FTC Guidelines (USA)** – Affiliate marketers and influencers in the United States must disclose any “material connection” with the products or services they promote. The Federal Trade Commission considers affiliate links, sponsorships, free products or discounts as material relationships, and failing to disclose them is deceptive marketing 【689170816433986†L168-L190】 . Disclosures must be **clear and conspicuous**, meaning they should be placed close to the endorsement and written in plain language like “This post contains affiliate links” 【689170816433986†L209-L223】 . Hashtags such as #ad or #sponsored are useful but not sufficient on their own 【689170816433986†L209-L223】 . Every piece of sponsored content—including blog posts, social media posts and videos—should contain a disclosure near the recommendation 【689170816433986†L252-L266】 .

**Competition Act & Advertising Standards (Canada)** – In Canada, influencer marketing is governed by the *Competition Act* and the *Code of Advertising Standards*. Influencers must not make false or misleading claims and must clearly disclose any material connection, such as payment, free products or business relationships. The Competition Bureau’s Deceptive Marketing Practices Digest states that a “material connection” includes any relationship that could affect a consumer’s perception and must be disclosed 【701039630748568†L237-L245】 . Disclosures should be as visible as possible and use plain language

【701039630748568†L250-L256】 . The Code of Advertising Standards further requires that advertisers not omit relevant information (Clause 1), prohibits disguised advertising (Clause 2) and states that testimonials must reflect genuine opinions and disclose material connections (Clause 7) 【701039630748568†L272-L287】 .

## ***Tax Obligations for Affiliate Income***

**Canada** – The Canada Revenue Agency (CRA) requires social media influencers and affiliate marketers to report all monetary and non-monetary income as self-employment income and file Form T2125 【709892589040766†L102-L112】 . They can deduct reasonable business expenses if they qualify as a business 【709892589040766†L121-L128】 . Influencers whose worldwide revenues exceed CAD \$30,000 in a 12-month period (four consecutive quarters) must register for, collect and remit GST/HST 【709892589040766†L129-L134】 .

**United States** – U.S. affiliate marketers are considered self-employed. Income from affiliate commissions is taxable and must be reported on **Schedule C** if net earnings exceed US\$400 【639909741970597†L118-L143】 . They must pay self-employment tax (Social Security and Medicare) and any state taxes 【639909741970597†L118-L143】 . Affiliate marketers generally

do not need to collect sales tax because they are not selling products directly, but they should track and deduct business expenses such as advertising, software, hosting, travel and home-office costs 【639909741970597†L173-L178】 .

## ***Starting a Business & Registration***

**Canada** – You can operate as a sole proprietor, partnership or corporation. Unincorporated businesses only need a **Business Number (BN)** when registering for CRA program accounts like GST/HST, payroll or corporation income tax 【955671787160223†L59-L78】 . When you incorporate federally or in provinces such as Saskatchewan, a BN is automatically assigned 【955671787160223†L118-L155】 . CRA program account numbers combine your 9-digit BN with a 2-letter program identifier (e.g., RT for GST/HST, RP for payroll) and a 4-digit reference number 【587739587483130†L67-L82】 . Businesses must register program accounts if they collect GST/HST, have employees, file corporate income tax or issue information returns 【587739587483130†L87-L104】 【587739587483130†L105-L159】 . When operating from Saskatchewan, you may need to register your business name with the provincial Corporate Registry and obtain any municipal business licences.

**United States** – Many small affiliate marketing and trading businesses operate as sole proprietorships without formal registration; however, some choose to form an LLC or corporation for liability protection. Unlike Canada, the U.S. does not assign a Business Number; instead, individuals use their Social Security Number for tax purposes or obtain an Employer Identification Number (EIN) if operating as a business. Traders do not need to register with the SEC unless managing other people’s money, but they must comply with broker-dealer regulations if they solicit or handle client funds.

## ***Day Trading & Investing Regulations***

**FINRA Pattern Day Trader Rule (USA)** – Under FINRA rules, a **pattern day trader** is any customer who executes **four or more day trades within five business days**, unless those trades represent less than 6 % of total trades during that period 【994252773768773†L638-L647】 . Pattern day traders must maintain at least **\$25,000 equity** in their margin accounts 【994252773768773†L652-L656】 . The deposit must be in the account before day trading and cannot be withdrawn for at least two business days 【994252773768773†L689-L693】 . If a trader exceeds the account’s day-trading buying power, the broker will issue a margin call and restrict the account to cash trading for 90 days 【994252773768773†L664-L685】 .

**Day Trading in Canada** – Day trading is legal in Canada, and there is no \$25,000 minimum equity requirement. Canadian traders are subject to U.S. pattern day trader rules only when trading through a U.S. broker or trading U.S. securities 【23840867231512†L240-L259】

【23840867231512†L384-L386】 . Canada’s *superficial loss rule* disallows capital losses if you repurchase the same security within 30 days 【23840867231512†L250-L259】 . The CRA distinguishes between investment income (capital gains) and business income: frequent

short-term trading, spending significant time on trading and using leveraged products may cause the CRA to treat profits as business income (fully taxable), whereas occasional trading may be considered capital gains (50 % taxable) 【23840867231512†L304-L317】

【109766819852880†L35-L50】 . Business losses are fully deductible and subject to CPP/QPP contributions, whereas capital losses can only offset capital gains 【109766819852880†L70-L80】 . Factors considered include the number and frequency of trades, holding periods, investor expertise and intention 【532767934830508†L52-L103】 .

**Trader vs Investor Status (USA Tax)** – For U.S. tax purposes, the default classification is “investor.” To qualify as a “trader,” you must engage in **substantial, continuous and regular** trading activities with the primary goal of profiting from short-term market movements. There is no bright-line test; the IRS and courts look at factors such as the time devoted to trading, typical holding periods, frequency and dollar amount of trades and whether trading is your main source of income 【779235248465734†L97-L136】 . Traders can deduct expenses as ordinary business expenses and, if they elect **Section 475 mark-to-market**, can treat all gains and losses (including unrealized year-end positions) as ordinary income 【779235248465734†L103-L118】 . This election avoids the \$3,000 capital-loss limitation but requires recognizing unrealized gains 【779235248465734†L111-L118】 . Investors cannot elect Section 475 and may only deduct \$3,000 of net capital losses per year 【779235248465734†L111-L117】 .

**Trader Tax Status Guidelines** – Tax experts suggest that traders seeking Trader Tax Status (TTS) should execute **hundreds of trades per year**, trading on most market days and devoting several hours each day to trading. For example, one court case found a taxpayer with about 60 trades per month, four to five hours of trading per day and holding periods under one month qualified as a trader 【81532008710212†L344-L398】 . However, other cases show there is **no definitive threshold**; the courts consider your overall trading pattern and continuity 【81532008710212†L344-L398】 . TTS is separate from the pattern day trader rule; it affects tax deductions rather than margin requirements.

## ***Recordkeeping & Transparency***

- **Documentation** – Maintain detailed records of all trades, affiliate commissions and expenses. Use separate bank and brokerage accounts for your business activities to simplify bookkeeping and demonstrate that you operate a business 【532767934830508†L52-L103】 . Keep invoices, receipts and logs of trading sessions to support deductions.
- **Disclosures & Ethics** – Follow FTC and Competition Bureau guidelines by clearly disclosing affiliate relationships in all marketing materials 【689170816433986†L168-L190】 【701039630748568†L237-L245】 . Be honest about past performance; do not guarantee returns.
- **Professional Advice** – Consider consulting accountants or tax professionals experienced with day trading and affiliate marketing to ensure correct classification, elections (such as Section 475) and compliance with both U.S. and Canadian tax laws.