



Social Media: Consumer Compliance Risk Management Guidance

Interagency Teleconference for Industry Participants

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Email Questions for Q&A Period to:
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Process

- Issued in proposed form: January 23, 2013
 - Federal Register notice: <http://www.gpo.gov/fdsys/pkg/FR-2013-01-23/pdf/2013-01255.pdf>
- Comment deadline: March 25, 2013
 - 81 official comments received
- Final guidance issued December 11, 2013
 - FFIEC website (released 12/11/13): <http://www.ffiec.gov/press/pr121113.htm>
 - Federal Register notice (published 12/17/13): <http://www.gpo.gov/fdsys/pkg/FR-2013-12-17/pdf/2013-30004.pdf>
- Final guidance is substantially similar to proposed version
 - Some clarifications made



What is the Social Media Guidance?

- Guide highlighting the applicability of existing requirements and supervisory expectations to financial institutions' use of social media
- No new regulatory requirements are created or imposed
- Meant to
 - Help financial institutions identify potential risk areas to appropriately address
 - Ensure financial institutions are aware of their responsibilities to oversee and control these risks within their overall risk management program



Definition

- Definition of “social media”
 - “A form of interactive online communication in which users can generate and share content through text, images, audio, and/or video”
- Examples:
 - Facebook
 - Twitter
 - Yelp
 - LinkedIn
- Excludes emails/text messages that are not sent through social media platforms



Content of the Guidance

- Overall risk management
- Specific laws/regulations
 - Compliance laws/regulations/policies applicable in other contexts continue to apply in the social media context
- Broader concepts, including:
 - Third party risk management
 - Reputation risk



Overall Risk Management Approach

- Tailored to particular financial institution
 - E.g., size, complexity, mix of activities
- Proper identification and management of issues/problems
- Ongoing monitoring
- Employee training program



Specific Laws/Regulations

- Existing compliance laws/regulations continue to apply to activities conducted via social media as they would to activities conducted via other channels
- Additional information on certain laws/regulations provided in final version
- Laws/regulations in areas including:
 - Advertising
 - Disclosures
 - Privacy



Laws and Regulations Applicable to Advertising

- Examples:
 - TILA/Regulation Z
 - TISA/Regulation DD/12 CFR Part 707
 - Fair Lending Laws/Regulations
 - UDAP/UDAAP
 - Section 5 of FTC Act
 - Sections 1031 and 1036 of the Dodd Frank Act



Disclosures

- Example:
 - TISA/Regulation DD/Part 707
 - TILA/Regulation Z
 - EFTA/Regulation E



Privacy

- Example:
 - Gramm-Leach-Bliley Act Privacy Rules
 - Nonpublic personal information of “consumers” and “customers”
 - Particular relevance when, for instance, a financial institution integrates social media components into customers’ online account experience or takes applications via social media portals



Operational Risk

- Social media can be vulnerable to information security risks
 - Account takeover
 - Distribution of malware
- Use of third-party services does not reduce fundamental risks associated with information technology



Third-Party Risks

- Third-party relationships
- Third-party risk management
 - Due diligence
 - Contractual provisions
 - Monitoring
- Reputation Risk



Reputation Risk

- Reputation Risk = The risk arising from negative public opinion
 - Even where no specific law/regulation has been violated, consider the effect that a given activity may have on the institution's reputation
 - FI's own social media activities
 - Activities of third parties FI is associated with
- Examples where reputation risk may arise :
 - Comments by social media users
 - Spoofing/phishing schemes
 - Privacy issues
 - Consumer complaints/inquiries
- Guidance does not require financial institutions to monitor and respond to all Internet communications other than communications on sites maintained by or on behalf of the institution



Key Messages/Takeaways

- Existing compliance laws/regulations continue to apply to activities conducted through social media as they apply to activities conducted through other channels
- Existing risk areas continue to be relevant
 - Consider particular ways social media can implicate those risk areas
- Financial institutions will be expected to use the guidance in their efforts to adequately address risks raised by activities conducted via social media



Additional Resources



Selected FINRA Guidance

- FINRA Regulatory Notice 11-39: Social Media Websites and the Use of Personal Devices for Business Communications (August 2011)
 - <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p124186.pdf>
- FINRA Regulatory Notice 10-06: Guidance on Blogs and Social Networking Web Sites (January 2010)
 - <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p120779.pdf>
- FINRA Regulatory Notice 07-59: Supervision of Electronic Communications; FINRA Provides Guidance Regarding the Review and Supervision of Electronic Communications (December 2007)
 - <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p037553.pdf>



Selected SEC Guidance

- SEC Press Release 2013-51: “SEC Says Social Media OK for Company Announcements if Investors Are Alerted” (April 2, 2013)
 - <http://www.sec.gov/news/press/2013/2013-51.htm>
- IM Guidance Update, March 2013, No. 2013-01: Filing Requirements for Certain Electronic Communications
 - <http://www.sec.gov/divisions/investment/guidance/im-guidance-update-filing-requirements-for-certain-electronic-communications.pdf>
- SEC Release Nos. 34-58288; IC-28351, Commission Guidance on the Use of Company Web Sites (August 2008)
 - www.sec.gov/rules/interp/2008/34-58288.pdf
- SEC Release No. 34-47806, Electronic Storage of Broker-Dealer Records (May 2003)
 - <http://www.sec.gov/rules/interp/34-47806.htm>



Selected FTC Guidance

- FTC Guidance: *.com Disclosures, How to Make Effective Disclosures in Digital Advertising* (March 2013)
 - <http://www.ftc.gov/os/2013/03/130312dotcomdisclosures.pdf>



Questions & Answers



Thank You!

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