

SOCIAL MEDIA RULES REVISITED

Last month, the Securities and Exchange Commission (SEC) ruled that Regulation FD — the Fair Disclosure regulation — is applicable to social media posts as well as to other more traditional communication formats. In addition to the SEC's regulations, several other regulatory agencies govern exposure to risk through the use of social media by financial institutions. This article will examine a few of the possible pitfalls from either transmitting or receiving customer information via electronic means.

Federal Financial Institutions Examination Council (FFIEC)

The six-agency FFIEC (composed of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Consumer Financial Protection Bureau and the State Liaison Committee) advises financial institutions as to compliance issues when utilizing social media by establishing a broad range of risk guidelines. A basic preliminary practice for an effective risk-management program is to become familiar with the FFIEC guidelines.

An Enterprise-Wide Endeavor

Because of enterprise-wide involvement in today's social-media campaigns and communications, risk-management policy for this undertaking will necessarily require the input of the IT, human resources, marketing, legal and, of course, compliance staffs. Not only input, but also dissemination of risk awareness to the board, senior management and the operational level can help reduce noncompliance issues.

Compliance With Various "Truth" Acts

The Truth in Savings Act mandates that advertisements soliciting savings accounts must not be misleading nor inaccurate, and such standards naturally apply to bank advertisements posted on social media. The Truth in Lending Act requires that credit products be promoted with accompanying disclosures of terms and costs and, accordingly, care must be taken that such disclosures also appear in social media postings.

Provisions of The Equal Credit Opportunity Act (ECOA) regarding dissemination of credit opportunities to all markets without discrimination must be adhered to in social media information the same as with traditional forums. Furthermore, notifications as to acceptance or declining of applications and their strict deadlines must be monitored in social media communications the same as via postal or other electronic means.

Debt Collection

The Fair Debt Collection Practices Act (FDCPA) governing communications intended to collect a debt apply equally to electronic contact directed to the debtor, his or her family members, workplace or any highly public forum. Since social media postings are quite public, special care must be taken to avoid correspondence about a debt via social media.

Essentially, all promotions and correspondence currently governed by the numerous FFIEC regulations must now — in addition — be held up to the social-media-risk litmus tests before financial institutions can proceed with the use of social media as the communications medium of choice

CONTACT US!

DAVID KINNEAR
O: 212.913.0500 x566
M: 917.886.3222
E: DAVID.KINNEAR@GREENPOINTGLOBAL.COM

WILLIAM H. ANDERSON, ESQ
O: 212.913.0500 x586
M: 914.672.4975
E: WILLIAM.ANDERSON@GREENPOINTGLOBAL.COM

PETER K. OVERZAT, ESQ
O: 212.913.0500 x557
M: 917.807.1321
E: PETER.OVERZAT@GREENPOINTGLOBAL.COM

WWW.GREENPOINTLEGAL.COM