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## SOCIAL MEDIA ADVERTISING

Social Media may be considered advertising and/or marketing. Social media content used by financial institutions must meet the regulatory and disclosure requirements of consumer compliance regulations, as well as the Federal Trade Commission (“FTC”) and the Federal Communication Commission (“FCC”) rules for on-line marketing and communications.

### Social Media Use - Management Factors

In order for financial institutions to properly manage the compliance risks associated with social media, each financial institution should ensure that they have well-crafted policies and procedures with regard to the following:

- Social Media Policy
- Usage Guidelines
- Content Standards
- Monitoring Scope and Frequency
- Review and Approval of Content
- Complaint Management
- Record Retention
- Third-Party Vendor Management
- Information Security

Managing the risks associated with social media use should be integrated into the organization’s risk management and compliance program. Official use of social media on behalf of the financial institution needs to be reinforced by providing guidance and training to staff. The Guidance specifies that the risk management program should include:

- A governance structure with clear roles and responsibilities whereby the board of directors or senior management direct how using social media contributes to the strategic goals of the institution (for example, through increasing brand awareness, product advertising, or researching new customer bases) and establish controls and ongoing assessment of risk in social media activities;
- Policies and procedures (either stand-alone or incorporated into other policies and procedures) regarding the use and monitoring of social media and compliance with all applicable consumer protection laws and regulations, and incorporation of guidance as appropriate. Further, policies and procedures should incorporate methodologies to address risks from online postings, edits, replies, and retention;

- A risk management process for selecting and managing third-party relationships in connection with social media;
- An employee training program that incorporates the institution's policies and procedures for official, work-related use of social media, and potentially for other uses of social media, including defining impermissible activities;
- An oversight process for monitoring information posted to proprietary social media sites administered by the financial institution or a contracted third party;
- Audit and compliance functions to ensure ongoing compliance with internal policies and all applicable laws and regulations, and incorporation of guidance as appropriate; and,
- Parameters for providing appropriate reporting to the financial institution's board of directors or senior management that enable periodic evaluation of the effectiveness of the social media program and whether the program is achieving its stated objectives.

## **Social Media Compliance Practices**

**Treat all mortgage-related digital communication as advertising and keep in mind the requirements for these and any others applicable:**

- Regulation Z – Truth in Lending Act
- Regulation N – Mortgage Acts and Practices – Advertising
- Federal Deposit Insurance Corporation (“FDIC”) or National Credit Union Association (“NCUA”) membership advertising
- Fair Housing Act/Fair Lending/Community Reinvestment Act
- Non-deposit retail investment and insurance advertising restrictions
- S.A.F.E. Mortgage Licensing Act requirements

**Follow Federal Trade Communication (“FTC”) guidelines for consumer communications:**

- The information must be prominent enough for the consumer to notice;
- The information is required to be presented in an easy-to-understand format that does not contradict with other information in the message and at a time when the consumer's attention may be drawn elsewhere;
- The information must be in a location where consumers can be expected to look for it or hear it; and,
- The information is required to be in close proximity to the content of the message.

**Ensure compliance with the Unfair, Deceptive, or Abusive Acts or Practices Act (UDAAP):**

- Information may not be unfair, deceptive, or abusive to consumers/customers;
- Information may not be misleading or inaccurate; and,
- Information must be consistent with other information delivered through electronic or other media.

**Keep documentation of all your electronic communication (posts, eBlasts, eNewsletters, etc.):**

- Print and retain hard copies, or, create an electronic file; and,
- Include documentation of the reviews and approval of social media messaging.

For commercial products or services, follow the main provisions of the CAN-SPAM Act:

- Don't use false or misleading header information. The "from," and "to," "reply-to" and routing information –including the originating domain name and email address – must be accurate and identify the person or business who initiated the message.
- Don't use deceptive subject lines.
- Subject lines must accurately reflect the content and are not permitted to be misleading regarding the subject matter.
- Identify your message as being advertising and/or promotional.
- This must be disclosed clearly and conspicuously.
- Always include a valid accurate physical postal address.
- Recipients must be informed of how to opt-out/ unsubscribe.
- Opt-out messages must be clear and conspicuous and your spam filter must be adjusted so it does not block out any opt-out request.
- Your opt-out process must be well documented to provide examiners with the procedures you follow.
- All opt-out requests must be honored within 10 business days and you are required to stop sending email to the requestor's email address
- You must be able to process opt-out requests for at least 30 days after you send your message.

Train the staff regarding social media and electronic communications:

- Give them guidelines of what they can and cannot do;
- Ensure staff using social media and electronic communications are aware of the requirements of the Privacy Act and confidentiality standards;
- Discuss the risks involved and include examples; and,
- Document and keep copies of your training.

Social media can be an effective tool to generate new mortgage business and provide a dynamic environment to interact with consumers. Financial institutions must manage potential risks to the organization and consumers from social media use by ensuring risk management programs provide appropriate oversight and controls.