# STEPPING INTO SOCIAL MEDIA

## Eight Tips and Considerations for Investment Managers Entering the Social Media Landscape in a Highly Regulated World

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Social media has changed the way people communicate and interact on a daily basis. It is commonly used as a way to develop and strengthen branding, reinforce a firm's reputation and cultivate customer relationships. While its use has exploded globally in social- and consumer-driven areas, the investment management industry has been slow to integrate social media into its marketing strategies.

- BRANDfog.com, a global social media and digital reputation consulting firm for CEOs, found in a 2014 survey that 82% of U.S. respondents and 71% of U.K. respondents overwhelmingly believe that executive use of social media raises brand awareness and leads to brand trust.[1]
- BRANDfog.com further found that 61% of U.S. respondents and 50% of U.K. respondents are more likely to purchase from a company whose values and leadership are clearly communicated through executive leadership participation on social media.[1]
- Nearly 60% of advisors surveyed by kasina, an innovation-focused consulting company serving financial services companies, indicated that the digital capabilities of asset managers affect the advisors' perception of those brands.[2]

[1] BRANDfog, "2014 Survey: The Global Social CEO," 2014.
[2] kasina, "What Advisors Do Online 2014," July 2014.

Despite this, in a 2013 global evaluation of the top 100 asset management groups, PricewaterhouseCoopers found that 40% "are not active on social media and remain in a 'wait-and-see' position." Some of this may be due to uncertainty around the reality of widespread use in financial services, as well as current and projected regulatory constraints and oversight.[3] Kasina also found that financial advisors accustomed to personalized interactions with companies outside of the asset management industry say they want those customized experiences from asset managers, but find few are providing them.[4]

In April 2013, the U.S. Securities and Exchange Commission (SEC) issued a report stating that social media, subject to certain conditions, is an acceptable venue for companies to disclose material information to investors.[5] While the SEC and the Financial Industry Regulatory Authority, Inc. (FINRA) have released more substantial guidance on social media use recently, many asset managers still view social media as risky in the current climate of increased regulatory scrutiny and not something that has the potential to revolutionize the industry. In discussions with mutual fund managers or exchange-traded fund (ETF) providers, one of the first concerns relates to compliance. Staying compliant within an open, and for the most part uncontrollable, communications channel is a challenge, and one of the main reasons for the industry's slow adoption of social media strategies. But even the most hesitant firms can't deny that social media is here to stay.

The industry's slow adoption is not all that different from what happened in the mid-1990s as the Internet began to boom and firm websites began to appear. As guidance from the SEC and FINRA became clearer, nearly every firm developed a website, even if they were slow to the game. Today, you'd be hard pressed to find a firm that doesn't have one. It's not hard to envision this same scenario playing out with social media over the next few years.

As far back as 2011, Ernst & Young concluded that social media was becoming the next battle ground and asset managers needed to adapt to the "new game."[6] Two years later, with social media becoming a global phenomenon, Ernst & Young stated that asset managers across both mature and developing markets need to prioritize the development of their social media strategies or be left behind. For those asset managers not already actively doing so, Ernst & Young suggested that they need to start formulating their social media strategies "in the next 6 to 18 months as a successful strategy will generate tangible benefits for any firm in any market."[7]

[3] PricewaterhouseCoopers, "Social Media Studies: Asset Management in the Social Era," June 2013.

[4] kasina, op. cit., July 2014.

[5] U.S. Securities and Exchange Commission, "SEC Says Social Media OK for Company Announcements if Investors Are Alerted," April 2, 2014, www.sec.gov/News/PressRelease/Detail/PressRelease/1365171513574#.U-T81eNdUuc

[6] Ernst & Young, "Social media: New game, new rules, new winners," 2011.

[7] Ernst & Young, "EY EMEIA Asset Management Viewpoint: Asset management and social media," November 2013.

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The time may be now, but before entering the social media landscape with both feet, managers should carefully consider the following eight tips and considerations to ensure that their social activity is based on a thoughtful approach and doesn't lead to undue compliance complications.

## 1 Carefully Select Formats and Platforms

SEC and FINRA have not released guidance on any individual social media platform. Rather, the guidance is broad, so there are no restrictions on using any particular platform. Because different platforms have different functionality, it's critical for investment management firms to understand the functionality of the platforms they are using and how to adjust the settings for each in order to meet regulatory requirements so that there is no compliance confusion or violation.

- Publicly available websites such as Twitter are considered advertisements. Since Twitter is an open social media platform that does not restrict its audience, all tweets are considered "retail communications" and must follow a certain set of requirements. For example, while a firm may be targeting institutional investors, any unsophisticated potential investor may choose to follow that firm's Twitter feed.
- Firms using LinkedIn can create private discussion groups that restrict viewing; therefore, these groups may be subject to institutional rules. This allows for posting of a technical white paper on options strategies, for example, which may not be suitable for public consumption or the average man on the street. However, the restricted viewing option filters out unwanted noise, allowing for more meaningful feedback and intelligence gathering.
- Facebook presents a unique challenge for investment advisors, given the commonly used "Like" feature, as investment advisors are not allowed to include client testimonials in their advertising.

## 2 Create Commonsense Guidelines

When talking about social media compliance at LinkedIn's 2013 Finance Connect conference, Joe Price, the Senior Vice President of Corporate Financing and Advertising Regulation for FINRA stated, "I don't think the rules of the road are overly complex." While the technology itself may be new to firms, and its interactive nature creates some unique situations, Mr. Price was advocating a commonsense approach to firms making social media policies and decisions. Until more substantial guidance is released, FINRA has specifically said it is "seeking to interpret its rules in a flexible manner to allow firms to communicate with clients and investors using this new technology." With this context in mind, setting up clear policies and procedures is critical, but firms should not be paralyzed wondering about any "gotcha" rulings coming from regulators.

- If a particular message was not acceptable using traditional forms of communication, it will not be acceptable on social media either. Also, if it was acceptable before, it probably will continue to be acceptable now.

## 3 Create a Content Calendar

To both satisfy regulatory guidance and limit reputational risk, preapproval of messaging is advisable. But, in order to make the preapproval process smoother and to create content that is timely and relevant on social media platforms, firms should create a calendar of upcoming content for at least three to four months in the future.

- This will allow for effective compliance review. Plus, it allows firms to preplan content based on events and happenings, such as fund launches and conference speaking events that may coincide with the timing of their posts.

## 4 Categorize Your Content

When creating a content calendar, it is a best practice to label content in order to develop a better understanding of how future communications might be categorized.

For the purpose of message creation, content should be based on whether the information is provided at an advisor level or an individual fund level. Generally, managers are distributing their messages at a higher level, but they may add depth or try to reach a different type of investor by focusing on a particular fund.

- If the social content is being created at an advisor level, focus on topical thought leadership such as high-level market commentary and investment strategies. This creates credibility for the firm by presenting individuals as experts, and can garner attention from the media as part of a broader public relations campaign.
- If the social media message is at the individual fund level, it should focus on announcements of new products, links to educational material, market updates and research documents. However, these may require FINRA filing, and may trigger disclosure language as required by investment company advertising rules.

For the purposes of FINRA, fund-related social media content falls into the categories of “static” content, which must be preapproved and filed; and “extemporaneous” content, which is subject to supervisory requirements. Both have recordkeeping requirements. Nearly everything fund-related that is posted on social media needs to be filed with FINRA with two exceptions: Content that is generically news-related with no mention of financial or investment information, or content that is purely social, such as wishing followers “Happy Holidays.”

## 5 Recycle Content

In the world of social media, it’s not unusual to see information reposted and reused on an ongoing basis. For asset managers, this is a particularly attractive strategy because content that has been preapproved and/or filed with FINRA does not need to be refiled.

- Firms can alleviate compliance concerns by reusing existing content or creating templates that use preapproved language.

## 6 Provide Training

Training is a critical component of a firm's social media strategy. There are many applicable rules and regulations, as mentioned above. Additionally, each firm has corporate guidelines by which it must abide. The following points are a general outline for getting up and running:

- Identify a social media spokesperson, which may be based on subject matter expertise or ability to reinforce specific messages. These individuals could differ from those who are involved in a firm's regular public relations efforts, and different considerations may apply than those outlined for general spokespeople.
- Ensure that each spokesperson and all other personnel in the firm have a clear idea of expectations when acting on behalf of the fund or advisor, as well as risks and practical concerns of their actions in social media, and the differences between channels.
- Prepare the active participants with current "rules of the road" and revisit training periodically to update users on successful strategies and issues resolved.
- If partnering with distributors, ensure that they closely follow legal guidance and interpretations provided by the relevant regulators, and work with them to leverage learning and shared experiences. Many offer training prior to getting started, both internally and externally, to those who want to have a presence in social media as well as those interested in developing a social media strategy. Training should include all business partners involved, including social media consultants, public relations firms, etc.

## 7 Understand the Rules Around Third-party Content

The SEC holds by a theory of "adoption" that means, by linking to another site, a firm is essentially taking responsibility for the material on that site. This creates an additional burden, as all third-party content must be reviewed and approved. FINRA also looks to firms to take responsibility for ensuring that the content on third-party sites is accurate and not misleading. Additionally, as there is no ability to edit or revise third-party content, social media teams must take an all-or-nothing approach to hyperlinking. Consideration should be given to the dynamic nature of the linked page, as this may change after the point of compliance review and recordkeeping. Linking to third-party versus business partner materials makes a difference for control of content.

- To more broadly consider the context of the third-party sites, including the credibility of authorship and advertisers, advance due diligence of online news and information sources is recommended.

There are also intellectual property considerations when linking to others' content. There is a common misconception that if it is on the Internet, then it is free for the taking. However, this is clearly not true, as there are both copyright law protections and possible legal ramifications to the repurposing and redistribution of others' material for commercial purposes. This includes photographs, video clips and written material.

- Check the terms and conditions section of all third-party sites you want to link to in order to determine how to proceed, as some firms require advance permission, payment, or prohibit altogether the use of their intellectual property.

## 8 Recordkeeping

Archiving is a necessary part of all compliance programs, and social media creates a new challenge for capturing, storing, and retrieving messaging. Firms may capture content manually with screen shots, use in-house systems, or research outsourcing solutions. Many companies that have experience in recordkeeping for email archiving have built solutions for social media, while new firms may offer technology tools to meet the unique challenges social media presents.

Often, recordkeeping challenges arise around capturing hyperlinked material on third-party sites, which may be both static and interactive, and which may include commenting and live exchanges by the firm's social media spokespersons.

- As the rules are not completely clear on how to handle retweets and reposts, managers should use common sense, but err on the conservative side while awaiting more definitive guidance or generally accepted market practice.

# TAKE A THOUGHTFUL APPROACH

The barriers to asset managers' social media use are falling away quickly. The SEC and FINRA have issued guidance stating that, subject to certain conditions, social media is an acceptable venue for firms to disclose material information to investors.

The final book on social media compliance has yet to be written. Much like the adoption of email and the web before that, it will likely take years before guidance is crystal clear. But to date, given the commonsense approach by regulators, we believe that the potential benefits to clients, investors and the market in general outweigh potential compliance concerns.

Firms may now address and mitigate social media-related compliance issues with software and other processes to manage risk. They may also consider hiring a social media expert/consultant to help them get their strategy off the ground. Whichever path they choose, investment managers need to develop an effective and sustainable social media strategy in order to reap the benefits of this medium.

We believe that the time is now for managers to "get social." Considering the eight tips outlined in this document is a prudent step to ensure that their social media activity is based on a thoughtful approach, likely to reach their target audience, and doesn't lead to undue compliance complications or distractions.

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SEI (NASDAQ:SEIC) is a leading global provider of investment processing, investment management, and investment operations solutions that help corporations, financial institutions, financial advisors, and ultra-high-net-worth families create and manage wealth. As of September 30, 2014, through its subsidiaries and partnerships in which the company has a significant interest, SEI manages or administers $612 billion in mutual fund and pooled or separately managed assets, including $249 billion in assets under management and $363 billion in client assets under administration.

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141630 (11/14)