GUIDE

Compliance for Financial Services

The Advisor's Guide to Social Media Compliance

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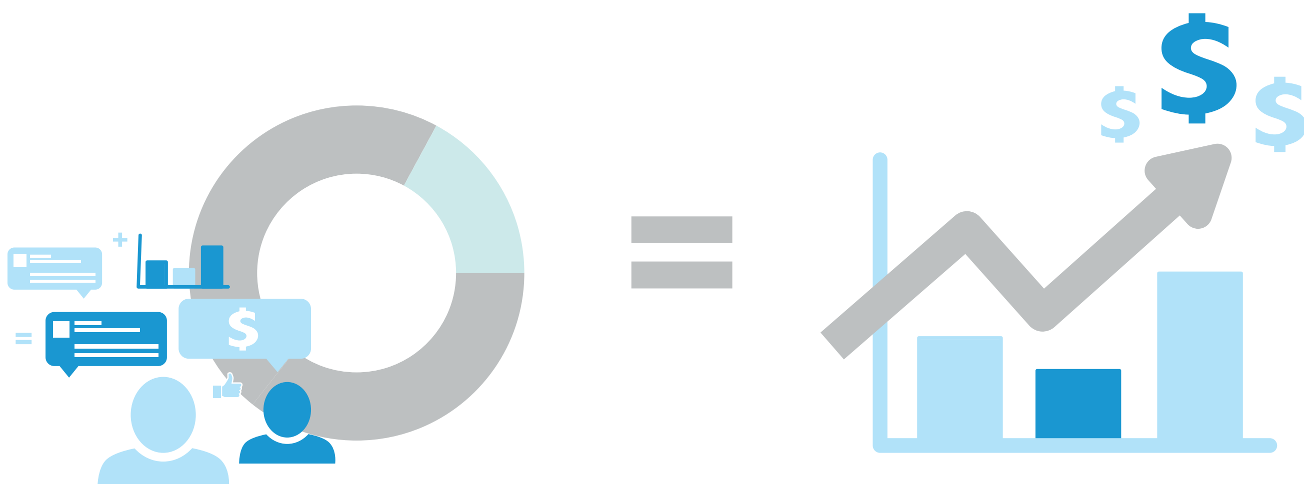
Introduction

In 2005, just five percent of American adults used at least one social media platform, according to the Pew Research Center. Today, that number is closer to 70 percent. We're using Facebook, Twitter, LinkedIn, and other platforms more than ever—not only to connect with each other, but also to share content and stay informed.

It's no surprise, then, that social media has become an increasingly important marketing tool in the financial services industry. A study by Putnam Investments found that 85 percent of advisors are now using social media for business, and their efforts are leading to a median asset gain of $1.9 million each year.

However, building a social media strategy that's both effective and compliant can be a challenge for many organizations. Broker/dealers, firms, and advisors must comply with guidelines set out by the Financial Industry Regulatory Authority (FINRA) and the Securities and Exchange Commission (SEC), which affects the information they can share in social interactions.

In this guide, you'll find best practices for social media engagement in the financial industry, with actionable tips and advice for staying compliant and secure.



FINRA guidance:

What you need to know

In March 1999, FINRA ruled that any registered representative who participates in internet chat rooms is subject to the same regulations that would govern an in-person presentation before a group of prospects or investors.

That ruling left firms with a lot of unanswered questions. What about live or interactive media, such as blogs? What about Yelp reviews and Facebook posts?

FINRA convened a Social Networking Task Force to establish more detailed guidelines and policies, and in 2014, the SEC issued Guidance Update No. 2014-04, which provides guidance on third-party commentary and reviews on social media. More recently, FINRA released Regulatory Notice 17-18 in April 2017 to set clearer rules around practices such as native advertising and text messages.

Here's what all this means for advisors using social media:

- **You're free to friend.** The SEC states that "friending" someone on Facebook or "connecting" with them on LinkedIn is not considered a testimonial or endorsement.
- **Keep personal and business activities separate.** Unless your firm says otherwise, your personal social media profiles don't need to be monitored and archived. What's business and what's personal? It's simple: If you discuss business at all, it's business. If your friends reach out to you about business matters on social media, quickly transition the conversation to a private channel (think email or phone) or meet with them in person.
- **Steer clear of specific recommendations.** FINRA Rule 2111 requires advisors to have a reasonable basis for recommending a product or an action to a customer, based on their investment profile. On social media, there's no way to know the individual investment profiles of everyone you're reaching, so keep recommendations broad and general. If you wouldn't say it to a large seminar crowd, don't say it on social.
- **Link carefully**. FINRA Regulatory Notice 11-39 says firms may not link to a third-party site if the firm knows or has reason to believe that it contains false or misleading content. Firms are also responsible for content on a linked site if they "adopt" the content (for example, by tweeting about it) or become "entangled" with it (for example, by participating in the development of the content).
- **Record everything.** According to FINRA's interpretation of NASD Rules 17 and 3110, all business-related communications on social media must be recorded and archived. That includes text messages and chats.
- **Native ads are okay.** Firms may use native advertising (think "sponsored" or "recommended" content that looks like a post on social media) , but the content must comply with FINRA Rule 2210. That means the communications must be fair, balanced, and not misleading, with the firm's name prominently displayed. The firm's relationship with any entity or individual named in the article must be made clear, and the communication must reflect whether any mentioned products or services are offered by the firm.

The do's and don'ts of endorsements

SEC Guidance Update 2014-4 addresses how advisors can feature public commentary about themselves on independent, third-party websites, like Yelp, Facebook, and LinkedIn, without violating the Investment Advisers Act and its testimonial prohibition.

DOs

- Encourage clients and followers to check out reviews on sites like Yelp and Google, and on your social media accounts.
- Promote your Facebook, Twitter, and other social media accounts in interviews and in marketing collateral.

DON'Ts

- Don't ask reviewers to write comments under an alias to hide the reviewer's true identity.
- Don't filter out negative comments. Viewers must be able to see all public comments, good or bad.
- Do not pay for testimonials or help in the preparation of a testimonial. This constitutes "entanglement," which makes the testimonial subject to advisor communications rules. That means it must meet FINRA Rule 2210's testimonial standards and must comply with supervision and recordkeeping requirements.
- Do not "like" or share a favorable testimonial on social media. This constitutes "adoption," which also makes the testimonial subject to Rule 2210's communications rules.
- Do not print a specific testimonial on any marketing collateral or promote a particular review in an interview.

Your social media compliance checklist

Adopt a social media policy

Clear and comprehensive social media policies allow firms to remain compliant while giving employees the guidance they need to safely and effectively engage with clients and prospects online.

Creating a well thought-out social media policy involves input and feedback from teams in compliance, legal, IT, information security, human resources, public relations, and marketing. It should address specific platforms, provide device and access restrictions, and specifically allow or ban certain social activities—from accepting connections to posting business-related content. These guidelines should aim to limit confusion as well as encourage participation.

64 percent of advisors who don't use social media say it's because of compliance concerns.

(Source: Putnam Social Advisors Study.)

Set up a training process

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Older employees are often especially hesitant: According to a Putnam Social Advisors Study, 40 percent of advisors aged 65 and older don't use social media for business, compared to just 3 percent among those under 30.

Providing courses, recorded webinars, best practices guides, or other resources for employees can help boost their social media engagement and ensure that they're using the platforms effectively and appropriately. Regular updates to these training materials can help employees keep up with social media trends and changes as well.

Establish workflows and processes

Make sure all team members know who can post updates and to which platforms. Set up an an approval process in which interns, junior staff members, and others are allowed to draft posts but must receive permission before publishing them.

It's also important to establish a crisis management plan. If something goes wrong, knowing how it will be handled—and by whom—can stop the problem from escalating and causing further damage.

Archive everything

For many in the financial services industry, one of the biggest hurdles to compliant social media use is the archiving requirement. All business-related communications must be recorded and filed, and that can be cumbersome and time-consuming for the average advisor. Fortunately, enterprise-level solutions such as Actiance, Proofpoint, Smarsh and ZeroFOX are making it easier for organizations to maintain a compliant and safe social media presence.

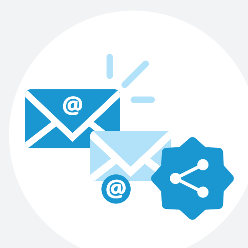
Four more social media activities for advisors

1. **Actively monitor your online presence.** Check reviews on third-party sites and be proactive. If a client posts a dissatisfied comment, follow up with them via email, thanking them for their feedback and soliciting constructive criticism for the future.

2. **Turn on reviews.** Previously not allowed, Facebook reviews have now been ruled compliant. If you previously turned that feature off, you can allow it now, making your company more accessible and searchable.

3. **Promote your accounts.** Use emails, events, TV interviews, and marketing materials to invite people to connect with you on social media.

4. **Connect with prospects and clients.** After a phone call or in-office meeting with a prospective client, look them up on LinkedIn and send an invitation to connect. This will help you stay top of mind.



About Hootsuite Enterprise

Partner with Hootsuite to accelerate your social transformation

Hootsuite is the most widely used platform for managing social media, loved by over 15 million people around the globe and trusted by more than 800 of the Fortune 1000. Hootsuite Enterprise empowers organizations to execute business strategies for the social media era and scale social media activities across multiple teams, departments, and regions. Our versatile platform supports a thriving ecosystem of social networks complemented by 250+ business applications and integrations, allowing organizations to extend social media into existing systems and programs.

Along with our channel and agency partners, we help organizations build deeper relationships with customers, stay connected to the needs of the market, grow revenue, and draw meaningful insights from social media data. Innovating since day one, we continue to help organizations pioneer the social media landscape and accelerate their success through product training, group training and tailored organizational training, as well as security and compliance services.

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