Industry experts join FINRA staff to discuss compliance considerations for digital communications, including social media and mobile communications. This session addresses recent regulatory developments and compliance practices. Panelists offer practical answers to questions about compliance approaches for online communications.

**Moderator:** Amy C. Sochard  
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FINRA Advertising Regulation

**Panelists:**  
Shayna M. Beck  
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Vanguard  

Ted Newton  
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MassMutual

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By the end of this session, you should know:

1. How some firms have addressed the compliance and supervision considerations raised by the rapid adoption of social media and communications via mobile devices.
2. Challenges that occur when representatives use digital communications without approval.
3. About recent guidance provided by regulators regarding testimonials and disclosure in space-limited communications.
4. Key considerations in developing mobile applications.
5. Ways firms and regulators seek to keep pace with the dynamic environment of digital communications.
Introduction

Poll: The biggest challenge to firms in adopting social media is...?
Introduction

Poll: The biggest challenge to using social media is...?
Social Evolution: MassMutual’s Approach

Poll: On social media, how does your firm define interactive content?

Getting to Interactive
Which part is interactive?

![Interactive Image]

Which part is interactive?

![Interactive Image]
Getting to Interactive

Poll: Do you allow interactive posts prior to principal approval?

Unauthorized Posts

What are firms’ responsibilities with respect to unauthorized content posted by individuals associated with the firm?

How do firms monitor for these posts?

What do firms monitor and why?
Policies and Procedures

**Respondent settled charges that:**

- he used unapproved websites, including a LinkedIn static profile, despite being warned both verbally and in writing by his firm on several occasions about the need to have his electronic communications reviewed prior to use; and
- the LinkedIn profile and websites to which it linked contained incomplete and unbalanced presentations that failed to disclose the risks, drawbacks, and costs associated with the investments discussed.
Charles Matisi, AWC No. 2012033158601 (September 11, 2013):

Respondent settled charges that:

- he violated FINRA advertising rules for publicly posting a communication on Facebook regarding a drug company ("there's no safer weight loss drug") that was exaggerated, and not fair and balanced, and omitted the fact that 33 of his customers owned shares of the company and he owned 10,000 shares.

Ralph William Hicks Jr., AWC No. 2010023789701 (March 28, 2013):

Respondent settled charges that:

- he disseminated advertising and sales literature to the public via various media including YouTube videos that contained customer testimonials without required disclosures; presented oversimplified claims, many comparing favorably equity index annuities to other products in a manner that omitted material information or failed to provide a sound basis for evaluating the facts in contravention of FINRA's advertising rules; and failed to file materials discussing investment companies.
Christopher Carra, AWC No. 2214509 (June 29, 2012):

Respondent settled charges that:

- he attempted to inflate the stock price of BioDrain in an effort to obtain additional investment banking business for his firm; and
- he used six different “author” names to post to a Yahoo! message board in order to create the appearance that several individuals were commenting on the stock and its prospects; and some involved conversations between his different “handles” in which he embellished the prospects for the company.

Testimonials

Poll: Does your firm permit registered representatives to accept endorsements on LinkedIn?
Endorsements

- What is an endorsement on LinkedIn?
- FINRA Rule requirements for testimonials
- Advisers Act prohibition

Third Party Rating

- How are firms addressing third-party rating sites, e.g., Better Business Bureau?
- Recent SEC Guidance
Disclosure

- Poll: Have you adapted your website for access through mobile devices?

Disclosure

- Content may vary depending on the device or delivery medium chosen by the user
  
- Example: Micro-Blog content viewed on a desktop
Disclosure

- Content may vary depending on the device or delivery medium chosen by the user
- Example: The same content viewed on a smartphone or as a text

Disclosure Approaches

- Hyperlinks to disclosures
- More.../Less...
- Prominence considerations
Poll: How do you keep up with changes?

What is the next big thing?
FINRA Regulatory Notices

- FINRA Regulatory Notice 12-29, SEC Approves New Rules Governing Communications With the Public Effective Date: February 4, 2013 (June 2012)
  www.finra.org/Industry/Regulation/Notices/2012/P127015

- FINRA Regulatory Notice 11-39: Social Media Websites and the Use of Personal Devices for Business Communications (August 2011)
  www.finra.org/Industry/Regulation/Notices/2011/P124187

- FINRA Regulatory Notice 10-06: Guidance on Blogs and Social Networking Web Sites (January 2010)
  www.finra.org/Industry/Regulation/Notices/2010/P120760

- FINRA Regulatory Notice 07-59: Supervision of Electronic Communications; FINRA Provides Guidance Regarding the Review and Supervision of Electronic Communications (December 2007)

SEC Resources

- Division of Corporation Finance, Compliance and Disclosure Interpretations, Securities Act Rules (Updated 04/21/14)


- IM Guidance Update, March 2013, No. 2013-01: Filing Requirements for Certain Electronic Communications


  www.sec.gov/rules/interp/34-47806.htm

Federal Trade Commission (FTC) Resources

• .com Disclosures, How to Make Effective Disclosures in Digital Advertising (March 2013)
  www.ftc.gov/os/2013/03/130312dotcomdisclosures.pdf

Federal Financial Institutions Examination Council (FFIEC) Resources

• Social Media: Consumer Compliance Risk Management Guidance – Notice; Final Guidance (December 2013)

United Kingdom Financial Conduct Authority

• GC14/6: Social media and customer communications: The FCA’s Supervisory approach to financial promotions in social media (June 2014)