THE IMPORTANCE OF DEVELOPING A SOCIAL MEDIA COMPLIANCE POLICY

Why Your Financial Institution Needs To Have A Proactive Policy In Place

WHITE PAPER

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THE IMPORTANCE OF DEVELOPING A SOCIAL MEDIA COMPLIANCE POLICY

Why Your Financial Institution Needs to Have a Proactive Policy in Place

After nearly a decade of relentless changes in compliance, evolving access to the internet, along with expansive adoption of social media use, a growing need for comprehension, oversight and risk management presents itself. In this time where production is volatile and resources remain at capacity, it is understandable that monitoring social media

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seems daunting. The thought of identifying where business and personal use of social media stops and starts, coupled with a regulation that crosses multiple regulatory bodies and numerous regulatory resources, can be overwhelming. In fact, many institutions do not have a draft policy, let alone a working policy, in place today.

Social media compliance is not an area to overlook in your overall risk management and compliance profile. In today's environment, 68 percent of American adults access some form of social media according to the most recent Pew Research Center's Social Media Use Report. The study goes on to illustrate that the base of social media users and expanding cross-section of population that has adopted use of social media platforms is growing exponentially. The Pew fact sheet states that more than half of all Facebook and Instagram users visit these sites at least once a day. It

was also notable that older adult usage, although not as extensive as young adults, continues to increase at a significant pace. As social media adoption grows, so does use in the corporate workplace, both personal and business.

It is no wonder that today's loan officer is more inclined to prospect on the internet than ever before. As greater percentages of potential borrowers use social media, and marketing techniques for loan officers increasingly involve social media sites, your origination staff is actually being pushed to expand their social media usage. Data presented at a recent Mortgage Bankers Association Legal Issues and Regulatory Compliance conference, indicated that 20 to 30 percent

of loan officers nationwide are actively engaging social media channels to drive leads. Even more access social media for personal interaction, where potential regulatory violations can inadvertently occur when business topics arise.

Your customers and your employees are using social media willingly, which provides the opportunity for the company to promote the brand, gather and respond to customer insight, as well as communicate ideas in an innovative and powerful way.

As a financial institution, you and your employees should take advantage of everything today's social media platforms have to offer to gain market share. At the same time, having a communication channel is like any other form of print or digital advertising, and therefore subject to strict compliance regulations.

As with most challenges in the financial services arena, waiting is never the best policy. The goal is to assist you in starting down this path, or picking up where you left off. This series of white papers is specifically designed to walk you through the important aspects of

creating sound social media practices within your organization. This effort begins with a Social Media Compliance Policy that assists your organization in understanding where potential risk exists, and then creates the framework for managing risk within your corporate profile. Performing a risk assessment that coincides with the extent of your organization's social media use, as well as underlying policies and procedures, will help ensure the final outcome is realistic and meets regulatory guidelines.

This preliminary look at developing a workable and compliant Social Media Compliance Policy will build off of the Federal Financial Institutions Examination Council (FFIEC) Guidelines for Social Media Compliance. The FFIEC has engaged in an extensive undertaking by evaluating the applicable regulatory requirements and creating a document that provides guidance for financial institutions on how to navigate policies, oversight and risk based on current regulation, with a focus on risk identification and management.

FFIEC Guidelines for Social Media Compliance

The Federal Financial Institutions Examination Council is comprised of the Office of the Comptroller of the Currency (OCC), the Federal Reserve System Board of Governors, the Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA) and Consumer Financial Protection Bureau (CFPB). The council membership issued their social media guidance document on December 11, 2013. This final guidance is designed to assist financial institutions that are supervised by the Consumer Financial Protection Bureau (CFPB), including banks, savings associations, credit unions and other non-bank entities, in developing internal compliance policies by creating an understanding of consumer protection and compliance laws, as well as policy and regulations applicable to social media activities. Additionally, the FDIC issued a formal Financial Institution Letter that contains the FFIEC guidance language and applies to all FDIC-supervised institutions with total assets of less than $1 billion.

The FFIEC's goal in this endeavor was not to create new

requirements but to specifically help financial institutions understand and manage risk associated with social media use and to clarify the applicability of various laws and regulations that are already in place regarding activities financial institutions regularly engage in. And lastly, to make certain financial institutions address risk in a proper manner when managing compliance, operational, third-party and reputational risks that can present themselves through the use of social media.

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Historically, regulators examined financial institution activities after the fact, as a part of the examination process, allowing the institution the opportunity to research and respond to potential issues. With expanded use and access to the internet, regulators are now able to monitor online activity and publicly view consumer activity without you or your loan officers even being aware. If issues are identified,

regulators want to know that you are also watching your employees' internet activities. How you ultimately deal with problems is important to how the regulators will make judgments and potentially hand out enforcement action.

Therefore, it is vital to establish a sound social media compliance policy within your overall digital marketing and advertising program. This will give you the ability to quickly address potential concerns. A successful social media compliance program must contain all seven of the FFIEC guidelines including: governance, defined policies and procedures, third-party management, training, monitoring, auditing and shareable reporting. In this white paper and the following series of social media compliance papers published by Comergence, each of the seven FFIEC policies will be presented in a digestible manner to include implementation perspectives.

Risk Management Assessment

Risk management is an integral part of social media

compliance and when it comes to developing and implementing a social media compliance policy, you'll need to first perform a thorough risk assessment that considers the following:

- Reputational Damage
- Compliance Violations
- Regulatory Fines
- Third-Party Provider Relationships
- Operational Policies
- And more…

This assessment will assist your organization in determining to what extent you are tracking, or can track, current loan officer social media activity, and what kinds of activities loan officers and other employees are engaged in. This process assists in identifying the various types of social media users within your company. However, regardless of individual usage, all employee activity needs to be vetted to identify high-risk behaviors. A thorough risk assessment will identify potential problems and challenges that need to be addressed. Then, and only then, can you truly start developing or refining processes and overall social media compliance policy that meet your financial

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institution's unique needs. Ultimately, social media compliance should be an extension of your institution's overall risk management strategy. You want to maximize lead potential while minimizing risk for the company. Michael Stallings, Vice President of Comergence, points out that your risk management programs should not be obstacles to growing your business. "Risk management is about pursuing opportunities while making sure you avoid issues that can be harmful to your business," Stallings says. "You are still taking steps forward. You are just doing it strategically in order to achieve your objectives in a reliable manner."

What Can Happen Without a Sound Social Media Policy?

The ever-present use of social media falls subject to guidelines and requirements that dictate how financial institutions communicate in business, from disclosures to advertising. The difference being it is much more difficult to monitor and manage activities on the internet that are often beyond your purview. **You cannot simply establish a policy that states loan officers aren't allowed to post anything on social media.** Not only would this alienate your employees, but it would impair business prospecting and communication. The truth is that there are many advantages to loan officers using the power of social media to generate more leads. If done right, and carefully from a compliance standpoint, it leads to more customers. You want your loan officers being as active as possible. You just want them to do it responsibly. At the same time, you don't want them to feel as if their personal life is being invaded. The goal is to empower the 20 to 30 percent of loan officers who are most active on their social networks, while also encouraging less-active users to get more out of social media marketing. The more that social media is used on a company level, as

Social Media Compliance Policy Checklist

- ✓ Perform Social Media Risk Assessment
- ✓ Identify Most Active Employees on Social Media
- ✓ Identify Potential Problems and Violations
- ✓ Define Social Media Policy
- ✓ Appoint/Hire Compliance Manager or Management Team
- ✓ Implement Employee Social Media Training
- ✓ Develop a Violation Response Protocol
- ✓ Implement a Plan to Monitor Social Media Activities
- ✓ Develop Schedule for Periodic Audits and Reviews
- ✓ Develop a Reporting System
- ✓ Stay on Top of Regulations and Refine Compliance Policy Periodically

well as on the individual employee level, the better it is for business. With a sound social media policy, the compliance, monitoring and reviewing processes are there to protect both your staff and the institution.

Social media is defined as any online activity that sparks public or private interaction. This excludes texts and emails (which loan officers also need to be mindful of), but includes just about everything else from Facebook, Instagram, Twitter and LinkedIn, to Google and Zillow. Blogs are also a major concern because they include a lot of content that needs to be compliant. All social media platforms should require an internal approval process.

Comergence has completed hundreds of social media audits for their lender clients and frequently see violations involving the Federal Trade Commission Act (FTC Act) with deceptive advertising practices and/or failing to properly disclose qualifying information. Other violations include the Real Estate Settlement Procedures Act (RESPA) by inadvertently endorsing the services of a third party and the Truth-in-Lending Act (TILA),
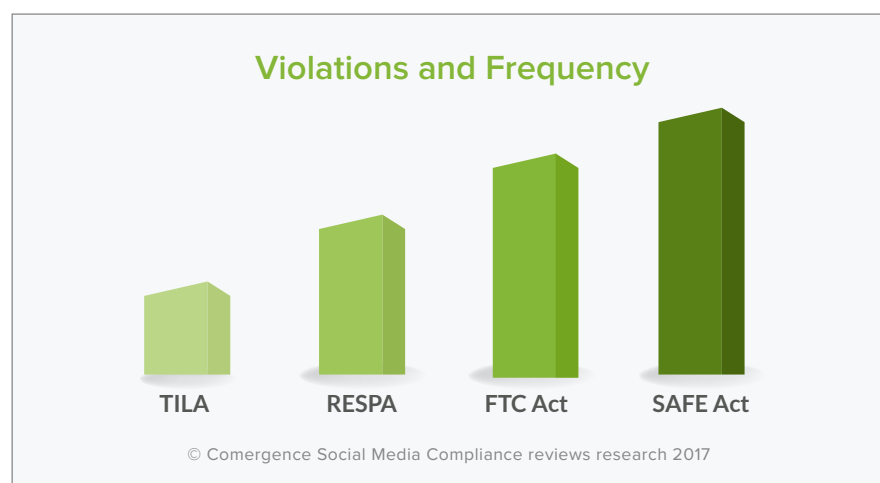
typically by improperly or failing to disclose APR and/or other fees while communicating via social media. Also common, and likely not surprising, is the failure to provide his/her NMLS ID. These numbers are staggering and serve to illustrate why you need a social media compliance policy, along with regular auditing and monitoring of employee activity.

Another concern is reputational damage. You want your financial institution to maintain good standing in the eyes of consumers, regulatory agencies, business partners and other vendors. Careless social media activity or security breaches, such as a loan officer's account being hacked, can severely damage your company's overall reputation. It isn't easy to gain back trust in the court of public opinion, especially in today's competitive landscape.

Establishing a Social Media Compliance Policy

Some institutions make the mistake of letting their corporate systems dictate their social media compliance policy. That is not the best approach. Ideally, you'll want to develop and refine your social media compliance policy to cover every base, and then find or create a monitoring, auditing and reporting system that works to support your policies and procedures. The policy should dictate the systems; not the other way around.

Though it is highly recommended that the FFIEC policies be followed by all financial institutions, not every social media compliance policy will be the same. The larger the company, the more stringent you'll need to be. You have more employees, more customers and, frankly,

Violations and Frequency

TILA   RESPA   FTC Act   SAFE Act

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more to lose. The more you can automate your compliance systems, the better. "Technology has changed the way people communicate through social media," adds Stallings, "and technology is changing the way employee activity can be monitored and audited. With automated monitoring, you can have greater confidence in your ability to manage your organization's social media risk."

FFIEC Program Guidelines

There are seven key components recommended by the FFIEC for inclusion in your social media risk management program:

1 **POLICIES AND PROCEDURES**
Having clearly defined social media compliance policies and violation response procedures in place.

2 **GOVERNANCE STRUCTURE**
Identifying individuals who will be responsible for implementing and overseeing the policies and procedures.

3 **THIRD-PARTY RELATIONSHIPS**
Developing a sound process for selecting and managing social media third-party relationships.

4 **TRAINING**
Implementing an employee training program that teaches loan officers what they can and can't do on work-related social media.

5 **OVERSIGHT AND MONITORING**
Maintaining continuous monitoring of employee work-related social media activity.

6 **AUDITS AND REVIEWS**
Performing periodic audits and reviews to help ensure constant compliance.

7 **REPORTING**
Providing a detailed reporting system that consistently disseminates information to upper level management.