

The Financial Advisor's Guide to Social Media: **Regulations, Strategy, and Technology**



The U.S. Securities and Exchange Commission (SEC) and Financial Industry Regulatory Authority (FINRA) recognize social media's growing role in firms' marketing and communications strategies, and have provided guidance on how to extend their compliance programs to this dynamic channel.

This guide contains practical steps that will help you develop a social media strategy and policy that meets these social media recordkeeping and supervision regulatory requirements, while still gaining maximum business value from your social efforts.

With smart compliance practices you can be prepared to present your social media records, as well as evidence of your supervisory procedures, in the event of a regulatory request or exam. This guide also provides insight on practices that will help you become proactive and diligent with supervision and ready to respond to discovery events like audits, examinations and potential litigation.



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The Archiving Platform from Smarsh is a leading, cloud-based, comprehensive archiving platform supporting a broad range of content types, including email, instant and text messages, web, video and social media. Core features include immutable retention of all archived content in an indexed and search-ready state, policies, cases and admin/reporting functions. Core features can be extended and enhanced with specialized workflow add-on modules for message supervision/review, discovery, and personal access to archived email from any device, including mobile.

ABOUT SMARSH

Smarsh delivers cloud-based comprehensive archiving solutions for the information-driven enterprise. Its centralized platform provides a unified compliance and e-discovery workflow across the entire range of digital communications, including email, public and enterprise social media, websites, instant messaging and mobile messaging. Founded in 2001, Smarsh helps more than 20,000 organizations meet regulatory compliance, e-discovery and record retention requirements. The company is headquartered in Portland, Ore. with offices in New York, Atlanta, Boston, Los Angeles and London.

Social media has progressed from being a way to keep in touch with friends and family to a valuable extension of a company's profile, keeping your business—and its services—top of mind with potential and existing customers. With consumers using social media as a resource guide and “first-touch” experience, it's increasingly important to make sure your company is positioned as an industry thought leader—while ensuring your strategies and policies meet the requirements of financial regulators.

So just how do you play within the boundaries, while staying engaged and informative?

To build a cohesive and robust social media presence, you must first understand how to incorporate compliance into your strategy. Compliance is no longer optional; it's an industry requirement that proactively provides protection from risk during audits, litigation, and internal corporate investigations. Including compliance requirements in your setup keeps your social media platforms secure and effective. However, if your presence is already established, there are technology solutions available to help you implement and maintain policy-driven compliance, ensuring proper standards are met moving forward.

Continue reading to learn:

- ✓ Key social media rules and regulations enforced by the Financial Industry Regulatory Authority (FINRA), US Securities and Exchange Commission (SEC), Financial Conduct Authority (FCA, United Kingdom), and Investment Industry Regulatory Organization of Canada (IIROC, Canada).
- ✓ Effective strategies for developing a successful social media presence that also meets compliance obligations across all platforms.
- ✓ Considerations when creating social media personas and communications.
- ✓ The value of each social media platform, including messaging, video, and business/professional networks.

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Social Media Regulations for US, UK, and Canada

1

FINRA Social Media Guidance



FINRA Regulatory Notice 10-06: Guidance on Blogs and Social Networking Web Sites

FINRA Regulatory Notice 10-06 (Jan. 2010) goes into detail on how social media communication affects recordkeeping, suitability and supervision requirements, and works to provide definition for elements unique to the medium.

The notice addresses five key guidance areas: recordkeeping responsibilities, suitability responsibilities, types of interactive electronic forums, supervision of social media sites, and third-party posts.

★ KEY POINTS TO KNOW ABOUT RULE 10-06:

- ✓ **Recordkeeping Responsibilities.** Every firm that wants to use social media must first ensure that it can retain records of those communications as required by Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934 and FINRA Rule 3110. The content of the communication is determinative as to whether the communication is a business record, and thus whether firms must retain those records.
- ✓ **Suitability Responsibilities.** Communications that recommend specific investment products often present more challenges for a compliance program, and may trigger FINRA's suitability rule or other requirements under the federal securities laws (and create potential liability for the firm or its representatives). These types of communication often need to include additional disclosure to provide customers with sound information for evaluating the facts about a product.

Since social media sites often have functions that make content widely available or limit access to fewer people, broker-dealers need to determine that a recommendation is suitable for every investor that receives it. Firms need to adopt policies and procedures to address communications that recommend specific investment products.



Whether a social media communication is considered a “recommendation” depends on the facts and circumstances of the communication. Firms need to consult FINRA’s Notices to Members 01-23 (Online Suitability) for additional guidance concerning when an online or social media communication falls within the definition of a recommendation under FINRA Rule 2111 (formerly NASD Rule 2310).

- ✓ **Types of Electronic Forums.** FINRA defines the difference between social media sites and blogs that are considered “static” or “dynamic,” and therefore require different approval and supervision rules. For example, profile information on Facebook, Twitter or LinkedIn is generally static – changing infrequently – and requires pre-approval from a broker-dealer. Other static social media content must be moderated or pre-approved by a principal. On the other hand, interactive content – real-time communication – does not require mandatory pre-approval. However, firms must supervise published interactive content in a manner reasonably designed to ensure they do not violate communications rules.
- ✓ **Supervision of Social Media Sites.** FINRA says firms must adopt policies and procedures designed to ensure their representatives who use social media are appropriately supervised and trained. Firms also need to have a policy that prohibits employees from using a social media platform if it isn’t supervised by the firm. Also, since most social media sites give people several ways to communicate (status updates, messaging, etc.), firms must address each type and provide guidance about what can and can’t be communicated.

Firms must adopt policies and procedures designed to ensure their representatives who use social media are appropriately supervised and trained.

- ✓ **Third-Party Posts.** FINRA clarifies that customer or third-party content posted on a firm’s social media site is generally not considered part of a firm’s “communication with the public” under Rule 2210. However, under certain circumstances, the third-party content can become attributable to the firm, especially if the firm is involved in the preparation of the content and explicitly or implicitly endorses or approves the content. FINRA doesn’t mandate monitoring of third-party posts, but offers best practices for managing responses to third-party content.



FINRA Regulatory Notice 11-39:

Social Media, Websites and the Use of Personal Devices for Business Communications

FINRA Regulatory Notice 10-06 (Jan. 2010) goes into detail on how social media communication affects recordkeeping, suitability and supervision requirements, and works to provide definition for elements unique to the medium.

The notice addresses five key guidance areas: recordkeeping responsibilities, suitability responsibilities, types of interactive electronic forums, supervision of social media sites, and third-party posts.

★ Key points to know about Notice 11-39:

- ✓ **Recordkeeping.** FINRA reminds member firms that it's the content of a message that determines whether a particular communication is related to the business of the firm, and therefore should be retained. Social media communications can therefore fall under recordkeeping requirements, regardless of the type of device or technology used to transmit the communication.
- ✓ **Supervision.** FINRA clarifies that the supervision requirements for static and interactive content are different (however, recordkeeping requirements are the same). For instance, static advertising must be approved by the broker-dealer prior to posting, while interactive content does not usually need pre-approval—but both forms of communication must be supervised. It's also important to note that FINRA says interactive content may also *become* static content. For example, a comment that is taken and posted elsewhere (sourced from interactive content) can become static content, constituting it an "advertisement," which has additional regulatory ramifications.
- ✓ **Third-Party Content.** Firms must not link to any third-party social media site or website that the firm thinks might contain false or misleading information. Firms are responsible for links to third-party sites in specific situations, such as a direct link to a website; content "adoption" related to endorsements; and when a firm participates in the development of third-party content. On the other hand, firms usually aren't responsible for third-party content if the firm hasn't help create it, or doesn't know a third-party site has false or misleading information on it.
- ✓ **Personal vs. Business Use of Social Media.** Firms need to separate business and personal communications to ensure business communications are readily retrievable, and should address the retention, retrieval and supervision of these business messages via policy. Firms must also train and educate associated parties on the difference between business and non-business communications and the measures the firm takes to ensure business communications are "retained, retrievable and supervised."
- ✓ **Personal vs. Business Devices.** Firms are required to retain, retrieve and supervise business communications regardless of whether they are conducted from a work-issued device or a personal device, including smartphones and tablets.

2 SEC Social Media Guidance



Investment Adviser Use of Social Media Alert

In Jan. 2012, the SEC's Office of Compliance Inspections and Examinations issued a National Examination Risk Alert, titled *Investment Adviser Use of Social Media*. The alert outlines factors that require consideration when a firm and its advisors use social media.

★ Key points from the SEC risk alert include:

- ✓ **The SEC's definition of social media:** as "an umbrella term that encompasses various activities that integrate technology, social interaction and content creation. Social media may use many technologies, including but not limited to blogs, microblogs, wikis, photos and video sharing, podcasts, social networking, and virtual worlds."

Based on the SEC's definition, firms may want to re-assess the activities they've identified as social media, because it's easy to overlook some forms of social media such as status updates, discussion boards, direct messaging or chat rooms.

- ✓ **The 13 factors to be considered by advisors in their social media compliance programs:** usage guidelines, content standards, monitoring, frequency of monitoring, approval of content, firm resources, criteria for approving participation, training, certification, functionality, personal/professional sites, information security, and guidelines for official company social media accounts.
- ✓ **Recordkeeping responsibilities for advisors who use social media in a business capacity.** Firms must retain records of social media communications if they are used for business purposes.

In March 2014, the SEC's Division of Investment Management then released guidance describing how investment advisors can feature public commentary about themselves on independent, third-party websites without violating the Investment Advisers Act's testimonial prohibition.

KEY POINTS FROM THIS SEC GUIDANCE INCLUDE:

- ✓ **When comments about an advisor's firm appear on independent, third-party social media sites, the firm may promote those comments under specific circumstances.** In some scenarios, SEC-registered advisors can even steer prospects to comments and testimonials—provided the advisor:
 - Doesn't encourage clients to post social media or web comments.
 - Doesn't write the comments under an alias to hide the reviewer's true identity.
 - Publishes the entire body of comments—without filtering negative comments.

Also, if you choose to include a link or content from a third-party, independent site on your social media pages, consider archiving the third-party sites. This isn't mandated by the SEC, but it may help your firm substantiate the validity of linking to this type of content.



United Kingdom: FCA Social Media Guidance



GC14/6 Social media and customer communications

In the UK, the Financial Conduct Authority (FCA) released a guidance consultation paper (Aug. 2014) outlining its supervisory approach to financial promotions in social media.

The paper is intended to help firms understand how they can use social media and meet the FCA's financial promotion and recordkeeping rules.

The guidance applies to a wide range of content types, because the FCA defines social media as websites and applications that allow users to create and share content or participate in social networking. Blogs, microblogs (Twitter), social networks (Facebook, LinkedIn), forums, and image and video-sharing platforms including YouTube, Instagram and Pinterest all fall into this category.

★ Key points to know about the FCA social media guidance:

- ✓ **Follow the basic rule: Be fair, clear and not misleading.** To ensure consumers are given the basic level of fair and balanced information at their first interaction with a firm, the FCA reminds its members that certain industry sectors have specific communications requirements. However, there is an over-arching principle that any communication (including social media) should be fair, clear, and not misleading, under the Principles for Business in the UK.
- ✓ **The definition of a “financial promotion” is broad.** Under the FCA definition, any form of communication, including social media, has the potential to be considered a financial promotion—if it includes an invitation or incentive to engage in financial activity. The FCA provides visual examples in the consultation document, showing what does and doesn't qualify as a financial promotion. Also, firms promoting investment products on social media must make it clear when a communication is a promotion. One generally accepted way to do this is to use #ad when posting to character-limited media, including Twitter.



- ✓ **Be thoughtful when talking about complex financial product or service features on social media.** Firms should make consumers aware of the potential benefits and risks of a financial product. As a possible solution for dealing with the character limits on social media, it may be possible for firms with complex products to “signpost a product or service with a link to more comprehensive information, provided that the promotion remains compliant in itself.” Or, the firm may prefer to use “image advertising” (similar to brand advertising) where the ad only consists of the name of the firm, a logo or other image associated with the firm, a contact point, and a reference to the regulated activities provided by the firm or to its fees and commissions.

For promotion of some products or services, firms must also include risk warnings or other statements in social media posts to meet compliance requirements. The FCA provides examples of potential ways to do this, even with character limitations, such as inserting images or infographics into tweets to display the required information.

- ✓ **Consider each communication individually.** Each tweet, Facebook post, web page or other social communication needs to be considered individually, and must comply with the relevant rules. For instance, during a campaign, each individual communication must include clear and visible relevant risk warnings, i.e. “The value of your investment can go up or down so you may get back less than your initial investment.”

- ✓ **Firms are responsible for their own communication, but not for messages included in a social media share or forward of their communication.** If a consumer re-tweets a firm’s tweet, responsibility lies with the communicator, not the firm. However, any violations of rules in the firm’s original communication are still the responsibility of the firm. Also, if a firm re-tweets a customer’s tweet, the firm becomes responsible as the communicator, even though it didn’t generate the original content.

Firms are obligated to have a system in place to keep adequate records of significant digital communications. The records help protect consumers, and allows firms to deal more effectively with any subsequent claims or complaints. Firms’ should not rely on the social media channels themselves to archive communications.



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Canada: IIROC Social Media Guidance and Rules



IIROC Regulatory Notice 11-0349 and IIROC Rule 29.7

IIROC Regulatory Notice 11-0349 (Dec. 2011) from the Investment Industry Regulatory Organization of Canada (IIROC) addresses recordkeeping and supervision requirements of communication on social media websites. In addition, all methods used to communicate, including social media, blogs and chat rooms, are subject to IIROC Dealer Member Rules.

IIROC Rule 29.7 is the recordkeeping requirement, which requires firms to archive, monitor, and review electronic advertisements, sales literature and correspondence for clients, including communication on social media sites such as Facebook and Twitter.

IIROC 29.7 and Regulatory Notice 11-0349 require that firms establish written supervisory procedures, and training and monitoring systems for social media communications.

★ Key points to know about IIROC social media guidance:

✓ **Recordkeeping Responsibilities.** Firms have to keep records (archive) of their business social media activities. IIROC says the device used doesn't matter; it's the communication that matters and is subject to regulatory rules. The content posted on social media sites including Facebook, Twitter and LinkedIn, plus blogs and chat rooms, is subject to applicable legislative and regulatory requirements.

✓ **Suitability and Recommendations Requirements.** Dealer Members have to be mindful about their regulatory obligations that may be triggered by social media communications. Content must take the suitability requirements into account, which are stipulated in IIROC Dealer Member Rule 1300.

At the most basic level, Dealer Members must implement procedures to monitor or prohibit electronic communications that must follow and comply with IIROC's suitability rules.

✓ **Supervisory Responsibilities.** Dealer Members must establish policies and procedures that allow them to comply with their supervisory obligations, and protect clients from misleading or false statements on social media.

Static social media content, including a profile, background or wall information on Facebook, LinkedIn and Twitter often must be pre-approved by the Dealer Member. Interactive content includes real-time discussion, and must be supervised to ensure compliance, even though this type of content doesn't require pre-approval.

✓ **Third-Party Communications and Research Procedures.** IIROC states third-party posts may be attributed to or considered an endorsement by the Dealer Member (firm), and trigger regulatory or legislative requirements, depending on the circumstances. As a result, many firms prohibit their representatives from "liking", sharing or re-tweeting a third-party post.

★ Putting it All Together

Once you become familiar with your regulatory recordkeeping and supervision obligations and know what you can share, social media is an incredibly effective way to engage with your customers and thousands of other prospects online. Knowing the social media compliance “ropes” also allows you to concentrate on developing your own unique content and style that focuses on your target demographic, so you can reach your business goals faster.

By using social media and following the compliance rules, you’ll not only set your firm apart from your competitors—you’ll be more successful in attracting the clients, employees and referrals.

Smarsh recommends the following best practices when adopting and governing social media:

1 Implement the most up-to-date regulatory guidance into your firm’s social media policies and practices. Have a detailed, reasonable social media policy in place, and review all applicable guidance notices to ensure your firm’s policy reflects them. Your policy is an active document, signed by your firm’s representatives, that outlines:

- Exactly how (and why) your representatives may use social media.
- Which social media platforms and accounts can be used for business purposes.
- Who is authorized to use your firm’s social media account(s).
- How social media activities are monitored.
- How your social media policy is enforced.

2 Train employees on social media policies. Your advisors need to know your firm’s official social media policy, and receive training on how to use social media in accordance with your rules. Ongoing employee training is a must, since social media platforms and practices change rapidly and regulatory guidelines evolve quickly. Key training topics include:

- Personal vs. business social media
- Which social media messages need to be approved before posting
- Which messages need to be reviewed after posting
- How to manage third-party social media content

3 Supervise and archive your firm’s social media activities. An archiving solution will allow your firm to capture official records of posts, and search, supervise, and produce those records in their original format for production when necessary, such as during an audit, examination or e-discovery event. You’ll want to archive and monitor content from your firm’s approved accounts on all of your different social media platforms, and accommodate new platforms as needed.

Your compliance team also needs to demonstrate they’ve reviewed your firm’s social media posts, documenting who has evaluated and approved each post. Make sure you can track the lifecycle of each social media message, including the exact date and time it was created (or deleted), and the precise actions taken by the firm if a message is escalated during review. An automated audit trail can help substantiate and document your social media review actions taken, and provide read-only-format evidence that supervisors enforce policies.



Strategy and **Policy**

1 Determine Your Social Media Strategy



A social media strategy is the foundation for your social media activities, because it aligns your day-to-day social media networking tasks with objectives that support your overall business goals.

The strategy doesn't need to be complicated. Whether this is your first time developing a social media strategy, or you already have a plan in place, start simple.

The following questions will help you develop a solid strategy document that will empower you to confidently engage prospective and current clients on social media.

Who is your audience?

Once you've outlined your social media objectives, move on to defining your specific target audience. While you may want to court individual clients (business-to-consumer) or institutions and organizations (business-to-business), those are broad definitions that won't serve your business effectively. If possible, narrow your audience to clarify by gender, generation, socio-economic group, or by business type, size, or location. These details will guide you as you create content to share, reach out to influencers, identify relevant social networks, and increase your followers and connections.

*The FASTEST-GROWING
DEMOGRAPHIC
on Twitter IS THE
55 to 64 YEAR
AGE BRACKET¹*

WHY DO YOU WANT TO USE SOCIAL MEDIA?

Social media is an expansive arena, so start with one or two achievable objectives and expand as you gain confidence. You may initially want to use social media for:

- ✓ Competitive intelligence
- ✓ Lead generation
- ✓ Customer service
- ✓ Brand awareness and thought leadership
- ✓ Media relations
- ✓ Recruiting

What are the right channels for your business?

Your objectives and audience will help you determine which social media platforms are best suited to your business goals. While some networks are great for broadcasting your message to millions, they might not be the best for your objectives. Align your social networks with your business goals to deliver the desired results.

The most popular platforms to consider in your social media strategy include:

LinkedIn

LinkedIn has a firm grip on the business professional social network market. In 2013, LinkedIn reported its members in the U.S. have an average annual household income of \$83,000 per year, and twice the purchasing power of the average U.S. consumer. Its growing user base tends to be affluent, educated, and influential.²

BUSINESS VALUE:

LinkedIn can help you brand your business, expand your professional network, connect with current clients, increase referrals and introductions to potential clients, communicate with new client leads, and prospect for new business relationships.

Facebook

67% of online users in the U.S are active on Facebook. Among U.S. Internet users, 73% with incomes above \$75,000 are on Facebook. Facebook is also the most popular social media app on smartphones, and accounts for 66% of total social media sharing on iPhones.³

BUSINESS VALUE:

Facebook can help you build your brand identity, cultivate relationships with specific prospective clients once they are identified, and enhance client relationships.

\$83,000
is the **AVERAGE ANNUAL**
HOUSEHOLD INCOME
of LINKEDIN MEMBERS²

Twitter

City dwellers are significantly more likely than rural residents to be on Twitter. 16% of Internet users were active on Twitter in 2013, with men slightly more likely to use Twitter than women.⁴ The fastest-growing demographic on Twitter is the 55–64 year age bracket.¹

BUSINESS VALUE:

Twitter can help you get the word out when you are hosting a webinar, speaking at an event, or attending an industry conference—and lets you share those moments immediately with the world. Advisors often share commentary on current news or encourage their audiences to engage in an event. Twitter is one of the fastest-growing networks for business, and is often used as a prospecting tool, too.

YouTube

60% of boomers and 40% of seniors say watching online video on sites like YouTube has become an important part of their day, and 75% of boomers and 68% of seniors report taking some sort of action after viewing a video.⁵

BUSINESS VALUE:

YouTube is a highly effective medium for financial advisors that can help you easily publish video content to reach a large audience.

75% of boomers | **68%** of seniors
REPORT TAKING SOME SORT
OF ACTION AFTER viewing
a video⁵

Instagram

Though it's owned by Facebook, Instagram is a mobile app with distinct demographics. The photo and video-sharing social media network has 200 million users, with an average of 60 million photos shared daily. 43% of the Top 100 brands post daily on Instagram.⁶

BUSINESS VALUE:

Instagram can help you build your brand and it's great to use if you're hosting an event or attending one. Advisors often take photos of themselves with colleagues or peers at an event and include the event hashtag associated with it to gain additional visibility and credibility as a thought leader.

Google+

Now that brands can email their followers on Google+ (something that Facebook doesn't allow them to do), it creates a whole new opportunity for marketers.⁵ Google+ looks here to stay in the years ahead, with the opportunity to create impact there and waiting.

BUSINESS VALUE:

Google+ can help you establish authorship of your content, foster professional connections and share content with other Google+ users. You can also create groups called 'Communities' that allow you to reach specific audiences for different types of content. Note: You can't have a YouTube page without having a Google+ account—Google owns YouTube.

Who will create and curate content?

Content creation is one of the most important marketing tactics to help your business get found online. It includes original content that you share online through website updates, blogging, photography, videos, online commentary, and of course, social media updates. Content curation, on the other hand, is the process of sorting through content that others have developed, and presenting it to your clients in a meaningful and organized way around a specific theme.



The creation of original content at all times is an unrealistic goal. Many social media experts suggest a ratio of 30–40% original content when posting on social media, along with 60–70% comprised of content sharing and interaction. In either scenario, your business is responsible (from a compliance and regulatory standpoint) for original content *and* curated content that you link to.

How will you organize your efforts?

Here are some additional questions to consider when structuring your content plan:

Who will manage your social media effort?

Will you use internal or external resources to help you create and curate content? In either scenario, do these resources have the necessary expertise—and financial services marketplace knowledge—to illustrate or reinforce your voice and expertise? Also, keep in mind that content may need to be pre-approved by your compliance team before it can be posted publicly.

What knowledge will you share?

Social media gives you a prime opportunity to define yourself as an expert in your field. Sharing your know-how can put you in a good position to be the go-to person for financial advice and services. Highlight your specialty areas, if possible.

What compliance guidelines must be considered?

There are strict regulatory guidelines associated with social media participation for advisors. Before broadcasting anything on social media, ensure you're fully aware of—and operating in accordance with—the rules and regulations.

When will you post?

A quarterly or annual social media editorial calendar will help you get a bird's-eye view of monthly or weekly themes and provide context for content development.

Who will manage social compliance training?

Anyone who uses social media on behalf of your business must have comprehensive training so they understand what can and can't be said on social media, according to compliance, corporate or legal guidelines. Who will train the individuals who create content for your business? Make sure the trainer can equip content creators, curators (and content approvers) with the special knowledge, skills and best practices they need to use social media effectively, while protecting your brand.

What's your call to action?

What do you want your audience to do as a result of engaging with your business on social media? In some cases, you may simply want to educate or interact with your clients. However, as you consider sharing your proprietary content, keep profit in mind. How will social media engagement affect the bottom line of your business? What can you measure to chart progress?



How will you interact?

In financial services, people buy from people. Have this in mind as you consider your social media plans. Will your business voice be playful or professional, or a combination of the two? Your choice of platform may help you make this decision. Facebook campaigns are often humorous, visual, and more casual in nature, while LinkedIn posts are centered on business or professional development topics. Pick an interaction style that best suits the personality and culture of your business and clients.



How will you adjust course?

Preparation for the unexpected is vital. Build flexibility into your social media strategy to help you shift focus if the economy takes a turn or if an extraordinary world event happens. Social media is social, so keep the human element of interaction at the forefront of your communications to build authenticity and credibility. For instance, you wouldn't want a stream of your automated business-centered posts to continue if local families or businesses are in the midst of recovering from a natural disaster.

And Finally...

Once you have your strategy defined, share it with others in your firm to help them gain confidence when engaging clients and prospects. You'll also want to review your social media strategy frequently to make adjustments and chart progress toward achieving your related business goals.

Also, don't forget to document your social media success. Social media is just one segment of your overall marketing outreach strategy, so it should fit into your broader marketing plan. In the past, many advisors simply focused on their number of followers or connections to chart success. Today, your focus should be on the *quality* of leads and client relationships you generate through social media connections.

Start with the finish line in mind when you create your social media strategy. Give yourself all the advantages of social media to create great conversations that lead to loyal clients.

2 Develop Your Social Media Policy



The follow-up to determining your social media strategy is to develop clear documentation that outlines the rules of social media interaction within your firm, and how your social media interactions will be archived, supervised and enforced—so you're prepared to meet social media rules and regulations.

A sound social media policy will take its lead from your social media strategy. Once you've mapped out your intentions around social media use (the strategy), developing a policy should be a fairly organic process.

Collaborate with other departments while building your social media policy, especially your compliance team. Human resources can also lend expertise on policy development—while marketing, public relations, and senior staff may also offer valuable and critical contributions.

QUESTIONS TO ASK WHEN DEVELOPING YOUR POLICY



Who's doing the talking?

Your social media policy should identify who is authorized to represent your business in a social media capacity. Are certain individuals assigned to specific platforms or topics of conversation? Is someone approving posts before they're shared publicly? A social media policy should clearly state every detail, from territories and parameters to password controls and security measures. Also, defining the particulars of your social media training program directly within the policy is a great way to ensure a consistent business voice and action across the social media realm.



Who's doing the listening?

The flip side of engagement is observation. Pay attention to the digital channels your firm uses.

Appoint someone to monitor the outbound activity of your business and the external online chatter about your firm. Valuable feedback can help you adjust and redirect your social media path when needed.

- ✓ Many people view social media as a one-way communication vehicle—a broadcast and marketing medium meant to sell products, share news, and post opinions and ideas. They miss out on the opportunities to research consumer trends, investigate competitors, and actively engage with clients and prospects through listening. So many thoughts, opinions, and dialogues are transmitted through social media channels. If you're not being a cyber-sleuth, you're leaving one of the most valuable pieces of social networking uncovered. Do some digging, and it will help you form your own communication and engage people through social media.
- ✓ The Forbes article "Who Is Your Chief Listening Officer?" points to firms that use social media listening as a brand differentiator. Though these initiatives tend to source from multi-national brands with vast resources in place to safeguard their brands and brand experiences, they still provide a valuable model for advisors. Pay attention to the two-way communication in the social media space, as it provides valuable information and feedback. It's worth dedicating time to this effort if you can.



SET UP YOUR LISTENING CHANNEL

To develop a listening channel, here are some tools to get you started. Create a separate email address (ex: listen@financialfirmabc.com) to help you sort through all of the email updates you'll receive.

- ✓ Use **GOOGLE ALERTS** to stay on top of news in your area, specific clients' activities, and prospect news. Track your firm name and the names of competitors.
- ✓ **NEWSLE** is a service that helps you track when your contacts are mentioned in newsletters, articles, white papers, etc.
- ✓ **TWILERT** is a Google Alerts version geared for Twitter.
- ✓ **LINKEDIN SIGNAL** allows you to search the updates of everyone in your network using specific phrases or words.
- ✓ **MENTION** enables users to monitor personal and professional brands, offering a Google-like alert for most every online space.
- ✓ **TWITTER** Social profile settings provide a simple way for you to be notified when someone tweets your name or firm name. Check the settings area under *mobile* and *email*. Facebook has a similar function.

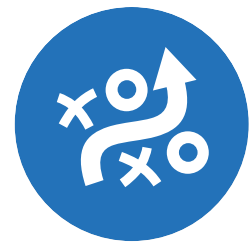


Where is the conversation happening?

A social media policy is the ideal place to get specific about the digital platforms your firm has elected to engage in, and should even state which platforms are prohibited. How often will social activity occur and where will the activity happen? Pinpoint what will be said and to whom. A content plan and approval process, based on the goals you defined in your social media strategy plan, is a good place to start.

What are the rules of play?

Detail every requirement regarding compliance and archiving. Pull in human resources to clearly specify the consequences of non-compliance.



How does personal life relate to professional life?

If you're using social media in a personal capacity, your firm's social media policy should detail rules and regulations regarding conduct on professional profiles for LinkedIn and Twitter. Refer to your brand guidelines to write policies that address how your social media authors should refer to your firm, job titles, and functions or responsibilities. Provide direction on professional profile pictures and advise if there are review or approval requirements. Because of the depth and breadth of this undertaking, creating a separate brand guide dedicated to the issue of personal conduct on social media is beneficial.

Note: Simple social media policy templates are available, but generic forms are not legal documents. If you consider using a template, consult your attorney for guidance about state and federal laws governing social media activity. Also confirm your social media activities are in alignment with your overall business and compliance policies.



What happens when it all goes wrong?

Despite all the best planning, sometimes things go awry. Human beings ultimately drive social media activity. Mistakes, often inadvertent, do happen. Sometimes the wrong sentiment is expressed, human emotion creeps into an exchange, or erroneous information is shared. Don't forget to include a plan for the worst-case scenario. Make sure your policy has every base covered.



Who needs to read, review and sign the social media policy?

Have a system in place to distribute your firm's social media policy, with specific actions outlined for people who need to sign and return the policy to your HR, legal, or compliance team.



What happens when an employee who uses social media leaves the firm?

Have procedures in place that outline steps to take when an employee who uses one of your firm's business social media accounts leaves or is terminated. Will the account be closed down? Will the account remain open, but a new password and user name generated? Be as specific as possible.



Make social media business accounts available for archiving, review and supervision.

If you're an advisor who uses social media, you must archive and supervise your social media communications, and those of your firm, in accordance with compliance regulations.

A Final Note

When you've finished putting together your social media policy, you'll have documentation that allows your firm to confidently participate in online marketing outreach. Using precise language based on your social media strategy and procedure expectations will help you operate within the boundaries of compliance and regulation, too.



Also, remember to review your social media policy over time, to keep up with the needs of your business, changing technology, and new regulations.



Choosing a Social Media **Archiving Solution**

1 Can Technology Help You with Social Media Compliance?



Social media is a great tool that can help any firm grow and stay in touch with clients. Now that you've [created your social media strategy](#) and developed policies to support social use at your firm, it's time to start thinking about how to enforce those policies.

Without the right technology to help enforce your firm's social media policies, it's almost impossible keep up with the number of social media posts, tweets, and conversations that take place every day. Fortunately, there are some great technology solutions available now that can help you reach your business goals while maintaining compliance.



The U.S. Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA), Financial Conduct Authority (FCA) in the UK, and Investment Industry Regulatory Organization of Canada (IIROC) know social media has a growing role in marketing and communication strategies. They also now provide compliance guidance specific to social media. For more information about regulations that affect your business, see *The Financial Advisor's Guide to Social Media Regulations for the US, UK, and Canada*.

The right social media archiving solution will:

- ✓ **Ease the burden** of monitoring business content posted to social media accounts or websites.
- ✓ **Automatically flag** potentially risky content so you don't have to waste time reviewing irrelevant communication.
- ✓ Help you **quickly take action and remediate** policy violations.
- ✓ **Enforce your firm's established social media compliance policies.** Provide an audit trail of all actions taken, including any corrective actions taken in response to posts that violate policy.
- ✓ Help you **identify trends and improve your supervision** efforts through advanced reporting tools
- ✓ **Implement retention policies** so content is stored for as long as needed.
- ✓ **Apply legal holds** to support legal investigations and other discovery events.
- ✓ Enable your marketing, human resources, IT and legal teams to **view and review your firm's social media content** when needed.

2 Intelligent Archiving



Technology should make life easier for your compliance team, and help your firm follow the regulatory rules.

Safe, secure and automated capture of social media records is the goal, but some archiving features can make the difference between a compliance team that's stressed by social media, and one that supports social media use because they have an effective way to manage and supervise the content.

An intelligent archive captures information the right way, retaining proper context for each content type, making it possible to search for social media content instantly across many different social platforms.

★ An intelligent archive includes:

Smart ingestion

- ✓ **Real-time capture.** This eliminates the possibility of your social media data being deleted. If an advisor or other employee posts an update to Facebook but later removes it, you'll see the original post, *plus* the activity log that shows who deleted it.
- ✓ **Stored the right way.** SEC and FINRA require content to be stored in unaltered formats on tamper-proof media—specifically WORM format, or 'Write once, read many' optical storage. Advisors and firms need an archiving solution that's purpose-built for strict regulatory requirements, by a vendor with expert knowledge of the financial services industry and its reporting obligations.
- ✓ **Dynamic archiving of social media content.** Treating social media archiving like email archiving won't work well. Social media posts include more than static words. Social media content is constantly updated, changed, or deleted, and can include pictures, links, and so on. All of these have to be captured in an archive to have a complete record of communication. Be cautious of solutions that 'flatten' social media and strip it of its original features and unique context, making it hard for a compliance team to know what they're looking at during content review. For more information about the perils of flattening social media, see 'Archiving New Content Types Requires Outside the Inbox Thinking.'

Fast, efficient search



- ✓ **Fast.** Your firm should be able to run searches on their own and get the results back within seconds, without the need to get help from IT or the archiving vendor.
- ✓ **Universal.** You don't need to have multiple archiving tools for different content types (one for email, one for social, etc.). A better option is to go with a single comprehensive archiving solution that archives all of your content types. This way, you can search quickly across people, keywords, and content types at the same time to return universal search results, with no stone left unturned.

The best solution
IS ONE THAT ARCHIVES
ALL OF YOUR
CONTENT TYPES
WITHIN THE *same tool*

- ✓ **Granular.** Your searches will be most effective if you can narrow them down. Look for the ability to search by person, group, date range, keywords and more. Also, consider a solution that will allow you to apply exclusions, add proximity search and a variety of other criteria to get to the exact information needed.



YOUR FIRM CAN BECOME
ultra-efficient AND
MORE DILIGENT
WITH *Smart*
POLICY MANAGEMENT

Automation

- ✓ **Policy management.** Smart policies that scan content from your firm's social media accounts for specific information as the data enters the archive can help a compliance team become ultra-efficient and more diligent with social media supervision. Policies can be set up to help you filter out 'white noise' – aka the majority of social media content that doesn't need to be reviewed. With fewer irrelevant messages to review, greater attention can be given to the truly risky messages in a reviewer's daily queue.
- ✓ **Preset templates.** Some archiving vendors have in-depth industry expertise and have developed lexicons within a list of preset policy templates. These templates can help you quickly implement policies, and address some of the most common supervision challenges so you can identify real risk.



3 Additional Considerations



A vendor should have deep industry knowledge, high-touch support, and help your firm during an audit or investigation. The vendor must understand the exact compliance needs of your firm, and have a history of supporting firms like yours through regulatory and e-discovery events. The solution should also provide:

- ✓ **A flexible team-based review structure.** Archiving should support the way your compliance team works, and allow you to assign specific supervision roles to individuals or groups and grant the appropriate level of access. The ability to create queues allows individuals to see the messages they're responsible for reviewing daily and their progress in the queue, so they can prioritize to get the job done.
- ✓ **Forensically sound audit trail.** An audit trail captures data on every visual inspection of a social media post in the archive. All archived social media activities must be available for production on-demand, and show a full history of social media posts, corresponding compliance reviews and remediation actions taken. Administrator activity must be logged and quantifiable, so your firm can show regulators enforcement of your firm's social media policy. This is critical in the event of litigation, regulatory exam, or an e-discovery event.

- ✓ **Comprehensive reporting.** The ability to run reports on the data in your firm's social media archive, whenever needed is invaluable. Reports help you understand where you might need to conduct further analysis for improved risk mitigation.

- ✓ **Legal holds.** The ability to quickly and easily place legal holds allows you to meet preservation requirements and show defensible practices during an e-discovery event.

- ✓ **Retention policies.** No need to store all this social data forever. Look for a tool that lets you determine how long it should retain the information before deleting it. A good vendor will have expertise in your industry and help ensure that the retention periods you set are in accordance with your industry regulations.

Social media is likely an important part of your firm's business development and client relationship building. You want technology to help you grow your business while effectively supervising and retaining social media records—without adding more complexity to your compliance team's current workload.

When you find the right social media archiving solution, it can help you overcome the toughest content supervision problems.

SHOULD YOU CHOOSE CLOUD TECHNOLOGY?

Compared to an on-premise solution with lots of software and hardware to manage, a cloud solution can have a lower cost of ownership, more predictable costs, faster deployment, and fewer disruptions in service. A cloud solution also frees up your company's IT team to work on more important projects—instead of monitoring and maintaining archiving infrastructure.

Consider a cloud service for its overall quality, service records, support, and ability to provide the specific supervision and discovery tools your firm needs. Technical considerations include:

- ✓ **IT EXPERTISE.** Does the vendor have IT staff that can manage the archiving process for your firm? Can the vendor manage all, or some of the process of implementing and maintaining the solution? Is the vendor's IT team familiar with up-to-date data security practices, so you can protect against data leaks? Does the vendor have world-class client support?
- ✓ **OVERALL COST.** How much will it cost to implement and maintain the archiving solution, on an immediate and long-term basis?
- ✓ **FLEXIBILITY.** When your firm adopts new social media platforms and technologies, will the vendor be able to archive them? Are they innovative and knowledgeable about the newest forms of digital content that may require archiving and supervision? Also, can the vendor build custom solutions for your company if an immediate solution isn't available, or integrate with one using a standardized developers API?
- ✓ **REPUTATION.** How long has the vendor been in the archiving business overall? What is their client satisfaction rate? What type and size of businesses do they serve? Does they have special technology certificates or industry distinctions and awards?
- ✓ **DATA CENTER LOCATION AND OPTIONS.** Does the vendor have multiple data centers for redundancy and disaster recovery in an emergency? Where will your data be stored? What are the specifications of the data centers? Does the vendor comply with the highest industry standards? Are their data centers physically secure, with intrusion detection and malware filtering in place?
- ✓ **BUSINESS CONTINUITY AND DISASTER RECOVERY.** Does the vendor have multiple telecommunications links for each data center? Are full, nightly backups of your data performed daily? Does the vendor have back-up generators in its data centers?
- ✓ **SCALABILITY.** Can the vendor scale their archiving infrastructure rapidly to meet your future archiving requirements?
- ✓ **SUPPORT.** Is 24/7 technical support available? Is live support available during business hours? Are there phone/email/online chat options available? How will your compliance team be supported by the vendor when there are questions?
- ✓ **UPTIME RELIABILITY.** How much system downtime have clients experienced during the past month, six months, or year? Is there a money-back guarantee offered if the cloud service is unavailable longer than a Service Level Agreement (SLA) specifies?
- ✓ **PROFESSIONAL SERVICES.** Does the vendor offer consulting services with its archiving solution? Does the vendor understand your industry and business type? Can they educate you on best practices and how to implement them? Will they help you migrate older content to the cloud archive? Can the vendor respond to your firm's future archiving needs?

★ Why Smarsh?

The Archiving Platform by Smarsh is a leading, cloud-based, comprehensive archiving platform supporting a broad range of content types, including: email, instant and text messages, web, video and social media. Core features include immutable retention of all archived content in an indexed and search-ready state, policies, cases and admin/reporting functions. Core features can be extended and enhanced with specialized workflow add-on modules for message supervision/review, discovery, and personal access to archived email from any device, including mobile ones.

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DISCLAIMER:

Please check with your company to determine its specific policies and rules before using social media. The material available in this e-book is for informational purposes only and not for the purpose of providing legal advice. Smarsh makes no guarantees on the accuracy of information provided in this document.



Smarsh delivers cloud-based comprehensive archiving solutions for the information-driven enterprise. Its centralized platform provides a unified compliance and e-discovery workflow across the entire range of digital communications, including email, public and enterprise social media, websites, instant messaging and mobile messaging. Founded in 2001, Smarsh helps more than 20,000 organizations meet regulatory compliance, e-discovery and record retention requirements. The company is headquartered in Portland, Ore. with offices in New York, Atlanta, Boston, Los Angeles and London.

