

January 10, 2012

SEC Releases Social Media Guidance for Investment Advisers

After years of avoiding the topic, on January 4, 2012, the SEC's Office of Compliance Inspections and Examinations issued a "National Examination Risk Alert" regarding "Investment Adviser Use of Social Media" (the "Alert"). Although the Staff explicitly states that the Alert is not a comprehensive summary of all compliance matters related to the use of social media, the Alert provides investment advisers with helpful guidance regarding the use of blogs and websites, including LinkedIn and Facebook.

Of note, the Alert provides a warning regarding third-party content posted on an adviser's social media web page. In particular, the Staff states that "depending on the facts and circumstances, the use of 'social plug-ins' such as the 'like' button could be a testimonial," which is prohibited under the Advisers Act. In addition, the Alert highlights the need for investment advisory firms to develop effective compliance programs that specifically apply to the use of social media by the firm and its employees. The Alert provides guidance on the issues that investment advisers should consider when drafting and implementing such policies. Finally, the Alert discusses the recordkeeping requirements associated with an investment adviser's use of social media, which should be carefully considered because of the challenges of preserving postings in the fast-moving world of social media.

The Alert, which is only seven pages, is available [here](#).