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CFPB to Focus on Use of Social Media

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This article was originally published in Venable's [All About Advertising Law Blog](#).

Social media use will soon be scrutinized as part of exams of providers of consumer financial products and services by federal and state regulators. On January 22, 2013, the Federal Financial Institutions Examination Council ("FFIEC") released a [notice and request for comment](#) on proposed guidance on the applicability of consumer protection and compliance laws, regulations, and policies to activities conducted via social media by nonbank entities supervised by the Consumer Financial Protection Bureau ("CFPB") and state regulators, as well as banks, savings associations, and credit unions regulated by other federal regulators. Comments are due before or on March 25, 2013.

The guidance is a useful tool for supervised nonbanks and banks that fall under the scope of the CFPB, as well as depository financial institutions. FFIEC guidance is generally used widely by federal and state regulators to assess compliance with consumer financial protection laws.

Upon completion of the guidance, and after consideration of comments received from the public, the CFPB (and other agency members of the FFIEC) will issue it as supervisory guidance to the institutions that they supervise. The guidance will not impose any additional obligations on supervised financial institutions, but such institutions will be expected to use the guidance in their efforts to ensure that their risk management practices adequately address the consumer compliance and legal risks, as well as related risks, such as reputation and operational risks, raised by activities conducted via social media.

The proposed guidance broadly defines social media "to be a form of interactive online communication in which users can generate and share content through text, images, audio, and/or video. Social media can take many forms, including, but not limited to, micro-blogging sites (e.g., Facebook, Google Plus, MySpace, and Twitter); forums, blogs, customer review Web sites and bulletin boards (e.g., Yelp); photo and video sites (e.g., Flickr and YouTube); sites that enable professional networking (e.g., LinkedIn); virtual worlds (e.g., Second Life); and social games (e.g., FarmVille and CityVille). Social media can be distinguished from other online media in that the communication tends to be more interactive."

The smaller nonbanks and community banks are the ones that will have to implement the most changes, as will third-party service providers that many institutions rely on to manage their social media programs. Many large organizations may already have programs in place to address social media. However, a one-size-fits-all approach frequently won't suffice due to the differences among the many different types of nonbank organizations that may be scrutinized by the CFPB.

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