



Additional SEC Guidance on Social Media: Division of Investment Management Q&As and Division of Corporation Finance C&DIs

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The Division of Investment Management of the Securities and Exchange Commission (“SEC”) recently released [IM Guidance Update](#) No. 2014-4 to clarify the practical application of the testimonial rule for third-party commentary on social media sites in a series of nine Q&As. The guidance also seeks to assist investment advisers in developing compliance policies and procedures reasonably designed to address participation in the usage of this evolving technology, specifically with respect to the publication of any public commentary that is a testimonial.

The SEC’s Division of Corporation Finance updated their [Compliance & Disclosure Interpretations](#) this week to include, among other things, guidance on the permissible use of active hyperlinks to satisfy the requirements of Rules 134(b), 134(d) and 165(c)(1) of the Securities Act of 1933 in the circumstances where certain social media websites may limit the number of characters or amount of text that can be included in a communication. The SEC noted that where an electronic communication is capable of including the required legend, along with the other information, without exceeding the applicable limit on number of characters or amount of text, the use of a hyperlink to the required legend would be inappropriate. This position also applies to written communications that constitute solicitations made in reliance on Exchange Act Rule 14a-12 and pre-commencement written communications subject to Exchange Act Rules 13e-4(c), 14d-2(b) and 14d-9(a).

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