

Compliance a key concern for advisors when using social media

Underscoring the increasing connection between social media and financial planning, an Investors Group survey revealed in late February that more than four-in-ten Canadians who save and invest use social and online media for investment information.

Meanwhile, some advisors have embraced social media enthusiastically, whereas others generally avoid using it for business purposes, confessing to being challenged by the technology or due to concerns about compliance with regulations.

The Investors Group survey said that 66% of Canadians who save and invest get information from advisors and about 40% get it from financial web sites and online media belonging to traditional media and investment firms. Roughly 6% visit blogs and social media sites for financial and investment information.

Simply put, using social media means visiting internet-based media venues such as **LinkedIn, Facebook, Twitter**, blogging and others for dialogue and exchanging content.

Compliance regimes in this area currently vary between advisors on the **Mutual Fund Dealers Association** platform and those on the **Investment Industry Regulatory Organization of Canada** platform. Compliance departments of some MFDA dealer members have started working on social media guidelines but the MFDA has not issued any specific guidelines for social media in the area, while IIROC recently released draft guidelines for the its use.

Advisors on the MFDA platform appear to have a simpler situation than those on the IIROC platform, at least for the time being. MFDA Rule 2.8 which covers principles of client communications in areas such as unwarranted claims and rates of return and Rule 2.9 which calls for internal controls amount to general principles. Each MFDA member-dealer is obligated to provide its advisors with specific compliance rules or the practice side of the MFDA rules.

The rules obligate advisors in such areas as keeping records of discussions, to avoid making exaggerated claims and ensure that they are not contravening applicable legislation. The extent to which a message by a financial advisor remains in compliance stays the same regardless of the medium of delivery, confirms **Ed Skwarek**, vice president of regulatory and public affairs at **Advocis**, The Financial Advisors Association of Canada. "It's those same rules that apply in the new medium," Mr. Skwarek says. "It's the exact same thing as sending out a flyer to somebody. You're going to be bound by

certain rules and certain restrictions."

This means applying the same discipline to a social media message as any other form of communication. "An advisor, when using social media, should use the exact same internal filter in their mind that has always existed," he says. "They want to be careful in what they are saying ... and they shouldn't be giving advice without having done the proper suitability and know-your-client requirements."



"An advisor, when using social media, should use the exact same internal filter in their mind that has always existed."

- Ed Skwarek

Still, the technology imposes some limitations. Since a message on Twitter – called a 'tweet' is limited to 140 characters, he recommends restricting text to simple conversation such as referring a client to an article on a financial product. "Is that advice? I don't think it is," he says. "It's suggesting that there is information out there that you're being directed to..."

Meanwhile, although IIROC's basic guidelines generally resemble those of the MFDA, it went a step further in early February and released draft guidelines for social media, asking for industry comment within sixty days.

When the sixty-day period expired, IIROC began studying the comments and plans to respond to the individuals providing comments and to release its response to the public.

Afterwards, IIROC will issue final guidelines, not expected to differ widely from the draft version. Amongst other measures, the draft version proposes that anything static, such as a Facebook page will require pre-approval by a company's compliance department, and that the company must have pro-

cedures for pre-moderation, post-moderation and archival retention of all advisors' postings, including those at third-party operations such as Facebook and LinkedIn.

At the Macquarie Private Wealth Inc. unit of **Macquarie Banking and Financial Services Group**, all advisors are on the IIROC platform, and none currently use social media professionally. "Right now with the (final) IIROC guidelines not out yet I'd be hesitant to let anyone use it in a professional

capacity," explains **Situ Modi**, Macquarie's vice-president of digital marketing and chair of its social media committee, set up to align Macquarie policies with IIROC guidelines and design advisor training procedures.

This committee's activities include examining technological solutions for compliance with moderation and archival requirements, which may include engaging an outside contractor or compliance through in-house activities. When IIROC issues its final guidelines, the Committee will arrange a pilot program for a group of advisors. The goal, Mr. Modi explains, is to combine compliance with effective communication.

Still, some IIROC provisions seem questionable in terms of practicality and effectiveness, according to Mr. Skwarek. A literal interpretation would mean that everything that an advisor says on a Facebook or LinkedIn page would require prior compliance approval, he says. "That's really a very high compliance requirement and I can't understand at this point why that's necessary."

He questions whether dealers supervising advisors will expend the time and expense of this amount of oversight and whether advisors operating under these guidelines would even use social media professionally. "If this results in the advisor bypassing social media, then that would work to the detriment of the consumer."

Al Emid