

New Rules Address Broker/Dealers' Social Media Posts

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When it comes to compliance, social media posts by broker/dealers are in a gray area under current regulatory rules. Some of that uncertainty will be clarified under new rules proposed by the Financial Industry Regulatory Authority (FINRA) and approved by the Security and Exchange Commission (SEC).

FINRA Regulatory Notice 12-29 amends Rule 2210 "Communications With the Public." Categories of communications will shrink from the current six (advertisements; sales literature; correspondence; institutional sales material; independently prepared reprint; and public appearance) to just three -- institutional communication, retail communication and correspondence. Social media posts may fall into any of the three categories, depending on several factors, including the nature of the communication and its intended audience.

The amended rules specifically exclude "retail communications that are posted on online interactive electronic forums," which would include social media posts, from the regulatory requirement of pre-approval by a registered principal. The rules also clarify that social media posts will be excluded from the requirement of being filed with the SEC within a certain number of days after first use or publication.

The new rules don't exempt social media posts from all regulations. Social media posts will still be subject to record retention rules and supervision by a registered principal. The new rules take effect on February 4, 2013, and are available at: <http://www.finra.org/notices/12-29>