

## **INTO THE SUNSET**

The world of technology moves at a pace and the oversight of the regulator appears to be moving equally rapidly. This is particularly true currently on financial promotions and social media. The FCA issued final guidance on financial promotions and social media following its' guidance consultation issued in August. However the regulator has further clarified that each communication via social media needs to comply with the relevant rules on a stand-alone basis and also that risk warnings apply to social media in the same way as any other medium.

Unlike conventional literature issued by providers and financial advisers there are intricate responsibilities in terms of communications by social media particularly if information is retweeted.

The problem arises in this area when retweeting, sharing or liking. In essence social media is all about interaction with the customer and the regulator has already changed its' stance on using hash tags. In the original paper the regulator described one way of identifying financial promotions on character-limited media is to use a hash tag but its latest guidance has confirmed this is not appropriate to identify promotional content.

The FCA however does expect signposting only when the information is coupled with other material that may confuse people about its aim. All communications therefore must be clear, fair and not misleading even if they end up in front of the non-intended recipient. It has been suggested that inserting images is one possible solution to displaying risk warnings through character-limited social media. However, Twitter users can switch off image functionality so images appear as a link. Therefore, where a promotion triggers a risk warning, this cannot appear solely in the image.

Firms can tweet a link to a website with a financial promotion and the tweet itself must be stand-alone compliant. In this area firms need to be extremely careful that the wording is focused. If a firm retweets a customer's tweet expressing satisfaction with good customer service, that will not be a financial promotion however if the customer's tweet comments on a regulated product or service then sharing or forwarding by the firm which includes liking or retweeting will constitute a promotion by the firm!

As always, firms must have an adequate system in place to sign-off digital media communications and keep adequate records of any significant communications a part of their normal risk and controls oversight procedure.

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