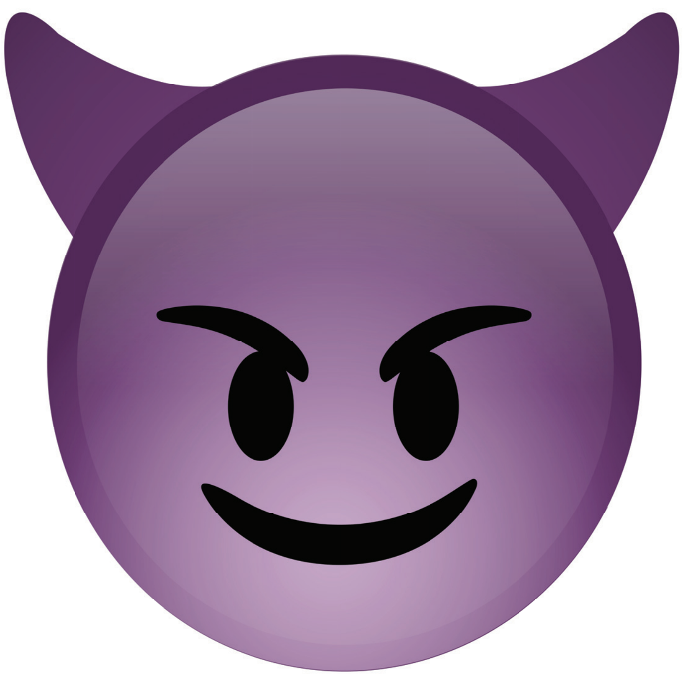
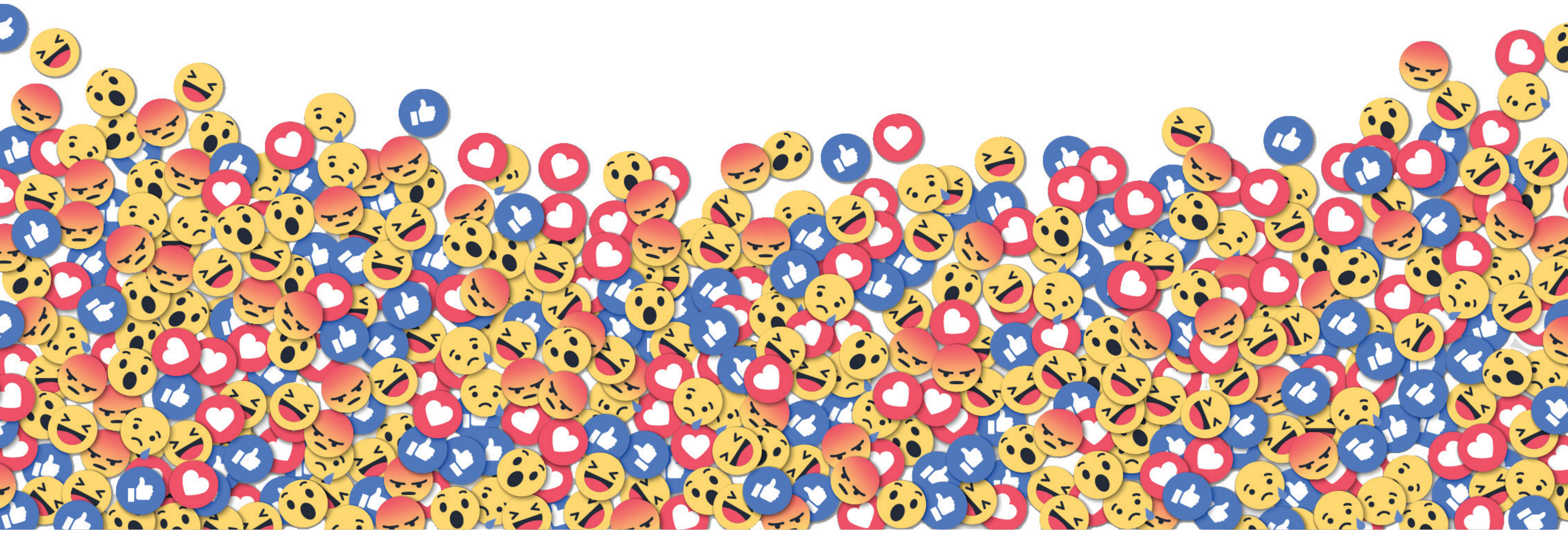
The 7 Deadly Social Media Sins





Introduction

Mortgage Quality Management and Research, LLC

Are you using social media as part of your marketing strategy? If so, you are not alone.

These days, NOT leveraging social media to increase your reach and drive new business is considered a serious strategic misstep. However, independent mortgage lenders and financial institutions have to be more careful than most when it comes to leveraging the marketing power of these platforms to ensure they remain in compliance with the many federal and state regulations pertaining to social media. After all, social media is just another commercial communication method of advertising a lender's products, rates, services and brand.

To help keep lenders on the straight and narrow, our team of compliance nerds has identified the seven most deadly social media "sins" lenders may be unknowingly (or knowingly) committing.

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1 No Social Media Risk Management Program

Guidance from the Federal Financial Institutions Examination Council (FFIEC) is clear: lenders are REQUIRED to have a risk management program to specifically address social media risk. Elements of this program include:

- A clear governance structure that ensures the board of directors or senior management directs how using social media contributes to the strategic goals of the institution, establishes internal controls and performs on-going social media risk assessments;
- Thorough policies and procedures regarding the use and monitoring of social media; compliance with all applicable consumer protection laws and regulations, and incorporation of guidance as appropriate, including methodologies to address risks from online postings, edits, replies and retention;
- A risk management process for selecting and managing third-party relationships in connection with social media;
- An employee training program that incorporates the institution's policies and procedures for official, work-related use of social media, and potentially for other uses of social media, including defining impermissible activities;
- An oversight and audit process for monitoring information posted to proprietary social media sites administered by the financial institution or managed through third-party software; and
- Parameters for providing appropriate reporting to the financial institution's board of directors or senior management that enable periodic evaluation of the effectiveness of the social media program and whether the program is achieving its stated objectives.

2 No Crisis Communications Plan

Examples abound of mortgage lending employees posting inappropriate content (having nothing to do with their role in the mortgage industry or their employer) to their personal social media counts – posts which ultimately end up rapidly putting their employers front and center of a firestorm of criticism. While normally an employee's behavior outside the office rarely becomes a cause of concern for their employer, the public nature of social media (and the ability to quickly and easily identify a person's employer based on their digital footprint) means lenders need to be prepared to address instances when inappropriate comments on an employee's personal social media account create a crisis for the organization.

Non-Compliant HR Activity

On the flipside, there are limits to the actions employers can take in regards to employees' social media accounts and usage. When creating an employee social media policy, lenders need to be mindful of the types of requests related to social media that many states have prohibited lenders from making. These include:

- Adding a supervisor or administrator as a "friend," "connection" or other contact to their personal social media account;
- Changing the employee's account privacy settings;
- Accessing their personal social media accounts in the presence of their employer;
- Waiving their rights and protections under the law as a condition for applying or receiving an offer of employment; or
- Divulging personal social media (except in connection with the investigation of allegations of misconduct).

In addition, lenders must also establish clear policies and procedures regarding authorized social media usage on behalf of the organization. Guidance from the National Labor Relations Board directs organizations to include examples of both prohibited behavior and permitted behavior in their corporate social media policy. Furthermore, any restrictions contained within the policy should be as specific as possible to prevent interpretations of the policy that are inconsistent with employees' exercise of protected rights under the National Labor Relations Act (NLRA).

No Fraud Plan

As with anything that exists online, fraud is a real risk for corporate social media users. One of the biggest risks is a fraudster posing as an employee of a reputable lending organization. Even if the fraud is exposed, the reputational damage, not to mention the potential harm to consumers, has already been done. Many major financial institutions have already included some form of online safety information regarding social media fraud/scams on their websites, but lenders of any size can fall victim to social media fraud and should take appropriate steps to maintain the authenticity of their digital presence as much as possible.

5 Lack of IT Security

Along a similar vein, lenders must also take into account the security of their social media accounts. In addition to compliance/legal risk and reputational risk, the FFIEC's Social Media Guidance also identifies operational/IT risk as one of the major categories of risk institutions face in regard to social media use. To ensure lenders are applying the appropriate level of IT security to their social media accounts, the FFIEC recommends that lenders reference its FFIEC Information Technology Examination Handbook, as well as the Outsourcing Technology Services booklet. Furthermore, the FFIEC also directs lenders to include social media as part of their larger incident response protocols regarding an IT security event, such as a data breach or account takeover.

6 Not Monitoring for Complaints

While lenders are not strictly required to monitor their social media accounts for complaints, the principles of reputation management (and just plain good business sense) make this a prudent practice for these organizations to adopt. Ultimately, each institution should take into account the results of its own risk assessment in determining the appropriate approach to take regarding the monitoring of and any response to any complaints or other communications received via social media. In addition, organizations should also weigh the reputational risk in not responding to complaints and disputes received through these channels and adjust their policies and procedures according to their size and risk profile. It's better to know and act, rather than find out and react.

7 Targeting Marketing

Thanks to the analytics inherent in today's social media platforms, digital marketers now have a wealth of knowledge regarding consumer demographics and behavior at their fingertips. For less regulated industries, leveraging social media to conduct targeted marketing campaigns is a savvy business strategy. Unfortunately for the mortgage industry, this gives the impression of discrimination in regulators' minds, thus potentially putting lenders on the wrong side of Fair Lending regulations and/or the Unfair, Deceptive, or Abusive Acts or Practices Act (UDAAP). In 2018, the Department of Housing and Urban Development (HUD) put Twitter and Google on notice that it was investigating both companies for potential Fair Lending violations in regards to targeted marketing, and in March 2018 HUD filed suit against Facebook, alleging that the company's targeted advertising platform violates Fair Lending laws by restricting viewership of housing ads. While regulators have yet to take specific action against an individual lender for such practices, one can only assume that it is a matter of when, not if. Thus, lenders must tread carefully when using social media to market their services to consumers.

Conclusion

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While the speed, reach and ease of social media make this channel a powerful instrument in a lender's marketing toolbox, organizations must also be cognizant of the industry-specific risks social media poses and act accordingly. By being aware of the most common social media "sins," lenders can avoid many of the pitfalls that come with social media use and develop appropriate policies and procedures to mitigate risk and ensure safe, compliant social media use for marketing purposes.

For those organizations that are looking for additional assistance, MQMR offers a Monthly Compliance On-Demand Service to help keep lenders on the straight-and-narrow. For a flat, monthly fee, lenders gain access to MQMR's internal team of mortgage compliance experts to get answers on any and all compliance questions on an as-needed basis, including guidance on marketing, advertising, website and social media content. To learn more about this service, contact sales@mqmresearch.com.

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