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## ADVERTISING AND SOCIAL MEDIA FOR INVESTMENT ADVISERS

*The growing use of social media platforms has increased advisers' ability to connect with clients and prospects but has also brought greater regulatory exposure and increased risks. The authors note the SEC's risk alert, its IM Guidance, and recent amendment to Form ADV relating to adviser use of social media. They then discuss the SEC's rules under the Advisers' Act with regard to social media testimonials, protective measures, compliance programs, and required records.*

By Jeff Blumberg and Brian Jacobson \*

Developments in technology over the past decade and the increasing use of social media platforms have created new advertising issues for registered investment advisers ("advisers") to consider. The expanding capabilities of social media have increased advisers' ability to connect with clients and prospects, but have also brought greater regulatory exposure and increased risks. Advisers need to understand how their use of social media is regulated under the SEC's advertising rules and recent guidance. This article provides a brief overview of new trends reshaping marketing for investment advisers, evaluates new risks related with such trends, and assesses the use of resources by advisers to monitor and mitigate social media risks.

### INCREASING SOCIAL MEDIA USE

Recent surveys indicate that over three-quarters of investment adviser representatives ("IARs") actively use social media in connection with their professional activities, and that IARs who do use social media can

spend up to 41% of their time on social media.<sup>1</sup> The term "social media" typically encompasses a broad range of technology-based social interaction and content creation, and can include blogs, podcasts, photo and video sharing technologies, social networking sites, wikis, virtual worlds, and other types of social engagement over computers, mobile internet devices, and other internet-connected devices.

The average IAR engaging in social media uses two or three different social media platforms. The most common platform used by advisers is LinkedIn, a social networking site geared towards business and employment networking, but other common platforms include Facebook, Twitter, and YouTube.<sup>2</sup> The low cost

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<sup>1</sup> May 28, 2015 Market Strategies International – Cogent Reports – Advisor Media Consumption.

<sup>2</sup> April 2015 Market Strategies International – Cogent Reports – Advisor Media Consumption.

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