

Massachusetts Securities Division Releases Report on Investment Advisers' Use of Social Media; New Regulations Anticipated

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On July 6, 2011, the Securities Division of The Office of the Secretary of the Commonwealth (the "Securities Division") released a report on the results of a social media survey it previously sent to Massachusetts-registered investment advisers. A copy of the report can be downloaded by visiting the Securities Division's website. The results indicate an increased use of social media by investment advisers which is consistent with the general public's growing social media activity. The survey results also suggested that some advisers do not have policies relating to the retention or supervision of social media content, are not retaining social media content, and do not supervise the use of social media content. Due to this trend and the perceived deficiencies in record retention and supervisory procedures, the Securities Division believes the issuance of regulatory guidelines on social media use by investment advisers would be appropriate to assist advisers in maintaining compliant advisory practices.

The findings in the report are based on a social media survey that the Securities Division sent to 576 investment advisers registered in the Commonwealth. As of the report's release, there was a response rate of 79%. The survey results indicate that 44% of these advisers use social media, which includes the use of Facebook, LinkedIn and Twitter, hosting websites and blogs, and other social media services.

According to the report, the Securities Division will establish a working group and seek industry input in drawing up regulatory guidance but no dates for these steps have been set at this time. We recommend that every adviser pro-actively adopt a written social media policy now, and to the extent social media is used, also adopt suitable written record retention, content review and supervisory procedures.

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