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**PROGRAM MATERIALS**

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# **Social Media Compliance for Fair Lending: What to Post and What Not To**

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**Social Media Compliance  
for Fair Lending: What to  
Post and What Not To**

**Speaker:  
Justin Muscolino**

# Justin Muscolino

Justin leads training and oversees Headmaster™, FS Vector's regulatory compliance training platform built specifically for fintechs.

Justin brings deep experience in financial services regulatory compliance and education. Prior to joining FS Vector, Justin built a compliance training company focused on U.S. and international regulations and risk management for banks, banking associations, and other financial services firms. He previously held training leadership roles at global financial institutions, including Macquarie Group, UBS, and JPMorgan Chase. Prior to that, Justin was with FINRA, where he created the securities self-regulatory organization's Examiner University. He serves as the U.S. Chapter Head for the Global Compliance Institute and instructs at the Barret School of Banking.

He holds a Master of Science in Financial Services from American College and a B.S. in Business Administration from Mansfield University of Pennsylvania.



## Overview

- Social media has become a powerful tool for banks to connect with consumers and promote lending products.
- Banks can enhance their online presence while ensuring that their communications are compliant, transparent, and inclusive with these challenges and implementing effective strategies.
- We need to understand the importance of social media compliance in fair lending and be prepared to implement best practices.



## Current Social Media Environment in Fair Lending

- The growth of social media as a marketing tool for financial institutions has brought both opportunities and challenges, especially in fair lending compliance.
- Current Trends and Compliance Challenges
  1. Increased Regulatory Scrutiny: Regulators, including the CFPB, Federal Reserve, and FDIC, are closely monitoring how banks and lenders use social media to ensure compliance with fair lending laws
  2. Heightened Consumer Awareness and Expectations: Consumers are increasingly aware of their rights under fair lending laws, expecting transparency and equitable treatment from financial institutions.
  3. Algorithmic Targeting: Algorithms that target specific demographics or behaviors can unintentionally lead to biased outcomes.
  4. Balancing Personalization with Fair Access: While social media allows for more personalized content, this must not come at the cost of fair lending principles.

# Hudson City Savings Bank: Discriminatory Redlining

- Background:
  - The CFPB and DOJ found that Hudson City Savings Bank had systematically excluded Black and Hispanic neighborhoods from its mortgage advertising efforts.
  - The bank focused its marketing and branches on majority white neighborhoods and used marketing channels that did not reach minority communities.
- Enforcement Action:
  - Hudson City was ordered to pay \$27 million in penalties and corrective actions, which included investing in a new lending program aimed at minority neighborhoods and developing non-discriminatory advertising practices.
- Lesson Learned
  - This case highlights that banks must ensure inclusive outreach strategies, both online and offline, to prevent discrimination and uphold fair lending laws.



# Fair Lending Statistics on Social Media

- Social media has reshaped financial services marketing, but the shift has raised concerns about fairness and compliance. These statistics highlight the challenges and opportunities social media presents for fair lending in banking:
  - Digital Marketing Use by Financial Institutions
    - Nearly 90% of financial institutions in the U.S. use social media as part of their marketing strategy, aiming to increase engagement and reach younger demographics.
    - Around 75% of lenders leverage targeted social media advertising, which has raised fair lending concerns due to possible unintentional exclusions of certain demographics.
  - Algorithmic Bias and Targeting Risks
    - Studies have shown that 60% of financial institutions using social media ads rely on algorithm-based targeting, but 40% of those institutions report concerns about algorithmic bias and potential compliance issues.
    - Research by the CFPB found that targeted ads on platforms like Facebook and Instagram could exclude up to 30% of minority groups due to unintentional biases in algorithmic targeting.



# Fair Lending Statistics on Social Media

- Regulatory Enforcement and Penalties:
  - Since 2019, there has been a 25% increase in CFPB and FDIC investigations focused on fair lending violations related to social media marketing.
  - Compliance violations related to unfair advertising practices have led to fines totaling over \$20 million across financial institutions in the past three years, highlighting the cost of non-compliance.
- Consumer Trust and Perception:
  - 65% of consumers expect banks to follow transparent and inclusive advertising practices online. Non-compliance can erode trust, as over 40% of consumers are likely to avoid banks perceived to be unfair in their lending practices.
  - These statistics show the need for a balanced approach to social media marketing—one that leverages technology to engage audiences while ensuring compliance with fair lending regulations.



# The Importance of Fair Lending

- Fair lending is essential for maintaining consumer trust and promoting equitable access to credit.
- It ensures that all individuals, regardless of their race, color, national origin, sex, marital status, or age, receive fair treatment in lending processes.
- The ECOA and the FHA form the backbone of fair lending legislation, prohibiting discrimination and mandating that lenders provide equal access to credit.
- Noncompliance with these laws can result in significant penalties, including fines, legal actions, and reputational damage.
- As banks increasingly engage with potential borrowers on social media platforms, they must remain vigilant to ensure that their messaging adheres to fair lending standards.



# Social Media Risks in Fair Lending

While social media offers numerous benefits for banks in reaching and engaging consumers, it also poses compliance risks.

1. One primary concern is the potential for discriminatory practices.
  - Marketing content shared on social media platforms may unintentionally favor certain demographic groups, leading to potential violations of fair lending laws.
2. The risk of disseminating inaccurate information is a concern.
  - Misleading or ambiguous communications can confuse consumers about loan eligibility, terms, and conditions, ultimately harming their ability to make informed decisions.
3. Another major risk involves data privacy.
  - Sharing personal data on social media may violate privacy regulations and fair lending principles, putting both the bank and consumers at risk.
4. Many employees may lack sufficient training on the implications of their social media interactions, leading to potential noncompliance.

# CFPB guidance on Social Media

The CFPB provides guidance to help financial institutions navigate fair lending regulations in social media marketing.

- **Recommendations for Social Media Compliance:**

- **Inclusive Advertising Practices:** The CFPB advises that all digital advertisements, including social media content, should be inclusive and accessible to diverse audiences. Targeting should be carefully managed to avoid discriminatory impacts.
- **Clear and Transparent Messaging:** Ensure that all social media advertisements and posts clearly communicate terms, conditions, and eligibility requirements. Vague or misleading language can lead to compliance issues and consumer mistrust.
- **Monitoring and Record-Keeping:** Financial institutions are encouraged to monitor their social media channels continuously for potential fair lending risks. Keeping records of social media posts, targeting strategies, and consumer interactions is also recommended to support transparency and accountability.
- **Risk Assessment and Audits:** Conduct regular audits of social media content and strategies to ensure compliance with fair lending guidelines.
- **Avoiding Algorithmic Bias:** For institutions using automated targeting, the CFPB recommends evaluating algorithms for bias. Ensuring these algorithms do not inadvertently exclude or unfairly impact certain groups is essential for maintaining compliance with fair lending principles.

# Case Study: AI-Based Lending and Compliance

## Upstart Network: Lending and Compliance Concerns

- Background:
  - Upstart, an online lending platform, was investigated by the CFPB over concerns that its AI-based lending model could have discriminatory effects, inadvertently disadvantaging certain racial and income groups in its credit offers on social media and other platforms.
- Resolution
  - To address concerns, Upstart agreed to work closely with the CFPB to monitor its algorithms for compliance with fair lending laws. They provided extensive data on their model's impact to ensure that their AI did not lead to biased outcomes, setting a standard for transparency in algorithmic advertising.
- Lesson Learned
  - This case highlights the need for lenders using automated models in social media marketing to ensure their algorithms do not have a discriminatory impact and to be transparent with regulators.



# Understanding Regulatory Requirements

- To effectively manage social media compliance in fair lending, banks must understand the key regulatory requirements that govern their communications and marketing practices.
- The ECOA prohibits discrimination against applicants based on race, color, national origin, sex, marital status, or age.
  - This law extends to social media interactions, requiring banks to ensure that all advertisements and communications are inclusive and equitable.
- The FHA further emphasizes the importance of non-discrimination in housing-related lending practices.
  - Banks must ensure that their social media messaging complies with these laws, avoiding language or imagery that could be perceived as discriminatory.

# Developing a Social Media Policy

- Creating a comprehensive social media policy is a crucial step for banks aiming to ensure compliance with fair lending regulations.
- A social media policy should:
  - define acceptable practices for employee engagement on social media, establishing clear guidelines for how to communicate with consumers about lending products.
  - emphasize the importance of non-discrimination, highlighting the need for all marketing messages to promote fair lending principles.
    - For instance, the policy should outline the requirement for inclusive language and imagery in all posts and advertisements, ensuring that diverse consumer groups are represented.
  - detail the approval process for all social media content, mandating that marketing materials undergo a compliance review before publication. This step will help prevent potential violations of fair lending laws and mitigate associated risks.
  - establish consequences for noncompliance, reinforcing the seriousness of adherence to fair lending standards.

# Case Study: Redlining

- Background:
  - The American Bank of Oklahoma, a community bank in the Tulsa area, faced scrutiny for redlining practices that violated fair lending standards. Between 2017 and 2021, it avoided serving majority-Black and Hispanic areas in Tulsa, choosing instead to focus on majority-white suburbs. Federal investigators found that the bank's marketing practices, and its assessment area were structured in ways that discouraged lending to minority communities
- Key aspects of this case include:
  - Marketing and Outreach Failures: The bank's marketing practices largely excluded minority areas, leading to a lack of awareness and access to loan products.
  - Non-Compliance Despite Warnings: After warnings from regulators, the bank still failed to implement an adequate fair lending compliance system.
  - Settlement and Corrective Actions: To resolve the case, American Bank of Oklahoma agreed to allocate funds for a loan subsidy program and to expand into underserved minority areas in Tulsa.

## Employee Training and Awareness

- Training employees on social media compliance in fair lending is vital to minimizing risks and ensuring adherence to regulations.
  - Despite its significance, research indicates that only 50% of banks currently provide adequate training on this topic.
- Effective training programs should encompass an overview of fair lending laws, as well as the implications of noncompliance.
- Employees should be educated on how these regulations impact social media engagement and the importance of promoting responsible lending practices.



## Employee Training and Awareness

- Training should cover aspects such as equitable treatment of consumers, transparency in communications, and avoiding discriminatory language.
- Ongoing training should be prioritized to keep staff updated on evolving regulations and trends in social media usage.
- Regular refresher courses can reinforce the importance of compliance and ensure that employees remain aware of their responsibilities in representing the bank on social media platforms.
- Consider incorporating role-playing scenarios can help employees practice compliant interactions, enhancing skills in real-life situations.



# Content Review and Approval Processes

- Implementing content review and approval processes is crucial for ensuring compliance with fair lending regulations on social media.
  - Banks should establish clear procedures for reviewing all marketing materials and social media posts prior to publication.
  - This process should involve collaboration among marketing, compliance, and legal teams to ensure that all content aligns with fair lending principles.
- Content approval should focus on several key elements, including the use of inclusive language, the representation of diverse consumer groups, and the accuracy of information presented.
  - For example, marketing materials should be carefully vetted to avoid misleading claims about loan terms or eligibility criteria.



## Collaborating with Legal and Compliance Teams

- Collaboration between marketing and legal/ compliance teams is essential for ensuring adherence to fair lending regulations in social media strategies.
- Banks should establish regular communication channels between these departments to review marketing materials and assess compliance risks associated with social media campaigns.
- Legal teams can provide valuable insights into fair lending laws and help identify potential areas of concern before content is published.
- Involving compliance teams in the content review process can ensure that all messaging aligns with regulatory requirements and promotes inclusive lending practices.
- Joint training sessions can also facilitate knowledge sharing, ensuring that marketing teams understand the implications of fair lending laws in their communications.



# Monitoring and Reporting

- Implementing a monitoring system allows banks to track mentions, comments, and interactions related to their lending practices, enabling them to identify potential compliance issues proactively.
- Monitoring should focus on identifying discriminatory language, misleading information, and any other practices that may violate fair lending laws.
  - For instance, if a bank receives comments that suggest confusion about loan eligibility or terms, it is essential to address these issues promptly and clarify any misconceptions.
- Encouraging employees to report compliance concerns can further enhance monitoring efforts, fostering an environment of accountability.
- Reporting mechanisms should be straightforward, allowing staff to communicate potential issues without fear of reprisal.
- Regular audits of social media activity can help assess adherence to fair lending principles, ensuring that all communications are transparent and equitable.



# Consumer Engagement Strategies

1. Engaging with consumers on social media is a vital component of a bank's marketing strategy.
2. Engagement must be approached with caution to ensure compliance with fair lending regulations.
3. Banks should prioritize inclusivity by creating content that resonates with diverse audiences, reflecting a commitment to equitable lending practices.
4. When addressing consumer inquiries, it is crucial to provide accurate and transparent information about loan products and eligibility criteria.
5. Banks can leverage social media to showcase success stories from diverse borrowers, highlighting their commitment to fair lending.
6. Seeking feedback from consumers can also enhance engagement and demonstrate the bank's dedication to understanding and addressing their needs.

# Crisis Management in Social Media

Crisis management is a critical aspect of maintaining compliance in social media engagement.

- In the event of a compliance violation or negative feedback regarding lending practices, banks must have a clear crisis management plan in place.
- The plan should outline procedures for responding to negative comments or misinformation promptly and transparently.
- It is essential to address issues head-on, providing accurate information and clarifying any misunderstandings regarding fair lending practices.
  - For instance, if a bank receives backlash for perceived discriminatory advertising, a timely response can help mitigate reputational damage and demonstrate a commitment to compliance.
- Monitoring social media channels for emerging issues is crucial; banks should be prepared to address potential crises before they escalate.



# Leveraging Data Analytics for Compliance

- Data analytics can play a big role in enhancing social media compliance with fair lending regulations.
- Analyzing consumer interactions, preferences, and behaviors on social media, banks can gain valuable insights into the effectiveness of their marketing strategies and identify potential compliance issues.
  - For example, tracking engagement metrics can help determine whether content resonates with diverse audiences or inadvertently favors specific demographics.
- Data analytics can assist banks in monitoring social media sentiment, allowing them to gauge public perception of their lending practices and address any concerns proactively.
- Implementing predictive analytics can also help identify trends and potential compliance risks.



## The Role of Leadership in Compliance

- Leadership plays a crucial role in fostering a culture of compliance within banks regarding social media engagement and fair lending practices.
- Executives and managers must prioritize compliance and set the tone for ethical behavior throughout the organization.
- By emphasizing the importance of fair lending principles in strategic decision-making and resource allocation, leaders can ensure that compliance is integrated into all aspects of the bank's operations.
- Leaders should actively support training initiatives and provide employees with the tools and resources necessary to navigate social media compliance effectively.
- Leaders should maintain open lines of communication with employees, encouraging them to voice concerns and share insights regarding compliance challenges.

# Recommendations

- Social media compliance in fair lending, banks should adopt the following recommendations:
  - **Develop a Comprehensive Social Media Policy:** Establish clear guidelines for employee interactions on social media, emphasizing inclusivity and transparency in all communications.
  - **Invest in Employee Training:** Implement robust training programs focused on fair lending principles and social media best practices to ensure that employees understand compliance requirements.
  - **Prioritize Monitoring and Reporting:** Actively monitor social media channels for potential compliance issues and encourage employees to report any concerns without fear of retaliation.
  - **Collaboration Between Departments:** Encourage communication between marketing, legal, and compliance teams to ensure that all marketing materials align with fair lending regulations.
  - **Leverage Data Analytics:** Use data analytics to assess the effectiveness of marketing strategies and identify potential compliance risks.
  - **Stay Informed About Trends:** Keep abreast of emerging trends in social media and regulatory changes to



## Tools and Resources for Compliance

- Several tools and resources can assist banks in ensuring compliance with fair lending regulations in their social media efforts.
- Compliance management software can help streamline the review process for marketing materials, ensuring that content adheres to fair lending standards before publication.
- Social media monitoring tools can track brand mentions and customer interactions, allowing banks to identify potential compliance issues promptly.
- Regulatory websites, such as the CFPB, provide valuable guidance and resources on fair lending laws and best practices.
- Industry associations and organizations dedicated to fair lending can also offer training and support for banks seeking to enhance their compliance efforts.



## Future Trends in Social Media Compliance

- As social media continues to evolve, banks must stay informed about emerging trends that may impact compliance with fair lending regulations.
- One trend is the increasing use of artificial intelligence (AI) and machine learning in marketing.
  - While these technologies can enhance targeting and personalization, they also pose risks related to potential discrimination in lending practices.
- Consumers increasingly seek genuine engagement and clear communication from financial institutions, making it essential for banks to prioritize compliance in their interactions.

## Conclusion

- Social media compliance in fair lending is a critical consideration for banks aiming to engage responsibly with consumers.
- Prioritizing transparency, inclusivity, and employee training will help mitigate compliance risks while enhancing the overall effectiveness of marketing efforts.
- As the social media e continues to grow, banks must remain vigilant in adapting their practices to align with regulatory requirements and industry best practices.
- With a strong culture of compliance, banks can leverage social media as a powerful tool for promoting fair lending initiatives, educating consumers, and building meaningful relationships within diverse communities.



**Thank you!**  
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