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Venable attorneys produce periodic alerts and newsletters covering a variety of topics and practice areas. For your convenience, we have assembled below a collection of the latest alerts and newsletters from November 2014.



Ten Practical Tips for Developing a FINRA-Compliant Social Media Policy

On October 14, the Financial Industry Regulatory Authority (FINRA) fined a securities analyst \$15,000 for "tweeting" opinions about securities without revealing that he owned them. The action, write Venable attorneys [Michael R. Manley](#), [Armand J. \(A.J.\) Zottola](#), and [Andrew E. Bigart](#), is one of roughly 10 involving social media postings over the past several years and highlights the need for research analysts, brokers, and others in the securities industry to implement appropriate policies and procedures for the use of social media.

[Click here to learn 10 suggested best practices for social media that will facilitate effective compliance with FINRA rules.](#)

Enforceability of Online Terms of Use: Guidance from the Ninth Circuit

The Ninth Circuit Court of Appeals recently decided a case addressing the enforceability of terms of use posted on websites as mere notices that are not affirmatively accepted by users through a formal acceptance process such as checking an "I agree" box. This case, write Venable attorneys [Armand J. \(A.J.\) Zottola](#) and [Robert F. Parr](#), reinforces certain principles of online contract formation and provides helpful guidance to companies of all sizes that use websites and/or mobile applications to promote their businesses and connect with customers.

[Click to find out how to make your website terms of use enforceable.](#)

NIST Holds Sixth Workshop on Cybersecurity Framework

The National Institute of Standards and Technology (NIST) held its [sixth workshop](#) on the [Cybersecurity Framework](#) at the University of South Florida on October 29-30. The workshop, write Venable attorneys [Jamie Barnett](#), [Dismas Locaria](#), and [Jason R. Wool](#), provided attendees with a better understanding of the extent to which the Framework is being used, the ways that various entities are using it, and the issues, concerns, and gaps that have been identified with regard to the Framework since its rollout in February of this year.

[Click here for Venable's key takeaways from the workshop.](#)

FFIEC Cybersecurity Assessment: Senior Management Must Take the Lead

The Federal Financial Institutions Examination Council (**FFIEC**) set out its Cybersecurity Assessment Observations on November 3, placing responsibility squarely on the shoulders of bank senior management to understand and mitigate the cybersecurity risks inherent in their financial institutions. The FFIEC Observations, write Venable attorneys **John E. Bowman**, **Ralph E. Sharpe**, and **D. E. Wilson, Jr.**, represent the collective evaluations by the FFIEC regulatory agencies of the banks' management of, and preparedness to mitigate, cybersecurity risks.

[Click here for an overview of the FFIEC's assessment.](#)

FDIC Issues Guidance on De Novos

The Federal Deposit Insurance Corporation (FDIC) issued *Guidance Related to the FDIC Statement of Policy on Applications for Deposit Insurance – Q&As* on November 20 to aid "applicants in developing proposals for deposit insurance, and to provide transparency to the application process." More important than the Guidance itself, write Venable attorneys **John E. Bowman**, **John B. Beaty**, **Ralph E. Sharpe**, **Ronald R. Glancz**, and **Kristin M. Cobb**, is the implication that the sun may once again be rising on the FDIC and its willingness to seriously entertain de novo applications for deposit insurance for the first time since before the financial crisis.

[Click here for a quick summary of the Guidance and its potential implications.](#)

Qualified Retirement Plans May Need to be Amended by Year-End to Recognize Same-Sex Spouses Retroactively

In *U.S. v. Windsor*, the Supreme Court essentially ruled that the term "spouse" includes any individuals who were lawfully married under any state law or other jurisdiction. Recent notices from the IRS provide additional guidance regarding the application of *Windsor* to qualified retirement plans, write Venable attorneys **Jessica E. Kuester**, **Keith A. Mong**, and **Lisa A. Tavares**, including the retroactive application of the decision and the plan amendments that may be required.

[Click here to learn about the changes.](#)

New SBIR Opportunities: Why Phase III Contractors and Venture Capital Companies Should Consider Possible Changes to the SBIR and STTR Programs

Any small business or venture capital company interested in Small Business Innovation Research or Small Business Technology Transfer funding opportunities should pay close attention to two major updates write Venable attorneys **Keir X. Bancroft** and **Anna E. Pulliam**. The Small Business Administration recently requested public comments, due by January 6, 2015, on data rights and Phase III funding. And, the Government Accountability Office issued a report identifying the National Institutes of Health and the Department of Energy's Advanced Research Projects Agency-Energy as the two agencies presently accepting applications from majority-owned portfolio companies.

[Click here for an overview of the SBA's request for comments and the GAO's report.](#)

3-D Printing – The End of Shopping as We Know It

3-D printing is one of the most disruptive technologies to penetrate the marketplace writes Venable attorney **Joshua J. Kaufman**. While it is currently and extensively used for prototype design, medical devices, and creating novelty items, it has the potential for dramatically changing our way of life.

[Click here to learn how the law is changing to reflect new technologies.](#)

How Much is that Doughnut in the Window? FDA Labeling Requirements for Restaurants and Vending Machines

FDA finalized two rules on November 25 requiring calorie information be listed on menus and menu boards in chain restaurants, similar retail food establishments, and vending machines with 20 or more locations. The premise of the requirement, write Venable attorneys [Ralph S. Tyler](#), [Matthew S. Poliner](#), and [Heili Kim](#), is that knowing the number of calories will positively influence eating behavior and, over time, help to address the nation's obesity problem.

[Click to read how the validity of that premise is about to be tested.](#)

CFPB Proposes Rule for Prepaid Products and Releases Study on Prepaid Account Agreements

The Consumer Financial Protection Bureau (CFPB) released a proposed rule regulating prepaid products on November 13. The proposed rule would amend parts of Regulation E, implementing the Electronic Fund Transfer Act, and Regulation Z, implementing the Truth in Lending Act. Venable attorneys [Allyson B. Baker](#), [Ellen Traupman Berge](#), [William R. Nordwind](#), [Andrew Olmem](#), [D. E. Wilson, Jr.](#), [Andrew E. Bigart](#), [Kristin M. Cobb](#), and [Peter S. Frechette](#) write that the CFPB's proposed rule is accompanied by a study on prepaid account agreements.

[Click to learn more about the proposed rule.](#)

Upcoming Events

[The Dynamic State of Data: A Policy Briefing for the Data-Driven Marketing Community – Webinar](#)

Monday, December 8, 2014 | 12:00 – 6:00 p.m. ET

[Amy Mudge](#) will present "The Dynamic State of Data: A Policy Briefing for the Data-Driven Marketing Community." This event, hosted by Venable LLP and DMA, will provide a policy-packed afternoon full of insights on every issue that matters to the data-driven marketing community.

[Click here to learn more and register.](#)

[LGBT, Religion, and Diversity in the Nonprofit Workplace – Washington, DC and Webinar](#)

Thursday, December 11, 2014 | 12:00 – 2:00 p.m. ET

Legal protections for lesbian, gay, bisexual, and transgender persons are on the rise, with several court rulings favoring same-sex marriage and President Obama's recent executive order prohibiting discrimination based on sexual orientation and gender identity in government contracts. At the same time, the U.S. Supreme Court's ruling in the *Hobby Lobby* case suggests greater protections for certain kinds of religious rights. These two trends raise the question: How can a nonprofit committed to diversity in the workplace balance these sometimes-competing values?

[Click here to learn more and register.](#)

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