

AUX

DOING THE HARD WORK FOR YOU

Social Media Compliance Issues

Montana Credit Union Association Marketing
Council Virtual Workshop

October 25, 2023

Disclaimer

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Agenda

- Advertisement Definitions
- Top 5 Social Media Marketing Compliance Issues
- Learn from the Mistakes of Others Examples
- General Social Media Considerations

Advertisement Definitions

What Is an Advertisement?

- NCUA rules for notice of share insurance coverage, Part 740
 - A commercial message, in any medium, designed to attract attention to a product/business
- NCUA rules for Truth in Savings, Part 707
 - A commercial message, appearing in any medium, that promotes directly or indirectly: (1) The availability or terms of, or a deposit in, a new account; and (2) ... the terms of, or a deposit in, a new or existing account.

What Is an Advertisement?

- Regulation Z, 12 CFR 1026.2(a)(2)
 - A commercial message in any medium that promotes, directly or indirectly, a credit transaction.
- Fair Housing Act
 - Term is not defined but it is unlawful to “make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement ..”

What Is an Advertisement?

- Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)
 - Term is not defined but Examiner's Guide says this: Marketing programs, advertisements, and other promotional material in all forms of media (including print, radio, television, telephone, Internet, or social media advertising)

What Is an Advertisement?

- If the message can be seen, treat it as an advertisement
 - Websites, social media, ads on 3rd party sites
- Generally, all advertising rules apply



Top 5 Social Media Marketing Compliance Issues

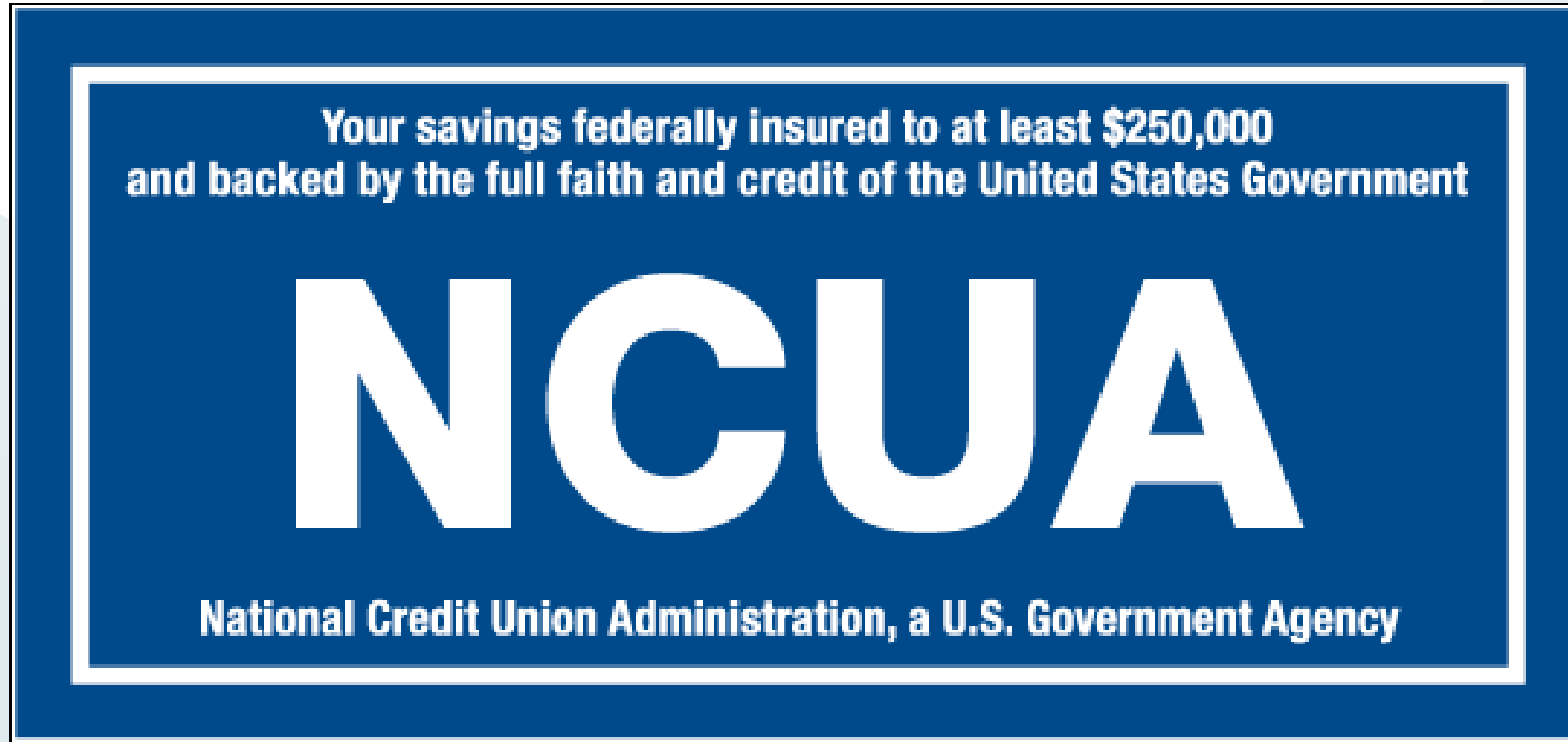
Top 5 Social Media Marketing Compliance Issues

- NCUA Share Insurance and Equal Housing Logo/Statements
- Advertising rates and terms
- Promotional credit card and HELOC rates/fees
- UDAAP
- One-clicks for electronic advertisements

NCUA Advertising Rules

- Four options for official advertising statement:
 - This credit union is federally insured by the National Credit Union Administration
 - Federally insured by NCUA
 - Insured by NCUA
 - Official sign

NCUA Share Insurance Official Sign



Advertising Share Insurance

- “Member NCUA” is NOT acceptable
- Any ads seen/heard by general public
 - Recommend membership eligibility statement and insurance statement, in that order, be included

Fair Housing Act Logo



← **Federal CUs** →

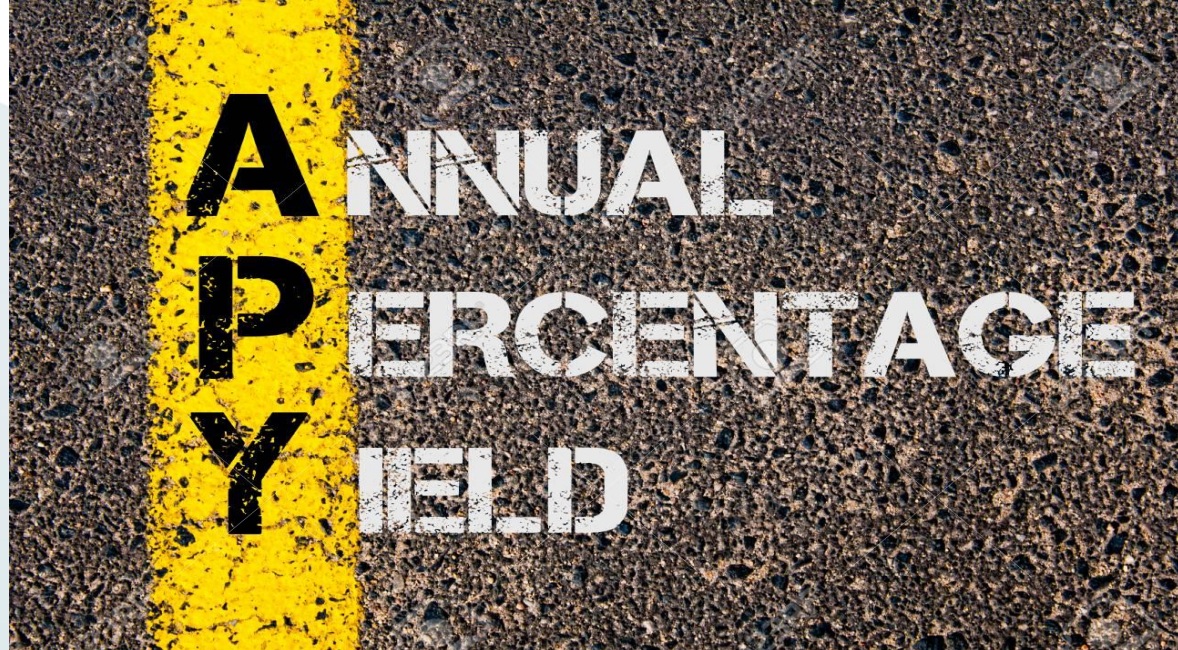
State CUs →



Radio/TV Ads – ABC Federal Credit Union
is an Equal Housing Lender

Advertising Rates under Truth-in-Savings

- If rate is advertised, must be APY
- Annual Percentage Yield must be spelled out in the ad



Advertising Rates under Truth-in-Savings

- Additional disclosures triggered by APY
 - If rate is variable, that must be stated
 - Rate effective date or time rate is offered
 - Minimum balance to earn stated rate
 - Minimum balance to open account if greater than minimum balance to earn state rate
 - Statement that fees could reduce earnings

Advertising Rates under Truth-in-Savings

- Certificate advertisements – disclosures triggered by APY
 - Term
 - Penalty for early withdrawal

Regulation Z Advertising Rules

- Open-end vs. Closed-end credit
 - Open-end credit – credit cards, lines of credit (LOCs), overdraft protection LOCs, home equity line of credit (HELOC)
 - Closed-end credit – loans with specific repayment terms

General Rule for Advertising Loan Rates under Regulation Z

- All loans
 - If rate is stated, must be APR
 - Annual Percentage Rate does not have to be spelled out



Regulation Z Advertising Rules for Open-End Credit, 1026.16

- Trigger terms stated affirmatively or negatively
 - Finance charges
 - Periodic rate – APR
 - Fees
 - Other charges

Open-End Credit Trigger Terms

- Examples
 - No closing cost HELOCs
 - 5.99% APR overdraft line of credit
 - No balance transfer fee

Regulation Z Advertising Rules for Open-End Credit

- Disclosures when trigger terms are used
 - Transaction, activity, or similar charges
 - Periodic rate – APR
 - Rate may change if variable rate loan
 - Membership/participation fee

Regulation Z Advertising Rules for HELOCs

- Trigger terms stated affirmatively or negatively
 - Finance charge – APR
 - Fees that may be imposed
 - “No closing costs”
 - Payment terms



Regulation Z Advertising Rules for HELOCs

- Disclosures when trigger terms are used
 - APR
 - Maximum APR, if variable, and statement that rate can change
 - Fees (closing costs)
 - If property insurance is required, statement to that effect

Regulation Z Advertising Rules for Closed-end Loans, 1026.24

- Trigger terms
 - Period for repayment
 - 7-year car loans, 25-year mortgages
 - Amount of any payment
 - Amount of any finance charge

Regulation Z Advertising Rules for Closed-End Loans

- Disclosures when trigger terms are used
 - APR
 - Terms of repayment – use rate and loan term advertised
 - Exact payment schedule
 - Cost-unit approach

Regulation Z Advertising Rules Closed-End Mortgage Loans

- If advertisement includes amount of any payment, must also disclose
 - The amount of each payment that will apply over the term of the loans
 - Balloon payment
 - Period of time each payment will apply
 - If ad is for credit secured by first lien on dwelling, a statement that the payment does not include taxes and insurance and actual payments will be higher

Promotional Rates for Credit Cards

- If rate advertised is lower than rate that will be in effect after end of specific time, ad must also include:
 - “Intro” or “Introductory,” if applicable
 - When promotional rate will end
 - APR that will apply at end of promo period; if rate is variable, include the current rate
 - These must be in close proximity to the promo rate and must be equally prominent

Promotional Fees for Credit Cards

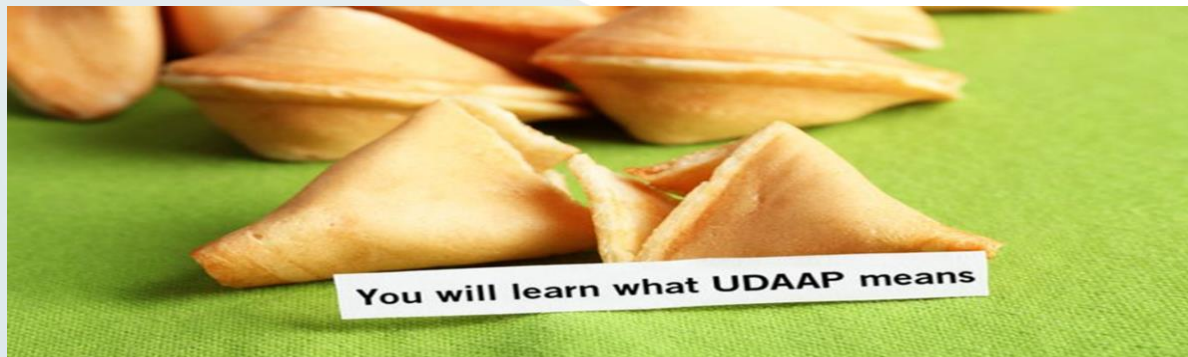
- If fee advertised is lower than fee that will be in effect after end of promo period, ad must also include:
 - “Intro” or “Introductory,” if applicable
 - When promotional fee will end
 - Fee that will apply at end of promo period
 - These must be in close proximity to the promo fee and must be equally prominent

Promotional Rates for Variable Rate HELOCs

- If promo rate is advertised, ad must also include:
 - Period of time promo rate will be in effect and current APR that would be in effect
 - These must be in close proximity to the promo rate and must be equally prominent

Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)

- No regulations
- Guidance comes from enforcement actions and agency policy statements
- Possible to violate UDAAP even if ads comply with regulations



Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)

- Unfair – causes/is likely to cause injury (i.e., financial injury) to consumers and is not reasonably avoidable
- Deceptive – likely to mislead consumer
- Abusive – interferes with ability to understand term/condition; takes advantage of lack of understanding

UDAAP and Advertising

- Messages must be accurate and not misleading
- Unfair or misleading advertisements
 - We have the best rates in town!
 - We can save you money on your checking accounts!
 - We'll beat the competition!

UDAAP Share Account Advertising Issues

- “Join today!” or “Anyone can join!”
 - Membership eligibility required
- “Free checking”
 - There really can’t be any maintenance or transaction fees

UDAAP Loan Advertising Issues

- “Rates as low as 4.213% APR”
 - Should have disclaimer that not all will qualify for lowest rate
- “We’ll lower your rate by 2%” or “We’ll match any competitor’s rates”
 - Any floor rate should be disclosed
 - Should have disclaimer that not everyone will qualify

UDAAP Loan Advertising Issues

- “No payments for 90 days”
 - Should have statement indicating when interest will begin to accrue
- “Skip your December payment”
 - Should have statement that interest will continue to accrue

UDAAP Loan Advertising Issues

- “Get pre-approved”
 - Say “Apply for pre-approval”
- “Fast approvals”
 - Say “Fast decisions”
- Special offers should include effective date or statement that offer is subject to change at any time

UDAAP Loan Advertising Issues

- Loan calculators
 - Should have disclaimer that use of the calculator does not guarantee credit
- Advertising loans/rates that aren't really available to targeted member

UDAAP General Advertising Issues

- “Free mobile banking at your fingertips”
 - Include statement that data rates may apply



UDAAP General Advertising Issues

- Advertisement disclosures should include limitations
 - Skip a payment not allowed on THESE LOANS
 - Certificate promotional rate only available on new money
 - Loan application must be received by DATE to qualify for rate
 - Loan must close by DATE to qualify for promotional rate

One-Click Rule



- For electronic ads, some disclosures can be one-click away
 - NCUA Regulations Part 707, Commentary provision Section 707.8(a)-9
 - Regulation Z, Commentary provisions Section 1026.16(c)(1) and 1026.24(e)

One-Click Rule – Share Account Ads

- TIS disclosures that can be one click away
 - Variable rate info
 - Time APY is offered
 - Minimum balance(s)
 - Fee statement
 - Certificate account info
 - Bonus disclosures

One-Click Rule – Loan Ads

- Regulation Z disclosures that can be one click away
 - APR
 - Payment examples
 - Fees

One-Click Rule Exceptions

- Share accounts
 - Share Insurance notice
 - APY=Annual Percentage Yield
- Loans
 - Equal Housing logo/statement
 - Intro/promo rate disclosures for credit cards and HELOCs
 - Time period for intro/promo rate
 - Rate after intro/promo period expires

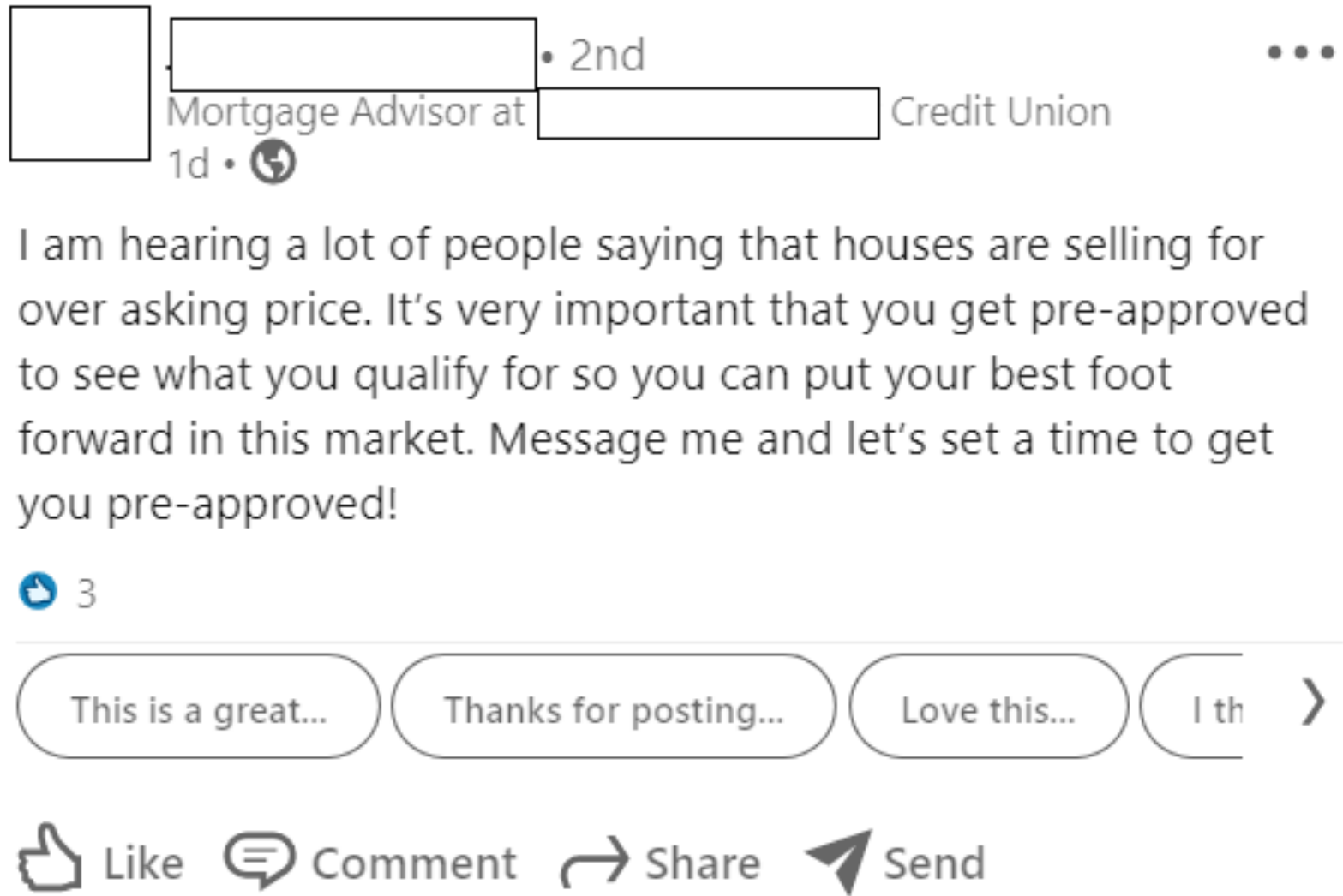
One-Click Rule Cautions



- Hyperlink should be clearly marked
 - “Click here for more details about costs”
- One click means ONE click
- Make business decision about UDAAP disclosures

Learn from the Mistakes of Others Examples

LinkedIn



Issues with LinkedIn Post on Previous Slide

- Mortgage ad – no Equal Housing Lender/Opportunity logo/statement
- UDAAP issues
 - “It’s important that you get pre-approved” and “Message me and let’s set a time to get you pre-approved.”

LinkedIn


+ Follow ...

Let your hard-earned money do the heavy lifting. Start your journey to financial growth by opening a High-Interest Yield Savings Account with Union today.

<https://lnkd.i>

Federally Insured NCUA

Savings Account earns 4.00% APY*, nearly 10 times the national average



Federally Insured by
NCUA

Issues with LinkedIn Post on Previous Slide

- Annual Percentage Yield has to be spelled out in the ad itself
- Required disclosures were 2 clicks away

**Refinance
& Transfer**
your
Auto Loan
as low as
3.29% APR

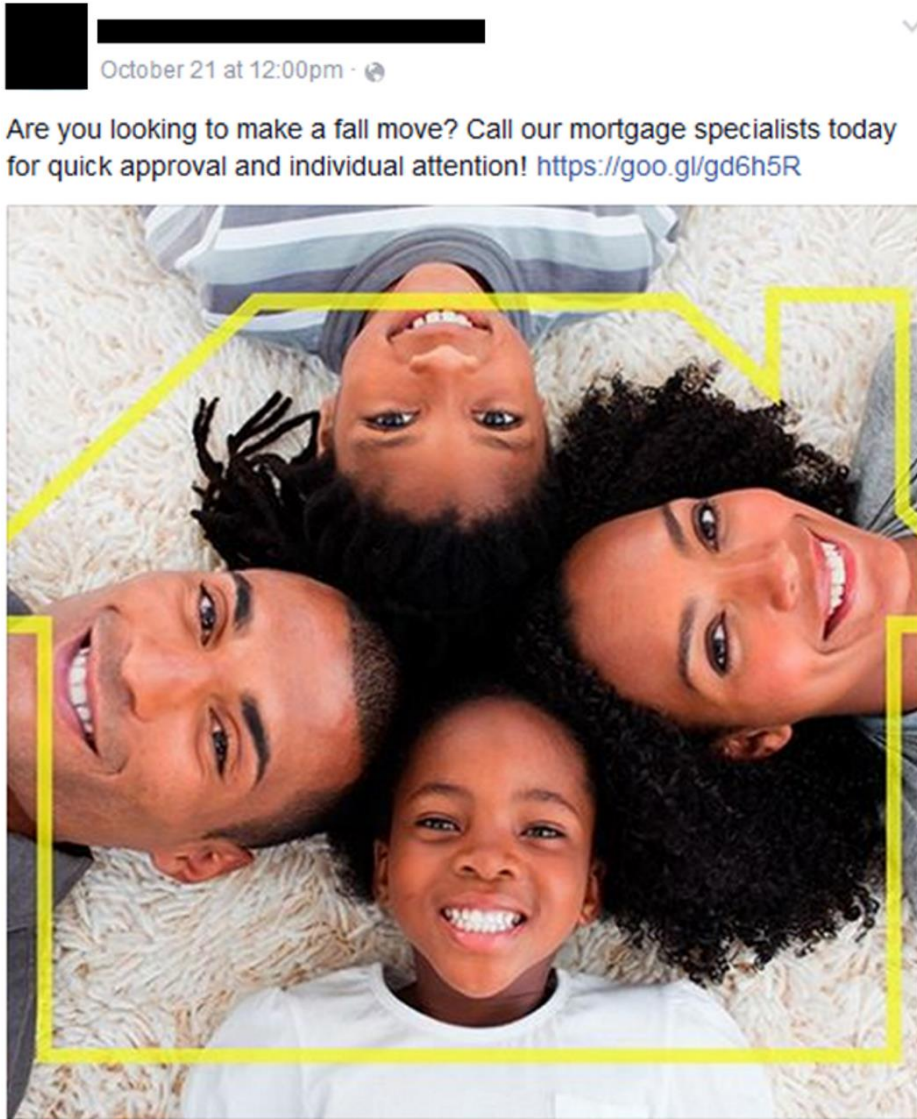


Facebook

Issues with Facebook Post on Previous Slide

- UDAAP issues
 - “Refinance and transfer your loan”
 - No disclosure that loans are subject to credit approval
 - “as low as 3.29% APR”
 - No disclosures that not all borrowers will qualify for the lowest rate

Facebook

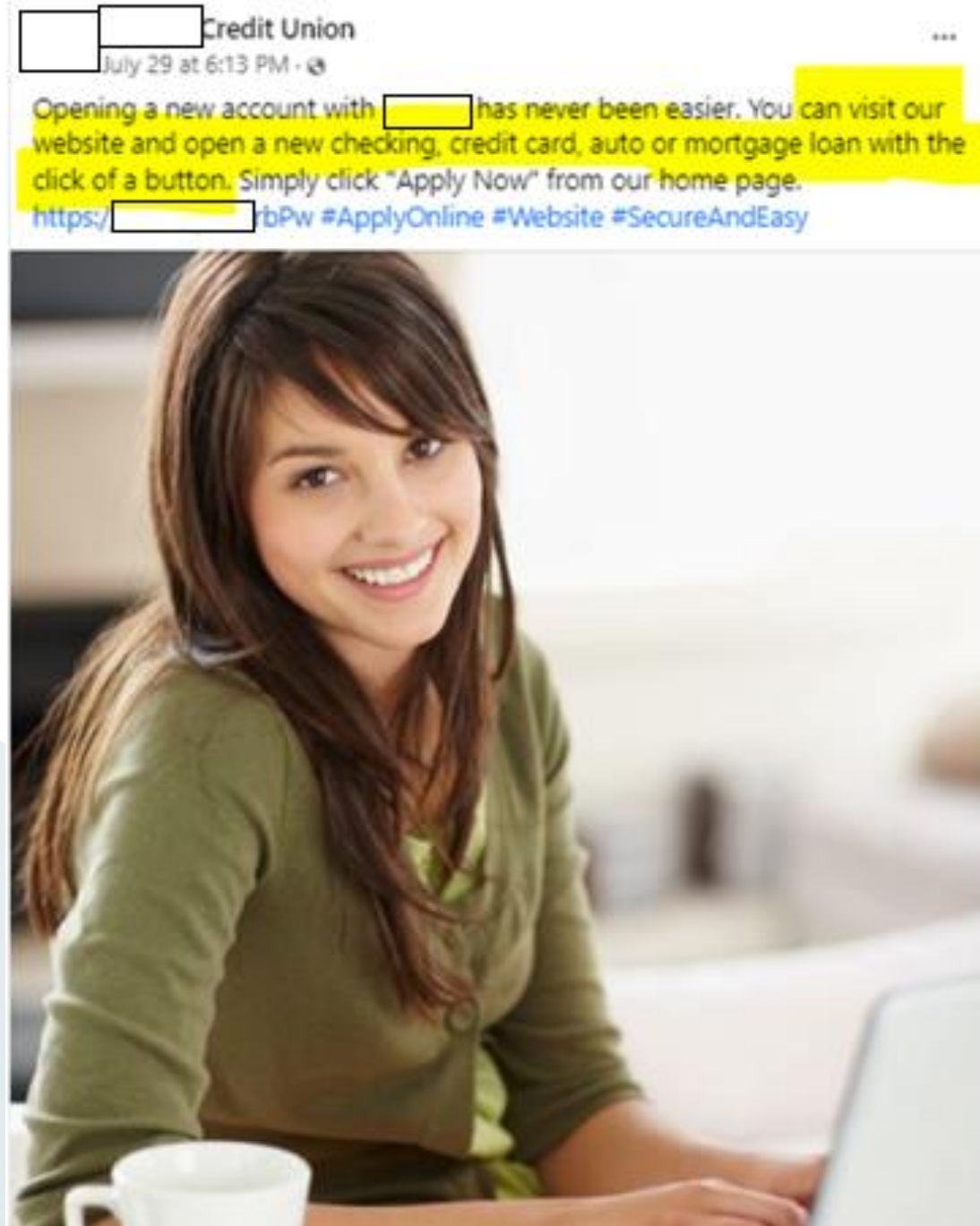


Issues with Facebook Posts on Previous Slide

- UDAAP issues

- “Call our mortgage specialists for quick approval”
 - No disclosure that loans are subject to credit approval
- “Refinance your auto loan with us, 90 days no payments”
 - No disclosure that loans are subject to credit approval
 - No disclosure relating to interest accrual

Facebook



Issues with Facebook Post on Previous Slide

- Mentions mortgage loans
 - No EHL/EHO logo/statement
- UDAAP
 - “Open a credit card, auto or mortgage loan with the click of a button”
 - No disclosure that loans are subject to credit approval
 -

Facebook

[Redacted] October 10 at 11:02 AM · [Redacted]

Act quickly, and don't miss out on this fantastic opportunity! The Holiday Skip-A-Pay application is available until October 23 for you to be able to skip a loan payment for this holiday season. 🎁 Ensure your financial tranquility during the holidays by seizing this chance to enjoy a stress-free season with extra cash on hand!

Not all will qualify. Contact us at [Redacted] to learn more.

Not a member? Join today: [http://\[Redacted\]](http://[Redacted])

Insured by NCUA

[Redacted]

[Redacted]



Skip this month's loan payment!

Issues with Facebook Post on Previous Slide

- Good
 - “Not all will qualify”
- Bad
 - No disclosure about accrual of interest

Facebook

[Redacted] October 1 at 12:18 PM · [Redacted]

Get in on the holiday magic by opening a [Redacted] between October 1 - December 31. Enjoy an introductory 0% APR* for the first six months. 🎁 No annual fees or balance transfer fees!

*Not all will qualify. Learn more: [https://\[Redacted\]](https://[Redacted])

Not a member? Join today: [https://\[Redacted\]](https://[Redacted])

Insured by NCUA

[Redacted]

[Redacted]



Get 0% APR* for the first six months with our card!

Issues with Facebook Post on Previous Slide

- Regulation Z – “Get 0% APR* for the first six months with our card”
 - Rate in effect after promotional period not in close proximity and with equal prominence to the intro rate
- UDAAP – “Open a card”
 - Contains disclaimer - “Not all will qualify”



General Social Media Considerations

Suggestions Regarding Social Media

- Policy
 - Credit union use of social media
 - Employee use of social media
- Staff training
 - Credit union's policy
 - Privacy and security reminders
 - Advertising rule reminders



Action Plan When Member Info Is Posted

- Monitoring is important
- Designated employee should remove information
- Contact member directly
- Remind members NOT to post nonpublic personal financial information

Complaints Via Social Media



- Facebook, Twitter, LinkedIn, Instagram, etc.
- Monitor CU's social media platforms
- Monitor ALL social media platforms

Have a Reaction Plan To Complaints on Social Media

- React/respond quickly
- How does CU handle complaints?
 - Procedures
 - Training
 - Refer to appropriate department
 - Track and report complaints

Use of Pictures on Social Media

- Don't use member photos without authorization
- Do review any photos from inside the CU for potential privacy traps



Social Media Outlet/Platform Rules

- Terms of Service
- Advertising philosophy
- Photos
- Promotions and contests

Social Media and Live Events

- Generally, all advertising rules apply
 - Treat it as a television commercial



Social Media Influencers

- Regulations don't address this practice
- If promoting products and services, treat as advertisements



Social Media Influencers

- When applicable, include
 - All disclosures under TIS
 - All disclosures under Regulation Z
 - All UDAAP disclosures
 - NCUA share insurance statement
 - EHL/EHO statement



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