

Greg Kramer, Ryan Cox and Matt Fry in Today's General Counsel: A Few Rules of Thumb About Press Releases

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There is nothing that we are more enthusiastic about than the entrepreneurial optimism of our public company clients; and there is no greater platform for these companies to share their victories and accomplishments and future plans with their shareholders and investment community than the press release and social media. However, like public reports filed with the Securities and Exchange Commission, press releases can also draw the attention of regulators and the plaintiffs' bar – not the kind of attention we're looking for at all. The purpose of this article is to give public company general counsel and CFOs a few quick simple rules.

Treat your posts on social media with the same caution as SEC filings and formal press releases. As we learned from the SEC's high-profile action against the CEO of Tesla, regulators, plaintiffs' lawyers and investors are paying close attention to social media posts by companies and their executives. This is a particular vulnerability for public companies. Unlike other formal communications, such as press releases, the personal social media account of a public company officer may not always be subject to the company's disclosure controls and procedures.

In addition, even if a public company institutes policies and procedures regarding social media, the control environment is susceptible to being overlooked because executives can access their social media accounts from a mobile device almost anywhere. Many have impulsively tweeted from the comfort of home can unintentionally release material, non-public information or made statements that were misleading to investors or were perceived as racist, sexist or offensive.

Disclosure controls should be equally applied to social media posts of companies and executives. Policies and procedures, pre-approval, monitoring and frequent reminders are all reasonable.

Excerpted from *Today's General Counsel*. To read the full article, click [here](#).