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BUSINESS | Updated April 2, 2013, 7:49 p.m. ET

# SEC Embraces Social Media

New Way to Make Disclosures Gets Go-Ahead if Investors Are Told Where to Look

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By JESSICA HOLZER and GREG BENSINGER

Executives with itchy Twitter fingers can rest easier after federal securities regulators blessed the use of social-media sites to broadcast market-moving corporate news.

In a ruling that portends changes to how companies communicate with investors, the Securities and Exchange Commission said Tuesday that postings on sites such as Facebook (FB -2.21%) and Twitter are just as good as news releases and company websites as long as the companies have told investors which outlets they intend to use.

The move was sparked by an investigation into a July Facebook posting from Netflix Inc. (NFLX +0.11%)

The Securities and Exchange Commission cleared Netflix CEO Reed Hastings of any wrongdoing in using social media platforms to disseminate corporate information. Paul Vigna reports.



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boasted on the social-media site that the streaming-video company had exceeded one billion hours in a month for the first time, sending the firm's shares higher. The SEC opened the investigation in December to determine if the post had violated rules that bar companies from selectively disclosing information.

With the SEC's OK, investors now have social media as a way to find key information released by corporations. Former SEC senior counsel Eugene Goldman discusses. Photo: Getty Images.

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"An increasing number of public companies are using social media to communicate with their shareholders and the investing public," the SEC said in its report Tuesday. "We appreciate the value and prevalence of social media channels in contemporary market communications, and the commission supports companies seeking new ways to communicate."

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**Earlier: Disclosures in Twitter Age More Room for Social Media Disclosure?**

The fair-disclosure rule at issue requires companies to disseminate information in a way that wouldn't be expected to give

an advantage to one group of investors over another. The SEC has said that filing a form, known as an 8-K, or holding an earnings call are both ways to ensure compliance with the regulation.

In 2008, the SEC said that companies could use their corporate home pages, under certain circumstances, to disseminate sensitive information.

In its Tuesday ruling, the agency said social-media sites would also suffice—in some circumstances. It blessed sites as long as companies make clear to investors they plan to use them. It also suggested a corporate executive's personal Facebook page wasn't as likely as a company's social-media page to be a channel through which companies would be allowed to make important announcements.



Enlarge Image

Annie Tritt for The Wall Street Journal

Netflix's Reed Hastings posted news about the firm on Facebook.

"You won't want to have a situation where access is restricted or where shareholders don't know that's where they are supposed to go to get the latest news," said David Martin, a partner at Covington & Burling LLP.

As part of its Tuesday announcement, the commission said it wouldn't pursue civil charges against Mr. Hastings, even though he used his personal Facebook page.

The Netflix CEO "views social media as an important method of communication and, consistent with the SEC's guidance in this area, will continue to do so," a spokesman for the Los Gatos, Calif., company said in an email.

Several large companies, including computer-maker [Dell Inc.](#) ([DELL +0.39%](#)) and [eBay Inc.](#), ([EBAY -0.81%](#)) use Twitter to announce financial and other key information to investors. Many simultaneously send out news releases or report the information in filings to the SEC. Tuesday's announcement will allow them to use social media more.

Only 14.4% of companies communicate with shareholders via social media, according to a 2012 survey by the Conference Board and Stanford University. Yet more than three-quarters of the companies in the survey said they used social media to interact with customers.



Enlarge Image

Netflix CEO Reed Hastings's post on Facebook in July 2012.

Joseph Grundfest, a former member of the commission who now teaches at Stanford Law School, said the SEC is bowing to reality in blessing social media. Twitter, where users can post comments of 140 characters or less, says more than 200 million people world-wide use the service at least once a month. Facebook says it has more than one billion users.

"As a practical matter, Reed Hastings' personal Web page probably informed more people more quickly of the information than" a formal SEC filing, said Mr. Grundfest, who published a paper in January urging the SEC not to pursue an enforcement action against Mr. Hastings. "You don't have 200,000 people a day checking Netflix filings on" the SEC's electronic-document site.

As if to buttress the point, [Goldman Sachs Group Inc.](#) ([GS +0.03%](#)) tweeted "thanks"

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to the SEC in response to Tuesday's guidance.

The SEC's move comes amid a broader debate over how Washington oversees companies' interactions with social media as regulators incorporate into their thinking the growing use of websites like Facebook and Twitter by companies and employees.

**Earlier**

[SEC Warns Netflix Over Facebook Post](#)  
(12/06/12)

[The Facebook Post That Landed Reed Hastings in Hot Water](#) (12/06/12)

[SEC Probes Netflix CEO Over Facebook Post](#)  
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[Social Media and Reg FD: Can You Use Facebook to Disclose?](#) (12/07/12)

The Consumer Financial Protection Bureau and the Federal Trade Commission are stepping up scrutiny of debt collectors, which have used Facebook to contact debtors. Last month, the FTC said celebrities using social media to endorse products must say so—as they would in traditional advertising venues—if they are paid for

the promotion.

The agency said Netflix and Mr. Hastings seemed to run afoul of fair-disclosure rules because they hadn't previously used Facebook to announce important information and hadn't told the public the page could be such an outlet.

At the time, Mr. Hastings, who is a Facebook board member, said further disclosure wasn't necessary because he had more than 200,000 subscribers to his personal page on the site, making it a "very public" forum. Netflix had also previously disclosed news about the milestone on its blog.

A Twitter spokesman declined to comment. A Facebook spokesman said the company welcomed the ruling, but he added it was "too early to make any pronouncements" about whether the company would use its own site or others to disseminate material corporate information.

[PepsiCo Inc.](#), PEP +0.04% on the same February day it issued its fourth-quarter earnings report, sent out more than half-a-dozen related tweets from its official Twitter account. The messages included snippets on profit numbers and dividend payouts as well as comments from CEO [Indra Nooyi](#). The details had previously been published in a traditional earnings news release issued that morning. The tweets included links to the original document. It is too early to say how the latest SEC ruling might influence company practices and policies, a PepsiCo spokesman said.

—Scott Thurm and Mike Esterl contributed to this article.

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**Corrections & Amplifications**

Twitter has 200 million people world-wide who use the service at least once a month. An earlier version of this article said Twitter has 200 million who use it at least twice a month.

*A version of this article appeared April 3, 2013, on page A1 in the U.S. edition of The Wall Street Journal, with the headline: SEC Embraces Social Media.*

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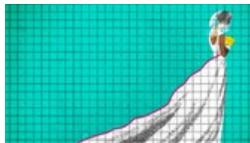
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