

Website and Social Media Archiving

A Growing Necessity for the Financial Industry

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This whitepaper examines the unique challenges associated with online business communications and social media for companies in the financial industry, and explains the role of web archiving in addressing those challenges. This will assist you in understanding current electronic records regulations, their implications for financial companies, and the best practices for implementing solutions.

Introduction

As marketing and business communications move increasingly online, the implications of record retention laws are of growing concern. This is true across all industries, but this whitepaper will address the unique considerations of securities traders, investment advisors, banks, and other companies in the financial services sector. The benefits of emerging “Web 2.0” technologies can provide firms with more efficient dissemination of information, heightened engagement with consumers, and better communication within the company; however, there are risks associated with the use of these tools for organizations that fail to maintain admissible records of their online activities.

Most businesses (particularly large ones) have some type of retention system in place for e-mail. Others rely on a back-up system for their website. But what about the company blog, customer forum, intranet, or Twitter account? These, along with all other web content, are subject to regulation and e-discovery. Comprehensive web archiving is the emerging solution to the pressing issue of online records retention.

This whitepaper examines the unique challenges associated with online business communications and social media for companies in the financial industry, and explains the role of web archiving in addressing those challenges. This will assist you in understanding current electronic records regulations, their implications for financial companies, and the best practices for implementing solutions. We hope this document serves to inform and empower your business toward future success.

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Online Communications: Benefits and Risks

Modern web technologies have revolutionized marketing and communications for most organizations. A recent survey found that 69 percent of companies have experienced measurable business benefits by leveraging the creative and collaborative aspects of the Internet (“Web 2.0”).ⁱ Companies that made greater use of those technologies reported even greater benefits.ⁱⁱ Given these facts, businesses are increasingly interested in utilizing web innovations to lower costs and develop relationships with customers.

However, as the opportunities for online communication increase, so do the risks. Organizations are held accountable for everything they publish on the web, and are required to keep records of their online content.ⁱⁱⁱ These obligations have come to include not only websites, but also blogs, forums, intranets, social media, and so forth. Legal liability has expanded to the corporate web.

Increased Enforcement

These developments will have a particularly strong impact on the financial industry. Requirements for records retention have already been established by regulators such as the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), the Financial Services Authority (FSA) and others. Additional rules will be forthcoming as social media and other new technologies grow in popularity. Financial companies must educate themselves concerning these requirements and expect enforcement actions in cases of non-compliance. Due to the current recession (and its underlying causes), regulators around the world are focusing more heavily on the governance of financial institutions. It is critical for firms to be prepared for increased scrutiny of their records retention practices.

Consequences of Non-Compliance

Failure to comply with these regulations can result in hefty fines, bad publicity, and ultimately loss of business. For example, the SEC, NYSE, and NASD fined five broker-dealers a total of \$8.25 million for their failure to preserve email communications -- specifically for their violation of NASD rule 3010, NYSE rule 342, and SEC rule 17a-4.^{iv} Fidelity Brokerage was fined \$2 million by SEC and NYSE for similar offenses.^v Considering that regulation enforcement will probably increase as firms conduct more business online, it simply makes sense to understand records retention requirements and implement appropriate policies.

Social Media

With the explosion of social media platforms like Twitter, Facebook, and LinkedIn, the web is now recognized as a collaborative and interactive medium through which companies can connect with consumers on either a massive or targeted scale. Over 68% of the world's population utilizes some type of online member community,^{vi} so it's no surprise that financial institutions have been eyeing social media as a potentially powerful business tool. For instance, several prestigious banks (Wells Fargo, Arvest, and North Shore Bank, to name just a few) have established a Twitter presence to keep customers updated on special offers, post helpful financial advice, and more. Others in the financial sector are experimenting with social networks for marketing, public relations, and other business purposes.

At the same time, organizations are discovering that corporate usage of social media has different ramifications than personal usage, and requires careful implementation. All the information that is relayed through a social network is available for public scrutiny, subject to regulation, and must be stored and reviewable. FINRA, in its recently released regulatory notice concerning blogs and social networking sites, explicitly stated that firms must retain records of all business-related electronic communications to remain compliant with Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934 and NASD Rule 3110.

*"Social networking sites and blogs raise new regulatory challenges, particularly in the areas of supervision, advertising and books and **records requirements**."*

Rick Ketchum, FINRA Chairman and CEO

While acknowledging that each organization will have to implement its own strategy for reconciling online communication with current record-keeping requirements, FINRA has been clear that no "compliance grace period" will be in effect for companies engaging in new technologies. Firms must be confident that they have effective records retention systems in place before they begin utilizing social networks.

Rules and Requirements

Because the regulations imposed on the financial industry by multiple organizations are so varied and numerous, it can be difficult to isolate the rules pertaining specifically to books and records in order to implement an effective retention policy. For your convenience, we have assembled an overview of “best practices” for website and social media retention along with the associated regulations.

1. Records should be managed so that they can be reproduced in a timely and complete manner . . .

A simple backup is not sufficient. Without the ability to organize and search company records, finding a specific page can be like finding a needle in a haystack. Firms must consider whether their data can be quickly presented to a regulator in case of litigation or e-discovery proceedings.

. . . as required by 2006 changes to the Federal Rules of Civil Procedure.

2. Records must be preserved in whatever medium they were originally produced . . .

The regulations currently in effect for business records are being extended to all electronic communications, including websites and social media. Companies are responsible for retaining and retrieving these records no matter where they occur. Also, they must ensure that retrieved data can be presented as a perfectly accurate reproduction including links, rich media, data feeds, and video.

. . . as required by the Investment Dealers Assoc. of Canada, FINRA, and the FRCPC.

3. Records must be kept for periods of up to seven years . . .

Nearly every specification for record-keeping in the financial sector requires that data be preserved for long periods of time. Your website and social media communications are transient by nature. To remain compliant with regulations, they must be captured in such a way that their contents can be reproduced accurately, months or even years later.

. . . as required by SEC, FINRA, IDA of Canada, FSA of the UK, and the Sarbanes-Oxley Act of 2002.

4. Records must bear proof of data integrity and authenticity . . .

Besides complying with the retention requirements of financial services regulators, firms must be aware of how digital evidence is viewed in court, should they be involved in litigation or e-discovery proceedings. Electronic evidence must bear a digital signature and timestamp to prove that the data in question was indeed online at the alleged time, and that the data in question has not been altered.

. . . as required by the Federal Rules of Evidence.

Web Archiving is the Solution

Obviously, a responsible plan for admissible records retention is critical for your business. Should it become necessary to access the history of your web presence, would you confidently be able to produce non-refutable records from a specified date? How difficult would it be to find the data in question? And most importantly, would you be able to view the content (including links, rich media, feeds, etc) just as it appeared when it was created?

Server Back-Up

Some companies believe their server backup policy is providing them with sufficient protection. However, the web is built on rapidly evolving technologies, making it increasingly difficult to maintain a comprehensive record of web history using back-up alone. In fact, for historical web pages to be valid, companies must continually back-up any databases (in addition to the other website components) because the databases influence the site's content, and are constantly changing. In addition, backups are cumbersome (a continual manual process), expensive (because of excessive storage demands), and inefficient (since they cannot be indexed or searched). Above all, most server back-ups simply do not meet the standards for data integrity and authenticity that are required by the Federal Rules of Evidence for use in court.

CMS Revision Control

What about Content Management Systems (CMS)? Many of these systems have "revision control" of webpage content built into the application, enabling users to view versions of webpages from the past. But this technology isn't powerful enough to restore the pages in a comprehensive, defensible form. Modern online content is dynamic and complex, often pulling data (such as Flash or AJAX content) from outside the CMS's database. A webpage reproduced through CMS revision history will not be truly admissible unless the reproduced page bears a digital timestamp and signature. Needless to say, this is not a viable option for companies interested in a strong records retention policy.

Web Archiving

Archiving is the emerging solution to the problem of maintaining perfect historical web records. An enduring web archive is created by capturing a digital snapshot of the web content, independent of specific databases or technologies. That means the webpage can always be viewed in its original form and deliver the same user experience, meeting regulation requirements for authentic copies. Archiving guarantees your company's ability to exactly reproduce past online content, and to locate specific pages using search technologies for web-analytics or e-discovery purposes.

The PageFreezer Solution

PageFreezer is pleased to offer a cost-effective, SaaS-based archiving solution which provides for the specific needs of financial companies -- daily automatic archiving of your corporate web presence, perfect reproduction and replay of those archives, excellent search and retrieval functionality, and compliance with SEC, SOX, and FINRA regulations related to websites and social media communications.

Implementing a web archiving policy requires considerable investigation and forethought, given the various options now available in archiving technology. How will you know which archiving service is covering all the bases? There are several key components to consider. The ideal archiving solution:

... employs a powerful content capture method.

In order to provide comprehensive archiving of even complex or hard-to-reach content, PageFreezer utilizes archival crawlers (derived from search engine crawling technologies) and harvesters (for real-time archiving) to capture pages. PageFreezer's web crawl and harvest technologies are industry-strength and work well in a wide range of circumstances and site / page designs.

... provides perfect representations of digital content.

Today's websites employ all manner of technologies -- Javascript, Flash, Web 2.0, AJAX, and much more -- making it difficult to secure archives that can be viewed as exact representations of the originals. Only PageFreezer supports the capture of ALL complex web content (including Flash). The perfect copies are stored unchanged, which is particularly important within a legal context.

... eliminates dependency on publishing software and databases.

The preservation and storage of digital content is best approached using the SaaS (software as a service) model -- everything happens online, with nothing to install or configure. PageFreezer takes responsibility for your archives and stores them for you, independent of specific technologies or databases.

... allows for powerful search functionality across all archived material.

Discovering and analyzing specific archives is simple within PageFreezer's browser-based console, which allows for detailed keyword searches and filtering commands across your entire archive or within specific site / date combinations. Unique calendar and timeline features help companies perceive how their webpages have changed over time.

... guarantees secure archive storage.

Responsible handling of your company's sensitive data is of vital importance. PageFreezer stores your archives on a fault-tolerant data cloud at our SAS70 Type II compliant data center,

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then mirrors the information to a geographically remote second location as an added precaution. Archives will not be changed or destroyed during the duration of your company's subscription.

... offers a variety of options for acquiring web content.

With archival crawlers browsing your website capturing everything within a defined scope, it's essential to set parameters that will keep the resulting archives relevant to your company's needs. With PageFreezer, you can choose to archive entire websites, individual pages, specific URL paths, or even exclude key words from the crawlers' search. You also determine how often you want your site archived, preventing redundancy and keeping your records pertinent.

... ensures defensible digital records.

In addition to providing a user-centric view of content in the original rendered form (as required for legal use), PageFreezer places a 512-bit strong digital signature on each archived page, proving the content has not been altered (data integrity). PageFreezer also provides each page with a digital timestamp, synchronized with certified atomic clocks, to prove the content was online at a specified date (data authenticity). These precautions guarantee the admissibility of your archived records.

... supports the Litigation Hold process.

In the case of legal action or e-discovery proceedings, PageFreezer provides prompt exports of archived content. Within a few business days of your request, your legal counsel will receive a well-prepared package including searchable PDF files and the native files with our digital timestamp and signature, providing the defensible evidence required in court. Regular data export is also available, should you need a local copy of your records for any reason.

Conclusion

Web archiving is rapidly becoming the preferred method of records retention for financial organizations concerned with regulatory compliance and effective web analytics. You can protect and empower your business by bringing PageFreezer's powerful technologies to work for you. As the archiving industry grows and evolves, we are committed to continued innovation, ensuring that our customers always have access to the most comprehensive, robust archiving technologies available.

To learn more about web archiving or find out how you can get started today, please contact us:

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About PageFreezer

PageFreezer.com is the leading solution for archiving, managing, retaining and replaying dynamic web content for companies and government agencies. It provides an integrated solution for website archiving, regulatory compliance, e-discovery and litigation support.

The service is available in two editions: On Demand or On Premises. For online service, with no software installation or configuration, choose PageFreezer On Demand. Set up your account and begin archiving within an hour.

If you prefer to keep your data private "in house," choose PageFreezer On Premises. With this edition, you can also archive your intranet and other internal websites.

PageFreezer is brought you by PageFreezer Software, Inc., with 4 offices worldwide in the USA, Canada and Europe.

Page Freezer

Checklist

Once your company has decided to implement a web archiving policy, it's important to understand the functional differences between various archiving services. PageFreezer is industry-leading in a number of aspects and offers several unique functionalities. The following feature checklist is included for your convenience in comparing archiving options.

Functionality	Check
PageFreezer Editions	
On Demand (Software-as-a-Service)	✓
On Premises	✓
Microsoft SharePoint	✓
What can PageFreezer archive?	
Websites	✓
Web 2.0 sites	✓
Intranet/Extranet	✓
Microsoft Sharepoint	✓
Blogs (Wordpress, Blogger etc)	✓
Social Media (Twitter, MySpace, Flickr)	✓
Supported filetypes	
Web pages: HTML, CSS, XML, TXT etc.	✓
Images: PNG, JPG, GIF, SVG etc.	✓
Documents: MS Office, Open Office, PDF etc,	✓
Binaries: ZIP, RAR, Bin etc.	✓
Web Applications: Web 2.0, Adobe Flash, AIR, Javascript, AJAX, Java Applets etc.	✓
Data Feeds: RSS, ATOM, vCal, iCal, KML, KMZ etc.	✓
Video: Flash Video, Quicktime, Windows Media, MP4, DivX, ASF	✓
Audio: MP3, AAC, WMA, M4A etc.	✓
Snapshot Configuration Options	
Snapshot frequency: configurable by minutes, hours, days, weeks, months	✓
One page only	✓
Subdomain only	✓
Subdirectory only	✓
Full domain	✓
Full domain & subdomain	✓
Exclude web pages by keyword	✓
Cookie support	✓
Add URLs outside the main domain	✓

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Secure Sites (Basic HTTP Access Authentication and IP verification)	✓
View options	
Timeline	✓
Browse archived websites (all links work)	✓
Search archived websites	✓
Jump through time (with calendar)	✓
Search Engine Features	
Full text search	✓
Metadata search	✓
Boolean search	✓
Proximity search	✓
Filter by URL	✓
Filter by filetype	✓
Filter by date	✓
Regulatory Compliance	
FDA 21 CFR Part 11	✓
US Federal Rules of Evidence (Rule 901)	✓
Canadian Evidence Act	✓
FINRA	✓
HIPAA	✓
COBS 11.8	✓
SEC 17a-4	✓
FDIC	✓
Sarbanes-Oxley (SOX)	✓
Public Records Act	✓
Legal Support	
Federal Rules of Evidence (rule 901) compliant	✓
512-bit strong digital signature on each archived page	✓
RFC 3136 compliant timestamp on each archived page	✓
Certified atomic clocks to establish a "legal time" for the timestamps	✓
Support for Legal Hold process	✓
Affidavit	✓
Data Export	
Define export based on: time, keyword(s), filetype(s)	✓
PDF with support for Search, Copy, and Paste	✓
Native Format (HTML, CSS, PDF etc)	✓

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ⁱhttp://www.mckinseyquarterly.com/Business_Technology/BT_Strategy/How_companies_are_benefiting_from_Web_20_McKinsey_Global_Survey_Results_2432?pagenum=3#2

ⁱⁱIbid.

ⁱⁱⁱ<http://www.ediscoverylaw.com/2008/10/articles/case-summaries/finding-no-reason-to-treat-websites-differently-than-other-electronic-files-court-grants-adverse-inference-for-failure-to-preserve-website/>

^{iv}<http://www.sec.gov/news/press/2002-173.htm>

^v<http://www.sec.gov/news/press/2004-103.htm>

^{vi}<http://www.scribd.com/doc/13117994/Nielsen-Global-Faces-and-Networked-Places>