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Demystifying FINRA's New Rules

A Small Firms Compliance Advisory: Sponsored by AdvisorVault.org

By far the most confusing aspect of FINRA's audit process deals with data compliance, in particular the long-term archiving and supervisions of data such as books and records, emails and other critical electronic records. In reality, the most complex aspect is ensuring this is all done in accordance with SEC and FINRA rule 17a-4 Books and Records Retention and Archiving requirements.

This is especially difficult for small financial firms such as independent broker-dealers, investment advisors and wealth management firms who don't have large budgets to hire full time IT staff. Managing this process themselves is virtually impossible, yet they must continually ensure that all current rules are met. Naturally, the increased complexity of technology today has also compounded the problem; especially the explosion of mobile workers who now have critical data such as email spread across the entire organization on laptops and handheld devices. Attempting to apply specific SEC and FINRA data compliance rules to ensure the long-term retention and supervision of this dispersed data is a huge task and demands a deep understand of technology.

"We find customer, especially small broker-dealer firms virtually lost when it comes to electronic records archiving and supervisions - then throw in all the verbiage in FINRA rule 17a-4 and firms become even more confused." Said Allan Lonz, President of AdvisorVault, <http://www.advisorvault.org>, the only remote backup provider designated to helping small financial firms with their compliant data backup and archiving. "Matching both the technology they have in place and the multitude of rules from regulators is simply overwhelming, they need to fully rely on outside vendors to help them with data archiving and retention, especially email dispersed across the entire organization, yet few providers fully understand their unique needs," Added Lonz.

Rules surrounding the long-term archiving of data contained in emails and books and records used by broker-dealers who are members of FINRA regulated by the SEC are increasingly complex. Firms must understand technology and data structures of their current and future technology and always ensure no gaps appear in current or new electronic data archiving rules. This is no small task, and often firms have no choice but to outsource their data compliance to outside providers to ensure they are compliant. But ultimately, it's the companies themselves who are responsibility for ensuring any third parties are properly protecting critical data, such that all electronic records are correctly archived for long-term retention and supervision - a thorough understand of the specific rules that apply is the critical first step. Especially rule FINRA rule 17a-4 and the requirements surrounding the long-term retention of books and records and other communication

Understanding Today's Rules

To keep up, FINRA needs to continually update their rules surrounding the long-term archiving of new types of electronic records. Email and electronic records retention rules apply to data compliance such as to ensure new methods of using information is taken to account – regulators surely want members to

make use of the latest technology but at the same time need to provide a framework for the proper retention of these new data formats. Social media is a perfect example. Facebook, LinkedIn and Twitter give advisors an excellent method to inform and gain new clients but behind the scenes the databases and protocols used for creating and store data associated with these services is totally new to regulators. Actually putting in a place the proper methods to ensure this data and the electronic records associated with them can be archived long-term in accordance to FINRA and SEC rules such as 17a-4 puts extra pressure on compliance officers.

Despite this complexity, there are still a few basic compliance rules which always apply - no matter what technology is employed. It is essentially the method used to create and store data that has to be taken into account. Nonetheless rule **17a-4** will always provide the guidelines, especially when it comes to technology used to communicate with new and existing clients.

The Basics of Rule 17a-4

Rule 17a-4 is the main rule used by regulators to help firms achieve data compliance, despite the systems being employed. Although this rule contains many pages outlining in great detail how firms must manage their data, three basic objectives have always remained the same:

1. **Preserve Data for at Least 7 years** – Essentially this means firms must put in place a method to archive books and records, emails and other communications on a separate system so that the long-term retention of electronic records in accordance with FINRA and SEC rules is met
2. **Retain Data on Non-Writable Media** - The next critical aspect of FINRA rule 17-4 deals with the type of disk used. Firms must ensure they use optical disk such as CD or DVDs or ensure any providers have Worm disk that cannot be erased or have the software in place to ensure that archived data cannot be modified
3. **Make Data readily available for auditors or during regular compliance reviews** – Finally, ensuring current and archived data can be quickly access is important. Having software in place that can access all data that is backed up and make certain audits are passed with success and regular reviews can be easily done by compliance officers

By effectively achieving these three rules, ninety percent of a financial firms data compliance worry will be solved; the last ten percent deal with documentation and supervision of these three tasks. This is not an easy job, especially for smaller independent firms who don't have the budgets to build and maintain their own systems in house.

About AdvisorVault

AdvisorVault, <http://www.advisorvault.org>, is the only remote backup provider specifically designed to help small broker-dealer firms achieve today's stringent data compliance requirements surrounding the long-term archiving of electronic books and records and communication such as email and books and records. With our designated third-party status (D3P) we help small firms achieve all the required data compliance rules surrounding long-term

retention and archiving of data defined in 17a-3 & 17a-4, as well as the supervisory and disaster recovery demands contained in FINRA rules 3510 and 3010.

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