



The Cost of Doing Nothing:

3 STAKEHOLDER PERSPECTIVES

Overcoming common barriers to upgrading from a legacy archive to a modern archiving solution





The dynamic regulatory environment requires constant attention from banks, broker-dealers, investment advisors and others in the financial services industry. These organizations must manage their responses to data privacy and protection legislation driven by the General Data Protection Regulation (GDPR) in the UK and the California Consumer Privacy Act (CCPA) in California. The introduction of the soon-to-be-implemented Regulation Best Interest (Reg BI) conduct standard for broker-dealers is also changing the game.

Against the backdrop of evolving regulations, information security and privacy laws, the increased use of new communications tools and devices are contributing to the transformation of compliance. What had been a highly specialized, process-driven compliance function is an all-hands-on-deck risk management obligation. Stakeholders from compliance, legal and IT departments are all challenged to adapt existing processes and technologies to meet developing requirements effectively.

Archiving solutions that support regulated industries have had to transform, too. Financial services firms are seeking to embrace cloud-based solutions that address a wide and ever-expanding set of communications and content types (chat, text, social, voice, etc.).

Regulatory technology (RegTech):

Cloud-based technology used to help businesses comply with regulations efficiently and less expensively. Main functions include regulatory monitoring, reporting and compliance.

The move to robust cloud archiving platforms is beneficial, not only for compliance, but also to suit legal, IT, privacy, customer insight and other business needs. The possibilities are endless. New systems use artificial intelligence (AI) and machine learning to evaluate data from multiple sources. These create a holistic view of the firm's business processes and illuminate exceptions or trends that could benefit business strategy. Since they are hosted in the cloud, these systems require limited start-up investment and lower the overall cost of compliance.

SO, WHAT IS HOLDING REGULATED FIRMS BACK?



Simple answer: legacy technologies. On-premise systems that have become encrusted in the cement of inflexible IT structure and are now unwieldy and bogged down by old data that cannot be disposed of reliably. Projects to wrestle this elephant in the room are often considered to have an inadequate benefit/risk ratio. It is less disruptive to simply maintain the status quo. But maintaining legacy on-premise archiving systems for critical functions like e-discovery, compliance and internal investigations can introduce unexpected risks.

The decision whether to upgrade from legacy systems often places firms in an endless cycle. They put up with slow (or erratic) search results, continue to procure additional storage, and keep paying the professional services and maintenance bills. They only see the cost, risk and uncertainty of migration, so the cycle repeats.

If you are stuck in this cycle, it is easy to lose sight of the agility, productivity and predictability benefits that are possible with modern technologies. Additionally, compliance, IT and legal departments all have a different view into the problem and have trouble arriving at a consensus about how to finally pull the plug on old technology.

We asked experts representing each of these functions what makes organizations resist adopting new technology. They found that the primary adoption barriers to cloud archiving platforms center on these three perceived obstacles:



Cost

Moving large quantities of historical data can be expensive and resource intensive. Costs accumulate from system acquisition and implementation, migrating data archives from one system to another, and/or running systems in parallel.



Risk

Replacing processes and changing technology present management with significant operational risks. Worries over technology capabilities are a concern, and system migration brings the risk of data loss and, subsequently, regulatory or discovery exposure.



Inertia

Possible changes to compliance and legal workflows, along with unclear impacts on IT staffing, lead some firms to hesitate when considering new systems. Bureaucratic organizations and processes tend to limit change and resource reallocations, which pushes the problem down the road.

COST



Compliance says “modern technology improves productivity”

While RegTech has transformed many areas of compliance supervision, most firms continue to use legacy systems to monitor business communication. Modern regulatory technology creates higher-value insights that actually reduce the amount of data requiring review. AI significantly reduces false positives and allows firms to reprioritize the staff reviewing and researching alerts. It also lowers the amount of time a business manager needs to spend supervising messages, which allows them to focus on business growth rather than compliance.

Moreover, by being hosted in the cloud, these systems require limited initial investment and lower the overall cost of compliance.



IT says “maintenance fees go down and performance goes up”

A common perception is that existing on-premise archiving systems are a sunk cost (initial hardware, software and installation) and adding new storage and other requirements is a financially straightforward proposition. However, the firm may be paying ongoing software maintenance and have significant annual personnel costs to maintain the legacy system. These staff members could be refocused towards capturing other cost savings or productivity gains elsewhere in the firm.

Further, the system may address only email, requiring other expenditures for managing other types of electronic communications. Companies need to factor in these and other costs, while ensuring that data migration and extraction costs remain reasonable. This will likely show that “pay as you go” cloud-based archiving systems provide significant firm-wide cost advantages.



Legal says “consider the opportunity cost”

Rather than focusing on the upfront cost, firms should consider the opportunity costs they will incur for not embracing new technology. For example, enabling conferencing tools to connect with potential clients will automatically give firms a competitive advantage.

Adopting the latest collaboration and conferencing technologies (Microsoft Teams, Slack, Zoom, etc.) provides the opportunity for employees to stay connected and stay productive. The key is to have a reliable solution for capturing, storing, monitoring and retrieving all communications content in its full capacity.

RISK



Compliance says “bad behavior can’t hide from AI”

Legacy systems utilize key words to identify suspect behavior. This method is used by most firms and currently accepted by regulators. Practitioners know what is acceptable and the lexicon is usually well known to members of the firm. But bad actors will find ways to circumvent this supervision technique, which makes it less effective for mitigating risk.

Artificial Intelligence presents the opportunity for stronger monitoring. For instance, a message surveillance tool that used AI to holistically create and analyze a profile for an employee — to include social media, voice-based firm transactions and other communications. Firms could surface anomalies or patterns of behavior that aren’t on a keyword list.



IT says “your solution must be able to address all communications & associated data”

While a legacy archive may address email, it may simply not deliver the ability to capture and appropriately manage a wide set of other communications. This exposes a firm to compliance and e-discovery risk. A robust cloud-based archive should capture all native properties, attachments and metadata of key content sources, in full conversational context, to ensure complete recordkeeping processes.



Legal says “firms must be prepared for evolving laws and regulations”

The scope of communications data that must be protected and monitored today has expanded with the ongoing adoption of new and interactive channels. Archiving tools must be able to capture and preserve all that data comprehensively, or companies will suffer incremental risks when they cannot fully respond to a regulatory or e-discovery request.

This risk (and potential compounded cost) increases with every new data privacy regulation, such as GDPR and CCPA, where firms are now under specific requirements to respond within a 45-day time frame.

There’s a reputational risk for companies that operate with out-of-date devices and applications. They can be seen as stodgy or out of touch, which can negatively impact recruiting, and how prospective customers and employees feel about working with them.

INERTIA



Compliance says “advanced supervision technology drives business”

Migrating to a new system requires an organization to make the effort a top priority. Most technology purchases will only get implemented if they can be shown to solve a regulatory imperative or advance revenue production. Making a case to gain management approval is challenging, and on the surface, operational-based projects can be hard to justify.

But by maintaining legacy archiving and surveillance tools, firms are not meeting the standards set by the regulators and adhered to by top firms. Implementing advanced technology demonstrates that business communications, when analyzed effectively, can reap important customer data to mitigate risk and assist business development efforts.



IT says “fully contextual communications data drives business”

Corporate change can be hard. Users of legacy archiving systems may have come to depend on features particular to a system. Within the IT team itself, personnel may be concerned that upgrading archiving technology may lead to potential headcount reduction. In the least, the team may worry about having the appropriate expertise for a new system.

These are challenging considerations, but without taking this step, firms face significant obstacles. The ever-expanding mix of communications is a struggle to manage with legacy archiving systems. It often translates to high, ongoing costs and disjointed application silos, such as limited links between email archiving, content capture, review and discovery applications.

A comprehensive and accessible communications data set can greatly advance customer data mining, analytics and a broad set of other programs. This sets the potential for increased revenue, lower costs, competitive advantage and stronger customer retention.



Legal says “a modern data governance solution drives business”

Some organizations are just comfortable with their current technology and see no reason to make a change. Perhaps decision makers at the executive level do not understand the need, and once they see the figures and resources needed, they are left unconvinced that the move to new compliance technology is truly worth the trouble.

Convincing executives to sign off on migration projects may be as simple as explaining the business value. The insights that can be gained from analyzing archived data are valuable business drivers. Analytics have rightly become a larger focus for global financial services firms as business intelligence has become a necessary element to competitive differentiation. Machine learning and predictive analytics are driving the data governance solutions that empower decision-makers. That is why organizations must not delay their migration projects — they simply cannot afford to be left behind.

HOW TO OVERCOME THESE CHALLENGES

Fortunately, there are simple ways to set aside apprehension to new archiving technology, and stay competitive

◆ Don't pause, waiting for the "right time"

Don't wait to be an example. There is a growing number of cases where firms have run into legal, regulatory or data security challenges with legacy technologies. These incidents finally pushed them over the risk threshold and into full pursuit of better approaches to capture and store important business communications. Massive fines, big litigation losses and major reputational damage have a unique ability to focus executive attention.

◆ However, it's okay to take your time

If necessary, take incremental steps. Firms have more options for migrating to modern compliance technology these days. They don't have to commit to a "rip and replace" model. There are sophisticated ways to mend the gap in the short term, such as running archives in parallel for email and new content sources.

◆ Really, really think beyond email

Email has been a key focus for compliance and e-discovery for many years. It is clear, though, that the scope of data will keep fundamentally changing for compliance and risk mitigation. For internal collaboration, customer communications and partner exchanges, organizations use an extensive and growing variety of tools like Microsoft Teams, Slack and messaging apps designed for use on mobile devices. The majority of legacy archiving systems simply are not up to addressing an ever-expanding array of electronic communications.



Massive fines, big litigation losses and major reputational damage have a unique ability to focus executive attention.

◆ Include content surveillance as part of the overall program

In many firms, regulatory-mandated supervision is treated separately from other surveillance initiatives, that often include conducting investigations and examining communications patterns over time to spot risk. The newest communications supervisory systems enable these processes together as part of a holistic approach. Policy-driven inspection is used to spot red flags, which can then be fed to surveillance tools to uncover the patterns that help score and prioritize risks. Depending on the appropriate function, compliance, legal, security or HR teams can follow up on problematic content that has surfaced.

◆ Highlight potential customer insights and business opportunities

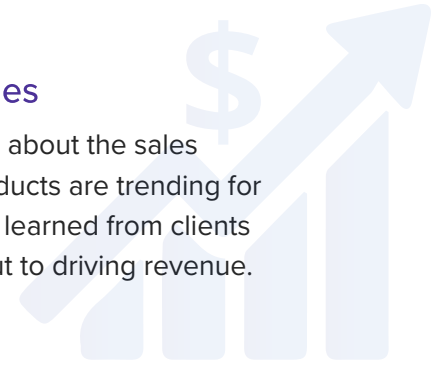
A bonus to having a holistic approach to monitoring is accumulating information about the sales process. An AI-driven system can identify cross-selling opportunities, which products are trending for customers, what could be done to better satisfy existing customers and lessons learned from clients lost, etc. Business management will begin to rely on the system as a critical input to driving revenue.

◆ Work with the team

Apart from traditional compliance requirements, there are increasing demands for more effective governance and e-discovery. Additionally, there is a need to better leverage IT resources. These initiatives are driving consolidation among IT, legal, compliance, security, privacy and other stakeholders. They want to collectively understand the benefits that new archiving technologies, supported with appropriate programs, can deliver. A well-rounded discussion of the benefits offered by new communications and collaboration tools provides a more complete ROI analysis that puts the cost of migration in proper perspective.

◆ Fully research cloud-archiving platforms (and pick the right one!)

Cost, deployment speed and other advantages of cloud solutions compared to on-premise applications are clear and compelling. Look for things like comprehensive content capture, open architecture, performance and scalability, security, and extensibility for integration with other applications.



HOW SMARSH CAN HELP



Smarsh positions your business for the future. Our archiving solutions use modern, web-scale technologies to ingest, search and export content orders of magnitude faster than legacy archives. All of your content is retained in full conversational context, helping you to reduce costs and increase productivity with the industry's most effective and efficient review experience.

The Enterprise Archive is built to scale as your data volume grows, with no impact to platform performance. It can be hosted on your choice of leading cloud infrastructures almost anywhere in the world and is fully enabled to feed downstream applications for enhanced analytics, surveillance and business insights.

More Resources



Innovation Exchange webinar

We invite compliance, IT and legal experts to discuss how they are breaking barriers and investing in modern technology and processes to remediate communications risk.



Product Spotlight Blog

Updates on the Enterprise Archive and other Smarsh solutions.



Smarsh® helps financial services organizations get ahead – and stay ahead – of the risk within their electronic communications. Smarsh has established the industry standard for the efficient review and production of content from the diverse range of channels that organizations now use to communicate. With innovative capture, archiving and monitoring solutions that extend across the industry's widest breadth of channels, customers can leverage the productivity benefits of email, social media, mobile/text messaging, instant messaging/collaboration, websites and voice while efficiently strengthening their compliance and e-discovery initiatives.

A global client base, including the top 10 banks in the United States and the largest banks in Europe, Canada and Asia, manages billions of conversations each month with the Smarsh Connected Suite. The company is headquartered in Portland, Oregon, with nine offices worldwide, including locations in Silicon Valley, New York, London and Bangalore, India. For more information, visit www.smarsh.com.

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