

# A Guide to Messaging Archiving

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An Osterman Research White Paper

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## Executive Summary

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Should you archive your organization's email content? Consider the following:

- According to the American Management Association, 24% of companies have experienced their employees' email being subpoenaed and 15% have gone to court because of lawsuits brought on by their employees' email.
- In September 2007, the Financial Industry Regulatory Authority (FINRA) announced Morgan Stanley would pay \$9.5 million to two sets of customers that made claims against the company, and would pay \$3 million for not providing email and supervisory content.
- Best Buy filed suit against Developers Diversified Realty (DDR) and demanded electronic documents, including emails, from DDR's backup system. Although DDR argued that the content would be difficult to produce, the court ordered production of the requested information within 28 days of the order. Law.com estimated the total cost of just the production itself at \$500,000 – a cost of more than \$1,400 per tape.
- In June 2005 AMD filed suit against Intel and requested that email for a small number of Intel employees be preserved. The Intel employees in question were to copy the requested email to their hard drives. However, some employees did not follow instructions properly, resulting in the loss of email that should have been part of the discovery effort over a period of more than three months. The *Wall Street Journal* reported that Intel has spent \$3.3 million to process tapes to recover the necessary emails.
- Email storage is growing at an average rate of 35% annually – three out of five decision makers cite the growth of messaging storage as their leading messaging-related problem.

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Messaging archiving can help organizations to solve all of these problems and can satisfy a wide range of legal compliance, regulatory, storage management, knowledge management and other problems. Further, messaging archiving will, in most cases, reduce the risk from non-compliance with legal or regulatory obligations, reduce overall storage costs and will retain corporate 'memory' stored in messaging systems.

This white paper discusses the several reasons to implement a messaging archiving system and provide an overview of ten vendors whose offerings are focused squarely on the archiving space.

## Reasons to Deploy Messaging Archiving Capabilities

There are a variety of reasons to deploy messaging archiving, any one of which can often justify the entire cost of the archiving capability.

### LEGAL COMPLIANCE

The Federal Rules of Civil Procedure (FRCP) are, arguably, the most important single reason for organizations to deploy a messaging archiving capability. The FRCP are a body of rules focused on governing court procedures for managing civil suits in the United States district courts. While the United States Supreme Court is responsible for promulgating the FRCP, the United States Congress must approve these rules and any changes made to them.

A number of important and substantive revisions to the FRCP went into effect on December 1, 2006. These changes represented several years of debate at various levels and will have a significant impact on electronic discovery and the management of electronic data within organizations that operate in the United States. In a nutshell, the changes to the FRCP require organizations to manage their data in such a way that this data can be produced in a timely and complete manner when necessary, such as during legal discovery proceedings. The new amendments codified Electronically Stored Information (ESI), effectively making electronic data more important in the context of legal discovery and litigation in general.

Email contains a growing proportion of business records that must be preserved for long periods. Further, email is increasingly requested during discovery proceedings because of the FRCP and related issues. As a result, it is critical that email be made available for legal discovery purposes.

The new amendments to the FRCP are, arguably, the **most** important single reason for deploying an archiving system.

### LEGAL HOLDS

When a hold on data is required, it is imperative that an organization immediately be able to begin preserving all relevant data, such as all email sent from senior managers to specific individuals or clients. An archiving system allows organizations to immediately place a hold on data when requested by a court or on the advice of legal counsel.

If an organization is not able to adequately place a hold on data when required, it can encounter a variety of serious consequences, ranging from embarrassment to serious legal sanctions or fines. Litigants that fail to preserve email properly are subject to a wide variety of consequences, including brand damage, additional costs for third-parties to review or search for data, court sanctions, directed verdicts or instructions to a jury that it can view a defendant's failure to produce data as evidence of culpability.

## PRE-LITIGATION INTERNAL REVIEW

Another important reason to deploy an archiving system that provides easy and rapid access to email data is to allow various groups to conduct a pre-litigation review of internal data prior to the commencement of a legal action. For example, if an organization anticipates that it might be involved in a legal action of some sort, it can conduct an internal investigation to determine if the action might have merit. Doing so will permit senior managers, legal counsel and others to make better assessments and, in some cases, settle a legal action early, avoiding significant and unnecessary legal expenses.

## OTHER LEGAL CONSIDERATIONS

A leading analyst firm is of the opinion that archiving for legal reasons *before the fact* is not necessary. Their philosophy is that a thorough search of all corporate data repositories *after the fact* will generate the necessary documents for legal discovery, for pre-litigation internal review, etc. However, Osterman Research strongly disagrees with this approach for two reasons:

A failure to properly archive messaging and other content exposes an organization to unnecessary legal risks.

- In the absence of a robust archiving capability, email and other business records can be lost, most often through inadvertent disposal of content that should have been saved. This can result in serious adverse consequences for an organization that is involved in a legal action.
- Depending solely on corporate mandates or policies to save content will often result in less-than-complete compliance with these policies. Individual users will interpret policies differently, they will mistakenly discard content that should have been saved, and so forth.

In short, a failure to properly archive messaging and other content exposes an organization to unnecessary legal risks. Conducting a search for data in a reactive fashion will not mitigate these risks.

## REDUCING THE IMPACT OF STORAGE

Several Osterman Research surveys over the past two years have clearly demonstrated that growth in messaging storage is the most critical messaging-related problem faced by administrators: roughly 60% of decision-makers cite growth in messaging storage as a serious or very serious problem. Messaging storage, driven by increasing use of email, larger attachments and the like, is growing at an average of 35% annually. This means that a terabyte of storage today will swell to nearly 2.5 terabytes in just three years.

By implementing a properly configured messaging archiving system that replaces messages and attachments with much smaller stubs pointing to stored content in an archive, organizations can dramatically reduce the amount of content stored on 'live' messaging servers. This carries with it a number of important benefits:

- **Lower cost of storage**  
By migrating data from storage on messaging servers to archival storage, overall storage costs can be reduced, significantly in some cases.
- **Improved messaging server performance**  
If the amount of content can be reduced on messaging servers, performance can typically be improved as measured by message delivery time, the size of message queues and other metrics. In fact, the ability to offload messaging server data is the leading way to improve messaging server performance – some companies are using their archiving system to enforce rigorous inbox quotas, such as limiting content stored on servers to no more than 30 days worth of content.
- **More rapid recovery from downtime incidents**  
In general, the less content that a messaging server contains, the faster it can be restored from backups following a server crash, an application upgrade or patch gone awry, and so forth. The use of an archiving system to minimize the amount of content stored on live servers can dramatically speed the server recovery process.

Virtually **all** organizations must satisfy statutory records retention requirements, including broad-based requirements such as the Americans with Disabilities Act.

## REGULATORY COMPLIANCE

Industries that are heavily regulated, such as broker-dealers or healthcare companies, must meet a variety of statutory requirements with regard to records retention. For example, the SEC imposes requirements on broker-dealers to preserve email and instant messaging communications and to monitor these communications.

However, virtually all organizations must satisfy statutory records retention requirements, including broad-based requirements such as the Americans with Disabilities Act, the Age Discrimination in Employment Act and the Occupational Safety and Health Act. For example, the Sarbanes-Oxley Act impacts all public companies and has been a prime point for regulatory compliance. A few of the many state and other requirements are shown below:

- SEC 17a
- FINRA 3010
- FDIC Advisory
- Investment Advisors Act of 1940 (hedge funds)
- Gramm-Leach-Bliley Act
- IDA 29.7
- FDA 21 CFR Part 11
- OCC Advisory
- HIPAA
- Financial Modernization Act 1999

- Medicare Conditions of Participation
- Fair Labor Standards Act
- Americans with Disabilities Act
- Toxic Substances Control Act
- UK Data Protection Act
- UK Companies Act
- UK Company Law Reform Bill - Electronic Communications
- UK Combined Code on Corporate Governance 2003
- UK Human Rights Act
- UK Anti-Terrorism, Crime and Security Act 2001
- Basel II
- Markets in Financial Instruments Directive

Although many records retention requirements do not impose specific requirements on email or instant messages, Osterman Research has found that approximately 80% of enterprises use email for closing orders or performing other types of business transactions. As a result, email is housing a greater proportion of corporate and other records and so increasingly is subject to statutory records retention requirements.

The value of preserving corporate knowledge that is stored in email systems is **undervalued** in many organizations.

## KNOWLEDGE MANAGEMENT

The value of preserving corporate knowledge stored in email is undervalued in many organizations. However, email contains roughly three-quarters of the information that individuals use on a daily basis, and a large proportion of corporate email users spend more than two hours per day generating and using content stored in email systems. As a result, an enormous amount of corporate 'memory' is stored in email, making its preservation important. An organization that does not preserve its email content adequately risks the loss of information that it has paid employees to produce.

## Important Factors to Consider When Selecting an Archiving System

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### DELIVERY MODELS

There are three basic methods for deploying a messaging archiving system:

- **Software installed on in-house servers and managed with in-house IT personnel**  
The advantages of this approach are that it can be the least expensive option of the three noted here, particularly for large organizations, it provides a significant amount of flexibility and it allows an organization to re-use existing hardware. The disadvantage

is that this option *can* be more expensive to deploy and maintain, since an organization must configure servers, install software and manage both internally.

- **Appliances that are deployed in-house and managed by in-house personnel**  
The advantage of this approach is that software and hardware are provided in a single, rack-mountable unit so that they work together seamlessly, and the cost of deployment is less than if software and hardware must be deployed separately. However, appliances offer somewhat less flexibility than internally deployed software and hardware and their cost for larger organizations can be higher than internally deployed software on a per user basis.
- **A hosted/managed service**  
The primary advantages of this approach are that there are virtually no up-front costs and, hence, no capital expenditures; very little IT involvement in managing the system; and immediate scale and high availability. Because these services are priced on a per-seat basis, overall archiving costs can be more predictable. Further, the deployment of additional services or the extension of retention time can be much simpler with the use of a hosted or managed service. However, a hosted/managed service can be (but is not necessarily) more expensive per seat for larger organizations.

There is also a newer model for deploying messaging archiving known as Hybrid Archiving. This model, which uses a combination of on-premise and hosted components, promises to combine the advantages of both models.

### OPPORTUNITY COSTS

When making a decision about the delivery model for hosted vs. on-premise solutions, it is important to consider the opportunity costs, as well. Organizations may want to conduct their own cost/benefit analysis for the cost of using in-house staff to manage an archiving system vs. having the archive managed by a third-party. Some organizations may find it is cheaper to manage the system in-house, while others may find it less expensive overall to have a third party host their archiving capability.

An organization that supports multiple messaging systems, or that may consider migrating to a new platform at some point, may want to opt for a system that is independent of any particular platform.

### MESSAGING PLATFORM(S) SUPPORTED

A key consideration in choosing a messaging archiving system must include the platform(s) that the system will support. Some support only a specific messaging system, such as Microsoft Exchange, while others are system-agnostic. An organization that supports multiple messaging systems, or that may consider migrating to a new platform at some point, may want to opt for a system that is independent of any particular platform.

## **HIGH AVAILABILITY**

Because messaging archiving systems must capture all or nearly all email data, they must be highly available. For example, in a survey conducted by Osterman Research during 2007, it was determined that email downtime is considered to be a very serious problem by many organizations. However, the loss of email content during these downtime incidents was considered to be an even worse problem.

## **SCALABILITY**

Messaging archiving systems must be able to store enormous amounts of data. For example, consider an organization of 3,000 email users who each generate 32 business records in email every workday and whose email must be retained for seven years. Further, consider that email use is growing 20% annually. Based on these relatively conservative assumptions, this organization will generate a total of 310 million messages during just seven years. The archiving system must be able to index and search across all of this information efficiently and quickly.

## **EASE-OF-USE**

Ease-of-use is a critical consideration for any archiving system for a couple of reasons. In order to minimize user-training requirements, the interface should be as simple as possible for IT to use when data is requested from the archive. More important, however, is that often non-IT groups will need to have access to the archive, making the minimization of training an even more important requirement as the number of potential users of the archiving system increases.

## **EXTENSIBILITY FOR NON-MESSAGING ARCHIVING**

Email is, for the majority of organizations, the single most important repository of business records. However, there are a number of other repositories that must be archived for all of the reasons that are discussed in this report: legal and regulatory compliance, reduction of storage costs, etc. These repositories can include document management systems, CRM systems, inventory control systems and the like. It is important for an organization that is considering archiving to take a long term view toward the types of information it will need to archive and to consider the ability for its systems to manage this content moving forward.

## **Summary**

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An email archiving system can provide a number of very important benefits for organizations of all sizes, including support for its legal and regulatory compliance obligations; its growing storage requirements; its knowledge management obligations and other obligations. Although there are many issues to consider when deploying an archiving system, a failure to deploy adequate archiving capability will have serious and negative consequences for organizations of all sizes.

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